

BOARD OF ADJUSTMENT

MINUTES

THURSDAY
MAY 8, 2008

1:00
PM

COMMISSIONER CHAMBERS,
ADMINISTRATION BUILDING

CALLED TO ORDER BY	Donald Schreiner, Chairman, noted for the record that there was a quorum present. He confirmed Proof of Publication for each case and noted that the meeting had been advertised pursuant to the Sunshine Statute.
RECORDING SECRETARY	Anna Ely
BOARD ATTENDEES	Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk Marie Wuenschel
NOT PRESENT	
DEPARTMENT OF GROWTH MANAGEMENT REPRESENTATIVES	Anita Greiner, Chief Planner, Zoning Division Paul Simmons, Planner, Zoning Division Anna Ely, Public Hearing Coordinator, Zoning Division
BOARD ATTORNEY	LeChea Parson, Assistant County Attorney I

MINUTE APPROVAL

APPROVAL OF MINUTES OF APRIL 10, 2008 MEETING.

MOTION READS:	To approve the minutes of the April 10, 2008 Board of Adjustment hearing.		
MOTION BY:	MARY LINK BENNETT	SECONDED BY	STEVEN BERK
MOTION APPROVED: 7-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk Marie Wuenschel		AGAINST: None

WITHDRAWALS

BOA#22-08-5

DISCUSSION	There was no objection to BOA#22-08-5 being withdrawn.		
MOTION READS:	To approve the withdrawal of BOA#22-08-5.		
MOTION BY:	STEVEN BERK	SECONDED BY	MARY LINK BENNETT
MOTION APPROVED: 7-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk Marie Wuenschel		AGAINST: None

CONSENT AGENDA

BOA#21-08-5 LAWRENCE D. AND SANDRA RUSS
 BOA#23-08-4 JAMES AND CONSTANCE BERRY
 BOA#25-08-1 ANTHONY AND KAREN ZACHAR

DISCUSSION	There was no objection to BOA#21-08-5, BOA#23-08-4 and BOA#25-08-1 remaining on the consent agenda.		
MOTION READS:	To approve BOA#21-08-5, BOA#23-08-4 and BOA#25-08-1 with conditions of staff.		
MOTION BY:	STEVEN BERK	SECONDED BY	MARY LINK BENNETT
MOTION APPROVED: 7-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk Marie Wuenschel		AGAINST: None

BOA#24-08-2

FABIOLA R. GILLIS

DISCUSSION	<p>Paul Simmons, Planner, presented the staff report and showed the aerial and County Exhibit 1 from the staff report. He showed the proposed lot split request and explained the proposed easement. He stated that staff had received seven letters of support and one letter of opposition. He also stated that staff believed that the applicant has shown proof of hardship and intent of meeting the Code and that staff recommended approval of the variance request. He presented an aerial showing the surrounding property owners in support and the one in opposition.</p> <p>Michel and Veronique Sallin, adjoining property owners, were present to speak in opposition to the request. Ms. Sallin stated that she was in objection to the 15-foot setback distance between his guest house and any new residence to be built on the new lot created by the requested lot split. She stated that a house built that close to the property line would block the view from the guest house. She wanted assurance that any new home would not be built forward of the guest house.</p> <p>Mr. Steve Berks, Board member, asked about the existing setbacks and Mr. Simmons acknowledged that current setbacks would allow any new home to be built five feet from the property line.</p> <p>In response to questions from the Board, Mr. Simmons explained required setbacks and minimum size requirements for any dwelling unit to be built on the new lot.</p> <p>The board confirmed with Mr. and Ms. Sallin that the view was their main concern in objecting to the variance request.</p> <p>Mr. Ivan Uribe was present to speak on behalf of the owner. Mr. Tomas Granado was present to interpret if needed. Mr. Uribe showed an aerial (Applicant Exhibit "A") and explained how the property was originally purchased as two lots. He explained that the prior owners of</p>
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the adjacent property had built the guest house over the property line and that the County had requested Ms. Gillis to relinquish ten feet of property in order for a lot line deviation to be done to correct the issue. He stated that Ms. Gillis had done this willingly. He showed County Exhibit #1 (contained in the staff report) and showed the original two lots and the area that had been given up to allow the lot line deviation. He stated that the area involved started in the front lot and continued all the way to the rear property line of the back lot. He stated that when Ms. Gillis built her house, she built it at the top of the hill, never planning to split the property, but due to economic hardship she now needs to sell a portion of it.

Mr. Uribe provided photographs showing the views of the property from the house, looking toward the road and lake (Applicant Exhibits "B" and "C"). He showed a photograph of the privacy fence that separates their property and the property owned by the person who wrote the letter of objection (Applicant Exhibit "D"). He also showed a photograph of nearby home built on a smaller lot (Applicant Exhibit "E"). He showed the aerial (Applicant Exhibit "A") and pointed out the location of the house. He showed on the aerial that any new home would be in line with the existing houses and would not change the character of the subdivision. He stated that Mr. and Ms. Sallin have three big houses on their property which includes a guesthouse, large boathouse on the lake and the primary residence. He stated that Ms. Gillis only has one residence on her property. He also pointed out that the angle of the sunset changes with the seasons, and that windows should be designed to face the view that is wanted. He stated that they are willing to work with the neighbors so that when they do build they can preserve the view.

