

**MINUTES FOR THE SEMINOLE COUNTY BOARD OF
ADJUSTMENT APRIL 28, 2008 MEETING
6:00 P.M.**

Members Present: Mike Hattaway, Chairman; Dan Bushrui, Bob O'Malley, Tom O'Daniel and Stephen Coover

Staff Present: Kathy Fall, Principal Planner; Denny Gibbs, Senior Planner; Joy Williams, Planner; David Shields, Assistant County Attorney; and Patty Johnson, Staff Assistant

Mr. Hattaway, Chairman; called the meeting to order at 6:00 P.M. Mr. Hattaway then explained the method by which the meeting would be conducted, rules for voting and appealing decisions.

CONSENT ITEMS

1. **1724 Roseberry Lane** – Classic Homes, applicant; Request for 1) a side yard (north) setback variance from 7.5 feet to 6 feet and 2) a side yard (south) setback variance from 7.5 feet to 6 feet for a proposed single family residence in R-1 (Single Family Dwelling) district; Located on the east side of Roseberry Lane approximately 100 feet south of 1st Drive; (BV2008-29). (District 5)
Denny Gibbs, Senior Planner

Mr. O'Daniel made a motion to approve Consent Agenda Item #1.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

PUBLIC HEARING ITEMS

2. **5444 Ferrol Drive** – Kenneth & Sheralee Faith, applicants; Request for a side street (north side) setback variance from 25 feet to 2 foot 3 inches for an existing 6 foot wood privacy fence in the R-1 (Single Family Dwelling) district; Located on the northwest corner of Ferrol Drive and Jackman Boulevard approximately 110 feet east of Betty Drive; (BV2008-22). (District 1)
Darlene McGuire, Technician

Kathy Fall introduced the location of the property and stated that the applicant proposed to replace a 6 foot high wood privacy fence. She further stated that the existing fence encroached 22 feet 9 inches into the required 25 feet side street setback. She then stated that there was currently a code violation for constructing the fence without a permit. She also stated that there was no record of prior variances granted for the property. She lastly stated that there was a building permit under review for the fence.

Kenneth Faith stated that the fence in question was there when he bought the house. He further stated that he added two sections of the fence on the north side of his house about a year ago to put a gate across the front of his house. He then stated that Code Enforcement came to his house and stated they received a complaint that the fence was put up without a permit and told him he needed to apply for a permit. He also stated that he went to the Building Department and was told he needed a variance. He lastly stated that everybody through-out the neighborhood that was on a corner lot had their fence the same way.

Mr. Bushrui made a motion to approve the request.

Mr. O'Daniel seconded the motion.

The motion passed by (4-1) vote. Mr. Hattaway was in opposition.

3. **102 Camden Road** – Eduard Pineiro, applicant; Request for a side yard setback variance from 20 feet to 15 feet for a detached garage in the RC-1 (Country Homes) district; Located on the west side of Camden Road approximately 1/5 mile east of West Lake Brantley Road; (BV2008-26). (District 3)
Darlene McGuire, Technician

Kathy Fall introduced the location of the property and stated that the applicant proposed to construct a detached RV garage on the south side of the property. She further stated the proposed 900 square foot garage would encroach 5 feet into the required 20 feet side yard setback. She then stated that there were currently no code enforcement or building violations for the property. She also stated that there was no record of prior variances granted for the property. She lastly stated there was a building permit under review for the proposed garage.

Eduard Pineiro stated that he wanted to build an RV garage on the south side of the property as indicated. He further stated they were planning to put in a pool therefore they wanted to go 5 feet closer to the south side of the property for the proposed RV garage. He lastly stated they received a letter of support from their neighbor.

Mr. O'Malley made a motion to approve the request.

Mr. Coover seconded the motion.

The motion passed by unanimous consent (5-0).

4. **1210 Glastonberry Road** – Jeanie & Alan Brown, applicant; Request for a side street (south side) setback variance from 25 feet to 0 feet to replace an existing 6-foot wood fence with a 6-foot PVC fence in the R-1AA (Single-Family Dwelling) district; Located on the northeast corner of Glastonberry Road and Derbyshire Road.; (BV2008-27). (District 4)
Darlene McGuire, Technician

Kathy Fall introduced the location of the property and stated that the applicant proposed to replace an existing 6 foot wood fence with a 6 foot PVC fence. She further stated that the fence encroached 25 feet into the required 25 feet side street setback. She then stated that there were currently no code enforcement or building violations for the property. She lastly stated that there was no record of prior variances granted for the property.

