

# BOARD OF ADJUSTMENT

MINUTES	THURSDAY SEPTEMBER 10, 2009	1:00 PM	COMMISSIONER CHAMBERS, ADMINISTRATION BUILDING
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<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.	Mary Link Bennett Marie Wuenschel Ruth Gray	
<b>NOT PRESENT</b>	Steve Berk		
<b>DEPARTMENT OF GROWTH MANAGEMENT REPRESENTATIVES</b>	Terrie Diesbourg, Director, Zoning Division Sheila Short, Senior Planner, Zoning Division Paul Simmons, Planner, Zoning Division Karen Chester, Associate Planner, Zoning Division Anna Ely, Public Hearing Coordinator, Zoning Division		
<b>BOARD ATTORNEY</b>	Melanie Marsh, Deputy County Attorney		
<b>MINUTE APPROVAL</b>	APPROVAL OF MINUTES OF AUGUST 13, 2009 MEETING		
<b>MOTION READS:</b>	Motion to approve the minutes of the AUGUST 13, 2009 Board of Adjustment hearing.		
<b>MOTION BY:</b>	<b>MARY LINK BENNETT</b>	<b>SECONDED BY:</b>	<b>MARIE WYENSCHEL</b>
MOTION APPROVED 5-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Lloyd Atkins, Jr. Marie Wuenschel Ruth Gray		<b>AGAINST:</b> None

<b><u>CONSENT AGENDA</u></b>	BOA #31-09-5 OWNER: Cheryl Harvey and Christine Duttenhaver APPLICANT: Cheryl Harvey  BOA #32-09-5 OWNER/APPLICANT: W. G. & Ada Lisa O'Brien  BOA #33-09-2 OWNER/APPLICANT: H. Gerald and Sandra M. Jowers  BOA #35-09-5 OWNER: Citrus World, Inc. APPLICANT: Florida's Natural Growers		
<b>DISCUSSION</b>	There was no objection to BOA#31-09-5, BOA#32-09-5, BOA#33-09-2 and BOA#35-09-5 remaining on the consent agenda.		
<b>MOTION READS:</b>	Motion to approve BOA#31-09-5, BOA#32-09-5, BOA#33-09-2 and		

	BOA#35-09-5 with conditions of staff.		
<b>MOTION BY:</b>	<b>MARY LINK BENNETT</b>	<b>SECONDED BY:</b>	<b>RUTH GRAY</b>
MOTION APPROVED 5-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Lloyd Atkins, Jr. Marie Wuenschel Ruth Gray		<b>AGAINST:</b> None

<b><u>BOA#29-09-2</u></b>	BOA #29-09-2 OWNER/APPLICANT: Richard & Jennifer Arabitg
<b>DISCUSSION</b>	<p>Karen Chester, Associate Planner, presented the case and showed the aerial from the staff report. She showed the site plan (County Exhibit "1") and pointed out the wetlands and proposed location of the garage. She also pointed out the proposed location of the single-family dwelling unit (SFDU). She explained that the area requested is the only area on the property that is not within the flood zone. She stated that the applicants wished to construct the SFDU sometime in the future. She explained that they wished to construct the garage at this time which requires a variance. She showed the location of the proposed garage and stated the proposed setbacks. She also showed the conceptual drawing of the proposed SFDU to be built in the future (County Exhibit "2").</p> <p>Ms. Chester stated that staff believes that the applicants have shown proof of hardship when it comes to the location of the garage and recommends approval for that portion of Code (Section 10.01.02.C) with the following conditions:</p> <ol style="list-style-type: none"> <li>1. The detached garage must be constructed in the same architectural style as the dwelling unit; the same roofing material and color must be used; and the exterior of the detached garage must be of the same material and colors as the dwelling unit.</li> <li>2. The detached garage must be located on the parcel as indicated on the plot plan that was submitted.</li> <li>3. The owners must maintain the existing treed buffer along the east and south property line in front and along the side of the detached garage.</li> <li>4. The detached garage must be inspected by the Zoning Division for compliance with the conditions set forth by the Board of Adjustment prior to a final inspection of the garage by the Lake County Building Division.</li> </ol> <p>Ms. Chester explained the applicants' request to build the garage before the SFDU and explained the Code requirements. She stated that staff believes that the owners have not shown a hardship in regards to this request and is recommending denial for that portion of the variance request.</p> <p>Ms. Chester stated there have been letters of objection and showed</p>

the map (County Exhibit "A") indicating the properties owned by those in objection.

Ruth Gray, Board member, asked Melanie Marsh, Deputy County Attorney; if the Board approved the variance request, if a condition could be placed on the approval that would require the SFDU to be permitted within a certain timeframe.

Ms. Marsh stated that it was allowable, but that it might be difficult to enforce such a condition.

Dan Matos was present to represent the applicants. He showed construction documents (Applicant Exhibit "A") proving that the house plans are being drawn at this time.

