

BOARD OF ADJUSTMENT

MINUTES

THURSDAY
JULY 10, 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	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 Erin Hartigan, Assistant County Attorney

MINUTE APPROVAL

APPROVAL OF MINUTES OF JUNE 12, 2008 MEETING

MOTION READS:	To approve the minutes of the June 12, 2008 Board of Adjustment hearing.		
MOTION BY:	MARY LINK BENNETT	SECONDED BY	RUTH GRAY
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# 33-08-2 CITRUS VALLEY INVESTORS, LLC
CARL LANDI (PHOENIX CONSTRUCTION LLC)
BOA# 35-08-3 THOMAS & CAROLYN NOBLES
BOA# 36-08-3 JAMES & JENNIFER FARRIS
BOA# 38-08-4 THE COLLIS AND MARY GODWIN TRUST,
MASTON GODWIN, TRUSTEE
CHRISTOPHER J. SHIPLEY, ESQ.
BOA# 39-08-2 CITRUS VALLEY INVESTORS, LLC
CARL LANDI (PHOENIX CONSTRUCTION LLC)

DISCUSSION	There was no objection to BOA#33-08-2, BOA#35-08-3, BOA#36-08-3, BOA#38-08-4 and BOA#39-08-2 remaining on the consent agenda.
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MOTION READS:	To approve BOA#33-08-2, BOA#35-08-3, BOA#36-08-3, BOA#38-08-4 and BOA#39-08-2 with conditions of staff.		
MOTION BY:	MARY LINK BENNETT	SECONDED BY	RUTH GRAY
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

OWNER: Barbara Shapiro and Rebecca Riggio
APPLICANT: Rebecca Riggio

BOA#28-08-5

REQUESTED ACTION: The owners are requesting a variance from the Lake County Land Development Regulations, Section 3.02.05.J Setbacks to allow a kennel to be constructed closer than 200 feet from property lines (+/- 5 acres).

DISCUSSION	<p>Anita Greiner, Chief Planner, presented the staff report and showed the aerial from the staff report. She explained that even if the variance is granted, the applicant would also have to apply for a Conditional Use Permit (CUP). She pointed out the property on the aerial and showed a survey from the staff report (Exhibit #1). She pointed out the kennels and dog runs and spoke of the required setbacks.</p> <p>Ms. Greiner explained that due the size of the property, the applicant would not be able to meet any of the setbacks required. She stated that staff recommended denial and did not believe that the applicant had shown proof of a substantial hardship or proof of meeting the intent of the Code. She informed the Board that staff had received three letters of support.</p> <p>Rebecca Riggio, applicant, was present to state her case. She spoke in regards to the complaints with Animal Control, and stated that she no longer has the dog referred to in the reports. She stated that at this time she has small schnauzers and that they are part of the family. She stated that because of the shape of her property, it is physically impossible to meet the setback requirements.</p> <p>Steve Berk, Board member, asked how long she has lived on the property and Ms. Riggio replied that she has lived there about three years. She stated that she didn't feel that she had a kennel, as the animals are pets and part of the family. She also stated that the structure is basically a secured fenced area.</p> <p>Mary Link Bennett, Board member, asked if the smaller dogs she has now could get through the fencing and Ms. Riggio stated that they could not, and explained how she had secured the fencing.</p> <p>Ruth Gray, Board member, verified with Ms. Riggio that she no longer has the dog involved in the complaints with Animal Control.</p>
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	<p>Mr. Schreiner returned it to the Board and asked for a motion.</p> <p>Ms. Bennett verified with Ms. Greiner that even if a variance was granted, that Ms. Riggio would be required to get a CUP.</p> <p>Ms. Gray verified with Ms. Greiner that the CUP would only limit the number of dogs allowed and not pertain to the type of dogs.</p>		
MOTION READS:	TO DENY BOA#28-08-5		
MOTION BY:	STEVE BERK	SECONDED BY	LLOYD ATKINS
MOTION APPROVED 7-0	<p>FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk Marie Wuenschel</p>		<p>AGAINST: None</p>

OWNER: Leslie H. & Donna M. Lindgren


APPLICANT: Leslie H. Lindgren

BOA#34-08-2

REQUESTED ACTION: The owners are requesting a variance from the Lake County Land Development Regulations, 3.13.07 Wireless Antennas, Towers, and Equipment Setbacks to allow a telecommunication tower to be located in an area that is not centered on the parent parcel (+/- 10 acres).

