

MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT JULY 27, 2009 MEETING 6:00 P.M.

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

Staff Present: Kathy Fall, Principal Planner; Denny Gibbs, Senior Planner; Joy Williams, Planner; Alison Stettner, Planning Manager; 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. Coover requested Item #1 to be taken off the Consent Agenda and be added to the Public Hearing Items.

PUBLIC HEARING ITEMS

1. **Turkey Avenue (Lot 1)** – Shuwan Jackson, applicant; Request for 1) a lot area variance from 5 acres to 7,500 Square feet; 2) a front yard setback variance from 50 feet to 10 feet; 3) rear yard variance from 30 feet to 7.5 feet for a proposed single family home in A-5 (Rural Zoning Classification) district; Located on the south side of Turkey Avenue approximately 700 feet west of Walsh Street; (BV2009-54). (District 2)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a new single family home on a lot that was substandard for the lot area in the A-5 zoning district. She further stated the size of the lot was 7,500 square feet and the lot was created before the County's Land Development Code and was made non-conforming when Seminole County adopted their Code in 1960. She then stated when the Comprehensive Plan changed the land use and zoning from A-1 to A-5 they included statements regarding substandard parcels of record in the future land use objectives and policies and I quote:

- Lots and parcels of record as of the date of adoption of the 1991 Comprehensive Plan, with the exception of those with a Suburban Estates future land use designation assigned to the property, shall be allowed to be built upon even if they do not conform to the currently adopted building site area regulations, as long as all other land development regulations are met and the lot was legally created prior to 1991.

She also stated because of the orientation of the lot the applicant also required setback variances in order to build on the property. She further stated the

required front yard setback for A-5 was 50 feet and the lot was only 50 feet deep and the applicant was asking for the front yard setback to be 10 feet. She then stated the required rear yard setback was 30 feet and the applicant requested it to be 7.5 feet. She also stated there were currently no code enforcement or building violations for the property. She further stated there was no record of prior variances granted of the property. She lastly stated Staff received a letter of opposition from an adjacent property owner.

Mr. Hattaway stated he wanted to continue this Item to allow Staff time to look at these types of lots and establish a policy concerning them.

Allison Stettner stated that the current policy in the Comprehensive Plan about nonconforming lots of records states the County has to allow building permits for per existing lots that are buildable.

After a lengthy discussion the applicants spoke.

Shuwan Jackson stated she was the applicant.

London Campbell stated he was part owner of the property and by his research by law the lot was legal. He further stated they wanted to build a nice house on the lot and they were asking for the setbacks they needed in order to build on the property.

Mr. Coover made a motion to approve the front yard setback variance from 50 feet to 20 feet and the rear yard setback variance from 30 feet to 7.5 feet.

Mr. O'Daniel seconded the motion.

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

2. **1517 Eden Hall Point** – San Sebastian Estate Homes, applicant; Request for a rear yard setback variance from 20 feet to 13 feet and a side yard setback variance from 7 ½ feet to 5 feet for a proposed single family home in PUD (Planned Unit Development) district; Located on the east side of Eden Hall Point approximately 400 feet north of Henley Downs Place; (BV2009-52). (District 5)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant proposed to construct a single family home that would encroach 7 feet into the required 20 feet rear yard setback and 2.5 feet into the required 7.5 feet side yard setback. She further stated there was a subdivision wall located on the east side of the property that abuts Markham Woods Road. She then stated this was the last lot to be developed on this cul-de-sac and a smaller lot in the subdivision.

Jorge Ulibarri stated the developers made the lots pretty tight when they laid them out. He further stated that because there was a brick wall in the back he

was asking for the rear yard and side yard setback variances to build the proposed new home.

Lee Caissie stated she was the neighboring property and she had been trying to sell her home since October and some of the concerns from the prospective buyers were the size of the house and it being so close to her house. She further stated the applicant was a custom builder who built beautiful homes. She then stated the applicant's lot was a smaller lot in the subdivision but on their street it's a bigger lot. She also stated she didn't want anything to affect the sale of her house.

