

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

Members Present: Mike Hattaway, Chairman; Dan Bushrui, Bob O'Malley, Mike Bass and Curtis Gashlin

Staff Present: Kathy Fall, Principal Planner; Denny Gibbs, Senior Planner; Joy Williams, Planner; 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. **Marjorie Boulevard (lot 9)** – 3D Builders, LLC., applicant; Request for a (1) minimum lot size variance from 8400 square feet to 7150 square feet and (2) width at the building line from 70 feet to 65 feet for a proposed single family home in the R-1 (Single Family Dwelling) district; Located on the south side of Marjorie Boulevard approximately .10th of a mile west of Middle Lane; (BV2008-66). (District 4)
Kathy Fall, Principal Planner
2. **165 Monroe Road** – Cayce Forrester, applicant; Request for 1) a front yard setback variance from 25 feet to 0 feet and 2) a side street setback variance from 25 feet to 0 feet for a proposed stockade fence in R-1A (Single Family Dwelling) district; Located on the southeast corner of CR 15 (Monroe Road) and Palm Terrace; (BV2008-62). (District 5)
Denny Gibbs, Senior Planner

Mr. Bass made a motion to approve Consent Agenda Items #1 and 2.

Mr. O'Malley seconded the motion.

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

PUBLIC HEARING ITEMS

3. **1708 Billie Lynn Point** – Maryann Fitzgerald, applicant; Request for a rear yard setback variance from 30 feet to 18 feet for a proposed screen room in A-1 (Agriculture) district; Located on the north side of Billie Lynn Point approximately 300 feet south of Myrtle Street; (BV2008-60). (District 5)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct an approximately 384 square feet screen room addition that would encroach 12 feet into the required 30 feet rear yard setback. She further stated the applicant received approval from the Heatherwood at Lake Jessup Homeowner's Association. She then stated that there were currently no code enforcement or building violations for the property. She lastly stated there was no record of prior variances for the property.

Maryann Fitzgerald stated she would like to put in a screen enclosure, but at the required 30 feet setback the screen enclosure would be in her back door. She further stated she would like the request approved.

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

Mr. Bushrui seconded the motion.

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

4. **2811 Willow Bay Terrace** – Doreen Thompson, applicant; Request for a rear yard setback variance from 30 feet to 16 feet for a proposed screen room in R-1A (Single Family Dwelling) district; Located on the north side of Willow Bay Terrace approximately ¼ mile south of Red Bug Lake Road; (BV2008-61). (District 1)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct an approximately 464 square feet screen room addition that would encroach 14 feet into the required 30 feet rear yard setback. She further stated the Lakehurst Community Homeowner's Association granted approval for the addition. 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.

Tian Chan stated he believed the Board of Adjustment had a copy of the Homeowner's Association approval letter.

Mr. Gashlin made a motion to approve the request.

Mr. Bass seconded the motion.

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

5. **1301 Ballentyne Place** – Brian & Mindy Shams, applicant; Request for a rear yard setback variance from 30 feet to 14 feet for a proposed single story family room addition in R-1A (Single Family Dwelling) district; Located on the west side of Ballentyne Place approximately ¼ north of McNeil Road; (BV2008-64). (District 3)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a one story addition, approximately 1,020 square feet that would encroach 16 feet into the required 30 feet rear yard setback. She further stated support letters from three immediate neighbors had been submitted as well as several others. She then stated the applicant also received approval from the Homeowner's Association. 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.

Mindy Shams stated they were requesting the variance because their three children were getting older and they realized they needed additional space.

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

Mr. Bushrui seconded the motion.

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

6. **4274 Shades Crest Lane** – Sandra McCreedy, applicant; Request for a rear yard setback variance from 30 feet to 25 feet for a proposed single story addition in R-1A (Single Family Dwelling) district; Located on the east side of Shades Crest Lane approximately 1/5 mile east of Bedford Road; (BV2008-65). (District 5)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a single story addition approximately 455 square feet replacing an existing screened patio that would encroach 5 feet into the required 30 feet rear yard setback. She further stated staff received a letter of support from the neighbor immediately to the north. 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.

Sandra McCreedy stated she had a letter of approval from her Homeowner's Association. She further stated when she bought the house in 1990 it had a screened in porch and she would like to change it to an additional bedroom and family room area.

Mr. Bass made a motion to approve the request.

Mr. O'Malley seconded the motion.

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

7. **100 Dahlia Drive** – Al Beauchamp, applicant; request for a side street setback variance from 25 feet to 17-feet-4 inches feet for a room addition in R-1A (Single

Family Dwelling) district; Located on the north side of Dahlia Drive approximately 1/10th mile east of Willow Avenue; (BV2008-71). (District 3)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant renovated and expanded an existing covered porch into a family room addition. She further stated the addition is approximately 300 square feet and encroaches 7 feet 8 inches into the required 25 feet side street setback. She then stated in February of 2008, the applicant received a notice of code violation for the un-permitted construction of the addition. She lastly stated there was no record of prior variances granted for the property.