DISCUSSION	<p>Anita Greiner, Chief Planner, presented the staff report and showed the aerial from the staff report. She showed a map outlining the required setbacks for the tower (County Exhibits "A" and "B"). She stated that if approved, the property would also have to go for a rezoning to CFD. She showed a copy of the tower plan from the staff report.</p> <p>Ms. Greiner stated that the placement requested by the applicant would better meet the intent of the code. She also stated that staff recommended approval.</p> <p>Steve Berk, Board member, asked for clarification regarding setbacks and how a tower would affect any future development on the vacant properties surrounding it.</p> <p>Ms. Greiner explained that the required setbacks only affect the tower with regards to existing structures. Future development on the surrounding parcels would not be required to meet those setbacks.</p> <p>Ms. Greiner showed the maps indicating the location of the letters of objection that have been received (County Exhibits "C" and "D").</p> <p>Ms. Gray had questions regarding the emissions issue.</p> <p>Melanie Marsh, Deputy County Attorney, stated that according to Federal Regulations, the Board is not allowed to consider emissions in making their decision.</p> <p>Ms. Greiner reminded the Board that they are only being asked to approve or deny the placement of the tower.</p>
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On request by Lloyd Atkins, Board member, Ms. Marsh restated the Federal Regulation.

Mary Link Bennett, Board member, asked about the lakefront properties and whether any of those owners had sent letters of objection.  Ms. Greiner stated that they had not received any letters other than the ones shown on the map.

Mr. Lindgren was present to speak on his own behalf. He stated that the only thing on the property is gopher turtles, a coyote and some small orange trees. He stated that Verizon had contacted him a few months ago and told him that his property was perfect for a tower. He talked about fade out in cell phone service and that the closest tower is over four miles away. He stated that he had talked to Carl Bishop, Fire Chief of the City of Clermont, as to whether there was a real need for a tower in that location and he was informed that there was.

Mr. Lindgren stated that the towers would still be operational in case of power outage. He also stated that there has never been a report of a monopole tower falling. He talked about the need for cell phone service in case of emergency. He stated that if he puts the tower in the center of the property he would not be able to meet the setbacks from the nearest residence. He explained that by putting it in the corner of the property where he is requesting; he would be able to meet that regulation.

Mr. Lindgren stated that he was aware of the complaints, and said that everyone wants service but no one wants to see the tower and no one wants to have it in their back yard. He stated that he wanted to build a monopole tower which is similar to a big flagpole. He stated that according to Verizon that the cell tower emits less microwave power than a police radio, radio station or other similar devices. He stated that he himself would be able to see the tower from where he lives.

Mr. Lindgren stated that there are an expected 700 homes going in new developments near to his property. He stated that there is development in every direction and that there is a real need now for service, due to safety concerns.

Ruth Gray, Board member, questioned Mr. Lindgren regarding the hardship and the principles of fairness.

Mr. Lindgren stated that by having to place the property in the center that he wouldn't be able to meet the intent of being away from residences.

Mr. Berk also questioned the hardship; Mr. Lindgren stated that at the present time the land is zoned Agriculture and he would only be able to put two homes on it, as it didn't appear that the Future Land Use was going to be changing for that area.

Mr. Berk reiterated that placing the cell tower in the middle of the property would hinder any future splits and use of the property.

Ms. Greiner stated that Mr. Lindgren informed her during the application

process that he would be building there in the future and that cell phones would be his only communication.

Pamela Fischer, neighboring property owner, stated that she lives west of the subject property. Ms. Greiner pointed it out on County Exhibit "A", to the west of the subject property, just outside the setback radius.

Mr. Schreiner had questions regarding the setbacks for future development of the surrounding properties should the tower be built.

Ms. Greiner explained that any future development would not be required to meet the current tower to residence setbacks. Ms. Greiner also explained that Ms. Fisher's house is outside the setback requirement.

Ms. Fisher spoke regarding the closed landfill on Loghouse Road and stated that if the variance is approved that she would request an environmental study with regards to the landfill.

Mr. Schreiner stated that any request regarding that would have to go before the Commissioners. He stated that Board of Adjustment could only address the tower placement.

Eugene Fischer, neighboring property owner, spoke in opposition to the tower with regards to the microwave frequencies. He stated that there was no trouble receiving cell phone service. He stated that he had driven around the area and had made calls every 700 feet with no problems. He felt that there was no need for a tower and that it would devalue surrounding properties.

Travis Vauris, neighboring property owner, spoke in opposition. She stated that she lives on the lake across from the proposed location and that they paid extra to have lakefront. She stated that she gets good service in all but one room of her house and that she did not want to have to look at a cell tower across the lake.

Janice Hull, neighboring property owner, stated that she lived to the southeast and is in support of the tower. She stated that Mr. Lindgren's property is on a knoll, and that she would have to look through the tower at the sunset, but she would gladly do so, as she does not have cell phone service. She stated that it would be to the neighboring property owners' benefit to have the tower.