Jorge Ulibarri stated he didn't see with the house being 5,000 square feet a negative thing. He further stated there were plenty of houses larger than his proposed home in the neighborhood. He then stated he was nice enough to give his neighbors the drawings so they could see what he was going to build.

Mr. O'Daniel made a motion to deny the rear yard setback variance and approve the side yard setback variance.

Mr. O'Malley seconded the motion.

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

3. **4496 Bedford Road** – Brad & Diane Hoben, applicant; Request for a side yard (north) setback variance from 10 feet to 5 feet 8 inches feet for an existing screen pool enclosure in A-1 (Agriculture) district; Located on the west side of Bedford Avenue approximately 200 feet north of Wynn Street; (BV2009-53). (District 5) Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant constructed a screen enclosure over an existing pool without a permit. She further stated the screen enclosure encroached 4 feet 4 inches into the side yard setback. She then stated there was no record of prior variances granted for the property.

Diane Hoben stated they owned the property for over 20 years and everything was there when they bought the property. She further stated the only thing she wanted was a pool enclosure and she was not aware she needed a variance. She then stated she had a letter of support from the only neighbor that the screen enclosure would impact.

Mr. Coover made a motion to approve the request.

Mr. O'Daniel seconded the motion.

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

4. **412 & 414 The Circle** – Village on the Green, applicant; Request for a rear yard setback variance from 20 feet to 13 feet 9 inches for two covered screen rooms on a duplex in PUD (Planned Unit Development) district; Located on the east side of The Circle approximately 200 feet east of Village Place; (BV2009-58). (District 3)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant proposed to construct a covered screen room onto a duplex and to bring into compliance an existing covered screen room on the same duplex in which both encroached 6 feet 3 inches into the rear yard setback. She further stated the property was a Retirement Community with duplexes on this Tract of land. She then stated there were no code enforcement or building violations on the property.

Jim Southern with Village on the Green Retirement Community stated the sunrooms help with the life style of the residents. He further stated he wanted to thank staff for their help.

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

Mr. Bushrui seconded the motion.

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

5. **1232 Windsor Avenue** – Brian & Caroline Eddy, applicant; Request for a rear yard setback variance from 30 feet to 16 feet 4 inches and a side yard (west) setback variance from 10 feet to 4 feet 6 inches for a proposed addition in R-1AAA (Single Family Dwelling) district; Located on the south side of Windsor Avenue approximately 400 feet east of Roxboro Road; (BV2009-60). (District 4)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant proposed to construct an addition approximately 845 square feet that would encroach into the side and rear yard setbacks. She further stated there were currently no code enforcement or building violations for the property.

Caroline Eddy stated her mother was currently living with them and it was getting a little crowded and they wanted a little extra space. She further stated they wanted to add an addition for her mother. She then stated she had provided to Staff a petition of support from her neighbors.

Mr. Coover made a motion to approve the request.

Mr. O'Daniel seconded the motion.

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

6. **6023 Linneal Beach Drive** – Tina Sopp, applicant; Request for a side yard setback variance from 10 feet to 6 feet 6 inches for a proposed home in the R-1AA (Single Family Dwelling) district; Located on the north side of Linneal Beach Drive approximately 770 feet west of Bear Lake Circle; (BV2009-67).
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant proposed to construct a single family home to replace a demolished hurricane damaged home. She further stated the proposed home would encroach 4 feet into the required 10 feet side 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.

Tina Sopp stated it had been a long process since 2004 when her home was damaged by a hurricane. She further stated they demolished her home in 2007 and she has had a very difficult time with the Insurance Company. She then stated she has to start building her home by August 13, 2009 to receive money from the Insurance Company for the replacement of her hurricane damaged home.

Louis Reimer stated they had a full set of drawings and they had a foundation permit with Seminole County Building Department.

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

Mr. Bushrui seconded the motion.

