

# BOARD OF ADJUSTMENT

## MINUTES

THURSDAY  
May 14, 2009

1:00  
PM

COMMISSIONER CHAMBERS,  
ADMINISTRATION BUILDING

<b>CALLED TO ORDER BY</b>	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.		
<b>RECORDING SECRETARY</b>	Anna Ely		
<b>BOARD ATTENDEES</b>	Donald Schreiner Lloyd Atkins, Jr. Ruth Gray	Mary Link Bennett Marie Wuenschel Steve Berk	
<b>NOT PRESENT</b>			
<b>DEPARTMENT OF GROWTH MANAGEMENT REPRESENTATIVES</b>	Terrie Diesbourg, Director, Zoning Division Anita Greiner, Chief Planner, Zoning Division Anna Ely, Public Hearing Coordinator, Zoning Division Karen Chester, Associate Planner, Zoning Division Debby Rosenmund, Associate Planner, Zoning Division		
<b>BOARD ATTORNEY</b>	Melanie Marsh, Deputy County Attorney		

### MINUTE APPROVAL

APPROVAL OF MINUTES OF APRIL 9, 2009 MEETING

<b>MOTION READS:</b>	Motion to approve the minutes of the APRIL 9, 2009 Board of Adjustment hearing.		
<b>MOTION BY:</b>	<b>MARY LINK BENNETT</b>	<b>SECONDED BY:</b>	<b>LLOYD ATKINS</b>
<b>MOTION APPROVED 6-0</b>	<b>FOR:</b> Donald Schreiner Mary Link Bennett Ruth Gray Lloyd Atkins, Jr. Marie Wuenschel Steve Berk		<b>AGAINST:</b> None

### POSTPONEMENT BOA#14-09-4

BOA #14-09-4  
OWNER/ APPLICANT: CLAUDE AND JENNIFER EURE

### MOTION READS:

Motion by Ruth Gray and seconded by Mary Link Bennett to postpone BOA#14-09-4 indefinitely. Motion carried unanimously.

### CONSENT AGENDA

BOA #6-09-2  
OWNER: REGAL RIDGE HOMEOWNERS ASSOCIATION  
APPLICANT: BRENDA WASHINGTON, RRHOA PROJECT COORDINATOR

BOA #13-09-5  
OWNER/APPLICANT: MELDOY S. GRAHAM

BOA #16-09-3  
OWNER: BARRY A., JENNIFER, AND WAYNE MOSLEY  
APPLICANT: BARRY A. MOSLEY

### DISCUSSION

There was no objection to BOA#6-09-2, BOA#13-09-5, and BOA#16-09-3 remaining on the consent agenda.

### MOTION READS:

Motion to approve BOA#6-09-2, BOA#13-09-5, and BOA#16-09-3 with conditions of staff.

### MOTION BY:

**STEVE BERK**

### SECONDED BY:

**MARY LINK BENNETT**

### MOTION APPROVED 6-0

### FOR:

**AGAINST:**  
None

	Donald Schreiner Mary Link Bennett Ruth Gray Lloyd Atkins, Jr. Marie Wuenschel Steve Berk		
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<b><u>BOA#5-09-1</u></b>		BOA #5-09-1 OWNER: BONFIRE COOPERATIVE ASSOCIATION APPLICANT: FAY FISHER, PRESIDENT, BONFIRE COOPERATIVE ASSOCIATION	
<b>DISCUSSION</b>	Ms. Greiner, Chief Planner, presented the case and showed the aerial from the staff report.		
	Ruth Gray, Board Member, expressed her concerns of compounding a nonconforming use. She clarified with Ms. Greiner that there was both canals and houses near the structure.		
	Ms. Greiner showed the site plan (Exhibit #1 contained in the staff report) and explained the property boundaries and placement of structure. In response to Ms. Gray, she clarified that there is not a driveway to the structure. She pointed out the boat basin and boat slips. She showed photographs contained within the staff report and explained the recommendation for vegetative replacement along with the fill and replacement of wetlands. She pointed out the JWL on the aerial.		
	Ms. Gray stated her objections to the request based on the damage she felt would be done to the water.		
	Ms. Greiner stated that she had worked with the County's environmental specialist to come up with the best set of restrictions.		
	Ms. Greiner explained that this issue is also a code case; that if the variance is denied the only options the Applicant would have is to appeal the decision or to remove the building.		
	Ms. Gray asked the rest of the board members their thoughts, and Mary Bennett stated that she felt this would be an improvement to what had been on the property previously.		
Ms. Greiner stated that if the applicants had only maintained the nonconforming structure, it would have been allowed to remain with no issues.			
Steve Berk, Board Member stated that he felt that this variance should be allowed in this case.			
<b>MOTION READS:</b>	TO APPROVE BOA#5-09-1 with conditions of staff.		
<b>MOTION BY:</b>	<b>STEVE BERK</b>	<b>SECONDED BY:</b>	<b>MARY LINK BENNETT</b>
MOTION APPROVED 6-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Ruth Gray Lloyd Atkins, Jr. Marie Wuenschel		<b>AGAINST:</b> None