James Thome, President of Vineyard Estates Homeowners Association, stated that he represented the property owners of Vineyard Estates; a subdivision to the northeast. He stated that they had done internet research with regards to standards for RF energy and felt that today's standards are too low. He stated that he feels that there is a health risk. He stated the homeowner's concerns are that in the future the property would be zoned for commercial uses. He questioned the tower's impact on future home values. He stated that they didn't support the aesthetics of the tower. He also stated that in his home personally, he does not have any problem with cell phone service. He also stated that all the homeowners in the subdivision had requested that the board deny the request.

	<p>Richard Creighton, of the Crescent Ridge Homeowners Association, stated that the homeowners of Crescent Ridge were in opposition to the tower. He stated that they are to the east of the property. He stated that a variance should be granted for the tower to be placed in the center of the property to minimize the impact on surrounding property owners land values, and so that Mr. Lindgren takes more impact. He stated that his cell service is very bad and if the tower should be granted he would enjoy the additional coverage.</p> <p>Mr. Lindgren stated that he would like to have the tower built himself, versus relying on a cell phone company to build it. He felt that he would have more control of the tower if he had it built. He stated that Verizon is putting towers on schools and he felt that if there was a safety problem, that they wouldn't be putting them on schools. He also talked about ground testing and addressed the environmental study. He stated that the same people that would be doing the bore would be doing the environmental study. He said they would be testing for bombs, oil and any other hazards. He stated that monopole towers do not fall and that the Eiffel Tower type of cell tower is unattractive and that is not what he is planning to build. He addressed that there would be a monetary return, but that there would also a monetary expense.</p> <p>Mr. Schreiner returned it to the Board for a motion.</p>		
MOTION READS:	TO DENY BOA#34-08-2		
MOTION BY:	STEVE BERK	SECONDED BY	MARY BENNETT
MOTION APPROVED 7-0	<p>FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk Marie Wuenschel</p>		<p>AGAINST: None</p>

OWNER: Robert E. & Clare F. Jones Revocable Living Trust,
Suanne DeLancett, Trustee

APPLICANT: Curtis N. Jones

BOA#37-08-5

REQUESTED ACTION: The owners are requesting a variance from the Lake County Land Development Regulations 14.11.01.D.2 Minor Lot Splits to allow them to split their parcel through the minor lot split process creating three parcels; the lot was previously split through a minor lot split process. The owners are also requesting a variance to allow the two newly created parcels to front on an easement instead of a paved publicly maintained road (+/- 21.29 acres).

DISCUSSION	<p>Ms. Greiner presented the staff report and showed the aerial contained in the staff report.</p> <p>She showed the site plan showing the original parcel and stated that the lot was created by a previous Lot Split. She spoke regarding the proposed split and the flood zone and the wetlands. She showed a boundary survey showing the property outlined in red (Exhibit #1).</p> <p>She stated that the staff believed the applicant has shown hardship, but</p>
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	<p>had not shown how they were going to meet the intent of the code</p> <p>Curtis Jones, was present to speak regarding his request. He stated that his mother still lives on the property and that they are trying to reduce expenses so that she can continue to live there as long as possible.</p> <p>Ms. Gray requested confirmation of where their house is located.</p> <p>Mr. Jones stated that he lives with his mom and that they have to pay for 24-hour care for his mother.</p> <p>Ms. Gray stated that they don't doubt the hardship.</p> <p>Ms. Wuenschel questioned access to the property.</p> <p>Mr. Jones described French Road and Joclyn Lane, which is a clay road. He explained that one parcel would be accessed from Little Lake Critter Road. He confirmed that the only county paved road is French Road. He stated that there was a pond and wetlands that prevented other access.</p> <p>Mr. Schreiner returned to the Board and asked for a motion.</p> <p>Mr. Berk verified with Ms. Greiner as to why staff is recommending denial. He verified that the property has already been split.</p> <p>Mr. Schreiner asked about creating access.</p> <p>Ms. Greiner explained that there were two requests, the number of lots requested, and not being on a county-maintained road. She stated that the original split did not require a variance as the rules were very different then. She showed the map with the original split.</p> <p>Ms. Marsh stated that someone needs to make a motion.</p> <p>Mr. Berk, Ms Gray and Mr. Schreiner discussed the access.</p> <p>Ms. Gray asked if he could come back in a year if they do not make motion.</p> <p>Ms. Marsh stated that to do so would count as a denial.</p>		
MOTION READS:	TO DENY BOA#37-08-5 as the request does not meet the intent of the code.		
MOTION BY:	STEVE BERK	SECONDED BY	MARY LINK BENNETT
MOTION APPROVED 6-1	FOR: Donald Schreiner Mary Link Bennett Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk Marie Wuenschel		AGAINST: Ruth Gray

Discussion on #34 as to whether the denial motion needed to be readdressed and Ms. Marsh stated that the Boards' discussion should be sufficient.

The meeting was adjourned at 1:53 p.m.

Respectfully submitted.

Anna Ely, Recording Secretary

Donald Schreiner, Chairman