

BOARD OF ADJUSTMENT

MINUTES

THURSDAY
JUNE 12, 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. Marie Wuenschel
NOT PRESENT	Steven Berk
DEPARTMENT OF GROWTH MANAGEMENT REPRESENTATIVES	Amye King, AICP, Growth Management Director Terrie Diesbourg, Director, Zoning Division Anita Greiner, Chief Planner, Zoning Division Paul Simmons, Planner, Zoning Division Anna Ely, Public Hearing Coordinator, Zoning Division
BOARD ATTORNEY	Melanie Marsh, Deputy County Attorney

POSTPONEMENTS

BOA#28-08-5 BARBARA SHAPIRO AND REBECCA RIGGIO

DISCUSSION	There was no objection to postponement of BOA#28-08-5.		
MOTION READS:	To approve the postponement of BOA#28-08-5 until the July 10, 2008 Board of Adjustment public hearing.		
MOTION BY:	RUTH GRAY	SECONDED BY	MARY LINK BENNETT
MOTION APPROVED: 6-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		AGAINST: None

WITHDRAWALS

BOA#32-08-2 REBECCA GOODWIN AND ANGEL COLCHADO
DEVEREUX KIDS/MARY ANN GNANN

DISCUSSION	There was no objection to BOA#32-08-2 being withdrawn.		
MOTION READS:	To approve the withdrawal of BOA#32-08-2.		
MOTION BY:	MARY LINK BENNETT	SECONDED BY	RUTH GRAY
MOTION APPROVED: 6-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr.		AGAINST: None

	Marie Wuenschel		
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CONSENT AGENDA

BOA#27-08-2 MARTIN'S LANDING HOMEOWNER ASSOCIATION
 FLORIDA DOCK, INC. /CHERYL HILDERBRAND
 BOA#30-08-4 MARGARET L. CARR
 JASON HURLEY
 BOA#31-08-5 FRANKLIN AND BESSIE BURNS
 LAKE AND SUMTER EMERGENCY RECOVERY (LASER)

DISCUSSION	There was no objection to BOA#27-08-2, 30-08-4 and 31-08-5 remaining on the consent agenda.		
MOTION READS:	To approve BOA#27-08-2, 30-08-4 and 31-08-5 with conditions of staff.		
MOTION BY:	MARY LINK BENNETT	SECONDED BY	RUTH GRAY
MOTION APPROVED: 6-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		AGAINST: None

MINUTE APPROVAL

APPROVAL OF MINUTES OF MAY 8, 2008 MEETING.

MOTION READS:	To approve the minutes of the May 8, 2008 Board of Adjustment hearing.		
MOTION BY:	MARY LINK BENNETT	SECONDED BY	HOWARD B. (BOB) FOX, JR.
MOTION APPROVED: 6-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		AGAINST: None

BOA#26-08-3

CHARLES MICHAEL HOLT, SR. FAMILY TRUST AND LINDA ROY HOLT FAMILY TRUST

DISCUSSION	<p>Paul Simmons, Planner, presented the staff report, showed the aerial from the staff report and stated the staff's recommendation of denial. He presented a map (County Exhibit "A") showing the surrounding properties and pointed out the property owned by a neighbor in opposition. In response to questions from the board, Mr. Simmons stated that the lake was roughly a mile across.</p> <p>Mike Holt, property owner, was present to speak on behalf of his request. He stated that Lake Emma is approximately a mile in diameter and quite a deep lake. He stated that he is a championship barefoot skier and has owned this property for approximately 12 years and had been using a ramp that he had there for many of those years. He stated that this ramp was removed when he was informed by Code Enforcement that it was not allowed. He stated that he doesn't use Lake Emma all the time, and that he skies in different lakes in the Chain of Lakes depending on the winds. He also stated that he can't</p>
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use the Lake Lucy ramp at this time as the water is too low and that he can't use his property to launch his boat without a ramp, as he gets stuck.

Ruth Gray, Board member, asked about the comments in the letter of objection.

In response to Ms. Gray's question, Mr. Holt stated that the neighbor must be confusing him with a property that is near to her that is used by wake boarders. He stated that he does not own a wakeboard boat, and does not wakeboard. He also stated that he has no sons that wakeboard.