	Steve Berk		
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<b>BOA#15-09-4</b>	BOA #15-09-4 OWNER: MARGARET L. CARR APPLICANT: JASON HURLEY
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**DISCUSSION**

Ms. Greiner, Chief Planner, presented the case and showed the aerial from the staff report. She showed the proposed site plan and explained the prior approved variance on the property. She stated the existing easement is of sufficient width and in good condition.

Ruth Gray, Board Member, asked if there was a time limit on the prior variance. Ms. Greiner explained that there was not. She stated that the new request meets all Code requirements except width and easement requirements. She stated the staff's recommendation of approval with the condition that the prior variance and this new request be the only administrative lot splits allowed.

Burt McDonald, neighboring property owner, stated that he has a problem with Tanner Lane. He stated that the road is clay and sand and that he and a few other residents have maintained and paid for the maintenance of Tanner Lane. He stated that he has issues concerning a commercial business being run off of Tanner Lane and that he has a problem with nonsupport from the residents of the property regarding maintenance of the road. He stated that he thinks the variance request should be postponed until the easement problems are resolved.

Ms. Greiner explained that the commercial issue does not come into play with regards to this variance request. She stated that the applicant is not creating a new easement and will be using the existing 30-foot wide easement on the west side to access their property.

Mr. McDonald asked whether an exclusive easement was being created and Ms. Greiner stated again that no new easement is being created.

Lloyd Atkins, Board Member, asked for clarification on how the road maintenance is paid for and handled at this time and Mr. McDonald stated that there is no written agreement at this time.

Donald Schreiner, Board Chairman, asked Melanie Marsh, Deputy County Attorney, to clarify the Board's jurisdiction regarding the case. Ms. Marsh explained that the Board only has jurisdiction regarding the request before them and no jurisdiction on the road issues.

Margaret Carr and Jason Hurley, owner and applicant, were present to represent their case. Ms. Carr stated that Mr. McDonald does not have to use Tanner Lane for access as he has his own driveway. She also stated that he has never asked her for any monetary assistance in maintaining the road. She stated that Mr. McDonald had filled a couple areas of the road with clay at a neighbor's objection.

Mr. Hurley stated that they are only asking for what has been granted on Tanner Lane before. He stated that there is no semi traffic associated with their property or his family. He explained that the easement is a non-exclusive easement.

Tom Stanley, adjacent property owner, stated that there are a lot of problems in the area with the roads and easements. He stated that

	<p>when there is a ten foot wide hog truck going in and out and other traffic along the road. He suggested that if people want to keep splitting their property they should come to an agreement on maintaining a decent road. He stated that the area is getting too congested to be accessed by a ten-foot wide easement.</p> <p>Ms. Greiner showed the zoning map and pointed out the property and surrounding properties.</p> <p>Mr. Schreiner stated that at some point the property owners are going to have to come to some agreement as to how they are going to maintain the road or pay to have it become part of the County maintenance system.</p> <p>Mr. Atkins stated that, unfortunately, as the area grows so do these types of issues. He stated that he did not think there was a winning solution regarding the easement.</p>		
<b>MOTION READS:</b>	TO APPROVE BOA#15-09-4 with conditions of staff.		
<b>MOTION BY:</b>	<b>STEVE BERK</b>	<b>SECONDED BY:</b>	<b>MARRY LINK BENNETT</b>
MOTION APPROVED 6-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Ruth Gray Lloyd Atkins, Jr. Marie Wuenschel Steve Berk		<b>AGAINST:</b> None

The meeting was adjourned at 1:48 p.m.

Respectfully submitted.

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Anna Ely, Recording Secretary

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Donald Schreiner, Chairman