

# MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT DECEMBER 7, 2009 MEETING 6:00 P.M.

**Members Present:** Mike Hattaway, Chairman; Mike Bass and Curtis Gashlin

**Staff Present:** Kathy Fall, Principal Planner; Denny Gibbs, Senior Planner; Alison Stettner, Planning Manager; 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 also stated Items 3 and 18 would be continued until the January 25, 2010 Meeting.

## PUBLIC HEARINGS

1. **2481 Island Drive** – John & Gail Kalepp, applicants; Request for a 1) front yard setback variance from 25 feet to 13 feet and a 2) side yard (north) setback variance from 10 feet to 0 feet for an aluminum carport in R-1AA (Single Family Dwelling) district; Located on the east side of Island Drive approximately 650 feet north of Oak Drive; (BV2009-99). (District-3)  
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant constructed an aluminum carport that encroached 12 feet into the required 25 feet front yard setback and 10 feet into the required 10 feet side yard setback. She further stated in September of 2009 a notice of code violation was issued for the unpermitted construction of the carport. She then stated there was no record of prior variances granted for the property.

John Kalepp stated he built the carport in front with the help of their neighbors. He further stated his wife had a knee and hip replacement and to make it easier for her to get in and out of the car the covered carport was helpful. He then stated after he received the notice of violation he hired a company to check the construction of the carport to make sure everything was done correctly.

**Mr. Gashlin made a motion to approve the request.**

**Mr. Bass seconded the motion.**

**The motion passed by unanimous consent (3-0).**

2. **121 Lakeshore Drive** – Jeff Brantley, applicant; Request for a side yard (south) setback variance from 10 feet to 8 feet for a covered patio addition in RM-1 (Single Family Mobile Home) district; Located on the east side of Lakeshore Drive approximately 450 feet south of W S.R 434; (BV2009-95). (District - 3)  
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant constructed a covered patio that encroached 2 feet into the required 10 feet side yard setback. She further stated in August of 2009 a notice of code violation was issued for the unpermitted construction of the covered patio. She then stated there was no record of prior variances granted for the property.

Jeff Brantley stated his name.

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

Jeff Brantley stated no.

**Mr. Bass made a motion to approve the request.**

**Mr. Gashlin seconded the motion.**

**The motion passed by unanimous consent (3-0).**

3. **7529 Compass Drive** – Laura Hoffman, applicant; Request for a side street (west) setback variance from 25 feet to 3 feet for a 6-foot privacy fence in R-1A (Single Family Dwelling) district; Located at the corner of Halyard Court and Compass Drive; (BV2009-96). (District-1)  
Joy Williams, Planner

**This Item was continued until January 25, 2010.**

4. **1680 Maitland Avenue** – Mehrdad Hariri, applicant; Request for a rear yard setback variance from 30 feet to 23 feet for an existing single family residence in R-1AA (Single Family Dwelling) district; Located on the east side of Maitland Avenue approximately 250 feet south of Florida Haven Drive; (BV2009-100). (District-4)  
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant requested a rear yard setback variance for an existing home that encroached 7 feet into the required 30 feet rear yard setback. She further stated when the home was constructed in 1967 the rear yard setback for the R-1AA zoning district was 20 feet; therefore, the structure is a legal non-conforming use. She then stated the applicant was in the process of rezoning the property to RP (Residential Professional), and would like to bring the structure into compliance. She also stated there were currently no code enforcement or building violations for the property. She lastly stated staff recommended approval of the variance request.

Byron Bonyadi stated he was the Architect Planner for the owner to do the rezoning of the property. He further stated he was there to answer any questions.

**Mr. Bass made a motion to approve the request.**

**Mr. Gashlin seconded the motion.**

**The motion passed by unanimous consent (3-0).**

5. **2753 Joseph Circle** – Robert Walker, applicant; Request for a front yard setback variance from 20 feet to 10 feet for a proposed 6-foot privacy fence in R-1BB (Single Family Dwelling) district; Located on the south side of Joseph Circle approximately 630 feet west of Alafaya Trail; (BV2009-110). (District-1)  
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant proposed to construct a 6 feet privacy fence approximately 30 feet in length in order to screen an existing AT&T phone cabinet from view. She further stated the phone cabinet was located within the utility easement and had been requested by the neighborhood that the equipment be screened from view of the right of way. 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.