Alcides Beauchamp stated he purchased the property about four years ago and the foundation was there and he enclosed it. He further stated he found out he violated the code and he wanted to make things right.

Mr. Bushrui made a motion to approve the request.

Mr. Bass seconded the motion.

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

8. **7490 Betty Street** – Cheryl & David Boyd, applicants; request for a rear yard setback variance from 30 feet to 20 feet for a screen room addition in R-1A (Single Family Dwelling) district; Located on the west side of Betty Street approximately 1/10th mile south of Howell Branch Road; (BV2008-68). (District 1)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant proposed to construct an approximately 420 square feet screen room addition that would encroach 10 feet into the required 30 feet rear yard setback. She further stated there was currently no code enforcement or building violations for the property. She lastly stated there was no record of prior variances granted for the property.

David and Cheryl Boyd stated their names.

Mr. Hattaway asked if there was anything else the applicant's wanted to add to what Staff stated.

Cheryl Boyd stated no I think they covered it all.

Mr. Bass made a motion to approve the request.

Mr. Gashlin seconded the motion.

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

9. **5799 N CR 427** – Ron Gifford, applicant; request for a building height variance from 35 feet to 45 feet for a proposed church in A-1 (Agriculture) district; Located on the south side of N CR 427 approximately 1 ½ miles east of US HWY 17-92; (BV2008-67). (District 5)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant requested a building height variance from the maximum 35 feet height allowance to a maximum 45 feet height allowance for a proposed church. She further stated the existing 13,000 square feet structure was currently being utilized as a church and private school and the proposed church would be approximately 60,000 square feet. She then stated in 2004 the church was granted a special exception to permit a private nursery/kindergarten school for 60 children and in 2006 the special exception was amended to allow up to 150 children. She lastly stated there were currently no code enforcement or building violations for the property.

Daryl Baker stated he was with American Civil Engineering and they were doing the site work for the proposed church. He further stated their Architect was running late but he had with him Parks Wilson the contractor for the proposed building.

Parks Wilson stated he was with Wilson & Company and the proposed building would be a very contemporary modern church. He further stated the sanctuary would be located in the rear and was where the height of 45 feet would be located. He also stated there would be a two story educational building to the front of the site. They lastly showed the Board of Adjustment a preliminary site plan of the proposed church.

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

Mr. Bass seconded the motion.

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

10. **506 Faith Terrace** – Raymond & Ann Converse, applicant; Request for a side yard (east) setback variance from 10 feet to 7 feet for a proposed addition in R-1AA (Single Family Dwelling) district; Located on the south side of Faith Terrace approximately 300 feet west of Maitland Avenue; (BV2008-63). (District 4)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant proposed to expand an existing master bedroom in which the expansion would encroach 3 feet into the required 10 feet side yard setback. She further stated staff received 2 letters of approval from the neighbors to the east and south. 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.

Ray Converse stated they could not put the proposed addition on the other side of the house because there was a cedar porch on that side. He further stated their request would allow them to enlarge their closet and bathroom.

Mr. Bushrui made a motion to approve the request.

Mr. O'Malley seconded the motion.

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

MOBILE HOME ITEMS

11. **3275 Howard Avenue** – Richard Center, applicant; Request for the special exception for the permanent placement of an existing mobile home in the R-5 (Rural zoning) district; Located on the southeast corner of the intersection of Howard Avenue and Barr Street; (BM2008-08). (District 2)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant requested the permanent placement of a 2001 double wide mobile home, where mobile homes are allowed only by special exception. She further stated in 1998, the applicant was granted the 10 year placement of a 1990 or newer mobile home. She then stated the Board of County Commissioners approved a change to the Comprehensive Plan to the zonings in A-3, A-5, and A-10 allowing mobile homes without special exceptions. She also stated staff recommended approval of the special exception request for the permanent placement of a mobile home.

Richard Center stated he owned the property for 10 years and he would like to continue to live in the mobile home. He further stated the mobile home had the original skirting from when he bought it.

Mr. Bass made a motion to approve the request for the life of the mobile home.

Mr. Bushrui seconded the motion.

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

SPECIAL EXCEPTIONS

12. **Red Bug Lake Road (lot 6)** – Rich Sommer, applicant; Request for a Special Exception to establish a mechanical / automotive garage (Discount Tire Service Center) in PUD (Planned Unit Development) district; Located at the intersection of Red Bug Lake Road and Pine Bluff Place; (BS2008-07). (District-1)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant proposed to establish a Discount Tire Company that would provide retail sales and installation of tires and wheels. She further stated the independent retail tire dealer will do no mechanical repairs of any kind on the proposed site. She then stated all installation of tires and wheels will take place within the building. She also stated the proposed hours of operation would be Monday – Friday from 8:00 a.m. – 6:00 p.m., Saturday 8:00 a.m. – 5:00 p.m., and closed on Sunday. She lastly stated staff found that the proposed use was compatible with the adjacent retail/commercial uses within the surrounding area and therefore recommended approval based on the following conditions:

- The establishment will provide retail sale and installation of passenger car and light truck tires wheels
- There will be no performance of any mechanical repairs on site
- All work will be performed inside the building
- Hours of operation will be Monday – Friday from 8:00 a.m. – 6:00 p.m. and Saturday from 8:00 a.m. – 5:00 p.m., no business conducted on Sunday
- Prior to the issuance of development permits, a site plan that meets all applicable code requirements including Chapter 40 of the Land Development Code shall be reviewed and approved by the Development Review Committee

Mark Frederick stated he was with Kimley – Horn & Associates and he was speaking on behalf of Discount Tire Company. He further stated they had representatives from Discount Tire Company that could answer any questions the Board of Adjustment may have about the typical operation of the store. He then stated he would be happy to answer any questions about the site plan.

