

MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT OCTOBER 27, 2008 MEETING 6:00 P.M.

Members Present: Mike Hattaway, Chairman; Bob O'Malley, Tom O'Daniel, Stephen Coover 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. Mr. Hattaway stated the applicant for Item #11 asked that the item be continued until the December 1, 2008 meeting.

PUBLIC HEARING ITEMS

1. **4312 Comet Court** – Diep Thi Nguyen, applicant; Request for a rear yard setback variance from 30 feet to 20 feet for a proposed addition in R-1A (Single Family Dwelling) district; Located on the north side of Comet Court approximately 1,200 feet west of Tuskawilla Road; (BV2008-87). (District 1)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct an approximately 444 square foot glass room that would encroach 10 feet into the required 30 feet rear yard setback. She further stated there were currently no code enforcement or building violations for the property. She then stated there was no record of prior variances granted for the property.

Diep Nguyen stated her name and address.

Mr. Hattaway asked the applicant did she want to add anything to staff's comments.

Diep Nguyen stated no.

Mr. Coover made a motion to approve the request.

Mr. O'Daniel seconded the motion.

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

2. **2511 Last Tee Court** – Brenda Byers, applicant; Request for a rear yard setback variance from 15 feet to 13 feet – 3 inches for a proposed addition in PUD

(Planned Unit Development) district; Located on the south side of Last Tee Court approximately 100 feet south of Bent Hickory Circle; (BV2008-93). (District 3)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to enclose the existing screen room and push out a portion of the existing rear wall of the home. She further stated the expansion would encroach 21 inches into the required 15 feet rear yard setback. 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.

Brenda Byers stated she was not moving a wall out she was enclosing a screen porch and moving a window out on a bedroom. She further stated in the back of the house she would have to add another foot of foundation. She then stated she would not go pass the roof line. She lastly stated she had approval from her Homeowner's Association.

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

Mr. Gashlin seconded the motion.

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

3. **626 Grand Cypress Point** – Andrea Kaye, applicant; Request for 1) a rear yard setback from water body variance from 30 feet to 7 feet for a proposed pool and 2) a rear yard setback from water body variance from 25 feet to 5 feet for a proposed pool screen enclosure in R-1A (Single Family Dwelling) district; Located on the south side of Grand Cypress Point approximately 1,300 feet east of Lake Markham Road; (BV2008-95). (District 5)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a pool that would encroach 23 feet into the required 30 feet rear yard setback from the water body. She further stated the proposed pool screen enclosure would encroach 20 feet into the required 25 feet rear yard setback from the water body. She then stated both structures would be constructed within a drainage easement which would be required to be vacated. She also stated the building permit issuance would be subject to the easement being vacated. She further 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.

Andrea Kaye stated she received approval from her Association to build the pool. She further stated it's a pool community and the majority of the neighbors have pools.

Robert Ramos with Bella Pools stated he was the pool builder who helped the applicant submit her paper work for the variance. He further stated they needed

the Board of Adjustment approval before they could go to the next step in the process, and as staff mentioned there was no guarantee. He then stated the two parts of the process should be married so they would only have to do it once. He also stated they hoped to get the Board of Adjustment approval to take the project to the next level.

Michelle Loisel stated they were neighbors to the applicant and that they went before the Board of Adjustment for the same request over four years ago. She further stated she didn't think they had an engineering issue at the time. She then stated they received an approval letter shortly after the meeting. She also stated they were there in favor to help the applicant get her pool.

Jim Loisel stated the Board had asked about the water height; with being at the highest level at this point they are still about 6 feet above the mean high water mark. He further stated the house was actually raised up on a hill high enough that it would not be affected. He then stated that if you look at the house construction the roof line slopes to the sides and the water is going to the sides where there were already big drainages in place to divert the water to the lake so the rear of the property is not taking on any roof run off. He lastly stated they didn't have any issues with the request.