Robert Walker stated he was representing AT&T.

**Mr. Gashlin made a motion to approve the request.**

**Mr. Bass seconded the motion.**

**The motion passed by unanimous consent (3-0).**

6. **2461 Dolarway** – Phyllis Taylor, applicant; Request for 1) a side yard (north) setback variance from 7.5 feet to 4 feet and 2) a side yard (south) setback variance from 7.5 feet to 4 feet for an existing single family residence in R-1 (Single Family Dwelling) district; Located on the east side of Dolarway approximately 185 feet north of S.R 46; (BV2009-103). (District-5)  
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant proposed to renovate an existing home that would encroach 3.5 feet on both the north and south side yards. She further stated the single family residence was built in 1935, prior to the subdivision regulations and the renovation would not cause the home to encroach any further into the setbacks. She then stated the lot was platted in 1917 and was located in the Midway Community which has been designated as a Community Development Target area by Seminole County. She also stated in February of 2009, the applicant received a notice of code violation for the unpermitted construction of the renovation. She lastly stated staff recommended approval of the variances.

Amahl Brown stated he was Phyllis Taylor, the applicant's husband and he was there to represent her.

**Mr. Bass made a motion to approve the request.**

**Mr. Gashlin seconded the motion.**

**The motion passed by unanimous consent (3-0).**

7. **7305 Houston Avenue** – Anthony Alexander, applicant; Request for a side street (west) setback variance from 15 feet to 13 feet for a proposed addition in R-1 (Single Family Dwelling) district; Located on the northeast corner of Houston Avenue and Seminole Avenue; (BV2009-97). (District 1)  
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant was granted an administrative variance for the front yard (south) setback and Traffic Engineering also approved a setback reduction to 15 feet for the side street (west) setback. She further stated a building permit was issued for the addition when the structure went under construction, however an error occurred that placed the addition 2 feet into the required 15 feet side street setback.

Anthony Alexander stated his name.

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

Anthony Alexander stated no sir.

Harold Harris stated he was present when the Engineer and Contractor came to Mr. Alexander's home and apparently they measured from the middle of the street instead of from the structure which caused the error. He then stated they had two (2) letters of support from the neighbors.

**Mr. Bass made a motion to approve the request.**

**Mr. Gashlin seconded the motion.**

**The motion passed by unanimous consent (3-0).**

8. **3900 Wimbledon Drive** – John Giuliani, Landmark Building & Construction, applicant; Request for 1) a front yard setback variance from 46.92 feet to 33 feet and 2) a side street setback variance from 50 feet to 45 feet for a proposed portico addition in A-1 (Agriculture) district; Located on the northwest corner of Wimbledon Drive and Shady Oak Court; (BV2009-98). (District 5)  
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a front portico that would encroach 13.92 feet into the required 46.92 feet front yard setback and 5 feet into the required 50 feet side street setback. She further stated the property was recently granted variances to cure non-conforming setbacks and at that time the 46.92 feet front yard setback was established. She then stated there were currently no code enforcement or building violations for the property.

John Giuliani with Landmark Building & Construction stated they received a variance previously and he didn't know at that time that the owner wanted to put a portico out front. He further stated the owner was handicapped and out front was the only place they could access a vehicle.

**Mr. Gashlin made a motion to approve the request.**

**Mr. Bass seconded the motion.**

**The motion passed by unanimous consent (3-0).**

9. **2380 West Lake Brantley Road** – Jerry & Susan Baughman, applicant; Request for a rear yard setback variance from 30 feet to 20 feet for a covered screen porch in R-1AA (Single Family Dwelling) district; Located on the east side of West Lake Brantley Drive approximately 550 feet south of Westwood Drive; (BV2009-102). (District 3)  
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a covered screen porch that would encroach 10 feet into the required 30 feet water front yard setback. She further stated in this case the water side yard setback was measured from the existing seawall and because the seawall had a jog that necessitated a variance for a portion of the covered screen porch. 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.

