

BOARD OF ADJUSTMENT

MINUTES

THURSDAY
JULY 9, 2009

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 Marie Wuenschel	Mary Link Bennett Ruth Gray	
NOT PRESENT	Steve Berk Lloyd Atkins, Jr.		
DEPARTMENT OF GROWTH MANAGEMENT REPRESENTATIVES	Terrie Diesbourg, Director, Zoning Division Sheila Short, Senior Planner, Zoning Division Janie Barron, Associate Planner, Zoning Division Anna Ely, Public Hearing Coordinator, Zoning Division		
BOARD ATTORNEY	Melanie Marsh, Deputy County Attorney		

MINUTE APPROVAL

APPROVAL OF MINUTES OF JUNE 11, 2009 MEETING

MOTION READS:	Motion to approve the minutes of the JUNE 11, 2009 Board of Adjustment hearing.		
MOTION BY:	MARY LINK BENNETT	SECONDED BY:	RUTH GRAY
MOTION APPROVED 4-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Marie Wuenschel		AGAINST: None

<u>CONSENT AGENDA</u>	<p>BOA #22-09-4 OWNER: Maston R. and Sharyn L. Godwin APPLICANT: Christopher Shipley</p> <p>BOA #24-09-2 OWNER: Clermont Partners, LLC. & SR 50 / Hartle Road, LLC APPLICANT: Lew Ellis/Auto Zone</p> <p>BOA #25-09-3 OWNER: Dixon B. Perry-Smith, Jr. & Eleanor M. Perry-Smith APPLICANT: Marty Thompson</p>
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DISCUSSION	There was no objection to BOA#22-09-4, BOA#24-09-2 and BOA#25-09-3 remaining on the consent agenda.		
MOTION READS:	Motion to approve BOA#22-09-4, BOA#24-09-2 and BOA#25-09-3 with conditions of staff.		
MOTION BY:	MARY LINK BENNETT	SECONDED BY:	RUTH GRAY
MOTION APPROVED 4-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Marie Wuenschel		AGAINST: None

BOA#23-09-2

BOA #23-09-2

OWNER: Charles F. and Penelope Mary Wilson

APPLICANT: Kristi Cummins Nailos, Esq.

DISCUSSION

Janie Barron, Associate Planner, presented the staff report and showed the aerial from the staff report. She showed the survey contained in the staff report and pointed out Apshawa Road and explained the proposed parcels. She pointed out the existing home and pole barn. She explained the proposed easement and stated that the easement will be 850 feet long instead of the 1000 stated in the backup. She stated that staff is recommending approval with conditions stated in the staff report.

Don Schreiner, Board Chairman asked for clarification regarding the red boundary lines on the aerial that Ms. Barron presented.

Ms. Barron explained the marked parcels indicating the location of the adjacent property owners that are in objection to the variance request.

In response to questions from the Board regarding the quality of the road, Terrie Diesbourg, Zoning Director, explained that there are good portions and bad portions to the road.

Kristi Nailos, Attorney, was present to represent the owners. She spoke regarding the objections raised in the letters that had been received. She stated that the portion of the road in front of the Wilson's property is paved and that they had personally paid for it to be paved. She stated that neighboring property owners didn't want to help pay for the paving so only the portion in front of the owner's property is paved. She stated that the owners are asking for the variance in order to qualify for a reverse mortgage so that they can keep their property from going into foreclosure. She stated that the road is not heavily traveled and they are only requesting to add one parcel and that the owners are in agreement to the conditions requested by staff.

Mr. Schreiner asked about whether the pole barn on the applicant's contains livestock and Ms. Barron replied that the building will be located on the front parcel and does not contain livestock.

Ms. Gray asked what Ms. Nailos meant by the road not being heavily traveled. In response to the Board, Ms. Nailos stated that there are only about eight houses on the road and that the only traffic generated is by those who live on the road.

Charles and Penelope Wilson were also present to speak on their own behalf. Mr. Wilson stated that the out building is a shed rather than a barn. He stated that Toad Road to the north only has about six houses total. He stated that there was a sink hole on East Apshawa so now Toad Road is a dead end road.

Marie Wuenschel, Board member, asked about the use of the two buildings shown on the aerial to the south of the subject parcel.

Mr. Wilson stated that there are two houses on the eight acre parcel to the south.

In response to a question from Ms. Gray regarding the letter of

objection that was received, Ms. Barron pointed out the location of the property on the aerial.