Jeanie Brown stated in February they removed the existing fence to allow a contractor access to their back yard so they could connect to the sewer. She further stated her parents build the house in 1959 and there had always been a fence there. She then stated that they were requesting to replace the fence with a new PVC fence in the same location the existing fence had been. She also stated the reason there had always been a fence there was because Derbyshire Road was very loaded with traffic in the morning and afternoon drive. She further stated that noise, privacy for the bedroom and security for children and pets were also concerns. She lastly stated that the neighbors on five streets up and down all had fences on the property line.

Mr. O'Daniel made a motion to approve the request.

Mr. Coover seconded the motion.

The motion passed by unanimous consent (5-0).

5. **1576 Hunters Stand Run** – Guy Everett, applicant; Request for a side yard (south) setback variance from 7.5 feet to 5 feet for a proposed pool screen enclosure in PUD (Planned Unit Development) district; Located on the west side of Hunters Stand Run approximately 1/5 mile west of Lockwood Blvd; (BV2008-21). (District 1)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to install a pool screen enclosure over an existing pool which encroached 2.5 feet into the required 7.5 feet side yard setback. She further stated the screen enclosure would have a 5 feet setback at the side and the rear. She then stated the applicant submitted a letter of approval from the Carillon Homeowner's Association and Architectural Review Board. She also stated there were currently no code enforcement or building violations for the property. She lastly stated there was no record of prior variances granted for the property.

Guy Everett stated the pool was there when he bought the house and he wanted to put a screen over it because of the trees around the pool and to keep the frogs out.

Mr. Coover made a motion to approve the request.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

6. **1554 Antoinette Court** – Robert Hays, applicant; Request for a rear yard setback variance from 30 feet to 21 feet for a proposed screen room in R-1AAA (Single Family Dwelling) district; Located on the east side of Antoinette Court approximately 1/10th mile south of Danielle Drive; (BV2008-23). (District 2)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a covered screen room that would encroach 9 feet into the required 30 feet rear yard setback. She further stated the screen room would be constructed off a pool house addition that was under construction. She then stated the applicant provided letters of support from the affected neighbors to the side and the rear. She also stated there were currently no code enforcement or building violations for the property. She lastly stated there was no record of prior variances granted for the property.

Robert Hayes stated they were asking for the variance to cover the addition to the existing screen room. He further stated the original plan was to just make it another screen room but they decided to put a roof over it which required the variance. He then stated they submitted two letters of support from the neighbors most affected by the request.

Mr. O'Malley made a motion to approve the request.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

7. **2220 Poinsettia Drive** – Joseph DePaulis, applicant; Request for 1) a rear yard setback variance from 30 feet to 0 feet and 2) a side yard (west) setback variance from 10 feet to 0 feet for an existing carport/playhouse structure in R-1AA (Single Family Dwelling) district; Located on the north side of Poinsettia Drive approximately 600 feet east of West Lake Brantley Drive; (BV2008-24). (District 3)
Denny Gibbs, Senior Planner

This item was continued until the May 19, 2008 Meeting.

8. **119 Spring Valley Loop** – Gordon & Lynne Browne, applicant; Request for 1) a rear yard setback variance from 30 feet to 14 feet and 2) a side yard (north) setback variance from 10 feet to 5.7 feet for a proposed room addition in R-1AAA (Single Family Dwelling) district; Located on the west side of Spring Valley Loop approximately ¾ of a mile west of Wymore Road; (BV2008-28). (District 3)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a 150 square foot addition that would encroach 16 feet into the required 30 feet rear yard setback and 4.3 feet into the required 10 feet side

yard setback. She further stated the house was constructed in 1970 and at the time the rear yard setback was measured from the rear property line and parallel to the rear property line and in 1977 the point of measurement for a rear yard setback was changed which rendered the rear of this house non-conforming. She then stated there were currently no code enforcement or building violations for the property. She lastly stated there was no record of prior variances granted for the property.

Gordon Browne stated he and his wife were proposing to expand their master bedroom back about 9 feet and enclose what was currently a screened in covered porch. He further stated they wanted to make the screened in covered porch part of their enlarged master bedroom. He then stated that due to the current code they were unable to do so without the variances.