John Bess stated he managed the Discount Tire Company on Alafaya Trail and he would answer any questions the Board of Adjustment had.

Mr. Hattaway asked if there would be any outside storage.

John Bess stated the way the buildings are setup there was no outside storage. He further stated they had storage inside the building which was where the scrap tires were held and picked up twice weekly. He further stated they didn't do any alignments or any other mechanical work. He lastly stated they would change the tire put on the rim balance it and reinstall it on the vehicle.

Mr. Bass asked what noise was associated.

John Bess stated the tire machines were electric and the air guns had mufflers on them to reduce any noise. He further stated they used all of the newest equipment available and the air compressor was stored indoors and they could not be heard at all.

Mr. Hattaway asked if they had an elevation of the site.

The applicants showed the Board of Adjustment a south elevation of the proposed building, they also showed a view from the west facing Red Bug Lake Road.

Walt Stesney stated he happened to be one of the houses the store would directly affect with noise. He further stated the only buffer between his rear bedrooms and the houses on each side of him was the four lane road. He then stated his main concern was noise. He also stated he didn't want to hear compressors or air guns all day long.

Mr. Hattaway asked if there was a wall behind the houses.

Walt Stesney stated there was a wall but it was not sufficient to stop the traffic noise let alone the air guns the tire store would be using.

Janice Simonds stated she lived in the neighborhood across the street from the proposed tire store. She further stated her thoughts were based on compatibility and all the other businesses were shops and family orientated places that you would want in your community. She then stated that the proposed tire store was not something that was wanted in the community. She lastly stated there were a lot of tires shops in the area.

Robert Adolphe stated the approval for a retail tire service store directly across from the neighborhood entrance would adversely impact the quality of life and values of the neighborhood. He further stated it would be inconsistent with the character of the area and should not be granted. He then stated traffic in and out of the neighborhood was already complicated and the tire store would negatively impact the condition. He lastly stated the proposed tire store was more of an Industrial type use.

Don Dodge stated he was there to speak in opposition of the special request. He further stated he knew that at the end of Red Bug Lake Road and Semoran there were about 6 tire stores and another 4 at Tuskawilla and Red Bug. He then mentioned three other locations and stated he didn't know how many more tires store were needed on Red Bug Lake Road, let alone across from his subdivision.

Jerry Kranz stated he and his wife often go for walks in and out of the neighborhood visiting the restaurants and retail shops. He further stated there is some traffic but it is not over whelming, but the proposed tire shop would be very noticeable and it would change the character of living in a residential community. He then stated with all the other tire or auto care facilities within three miles was this tire shop needed. He lastly stated the proposed tire shop was not compatible with the existing commercial development.

Jeff Ebber stated the school bus stop for the neighborhood was located at the entrance of the neighborhood which is a concern of the homeowners because the proposed tire shop would be across the street from the entrance of the

neighborhood. He further stated he drove around and counted 9 tire shops within 2 miles of the proposed location and didn't think another one was needed.

Mark Frederick showed the Board of Adjustment a noise study that was done by the applicant at a similar tire store stating the decibel level range was around 59 which is in the range of normal conversation within 3 feet. He further stated there was a 134 foot right of way associated with Red Bug Lake Road which would be a buffer between the tire store and any residential homes. He then stated that as far as compatibility the proposed location is a commercial out parcel and there will be some sort of retail there. He also stated the automotive or tire shop put it under special exception. He further stated it was important to note that staff agreed that the proposed use was compatible with the surrounding area. He then stated as far as other tire stores within the area his client would not be interested if they had not conducted a market study and found that it was financially feasible to have a tire store in the proposed location.

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

Mr. Gashlin seconded the motion.

The motion failed by a (2-3) vote. Mr. Bushrui, Mr. O'Malley and Mr. Hattaway were in opposition.

Mr. Bushrui made a motion to deny the request based on inconsistency with character of the area and traffic pattern.

Mr. O'Malley seconded the motion.

The motion passed by (3-2) vote. Mr. Bass and Mr. Gashlin were in opposition.

APPROVAL JUNE 23, 2008 MEETING MINUTES

Mr. Bushrui made a motion to approve the June 23, 2008 Minutes.

Mr. O'Malley seconded the motion.

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

ADJOURNMENT

Time of Adjournment was 7:30 P.M.