Andy Hansen, neighboring property owner, was present to speak on Mr. Holt's behalf. He pointed out his property and stated that he owns it personally and it is not connected with the wakeboard school. He stated that he also uses his vacant lot to launch his wakeboard boat and he can sympathize with Mr. Holt.

Don Schreiner, Board Chairman, asked about the lots lines shown on County Exhibit "A" and Mr. Simmons responded that they were lot lines and showed the actual lake line on the map.

Ms. Gray asked whether a condition regarding lake levels and usage could be put on an approval.

Ms. Melanie Marsh, Deputy County Attorney, stated that it would be difficult to set conditions like this without Water Authority input, which they did not have. She informed them that these types of conditions would be hard to implement and maintain.

In response to questions from the Board, Mr. Holt explained that the bank of Lake Emma is quite steep and that any rise in lake levels would not have much impact on how high the water comes up on the ramp.

Mr. Hansen verified that Mr. Holt was only requesting a ramp and not a dock.

Mr. Schreiner returned the case to the Board and verified that the variance request was to permit a boat ramp prior to a primary dwelling unit being located on the property. He verified with Mr. Holt that everything had been removed from the property and that he was in compliance with the Code.

Ms. Marsh reminded the Board that they have to believe that Mr. Holt's request meets the intent of the Code.

In response to questions from the Board regarding any plans to build a home on this property, Mr. Holt replied that possibly when his children are grown, but that it is not feasible at this time.

Mr. Fox, Board member made a motion to approve the variance request which was seconded by Ms. Wuenschel. There was a tie vote with Mr. Fox, Ms. Wuenschel and Mr. Schreiner in support and Mr. Atkins, Ms. Gray and Ms. Bennett in opposition. Motion died due to

	<p>lack of a majority vote.</p> <p>Ms. Bennett stated that she did not believe the variance request met the intent of the Code.</p> <p>Mr. Schreiner stated that he believed the hardship was created by nature and that it violated the principal of fairness and that fact is as important as meeting the intent of the Code.</p> <p>Mr. Atkins stated that he could only support the request if a specific date for the building of a primary dwelling unit was set.</p> <p>In response to a request by Mr. Hansen, Mr. Simmons read Lake County Land Develop Regulations Section 10.04.01 Private Boat Docks and Ramps out loud to those in attendance.</p> <p>Mr. Holt spoke about the intent of the Code and his belief that he meets it.</p> <p>Ms. Greiner, Chief Planner, pointed out the Code specifically lists ramps as one of the items prohibited by the Code.</p> <p>Mr. Schreiner, Ms. Gray and Mr. Atkins stated that while they were sympathetic to his request, they didn't see how he could meet the intent of the Code.</p> <p>Ms. Wuenschel stated that she believed this was the purpose of the Board, to make these type of decisions where meeting the intent of the Code is not clear.</p> <p>After further discussion by the Board about the intent of the Code and how Mr. Holt's request met it, Ms. Gray made a motion for approval, stating that although the request does not meet the letter of the law, that due to long time existence and usage of the prior ramp and the absence of any complaints from neighboring property owners, that she felt that his request met the intent of the Code and that he had a substantial hardship.</p>		
MOTION READS:	To APPROVE the variance request to allow a boat ramp on the parcel prior to construction of the main residential structure.		
MOTION BY:	RUTH GRAY	SECONDED BY	MARIE WUENSCHEL
MOTION APPROVED 5-1	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Marie Wuenschel		AGAINST: Lloyd Atkins, Jr.

BOA#29-08-3

HEATHER HEIDERICH

DISCUSSION	<p>Anita Greiner, Chief Planner, presented the staff report, showed the aerial from the staff report and stated staff's recommendation of denial. She showed a survey from the staff report and spoke on flood-plain management and the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program and what it means for the County. She stated that Lake County's Codes are stricter than FEMA's to help</p>
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ensure that federally backed home loans in Lake County would be eligible for flood insurance.