Mr. O'Malley made a motion to approve the request.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

9. **116 Sweetbriar Branch** – Polly Wilson, applicant; Request for a side yard (east) setback variance from 10 feet to 5 feet for a pool screen enclosure in R-1AA (Single Family Dwelling) district; Located on the north side of Sweetbriar Branch approximately 1/10 mile west of Tollgate Trail; (BV2008-31). (District 4)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a pool screen enclosure over an existing pool that would encroach 5 feet into the required 10 feet side yard setback. She further stated in 2005 a rear yard setback variance was granted for the property for a shed. She then stated there were currently no code enforcement or building violations for the property.

Polly Wilson stated she needed to put a screen over her pool which was 35 years old. She further stated she submitted a letter of support from her neighbor on the east side of her property.

Mr. Bushrui made a motion to approve the request.

Mr. O'Daniel seconded the motion.

The motion passed by unanimous consent (5-0).

10. **1280 Cardinal Court** – Leroy Porter, applicant; Request for a rear yard setback variance from 30 feet to 5 feet for a proposed shed in R-1A (Single Family Dwelling) district; Located on the north side of Cardinal Court approximately 1/10th mile south of Bunnell Rd; (BV2008-25). (District 3)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant proposed to construct a 240 square foot shed that would encroach 25 feet into the required 30 feet rear yard setback. She further stated the proposed shed would be constructed from wood and used for the storage of garden and lawn equipment. She then stated there were currently no code enforcement or building violations for the property. She lastly stated there was no record of prior variances granted for the property.

Leroy Porter stated they wanted to build the shed to keep garden equipment in it.

Mr. O'Malley made a motion to approve the request.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

11. **334 Lakebreeze Circle** – Melissa Harbin, applicant; Request for a rear yard setback variance from 15 feet to 5 feet for a proposed screen room in PUD (Planned Unit Development); Located on the north side of Lakebreeze Circle approximately 1/10th mile south of Greenwood Blvd; (BV2008-30). (District 4)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant proposed to construct a screen room that would encroach 10 feet into the required 15 feet rear yard setback. She further stated there was currently no code enforcement or building violation for property. She then stated there was no record or prior variances granted for the property.

Melissa Hardin stated her property bordered the Seminole County Bike Path so there would not be anything ever build behind her. She further stated she received approval from her Homeowner's Association. She then stated she talked to her neighbors and no one opposed to the request.

Mr. Coover made a motion to approve the request.

Mr. O'Malley seconded the motion.

The motion passed by unanimous consent (5-0).

12. **345 International Pkwy** – Bill Pickering, applicant; Request for a variance from the required 25-foot front yard landscaped green area to a 10 foot front yard landscaped green area in M-1A (Very Light Industrial) district; Located on the east side of International Pkwy approximately ½ mile north of Lake Mary Blvd; (BV2008-32). (District 5)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant requested a variance from the 25 feet landscaped green area that is required to remain exclusive of parking in the M-1A zoning classification. She further stated

the applicant proposed to provide a 10 foot landscaped green area exclusive of parking for a proposed 2000 square foot office building that would require no less than 10 parking spaces per Section 30.1221 of the Seminole County Land Development Code. She then stated the size of the parcel was less than ½ acre; therefore restricting the ability of the site to meet the required 25 feet landscape area and parking requirements. She lastly stated there were currently no code enforcement or building violations for the property.

Bill Pickering stated there was a lot of natural greenway from the street and sidewalk on the property. He further stated their objective was to put a Financial Services Building not retail on the property. He then stated they were in the consulting business and there would not be traffic in and out. He also stated that the proposed building would be compatible with the buildings on the north end of International Parkway.

Mr. O'Malley made a motion to approve the request.

Mr. Bushrui seconded the motion.

The motion passed by unanimous consent (5-0).