Pam Scott, adjacent property owner to the south, was present to speak regarding the variance request. She stated that there are 12 oak trees along the southern property line that she did not want to see removed to create the easement. She stated that she would rather see the easement moved to the north of the trees. She stated that she would rather see the easement located along the north property line and that she felt they should remove an existing pad along the north side of the house and to place the easement there.

Janie Barron explained that the minimum setback is 25 feet and putting the easement to the north would not allow access for emergency vehicles or meet the required setbacks.

Ms. Scott stated that there are gopher tortoises along the southern fence line. She also stated that the legal posting at Cherry Lake and Apsawa Road disappeared after the first day and that she did not think the neighborhood had been given sufficient notice. She stated that she felt there were possibly people that are not aware of the variance request.

Ms. Scott stated that the property to the north was sold by the Wilsons 2005. She stated that the new owners of the property then requested, and were granted, a variance to split that property. She stated that part of the variance approval was the requirement that those owners are to maintain Apsawa Road and Toad Road. She explained that there is a big 30 feet by 30 feet mud hole in the road.

Ms. Scott also explained that she has horses and does not want Toad Road paved because of the speed of the vehicles along paved roads; however, she does want it maintained.

Ms. Gray had questions regarding the easement, and Ms. Barron explained that the original variance request was to put the easement to the south and it was to be 1000 feet long.

Ms. Scott asked about putting the easement to the north and Ms. Barron stated that there is a concrete slab there and that the emergency vehicles would have to maneuver around it.

Mr. Wilson stated that the slab is the garage apron and entry way to their garage and that if the easement was put along the north they would not be able to access their garage. He stated that the property to the north is no longer their property. He stated that he felt that to put the easement along the south property line that the trees would only need trimming and that they would not have to remove any trees.

Ms. Barron explained that putting the easement to the north of the house would not meet setbacks.

Ms. Gray asked about emergency access and Ms. Barron explained that the emergency access will be addressed during the lot split application process.

Ms. Barron explained that the county is requesting that a requirement be placed on the variance approval that the easement to the new

	<p>parcel be placed along the south property line to the north of the line of existing trees.</p> <p>Mr. Wilson stated that the easement will be 25 feet north of the trees.</p> <p>Ms. Scott stated that she feels that the owners created their own hardship and felt that they should have to go by the land development regulations.</p> <p>Melanie Marsh, Deputy County Attorney, stated that the Board will need to clarify what they mean by north of the tree lines so that staff will have clear direction as to what is required.</p> <p>Mary Link Bennett, Board member, clarified with staff that the easement does not have to be straight.</p> <p>Ms. Gray made a motion that the variance be approved with the condition that the 25 foot easement be created as shown on the site plan, skirting the valuable oak trees; and should address any Fire Department concerns.</p> <p>Ms. Wuenschel stated that she felt there should be a study regarding the gopher tortoises.</p> <p>Ms. Marsh stated that any gopher tortoise issues will be addressed when zoning clearances and building permits are issued. She also explained that the Fire Department will look at emergency access when they review the lot split application. She stated that the Board needs to be more specific in their motion and clarify that the trees that front Apschawa Road and the adjoining property are to be protected; and they need to make it a condition of the variance approval that the trees can not removed.</p> <p>Ms. Nailos asked whether the pine trees could be removed. Mr. Schreiner clarified that the pine trees could be removed but the oak trees could not.</p>		
MOTION READS:	To APPROVE BOA#23-09-2 with staff recommendations and the added condition that no oak trees will be removed to establish the easement.		
MOTION BY:	RUTH GRAY	SECONDED BY:	MARY LINK BENNETT
MOTION APPROVED 3-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray		AGAINST: Marie Wuenschel

BOA#26-09-1

BOA #26-09-1
OWNER/APPLICANT: Randa Zollinger and Leah Mason

DISCUSSION	<p>Terrie Diesbourg, Zoning Division Director, read the applicant's hardship into the record. In response to questions from Ruth Gray, Board member, Ms. Diesbourg explained that the structures already existing on the property do conform to the current setbacks. She also stated that putting in the swale actually provides better protection to the wetlands than the 50 foot wetland setback required by code. She</p>
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	<p>stated that the property was purchased in 1990 before the current Land Development Regulation changes in 1992.</p> <p>There was discussion among the Board regarding berms and swales.</p>		
MOTION READS:	TO approve BOA#26-09-1 with conditions of staff.		
MOTION BY:	MARY LINK BENNETT	SECONDED BY:	RUTH GRAY
MOTION APPROVED 4-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Marie Wuenschel		AGAINST: None

The meeting was adjourned at 2:13 p.m.

Respectfully submitted.

Anna Ely, Recording Secretary

Donald Schreiner, Chairman