In response to questions from the Board, Mr. Uribe stated that no definite plans for building have been made yet, and explained the type of trees existing on the property. He showed a photograph of Mr. and Ms. Sallin's boat house on the lake. He then showed County Exhibit 1 and stated that the variance request and the lot where the existing house is located is being based on the current zoning of R-1. He explained that at this time the property, is divided into to zoning districts, R-1 and R-3, and that if the variance request is approved, they will request a zoning change to R-3 on the upper portion of the property to match the lower lot, so the lot line can be pushed back to make the existing house on the smaller lot, thus allowing more room for placement on the front lot. He showed a photograph of a nearby home showing a typical placement of a home on a smaller lot and pointed out on the aerial where all the properties mentioned are located.

Mr. Don Schreiner, Board Chairman, verified that Ms. Gillis plans to apply for a zoning change to be able to move the property line for the new lot further back. He suggested a 20 to 25-foot setback on each side, to push any new dwelling unit further away from the adjoining properties and the windows of existing homes.

Mr. Uribe stated that doing that would create a narrow building area which would make any new dwelling unit out of character with the surrounding homes, as they are all built wide across the properties. He also stated that on the property to the southwest, the residence

and pool are already 25 feet from the property line.

Ms. Fabiola Gillis reminded the Board that she had already freely given part of her land to correct the setback issue pertaining to the guest house. She asked that the setback difference be averaged between the Sallin's guesthouse and primary residence. She stated her intent is to maintain the area's beauty. She stated that she needed to sell part of the property to be able to pay her bills and stay in her home. She asked the Board to please consider her situation.

Mr. Uribe again addressed the 20-foot setback suggestion and implored Mr. Schreiner, Board member, to consider that they had already been very generous to their neighbors by giving up ten feet of property. He stated that he felt it would be unfair to then require them to maintain a 20 foot setback. He stated that they really wanted to work the Sallin's to solve any issues.

Mr. Sallin, adjacent property owner, stated that he felt that by the rezoning would help alleviate the issue, as the front lot could then be made the larger lot and that the back lot with the existing home could be smaller. This would push the lot line back and any house built on the new property could then be pushed back further than the guest house and solve any issues with the view.

Ms. Ruth Gray, Board member, suggested postponing this case until the zoning has been changed.

Ms. Anita Greiner, Chief Planner, explained that to do so would be more costly, in that if the zoning was approved and the variance denied, they would not be able to split the property and money would have been wasted. She stated that by requesting the variance first the owner would know whether it was advantageous to proceed with the rezoning request.

Mr. Lloyd Atkins, Board member suggested conditioning the variance approval with an average setback to the front property line. It was suggested that the average be between the two adjacent properties primary dwelling units fronting on Lakeshore Drive.

Mr. Uribe, Ms. Gillis, and Mr. and Ms. Sallin were in agreement with this suggestion.

Mr. Schreiner, Board Chairman, returned it to the Board for discussion.

Mr. Berk, Board Member stated he would recommend approval of the variance request with a condition that the front setback be limited to the average setback of the two adjoining primary residences. Mr. Schreiner stated that he was still not satisfied regarding the side setbacks and in light of the fact that Ms. Gillis had already given up ten feet of property, he would like to see a ten-foot setback from the property line adjacent to Mr. and Ms. Sallin's property and no added change in the required setbacks to the west property.

Mr. Steven Berk, Board Member, made a motion to approve the variance request with conditions of staff and the added conditions that the front setback on the newly created lot be limited to the average

	<p>setback of the two adjoining primary residences and the east setback is set at ten feet for any future dwelling units. Ms. Mary Link Bennett seconded the motion.</p> <p>Mr. Schreiner requested that a condition be added that only one single-family dwelling unit could be built on the newly created lot. Mr. Berk amended his motion to include that condition and Ms. Bennett seconded the amended motion.</p> <p>The amendment to the motion was put to vote and approved 6-1 with Ms. Gray in opposition.</p>		
MOTION READS:	<p>To APPROVE the variance request with conditions of staff and the added conditions that the front setback on the newly created lot be limited to the average setback of the two adjoining primary residences, that the east side setback be set at no less than ten feet and that only one single-family dwelling unit can be built on the newly created lot.</p>		
MOTION BY:	STEVEN BERK	SECONDED BY	MARY LINK BENNETT
MOTION APPROVED 5-2	<p>FOR: Donald Schreiner Mary Link Bennett Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk</p>		<p>AGAINST: Ruth Gray Marie Wuenschel</p>

ELECTION OF OFFICERS

A motion was made by Mary Link Bennett to retain Don Schreiner as Chairman of the Board which was approved by unanimous vote. This was followed by a motion by Howard B. (Bob) Fox to nominate Mary Link Bennett as Co-Chairman, which was seconded by Ruth Gray and approved by unanimous vote.

The meeting was adjourned at 2:10 p.m.

Respectfully submitted.

Anna Ely, Recording Secretary

Donald Schreiner, Chairman