13. **1157 West SR 436** – Charles Colter, applicant; Request for a front yard (north) setback variance from 25 feet to 6 feet for a proposed open pavilion in C-2 (Commercial) district; Located on the north side of SR 436 approximately 400 feet east of West Lake Brantley Road; (BV2008-33). (District 3)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated that the applicant proposed to construct a pavilion that would encroach 19 feet into the required 25 feet front yard (double frontage) setback. She further stated the subject property was located on the north side of SR 436 approximately 400 feet east of West Lake Brantley Road and had primary frontage on SR 436 but also fronts Lake View Drive at the rear of the property although there was no access provided or available to Lake View. She then stated the pavilion the applicant proposed would go over existing pavement that was recently placed on the site without site plan approval. She also stated it was believed the concrete was added at the time they had permits for the retaining wall therefore staff made site plan review through Development Review Division for the addition impervious area a condition of approval. She further stated a special exception was approved in 1998 to allow an auto repair facility and machine shop within the existing building and the conditions of the special exception were that no work could be performed outside and that the septic system must be recertified annually. She then stated in order to use the pavilion for Super Street Performance Auto the applicant must seek an amendment to the special exception for expanding the use or modifying the conditions. She also stated the applicant purchased the property on November 18, 2005 and had been issued two code violations for un-permitted construction and in 2006 for plumbing and electrical work and 2007 for a retaining wall but a permit was issued for the retaining wall. She lastly stated

should the Board of Adjustment grant a variance, staff recommended the following conditions of approval:

- Any variance granted shall apply only to the pavilion as depicted on the attached site plan
- The pavilion may not be used for any automotive work without an amendment to the special exception BA98-6-22SE
- Prior to the issuance of the building permit for the pavilion the Septic System must be certified by the Health Department per the conditions of the special exception
- Applicant shall secure site plan approval through the Development Review Division for all existing impervious site work not previously approved
- Applicant shall secure approval for all existing uses and their associated change of use site plan shall be reviewed and approved by Development Review Division
- Any additional conditions deemed appropriate by the Board of Adjustment, based on information presented at the public hearing

Charles Colter stated the conditions of the special exception from 1998 were being met. He further stated the two requirements were the septic tank which was being inspected every year and that no work would be done outside. He then stated he bought the property approximately 2.5 years ago. He also showed the Board of Adjustment pictures of how the site looked when he bought the property and how the site currently looked. He further stated the pavilion would make an improvement on the property. He then stated he was working closely with the Development Review Division and the Planning Division and that all he was asking for was approval for the variance setback.

Mr. Coover made a motion to approve the request with staff conditions.

Mr. Bushrui seconded the motion.

The motion passed by (3-2) vote. Mr. Hattaway and Mr. O'Daniel were in opposition.

MOBILE HOME ITEM

14. **3005 West Osceola Road** – Rami Nassim, applicant; Request for a special exception for the placement of a mobile home in the A-5 (Rural Zoning) district; Located on the south side of West Osceola Road approximately ½ mile east of State Road 46; (BM2008-02). (District 2)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant requested the placement of a 1984 double wide to replace an existing expired mobile home where mobile homes are allowed only by special exception. She further stated in 1997 the Board of Adjustment granted the 10 year placement of a mobile home on the property but by looking at the aerial of the property the mobile home had been destroyed or removed. She then stated that the area

along Osceola Road had a mixture of conventional homes, mobile homes and vacant land. She also stated that the permanent placement of a 1984 double wide mobile home would not be consistent with the trend of development or the history of the Board of Adjustment when granting the permanent placement of a mobile home. She lastly stated that should the Board of Adjustment grant the special exception staff recommended the following conditions:

- Only one single-family mobile home unit shall occupy the site, as shown on the proposed site plan
- The mobile home shall otherwise conform to applicable building codes, including standards for anchoring, utility accessibility and skirting
- The mobile home shall have shingled roof, vinyl siding, skirting and other conventional home design conditional deemed appropriate by the Board of Adjustment

Rami Nassim stated a couple of years ago they applied for a permit to build a house but got ripped off by the Builder. He further stated they found the proposed mobile home and decided to put it on the property. He then stated they talked to the man who set up the mobile home and he said the mobile home should pass inspection and meet the current code or it could be upgraded to meet the code. He lastly stated he wanted to get approval to live in the mobile home.

Mr. O’Daniel made a motion to deny the mobile home special exception request.

Mr. Bushrui seconded the motion.

The motion passed by (3-2) vote. Mr. O’Malley and Mr. Coover were in opposition.