Ms. Heather Heiderich, property owner, was present to speak on her own behalf. She presented the Board members with packets of information containing a map of surrounding properties (Applicant Exhibit "A") and photos of her property (Applicant Exhibits "B", "C", and "D"). She explained her request to put a new four stall barn near her existing barn and to keep the existing barn to store hay, feed and other items. She showed Applicant Exhibit "A" and pointed out her property. She presented Applicant Exhibit "B" and pointed out the proposed location of the barn. On showing Applicant Exhibit "C" she pointed out the current barn and stated that it was already there when she bought the property. Using the map and photos submitted, Ms. Heiderich pointed out the location of the gopher tortoise holes at the back of the property and pointed out the location of the well and the septic tank and drain field.

Mr. Dorian Farmer was present to speak in support of Ms. Heiderich's request. He stated that by putting the barn in the requested location within the flood zone that it would not affect the gopher tortoises as they are located in the rear of the property and that it would not change the lay of the land as there would not be any elevation change. He stated that he believed that to require the barn to be put in the front of the house would devalue the property value.

Ms. Heiderich showed the aerial contained in the staff report and pointed out the location of the pond and natural berm between her property and the neighboring property to the south.

Mr. Don Schreiner, Board member, verified with Ms. Heiderich that she was not going to pour a slab for the new barn.

Ms. Greiner reminded the Board that an enclosed barn is impervious and not open and would displace water. She stated that the applicant could request a Letter of Map Amendment (LOMA) or a Letter of Map Revision (LOMR) from FEMA should she believe that the flood maps are in error.

In response to questions from the Board, Ms. Greiner stated that it could take four to six weeks to obtain a map amendment should FEMA feel the map should be changed.

Ms. Wendy McAllister and Mr. John Gilliland, neighboring property owners were present to speak in opposition to the request. They stated that when it rains the property floods. They expressed concern for the gopher tortoises and for any water being displaced onto their property.

Mr. Gilliland stated that he believed that the line showing the current flood zone was fairly accurate. Ms. Greiner showed an aerial with the flood zoned marked (County Exhibit "A") and Mr. Gilliland pointed out the gopher tortoise areas. He stated that their main concern was the placement of the barn in the flood zone.

Ms. Heiderich and Mr. Farmer pointed out the location of a manure pile that was listed as an objection in a letter from Ms. McAllister and Mr.

	<p>Gilliland and presented a copy of a Code Enforcement report stating that there were no grounds for the complaint. Ms. Heiderich explained that Ms. McAllister and Mr. Gilliland do not live on their property and that their tenant had no objection to the manure/compost pile which she uses to spread around her plants.</p> <p>Ms. McAllister verified that they do not live on the property presently, but do plan on returning once their son graduates high school.</p> <p>Mr. Richard Schneider, neighboring property owner, was present to speak on Ms. Heiderich's behalf. He stated that properties to the north and further south have horses and the property to the west has cattle. He stated that as this is a farming area, that manure is not a new thing. He stated that he and his wife have no problems with horses being on the property or with where Ms. Heiderich intends to place the barn. He also stated that he has lived there ten years and has not observed any water problems that would interfere with the barn placement. He stated that due to the slope of the land, that most water actually flows north across his property and eventually into Little Lake Harris and would not interfere with the property to the south.</p> <p>Mr. Farmer restated his belief that requiring the barn to be built in front of the property would lower the property values.</p> <p>Ms. Greiner stated that she still did not feel that Ms. Heiderich had shown substantial hardship or meeting the intent of the Code. She stated that if they felt that the flood zone was in error, that they need to request a map amendment.</p> <p>After discussion among the Board, Mr. Atkins made a motion to postpone the variance request up to 120 days to give Ms. Heiderich time to apply for a map amendment.</p>		
MOTION READS:	TO POSTPONE BOA#29-08-3 for up to 120 days.		
MOTION BY:	LLOYD ATKINS, JR.	SECONDED BY	HOWARD B. (BOB) FOX, JR.
MOTION APPROVED 6-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		AGAINST: None

The meeting was adjourned at 3:02 p.m.

Respectfully submitted.

Anna Ely, Recording Secretary

Donald Schreiner, Chairman