Rod Wassun stated he was the Project Engineer speaking on behalf of the applicant to address any questions the Board of Adjustment might have. He further stated he had letters of support from the surrounding neighbors.

Jerry Baughman, the applicant, showed the Board of Adjustment the location of the surrounding neighbors from a location map.

**Mr. Bass made a motion to approve the request.**

**Mr. Gashlin seconded the motion.**

**The motion passed by unanimous consent (3-0).**

10. **Tropical Avenue (Lot 19)** – Joseph Cremonese, applicant; Request for 1) a front yard setback variance from 25 feet to 17.5 feet and 2) a rear yard setback variance from 30 feet (the ordinary or mean high water elevation) to 12 feet for a proposed new single family home in R-1A (Single Family Dwelling) district; Located on the east side of Tropical Avenue approximately 400 feet south of Center Street; (BV2009-104). (District 1)  
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a new single family home and because the property is a narrow platted lot between Lake Emerald and Tropical Avenue, the new structure would encroach 7.5 feet into the required 25 feet front yard setback and 18 feet into the required 30 feet water front setback in the rear which is the ordinary or mean high water elevation. 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.

Joseph Cremonese stated his goal was to build a single family dwelling at the proposed location. He further stated he and his wife currently lived in the area and they were looking to downsize. He then stated he was requesting a 7.5 feet variance for the front of the home and 18 feet for the rear.

Don Titley stated his wife Theresa was also at the meeting. He further stated they had some concerns regarding the request because over the years with the weather there had been some flooding on the proposed lot. He then stated the applicant's property was lower than many of the other lots. He also stated the water was tied into several other lakes and the water level did change at times which meant the water would come on the applicant's lot causing the water to settle there. He further stated if you looked down the street everyone else had a setback of 25 feet from the road and in his opinion the proposed home would be much closer to the road.

Joseph Cremonese stated the proposed building would have a stemwall should the water rise, there would also be vents under it to stop the water from flooding the area which was suggested by the Building Department. He further stated the house would be 17.5 feet past the right of way. He then stated he understood that the neighbor's view would change from a wooded area and the lake but his property was a platted lot and he should be able to build on it within reason.

**Mr. Bass made a motion to approve the request.**

**Mr. Gashlin seconded the motion.**

**The motion passed by unanimous consent (3-0).**

11. **344 East Alpine Street** – Milagros DeWitt, applicant; Request for a front yard setback variance from 25 feet to 22 feet to enclose an existing garage in R-1AA (Single Family Dwelling) district; Located on the south side of East Alpine Street approximately 300 feet west of Pressview Avenue; (BV2009-105). (District 4)  
Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to enclose the existing garage which was nonconforming and currently encroach 3 feet into the required 25 feet front 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.

Milagros DeWitt stated her name and asked the Board of Adjustment did they have any questions for her.

**Mr. Gashlin made a motion to approve the request.**

**Mr. Bass seconded the motion.**

**The motion passed by unanimous consent (3-0).**

12. **Mitchell Hammock Road (Lot 122)** – Les Kaltenecker, applicant; Request for a height variance from 35 feet to 50 feet for a proposed recreation facility in M-1 (Industrial)



district; Located on the south side of Mitchell Hammock Road approximately 600 feet east of SR 426; (BV2009-106). (District 1)

Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant proposed to construct a 249,000 square foot, two-story recreation facility and were asking for a variance for the height of the structure and for the stair towers. She further stated the primary elevation would be from the north facing wall which faced Mitchell Hammock Road. She then stated on the north the height of the proposed structure was 38 feet, the stair towers rise to approximately 44 feet which would place the mean height of the roof tops at 41 feet at the north elevation. She also stated the building would be placed above the retention pond, therefore the grade of the property sloped away from the north and primary elevation. She further stated the lowest grade was approximately 13 feet at the front elevation which placed the mean grade at approximately 6.5 feet. She then stated the applicant had requested a height variance to 50 feet, as full engineering for the structure had not been completed, and the 50 feet height variance allowed for the grade changes between the top of the structure and the bottom of the pond. 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.