15. **1212 Stone Street** – Louis Morgan, applicant; Request for a special exception for the placement of a mobile home in the A-1 (Agriculture) district; Located on the west side of Stone Street approximately 1/4 mile north of County Road 426; (BM2008-03). (District 2)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant requested the ten year placement of an existing 1986 double wide mobile home where mobile homes are allowed only by special exception. She further stated in 1986, the property received a 5 year special exception for the mobile home and in 2005 the property was cited by code enforcement for an expired mobile home when responding to a complaint call concerning the operation of a business on the property. She then stated in 2005 the Board of Adjustment granted the 1 year temporary placement of an existing 1986 double wide mobile home. She also stated the trend of development in the area had largely remained inclusive of conventional and permanent new mobile homes. She further stated staff believed the proposed use of the temporary placement of a 1986 would be inconsistent with the character of the area. She lastly stated that should the

Board of Adjustment grant the special exception request staff recommended the following conditions:

- Only one (1) single-family mobile home unit shall occupy the site, as shown on the proposed site plan
- The existing mobile home shall otherwise conform to applicable building codes, including standards for anchoring, utility accessibility and skirting
- Recreation vehicles are permitted on the property but they can not be utilized as living quarters nor connected to utilities
- Home office and/or occupation is permitted in the A-1 zoning

Kent Cole stated he worked for the Morgan's who were the applicant's and currently in Colorado on family business. He further stated that he currently lived on the property to make sure no one stole anything off the property. He then stated he cleaned up the property on the outside and did some improvements to the property such as electrical upgrades and refurbishing the mobile home. He also showed the Board of Adjustment pictures of the inside of the mobile home. He further stated that the Morgan's would eventually like to put a single-family home on the property. He lastly stated that the Morgan's wanted to try and work with the Board of Adjustment.

Beverly Worrell stated she lived behind the Morgan's. She further stated since the Morgan's bought the property a lot of improvements had been made. She then stated they bought their property from the same owners the Morgan's bought their property from. She also stated they had to do a lot of work to their property when they first bought it. She further stated there were five mobile homes and five single-family homes in their area and the buyers knew they were buying next to mobile homes. She lastly stated none of the other neighbors had a problem with the request.

Mr. O'Daniel made a motion to deny the mobile home special exception request.

Mr. Coover seconded the motion for discussion.

The motion passed by (3-2) vote. Mr. Bushrui and Mr. O'Malley were in opposition.

16. **2331 Waccassa Street** – Michael & Donna Paul, applicants; Request for a limited use for the placement of a recreational vehicle while a single family home is under construction in the A-5 (Rural Zoning) district; Located on the west side of Stone Street approximately 1/4 mile north of Canvasback Trail; (BM2008-04). (District 2)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant requested the one year placement of a recreational vehicle while a permanent single-family dwelling was under construction. She further stated a building permit was issued for the single-family home. She then stated the temporary occupancy of a recreational home while single-family structure was under

construction was permitted only by limited use in the A-5 district. She also stated the limited use is only allowed for one year with the option to renew for an additional year upon application to the Board of Adjustment. She further stated the request was not detrimental to the character of the area or neighborhood or inconsistent with trends of development in the area. She lastly stated staff recommended approval of the request with the following conditions:

- The appropriate building permit shall be secured for the placement and occupancy of the proposed recreational vehicle as a temporary single-family dwelling on the subject property.
- A permanent single-family home shall be actively under construction and inspection during the period the recreational vehicle is used as a temporary dwelling
- The placement and occupancy of the recreational vehicle shall not exceed one year and shall be renewable for an additional one year upon approval by the Board of Adjustment
- Prior to final inspection of the residence the property owner shall furnish the Planning Division with acceptable evidence as to the date and method that the recreational vehicle will be removed
- The recreational vehicle shall be removed within thirty days following the issuance of the final certificate of occupancy for the permanent single-family home

Michael Paul stated they were getting ready to start building their single-family home. He further stated they wanted to be on the property to watch their stuff while the house was under construction.

Mr. Bushrui made a motion to approve the request.

Mr. O'Malley seconded the motion.

The motion passed by unanimous consent (5-0).

APPROVAL MARCH 24, 2008 MEETING MINUTES

Mr. Coover made a motion to approve the March 24, 2008 Minutes.

Mr. O'Daniel seconded the motion.

The motion passed by unanimous consent (5-0).

ADJOURNMENT

Time of Adjournment was 8:40 P.M.