Shawn Behrens stated he was the neighbor on the other side and he had water issues with Tropical Storm Faye. He further stated he felt that the past erosion events that were at the property line would become extremely worse with the construction of the proposed pool. He then stated after speaking with previous neighbors he was told there had been a large wash out about 5 feet deep that happened prior to him moving in. He also stated to his understanding the home builders came back out and put in some drainage pipes that ran into the lake. He further showed pictures of the area where the erosion was and the change in the shore line. He then stated even after going through Engineering and they allowed the applicant to do the pool and screen enclosure and they decide they would need a sea wall then I would have to put one up. He also stated the variance request was unreasonable and would negatively affect him. He further stated that when he purchased his home he didn't feel that there was any way someone would be able to put a pool back there due to the setback requirements. He then stated that when he purchased his home four years ago he paid what he thought to be a premium to enjoy a lake front view but the screen enclosure would eliminate almost completely that lake view. He lastly asked the Board of Adjustment to deny the request.

Robert Ramos stated the question he would ask Shawn would be is the erosion that he is seeing around other properties on the lake that don't have pools; if that is the case the pool would not be the issue with the erosion. He further stated he understood him having a problem with the lake view, but he still would have a lake view it just would not be as nice. He then stated when you purchase a lake property it is the view behind your property that you are guaranteed.

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

Mr. Gashlin seconded the motion.

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

4. **1183 St. Albans Loop** – G.J. Carter, Dave Brewer Construction, Inc., applicant; Request for a rear yard setback variance from 20 feet to 15 feet for a proposed addition in PUD (Planned Unit Development) district; Located on the north side of St. Albans Loop approximately 1,000 feet north of Heathrow Blvd; (BV2008-91). (District 5)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to replace an existing screen room with an addition that would encroach 5 feet into the required 20 feet rear yard setback. She further stated approval of the addition had been granted from the Heron Ridge Design Review Board, and a support letter was submitted. 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.

J. Carter stated he was with Dave Brewer Construction and he represented the homeowners.

Mr. Hattaway asked J. Carter was there anything he wanted to add.

J. Carter stated no.

Mr. Coover made a motion to approve the request.

Mr. O'Malley seconded the motion.

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

5. **1001 Alberta Street** – Ann Hortenstine, applicant; Request for a side street setback variance from 25 feet to 0 feet for an existing fence in R-1AA (Single Family Dwelling) district; Located on the southeast corner of Alberta Street and Seminole Avenue; (BV2008-97). (District 4)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant was issued a notice of violation for the construction of a stockade fence that encroaches 25 feet into the required 25 feet side street setback. She further stated the stockade fence replaced a chain link fence. She then stated there was no record of prior variances granted for the property.

Ann Hortenstine stated the existing fence replaced a fence that was put up in 1993 that was falling down. She further stated she replaced the fence in April with a fence company and they didn't tell her she needed a permit. She then

stated she received the code violation in July. She also stated the fence runs along with her neighbor's fence.

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

Mr. Gashlin seconded the motion.

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

6. **120 Lakebreeze Circle** – Isalm (John) & Matape Kadruai, applicant; Request for 1) a rear yard setback variance from 10 feet to 2 feet – 3 inches and 2) a side yard (east) setback variance from 10 feet to 6 feet – 6 inches for a proposed pool in PUD (Planned Unit Development) district; Located on the north side of Lake Breeze Circle approximately 200 feet east of Greenwood Blvd; (BV2008-98). (District 4)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a pool that would encroach 7 feet 9 inches into the required 10 feet rear yard setback and 3 feet 6 inches into the required 10 feet side yard setback. She further stated there were currently no code enforcement or building violations for the property. She then stated there was no record of prior variances granted for the property.

Matape Kadruai the applicant stated her name.

Tony Rama stated he represented the pool company and they were requesting a rear yard setback variance. He further stated right in back of the property was a 6 foot concrete wall. He then showed the Board of Adjustment the proposed location of the pool. He also stated the applicant's neighbor received a variance for their pool.

Mr. Gashlin made a motion to approve the request.

Mr. Coover seconded the motion.

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

7. **401 Kimberly Court** – Aaron & Brandy Carter, applicants; Request for a rear yard (south) setback variance from 30 feet to 14 feet for a boat enclosure in R-1AAA (Single Family Dwelling) district; Located on the west side of Kimberly Ct approximately 1,800 feet south of Wayside Dr; (BV2008-88). (District-5)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated that applicant proposed to construct an approximately 576 square foot boat enclosure that would encroach 16 feet into the required 30 feet rear yard setback. She further stated the proposed structure would be approximately 15 feet in height and

would be designed to match the exterior of the existing home. She then stated there were currently no code enforcement or building violations for the property. She also stated there was no record of prior variances for the property. She lastly stated the applicant received three letters of support from neighbors.