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

7. **3275 Sunset Valley Court** – Jon & Julie Vandendreissche, applicant; Request for a rear yard setback variance from 30 feet to 10 feet for a proposed single story detached addition in R-1AAAA (Single Family Dwelling) district; Located on the south side of Sunset Valley Court approximately 450 feet east of Sandy Lane; (BV2009-59). (District 3)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct an approximately 952 square feet detached addition that would encroach 20 feet into the required 30 feet rear yard setback. She further stated there was currently no code enforcement or building violation for the property.

Julie Vandendreissche stated they wanted to put the addition in the rear of the property so that it didn't affect any of their neighbors. She further stated behind them was undeveloped land and a grave yard. She then stated they had a signed petition of support from their neighbors.

Mr. Bushrui made a motion to approve the request.

Mr. O'Malley seconded the motion.

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

8. **1691 Lakelet Loop** – Raul Rodriguez, applicant; Request for a side street (south) setback variance from 20 feet to 0 feet for a proposed privacy fence in PUD (Planned Unit Development) district; Located on the northwest corner of Rock Lane and Lakelet Loop; (BV2009-55). (District 1)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a privacy fence at the southeast side of the home along Rock Lane. She further stated the fence would start at the subdivision sign travel east along Rock Lane and turn back toward the house. 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.

Raul Rodriguez stated a portion of the community wall was located inside his lot. He further stated he wanted to follow the wall on the side and cut the fence to allow full view for the neighbors coming in and out on Lakelet Loop. He then stated with his job he gets in late and his wife is alone with the kids and he wanted to provide some privacy with the fence.

Teresa Stephens stated she was on the Architectural Review Committee for their neighborhood and she saw the posting in the applicant's yard and they were not in favor of the variance because the applicant's property was the first property you see when entering the community. She further stated there are a lot of young kids in the streets and she wanted to make sure the fence would in no way impede the vision from Lakelet Loop. She then stated they did not want to see the fence come all the way to the sidewalk.

Raul Rodriguez stated the fence would in no way obstruct the view of people coming in and out of the community. He further stated if he put the fence at the 20 feet setback it would be too close to his bedroom window and he would not get the privacy he wanted for his family.

Mrs. Rodriguez stated they wanted a little more space to allow their children to play in the backyard.

Mr. O'Malley made a motion to approve a 5 foot side street setback variance for the proposed privacy fence.

Mr. Coover seconded the motion.

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

9. **2110 Crossover Lane** – Randolph & Virginia Clarke, applicant; Request for a setback variance for projecting beyond the established building line (east side) from 100 feet to 15 feet for a proposed pole barn carport in A-5 (Rural Zoning Classification) district; Located on the northeast corner of Crossover Lane and Jungle Road; (BV2009-56). (District 2)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a pole barn that would encroach 85 feet into the required 100 feet side street setback for projecting beyond the established building line of a main structure. 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.

Randy and Ginger Clark stated they fronted three roads and they wanted to position the pole barn between some beautiful oak trees that they didn't want to cut down. They further stated the proposed location was the most logical use for that portion of the property. They then said the required 100 feet setback would put the pole barn up against their house.

Mr. Coover made a motion to approve the request.

Mr. O'Malley seconded the motion.

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

10. **1183 Lazy Hollow Place** – Robyn Bronson, applicant; Request for a rear yard setback variance from 30 feet to 10.4 feet for an existing shed in R-1A (Single Family Dwelling) district; Located on the east side of Lazy Hollow Place approximately 975 feet east of Village Forest Place; (BV2009-57). (District 1)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant constructed an approximately 239 square feet shed that encroached 19.6 feet into the required 30 feet rear yard setback. She further stated the applicant was issued a notice of violation for a shed constructed without a permit and had been working with the Building Division to resolve the issue. She then stated the applicant submitted letters of support from the neighbors on each side of the subject property. She also stated there was no record of prior variances granted for the property.

Robyn Bronson showed pictures of the existing shed and stated it has been there for years. She further stated the shed was used for storage.

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

Mr. Bushrui seconded the motion.