Mary Bennett, Board member, asked Mr. Matos if the house would be completed within one year of the time of completion of the garage.

Mr. Matos stated that the house might take longer than a year and that the projects (garage and house) would be running concurrently. He stated that they wanted to take their time and be a Green-Certified home.

Ms. Gray asked what kind of timeline there is once permits are granted and Ms. Chester replied that the Building Division requires a permit to be finalized and a Certificate of Occupancy (CO) issued within one year of permitting, but extensions can be granted.

Mr. Atkins asked Jennifer Arabitg, owner, if the building of this house is contingent on the sale of the home they have up for sale at this time and Ms. Arabitg replied that it is not.

In response to questions from the Board, Ms. Marsh stated that there have been cases where structures have been required to be torn down if they haven't met conditions, but that would be something that the courts would have to determine.

Ms. Gray stated that the time issue bothers her, but she does not have any other objections.

Ms. Chester stated that she would like to have a condition placed on the variance, if approved, requiring the SFDU be have a CO within one year time of the variance being approved.

Don Schreiner, Board Chairman, stated that it looked like the home is going to be an Eco-Friendly home and might take time to build. He stated that he did not feel that the applicants had shown proof of a hardship and that he did not feel he could approve the request.

Mr. Schreiner stated that he agrees with staff that a hardship has not been shown.

Mr. Atkins stated that he agreed with Don that he felt there was not a

	<p>hardship.</p> <p>Marie Wuenschel, Board member, asked Ms. Arabitg why they want to build the garage at this time.</p> <p>Ms. Arabitg stated that they have 30 acres in Ocala that they want to sell. She explained that her husband is a plastic surgeon in Orlando. They have a 50-foot boat and that storage is costly. She stated that they want to move the boat, RV and other vehicles to this property and store them in the requested garage. She stated that they have a house in Orlando that they are living in at this time and will sell once they have built the new home.</p> <p>Mr. Atkins stated that he now understands what the applicant is asking and feels that they could approve the variance request and condition the variance to have the SFDU built within an 18 month period. He also asked how a condition such as that would be enforced.</p> <p>Ms. Marsh stated that if they did not adhere to the conditions that it would become a Code Enforcement issue and they would make the decision as to whether to take them to court.</p> <p>Mr. Matos stated that they have almost all the engineering complete for the SFDU and would be submitting the permit application as soon as they are complete.</p> <p>Mr. Schreiner reminded the Board members of the two requests before them. He stated that he felt that if they can have the plans for the house submitted within the next two months, that there was not a hardship.</p> <p>Ms. Chester explained that if the house and garage are pulled at the same time, the house would have to have the CO before they could use the garage. She also stated that they could not use the property to store anything without a variance.</p> <p>Ms. Gray stated that the she felt the storage costs could be a hardship.</p> <p>Ms. Chester asked the Board to place a condition that the SFDU must have a CO within 12 months of permitting the garage.</p> <p>Ms. Marsh asked that the Board make two motions regarding this case; one for each request.</p>
<p><b>MOTION READS:</b></p>	<p>Marie Wuenschel made a motion for approval of a variance to <b>10.01.02.C Storage Buildings, Utility Buildings, Non-Commercial Greenhouses</b> to allow the owners to locate their proposed detached garage in front of the single-family dwelling unit, instead of the side or rear yards as required by Code and including the four conditions requested by staff. It was seconded by Ruth Gray. Motion approved 5-0</p>

<b>MOTION BY:</b>	<b>MARIE WUENSCHEL</b>	<b>SECONDED BY:</b>	<b>RUTH GRAY</b>
MOTION APPROVED 5-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Lloyd Atkins, Jr. Marie Wuenschel Ruth Gray		<b>AGAINST:</b> None
	<p>Lloyd Atkins made a motion for approval of a variance to <b>10.01.00 Accessory Uses and Structures: 10.01.01.A General Standards and Requirements</b> to allow a detached garage to be located on the parcel prior to the principal structure with the following conditions:</p> <ol style="list-style-type: none"> <li><b>1. The permit for the Single Family Dwelling Unit must be issued within 60 days after issuance of the permit for the garage.</b></li> <li><b>2. The Single Family Dwelling Unit must have Certificate of Occupancy issued within 18 months of issuance of garage permit.</b></li> </ol> <p>It was seconded by Mary Bennett. Motion approved 5-0</p>		
<b>MOTION BY:</b>	<b>LLOYD ATKINS</b>	<b>SECONDED BY:</b>	<b>MARY BENNETT</b>
MOTION APPROVED 5-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Lloyd Atkins, Jr. Marie Wuenschel Ruth Gray		<b>AGAINST:</b> None

The meeting was adjourned at 2:07 p.m.

Respectfully submitted.

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Anna Ely, Recording Secretary

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Donald Schreiner, Chairman