Brandy Carter stated they just wanted to get their boat covered.

Mr. Coover made a motion to approve the request with the stipulation that the structure architecturally match with the existing home.

Mr. O'Malley seconded the motion.

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

8. **426 Ringwood Circle** – Bruce & Julie Lapina, applicants; Request for a side street (south) setback variance from 20 feet to 10 feet for a 6-foot privacy fence in PUD (Planned Unit Development) district; Located on the west side of Ringwood Cir approximately 250 feet south of Eagle Blvd; (BV2008-89). (District - 1)

Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant proposed to construct a 6 feet high PVC privacy fence that would encroach 10 feet into the required 20 feet side street setback. She further stated there were currently no code enforcement or building violations for the property. She then stated there was no record of prior variances granted for the property. She lastly stated Traffic Engineering had reviewed the request and determined the fence would not cause any line of sight issues.

Bruce Lapina stated his name.

Mr Hattaway asked if the applicant wanted to add anything to staff's comments.

Bruce Lapina stated no sir.

Mr. Coover made a motion to approve the request.

Mr. Gashlin seconded the motion.

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

9. **424 W Crystal Drive** – Roland Buhrow, applicant; Request for a front yard setback variance from 25 feet to 20 feet for a proposed carport addition in R-1A (Single Family Dwelling) district; Located on the north side of W. Crystal Dr approximately 730 feet east of N. Country Club Rd; (BV2008-96).

(District - 5)

Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant proposed to extend an existing carport by approximately 13 feet. She further stated the carport addition would encroach 5 feet into the required 25 feet front yard setback. She then stated there were currently no code enforcement or building violations for the property. She also stated there was no record of prior variances granted for the property. She lastly stated the applicant received letters of support from surrounding neighbors.

Roland Buhrow stated they were going to put a gable roof instead of a flat roof because they had issues with the existing roof not holding water away from the inside of the house. He further stated that while doing the roof they wanted to pull the carport forward and have one nice roof going all the way back and tie the existing roof line to it.

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

Mr. O'Malley seconded the motion.

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

10. **3133 Fox Glove Lane** – Bienvenido Olavarria, applicant; Request for a rear yard setback variance from 20 feet to 11 feet for a screen porch addition in PUD (Planned Unit Development) district; Located on the south side of Foxglove Lane approximately 250 feet east of Egrets Landing Dr; (BV2008-99). (District - 5)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant proposed to construct an approximately 520 square foot covered screen room that would encroach 9 feet into the required 20 feet rear yard setback. She further stated there were currently no code enforcement or building violations for the property. She then stated there was no record of prior variances granted for the property.

Bienvenido Olavarria stated they delivered to the Planning Office formal approval from their Architectural Review Board and he received verbal consent from his two immediate neighbors.

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

Mr. Coover seconded the motion.

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

11. **1216 Brampton Place** – William Roberts, applicant; Request for a 1) rear yard setback variance from 5 feet to 3 feet for a pool and 2) a rear yard setback variance from 5 feet to 0 feet for a pool screen enclosure in PUD (Planned Unit Development) district; Located on the west side of Brampton PI approximately 450 feet south of Heathrow Blvd; (BV2008-100). (District - 5)

Joy Williams, Planner

This Item was continued until the December 1, 2008 Meeting.

SPECIAL EXCEPTIONS

12. **2800 County Home Road** – Society for the Prevention of Cruelty to Animals of Central Florida (S.P.C.A), applicant; Request for a special exception for the expansion of an existing animal shelter and veterinary clinic in the A-1 (Agriculture) district; Located on the north east corner of County Home Road and U.S. 17-92; (BS2008-16). (District 5)

Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant proposed to expand an existing animal shelter and veterinary clinic with the addition of two buildings in which a portion of one would be partially located in the A-1 district that required the Board of Adjustment approval. She further stated the applicant was expanding the current site, which had split zoning the majority of the site in which the existing facility and proposed improvements are located is zoned C-2 and the remainder is zoned A-1. She then stated the expansion will consist of a 3620 square foot Cat Boarding Facility and a 3520 square foot Veterinary Clinic connected by a covered walkway. She lastly stated staff recommended approval of the request with the following conditions:

- The general layout of the proposed uses as depicted on the master plan shall not change
- No building shall be increased more than 10% without Board of Adjustment approval
- All buildings shall be used for the exclusive purpose of the Society for the Prevention of Cruelty to Animals of Central Florida
- Prior to the issuance of development permits, a site plan that meets the requirements of all other applicable code requirements including Chapter 40 of the Land Development Code shall be reviewed and approved by the Development Review Committee

Ronald Lang with Harvard Jolly Architecture stated he was representing the applicant; SPCA. He then stated back in 1995 the SPCA permitted a three building complex with parking, a retention pond and two buildings but due to lack of funds the two buildings were not constructed. He further stated that at that time a special exception was granted for the A-1 piece of property. He then stated they were back because they had the funding to build the other two buildings matching the original plan from 1995 so they were asking for approval for the special exception from the Board of Adjustment.

Mr. Coover made a motion to approve the request subject to staff recommendations.

Mr. O'Daniel seconded the motion.

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

13. **145 Wekiva Springs Road, Suites 155,161** – John Gabrovic, applicant; Request for a special exception for the on-premise consumption of alcoholic beverages as an accessory use to a bona-fide restaurant within one thousand (1,000) feet of a church in the C-1 (Commercial) district; Located on the south side of Wekiva Springs Road approximately 1400 feet northeast of State Road 434; (BS2008-15). (District 3)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant proposed to offer alcoholic beverages to their customers as an accessory use to a restaurant. She further stated the applicant proposed to be located within existing internal suites in the Springs Plaza which was within one thousand feet of the property line of an existing church which required the approval of a special exception for on-premise consumption of alcoholic beverages. She then stated the applicant was remodeling the interior portion of the existing shopping center and there would be no increase in the square footage or any increase in the amount of traffic or parking spaces. She also stated the proposed use and site plan met the setbacks, building size and lot size requirements of the C-1 zoning. She lastly stated that staff recommended approval of the request with the following conditions:

- The Special Exception granted will apply only to the sale of on-premise consumption of alcoholic beverages as an accessory use to a restaurant. The sale of alcoholic beverages will not be the allowed as the primary use
- The general layout of the proposed uses as depicted on the master plan shall not change
- No building shall be increased more than 10% without the Board of Adjustment approval
- Prior to the issuance of development permits, a site plan that meets the requirements of all other applicable code requirements including Chapter 40 of the Land Development Code shall be reviewed and approved by the Development Review Committee

John Gabrovic stated he was a resident of Seminole County. He further stated he lived in Europe for 10 years owned and operated restaurants, cafés and bars before returning to the United States in 2002 starting the concept called Harmoni Market. He then stated the concept was a gourmet mediterranean inspired market and restaurant all in one roof. He also showed the Board of Adjustment pictures of the market in the College Park area. He further stated their mission was to help their busy neighbors whether dining at home or in the restaurant, enjoy wholesome, delicious and locally made foods. He then stated almost everything they had in the restaurant they sourced out of the market. He also stated the project was a risky investment due to the economic conditions but he really believed in the project. He further stated they were there because the proposed location was within a thousand feet of the Wekiva Presbyterian Church.

He then stated the church was not in opposition of the request. He also stated food was their business but they were asking permission to be able to sell wine and mixed drinks. He lastly stated the local area needed a high quality anchor to improve the vacant size of the shopping center.

Jose Rodriguez stated he represented the landlord of the Springs Plaza and that they really believed Harmoni would be the anchor for the Springs Plaza. He further stated he was there to support the request. He then stated there had been a lot of tenants in the past eight months to a year come and go in the Plaza and that the back area was currently about 80% vacant but Harmoni would be the key component to enhance the Plaza.

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

Mr. Coover seconded the motion.

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

APPROVAL SEPTEMBER 22, 2008 MEETING MINUTES

Mr. Coover made a motion to approve the September 22, 2008 Minutes.

Mr. O'Daniel seconded the motion.

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

ADJOURNMENT

Time of Adjournment was 7:20 P.M.