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

SPECIAL EXCEPTIONS

11. **1489 CR 419** – Robert Shane Hedrick, applicant; Request for a Special Exception for a mobile home as living quarters in conjunction with C-1 (Retail Commercial) district; Located on the northeast corner of CR 419 and Lake Mills Road; (BS2009-08). (District 1)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the subject mobile home was located behind the Hitching Post Bar. She further stated a mobile home had been on the site since 1979 and the current mobile home was placed on the property in 1991 and had been used as occupancy by the owner and as security for the existing bar. She then stated in 1978, 1982, 1991 and 1992 Special Exceptions were granted for the placement of a mobile home for security purposes on the subject property, and the last one granted in 1992 had expired. She also stated the surrounding neighborhood historically consisted of single family homes, rural properties, commercial, recreation camp, churches and vacant land. She further stated based upon the trend of development in the surrounding area, Staff would consider the permanent placement of a mobile home as an accessory to the primary commercial function of the Hitching Post Bar consistent with the trend of development of the area. She then stated Staff received a number of E-Mails supporting the mobile home on the property including a note from the commercial landowner to the south, across Lake Mills. She lastly stated Staff recommended approval of the Special Exceptions with the following conditions:

- The Special Exception granted will apply only to the mobile home as depicted on the attached site plan
- The mobile home must be a single family residence occupied only by the owner or operator or employee and accessory to the primary commercial function of the Hitching post Bar
- The mobile home shall otherwise conform to applicable building codes, including standards for anchoring, utility accessibility and skirting

Shane Hedrick stated he was the owner of the property and he would like to get his request approved.

Mr. O’Daniel made a motion to approve the Special Exception request for the 5 year placement of the mobile home.

Mr. Coover seconded the motion.

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

12. **4247 West Lake Mary Blvd** – Antoney Manipadam, applicant; Request for an amendment to a Special Exception to allow on-premise consumption in an established wine shop in PUD (Planned Unit Development); Located on the south side of Lake Mary Blvd between Sun Drive and Greenwood Blvd; (BS2009-10). (District 4)
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated on February 25, 2008 a special exception was granted to establish a retail wine shop that allowed on-premise consumption but restricted the applicant by not allowing per-glass sales or seating. She further stated the applicant currently holds a 2COP alcohol license that allows per-glass sales and is asking the Board of Adjustment to amend the special exception to allow the on-premise consumption to include per-glass sales and allow seating. She then stated Staff believed the proposed use would be compatible with the trend of development in the area for the following reasons:

- A retail wine shop with on-premise consumption within a commercial center is consistent with the trend of development of the high intensity commercial corridor at Lake Mary Blvd, Rinehart Road and Sun Drive
- The property is located in a large shopping center, Shoppes @ Lake Mary Collection
- Cork & Olive is an established retail wine and accessories/gift shop and the addition of per-glass sales of wine would not have an adverse effect on existing traffic patterns
- On-premise consumption shall be subordinate and incidental to retail wine sales
- An alcoholic beverage establishment as a special exception is consistent with the commercial land use designation

She lastly stated staff recommended approval of the special exception request with the following conditions:

- Amend the Special Exception to allow the on-premise consumption to include per-glass sales and allow seating
- The selling of alcoholic beverages shall be primarily package wine sales with the on-premise consumption subordinate and incidental

Antoney Manipadam stated he was the owner of Cork & Olive of Lake Mary. He further stated he wanted to be allowed to sale beer and wine on premise. He then stated we are in very hard economic times and the request would help his business. He also stated he agreed with staff recommendations.

Mr. Coover made a motion to approve the Special Exception request with Staff recommendations.

Mr. Bushrui seconded the motion.