David Evans with Evans Engineering stated he was there on behalf of Les Kaltenecker the applicant, for the proposed recreational facility. He further stated the building would be 249,000 square feet with two-stories for paintball use, which is a big demand in Florida. He then stated to shoot a paintball you have to have clear height for each floor. He also stated from a site plan perspective, the retention pond would be located under the building and the total height of the building would be 44 feet. He further stated the front of the building would be about 300 feet from the road. He then stated he had an Architect to answer any questions from the Board of Adjustment.

**Mr. Gashlin made a motion to approve the request.**

**Mr. Bass seconded the motion.**

**The motion passed by unanimous consent (3-0).**

13. **1325 North Hwy CR 426** – Dwayne & Christy Caldwell, applicant; Request for a front yard setback variance from 50 feet to 15.9 feet for an existing single family home in A-1 (Agriculture) district; Located on the south side of CR 426 approximately 750 feet west of Oklahoma Street; (BV2009-109). (District 2)

Denny Gibbs, Senior Planner

Denny Gibbs introduced the location of the property and stated the applicant requested a front yard setback variance from 50 feet to 15.9 feet to cure a nonconforming encroachment into the front yard setback. She further stated the existing home was constructed in 1930 and encroached 34.1 feet into the required 50 feet front 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.

Christy Caldwell stated her name and asked did the Board of Adjustment have any questions.

**Mr. Bass made a motion to approve the request.**

**Mr. Gashlin seconded the motion.**

**The motion passed by unanimous consent (3-0).**

14. **1517 Eden Hall Point** – San Sebastian Estate Homes, applicant; Request for a rear yard setback variance from 20 feet to 13 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; (BV2009-101). (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 rear yard setback. She further stated on September 28, 2009 the Board of Adjustment denied the request for a rear yard setback from 20 feet to 13 feet and on July 27, 2009 the Board of Adjustment granted a side yard setback from 7.5 feet to 5 feet. She then stated there was a subdivision wall located on the east side of the property that abuts Markham Road. She also stated there were currently no code enforcement or building violations for the property.

Karen Ulibarri stated they were asking to build closer to the brick wall which was what many neighbors had done in the neighborhood with a pool and enclosure with a steel structure, but the only difference with their request was they wanted to put a cabana that would be open on all sides.

Jorge Ulibarri stated that behind the cabana would be a brick wall and the only neighbor that would be affected was at the meeting to support the request. He further stated the last time he was before the Board of Adjustment it was suggested he redesign the layout of the house; therefore he showed the Board of Adjustment two (2) options stating the second option was not as friendly as the first, which was his original layout.

Paul Linartas stated he was the neighbor directly behind the applicant's lot. He further stated the lot was currently a vacant dirt lot and he would like to see a house there. He then stated the applicant showed him the plans and he had no opposition to the request.

**Mr. Gashlin made a motion to approve the request.**

**Mr. Bass seconded the motion.**

**The motion passed by unanimous consent (3-0).**



## LIMITED USE

15. **661 Harney Heights Road** – Tom Rogers, applicant; Request for a renewal for the limited placement of a recreational vehicle while a single family home is under construction in the A-5 (Rural zoning) district; Located on the east side of Harney Heights Road, approximately 3,700 feet north of Lake Harney Road; (BM2009-05). (District 2)

Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant requested to renew the one year placement of a recreational vehicle while a permanent single family dwelling is under construction. She further stated the applicant's single family home was still under construction with the last inspection on June 26, 2009 for rough plumbing. She then stated the limited use shall expire on December 7, 2010 if approved by the Board of Adjustment or thirty (30) days after the Certificate of Occupancy, whichever come first. She also stated staff recommended approval for an additional year with the following conditions:

- The appropriate building permit shall be secured for 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 be renewable beyond December 7, 2010
- 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 (30) days, following the issuance of the final Certificate of Occupancy for the permanent single family home or by December 7, 2010 whichever comes first

Tom Rogers stated his name.

Mr. Hattaway asked the applicant if he understood staff's conditions.

Tom Rogers stated yes sir.

**Mr. Bass made a motion to approve the request.**

**Mr. Gashlin seconded the motion.**

**The motion passed by unanimous consent (3-0).**

## SPECIAL EXCEPTIONS

16. **3039 Cecelia Drive** – Adam & Jennifer Landa, applicants; Request for a special exception to convert a 525 square foot detached garage into a guest cottage in R-1AA

(Single Family Dwelling District); Located on the north side of Cecelia Drive approximately 1/10<sup>th</sup> mile east of Balmy Beach Drive; (BS2009-17). (District-3)  
Joy Williams, Planner

Joy Williams introduced the location of the property and stated the applicant proposed to convert an existing 572 square foot garage into a guest cottage. She further stated in 1994 a special exception was granted to permit a guest cottage, the use of the guest cottage had been discontinued for several years; therefore requiring a new special exception. She then stated there were currently no code enforcement or building violations for the property. She also stated the use of a guest cottage was residential in nature and would not create any additional traffic or impact to the community than would a single family residence. She further stated the applicant did not propose to expand the structure; therefore the visual impact would be consistent with the existing development. She then stated staff recommended approval of the special exception request with the following conditions:

- The Special Exception granted will apply only to the existing 572 square foot structure for the use of a guest cottage as defined by section 2.3 of the Seminole County Land Development Code
- The general layout of the proposed uses as depicted on the site plan shall not change
- The applicant must apply for a building permit and meet all applicable building code requirements prior to renovations

Jennifer Landa stated they wanted to construct the guest cottage for their aging parents who may need care. She further stated they were aware the guest cottage was for temporary stay and it could not have a kitchen in it. She then stated she agreed with staff conditions.

**Mr. Gashlin made a motion to approve the special exception request.**

**Mr. Bass seconded the motion.**

**The motion passed by unanimous consent (3-0).**

**17.45 Wekiva Springs Road, Suites 155,161** – John Gabrovic (Harmoni Market), applicant; Request for a special exception for a wine shop in the C-1 (Commercial) district; Located on the south side of Wekiva Springs Road approximately 1400 feet northeast of State Road 434; (BS2009-21). (District 3)  
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated the applicant proposed a wine shop in which the sale of wine is not incidental to other products offered, which required a special exception pursuant to the Land Development Code. She further stated the use of on-premise consumption of alcohol within 1000 feet of a church for the existing restaurant was approved October 27, 2009 by the Board of Adjustment. She then stated to comply with regulations from the State the applicant would modify the interior of the restaurant to provide a separate retail area for the sale of wine requiring this additional application. She also stated this request would not adversely affect the

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

- The Special Exception granted will apply only to the sale of off-premise consumption of alcoholic beverages (beer and wine)
- 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

John Gabrovic stated to comply with the liquor law he had to apply for the special exception and provide a separate entrance for customers to buy wine by the bottle.

**Mr. Bass made a motion to approve the special exception request.**

**Mr. Gashlin seconded the motion.**

**The motion passed by unanimous consent (3-0).**

18. **232 Jungle Road** – Kathy Hattaway, applicant; Request for a special exception for a Bed and Breakfast with weddings as an accessory use in A-5 (Rural zoning) district; Located on the west side of Jungle Road approximately 600 feet north of Fort Lane Road; (BS2009-20). (District 2)  
Kathy Fall, Principal Planner

**This item was continued until January 25, 2010.**

## **APPROVAL OF OCTOBER 26, 2009 MEETING MINUTES**

**Mr. Hattaway made a motion to approve the October 26, 2009 Minutes.**

**Mr. Gashlin seconded the motion.**

**The motion passed by unanimous consent (3-0).**

## **APPROVAL OF 2010 MEETING SCHEDULE**

**Approval of the 2010 Meeting Schedule was continued until February 22, 2010.**

## **ADJOURNMENT**

**Time of Adjournment was 7:30 P.M.**