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

13. **4750 Sanford Avenue South** – Heather and Michael Bristol, applicant; Request for a special exception for allow riding lessons in A-1 (Agriculture) district; Located on the north west corner of the intersection of Sanford Avenue South and Michigan Street; (BS2009-09). (District 5)
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant proposed to offer riding and training lessons to persons currently boarding horses. She further stated the applicant currently boarded horses on their 10 acre property which is a permitted use in the A-1 zoning district. She then stated the applicant would like to offer an average of five (5) lessons per day, with Saturdays being their busiest day. She also stated the proposed hours would be from dawn to dusk, Monday through Saturday. She lastly stated staff recommended approval of the special exception request with the following conditions:

- Riding lessons will be for persons boarding horses on the property. At such time lessons are to be offered to persons not boarding horses on the property, an amendment to the special exception will be required
- Riding lessons shall occur between daylight hours or dawn to dusk
- There will be no lighting on the property associated with the riding lessons
- There shall be no outdoor amplification of sound
- There shall be no competitions permitted except by a special event permit
- There will be an average of five (5) lessons a day given, Monday through Saturday

Nicky Vanhook stated she was the attorney for the applicants who were also at the meeting. She further stated Kathy did a good job outlining the request. She then stated the proposed Agricultural use was very compatible with the surrounding uses. She also stated the applicants currently boarded and trained horses and they wanted to provide riding lessons to the people who were currently boarding their horses. She lastly stated the applicants were not proposing any additional structures.

Mr. Bushrui made a motion to approve the special exception request not to exceed 30 lessons per week.

Mr. O'Daniel seconded the motion.

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

14. **1238 Bunnell Road** – Jean Abi-Aoun/Florida Engineering Group, applicant; Request to amend an existing special exception and master plan to allow for an additional classroom and the relocation of a daycare facility in A-1 (Agriculture); located on the south side of Bunnell Rd approximately ½ mile south of West Town Pkwy ; (BS2009-11). (District - 3)
Joy Williams, Planner

Joy Williams introduced the location of the property and stated in 1987 the subject site was approved for a special exception to allow for a private nursery, kindergarten, and primary school with a maximum of 48 children. In 1989 the special exception was amended to allow for a maximum of 100 children and in 1993 the special exception was further amended to allow for a maximum of 400 children, and the master plan was amended to allow for a gym and a parsonage for the existing church. She further stated the applicant was currently requesting to further amend the previously approved special exception to allow for a 2,520 square foot classroom addition along the northern portion of the site and also proposing to add a 7,840 square foot building along the western portion of the site to be utilized as the daycare center; therefore using the existing 10,201 square foot daycare facility exclusively for bible study purposes. She then stated the request was only for additional buildings on the site for the use of the private school; no additional children were proposed for the private school. She also stated staff believed the proposed use would be compatible with the trend of development in the area for the following reasons:

- The requested amendment will be consistent with the previously approved special exception that has allowed the use of the private school for over twenty years
- The proposed additions would not increase the level of traffic to the site, the number of students, or hours of operation
- The site will be required to meet all applicable code requirements and approved by the Development Review Committee

She lastly stated staff recommended approval of the special exception with the following conditions:

- The granted amendment to the Special Exception will apply only to the proposed buildings as depicted on the site plan
- The hours of operation for the daycare will be Monday-Friday from 6:00 A.M. to 6:00 P.M.; drop off and pick up will be located on the east side of the daycare facility away from adjacent residential
- 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
- 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

Jean Abi-Aoun stated he was with Florida Engineering Group representing the Church to amend an existing special exception. He further stated he had with him an overall site plan of the property. He then stated he had Jesus Espinoza from the church with him. He also stated they had provided letters of support from the property owners surrounding the church and that every one approved except two property owners. He further stated they concurred with staff recommendations and asked the Board of Adjustment to approve their request.

He lastly stated they were planning to have the playground equipment on the east side of the property to keep it away from the residents.

Mr. Coover made a motion to approve the special exception request with staff recommendations and with an additional condition that the playground equipment be located on the east side of the property.

Mr. O'Daniel seconded the motion.

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

APPROVAL JUNE 22, 2009 MEETING MINUTES

Mr. O'Malley made a motion to approve the June 22, 2009 Minutes

Mr. Bushrui seconded the motion.

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

ADJOURNMENT

Time of Adjournment was 8:13 P.M.