

BOARD OF ADJUSTMENT

MINUTES

THURSDAY
NOVEMBER 8, 2007

1:00
PM

COMMISSIONER CHAMBERS,
ADMINISTRATION BUILDING

CALLED TO ORDER BY	Donald Schreiner, Chairman, who 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
NOT PRESENT	Henry Wolsmann
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	LeChea Parson, Assistant County Attorney I

MINUTE APPROVAL

APPROVAL OF MINUTES OF THE OCTOBER 11, 2007 MEETING.

MOTION READS:	To approve the minutes of the October 11, 2007 Board of Adjustment 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. Steven Berk		AGAINST: None

BOA#106-07-2 CENTRAL FLORIDA PRESBYTERY
RICHEY AND COONEY

WITHDRAWALS

BOA#110-07-5 AKRON PROPERTIES, INC.

BOA#117-07-2 FLORIDA POWER CORPORATION

ROBERT RICHARDSON, LAKE COUNTY PUBIC SAFETY

DISCUSSION	There was no objection to BOA#106-07-2, BOA#110-07-5 and BOA#117-07-2 being withdrawn.		
MOTION READS:	To approve the withdrawal of BOA#106-07-2, BOA#110-07-5 and BOA#117-07-2.		
MOTION BY:	STEVEN BERK	SECONDED BY	HOWARD B. (BOB) FOX, JR.
MOTION APPROVED: 6-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray		AGAINST: None

	Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk		
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POSTPONEMENTS

BOA#125-07-3 RICHARD AND MICHELE DAVIS

MOTION READS:	To APPROVE the postponement of BOA#125-07-3.		
MOTION BY:	MARY LINK BENNETT	SECONDED BY	STEVEN BERK
DISCUSSION:	James Hyde, adjacent property owner, was present to voice his concerns and objections to the postponement request. In response to Mr. Hyde, Ms. Greiner stated that there was also an active code case on this property. She stated that staff was ready to go forward with the case, and that it was up to the Board on how to proceed.		
MOTION FAILED: 1-5	FOR: Howard B. (Bob) Fox, Jr.		AGAINST: Donald Schreiner Mary Link Bennett Ruth Gray Lloyd Atkins, Jr. Steven Berk
SECOND MOTION READS:	To DENY the postponement of BOA#125-07-3 and to place it on the regular agenda.		
MOTION BY:	RUTH GRAY	SECONDED BY	STEVEN BERK
MOTION APPROVED: 5-1	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Steven Berk		AGAINST: Lloyd Atkins, Jr.

- BOA#102-07-1 ALBERT AND CAROL LOWERRE
BOA#113-07-5 CORY AND SARAH WILLEY
BOA#114-07-2 WILLIAM R. LEWEN
RICK WEBER
BOA#115-07-3 LEWIS AND LAURA MICHAEL
BOA#118-07-2 CITY OF MINNEOLA, FLORIDA
ROBERT RICHARDSON, LAKE COUNTY PUBLIC SAFETY
BOA#119-07-4 TIIFT/FORESTY DEPT. OF AG./
SEMINOLE SPRINGS STATE FOREST
ROBERT RICHARDSON, LAKE COUNTY PUBLIC SAFETY
BOA#120-07-3 LAKE COUNTY BOARD OF COUNTY COMMISSIONERS
ROBERT RICHARDSON, LAKE COUNTY PUBLIC SAFETY
BOA#121-07-2 LAKE COUNTY BOARD OF COUNTY COMMISSIONERS
ROBERT RICHARDSON, LAKE COUNTY PUBLIC SAFETY
BOA#122-07-3 RODNEY AND KELLIE MARKS
BOA#124-07-3 JOSEPH LAPLANTE

CONSENT AGENDA

DISCUSSION	There was no objection to BOA#102-07-1, BOA#113-07-5, BOA#114-07-2, BOA#115-07-3, BOA#118-07-2, BOA#119-07-4, BOA#120-07-3, BOA#121-07-2, BOA#122-07-3 and BOA#124-07-3 remaining on the consent agenda.
MOTION READS:	To approve BOA#102-07-1, BOA#113-07-5, 114-07-2, BOA#115-07-3, BOA#118-07-2, BOA#119-07-4, BOA#120-07-3, BOA#121-07-2,

	BOA#122-07-3 and BOA#124-07-3 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. Steven Berk		AGAINST: None

BOA#111-07-5

**BUCK AND BARBARA BAY/DONNA AND DAVE BUTLER
RANDY BUTLER, BY ROBERT E. BONE, JR., P.A.**

DISCUSSION	Anita Greiner, Chief Planner, presented the case and showed the aerial from the staff report and pointed out the location of the property. She explained the applicants' request and stated that the backup documents to support their hardship and proof of meeting the intent of the Code are contained in the staff report. She stated that the original recommendation was for denial, but with the submission of the new documentation, staff would like to recommend approval.		
MOTION READS:	To APPROVE BOA#111-07-5 to allow the applicants to sell the parcels they created through the family density exception prior to the required five-year retention period.		
MOTION BY:	LLOYD ATKINS, JR.	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. Steven Berk		AGAINST: None

BOA#112-07-4

STEVEN AND DONNA TIOGO

DISCUSSION	<p>Anita Greiner, Chief Planner, presented the case and showed the aerial from the staff report and pointed out the location of the property. She explained the applicants' request to allow them to build a single-family dwelling unit within the flood zone, when there is buildable area outside the flood zone. She showed the survey contained in the staff report and an aerial showing the flood zones (County Exhibit "A"), and a survey showing the location of existing structures (County Exhibit "B"). She explained that the recommendation of denial was based on the fact that staff did not believe the owners had shown proof of hardship or meeting the intent of Code.</p> <p>Steve Tiogo, owner, was present to explain their request. He explained the types of structures already located on the property and their hardship and need to have them remain in their present locations.</p> <p>In response to questions from the Board and the owner, Ms. Greiner explained the County's requirements when building on property with flood zone areas. She also explained the difference between temporary</p>
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	structures and permanent structures.		
MOTION READS:	TO DENY BOA#112-07-4		
MOTION BY:	RUTH GRAY	SECONDED BY	STEVEN BERK
MOTION FAILED 3-3	FOR: Ruth Gray Howard B. (Bob) Fox, Jr. Steven Berk		AGAINST: Donald Schreiner Mary Link Bennett Lloyd Atkins, Jr.
DISCUSSION	Board members discussed the possible relocation of the aviaries and the placement of the single-family dwelling unit with the owner.		
SECOND MOTION READS:	TO DENY BOA#112-07-4		
MOTION BY:	RUTH GRAY	SECONDED BY	STEVEN BERK
MOTION APPROVED 6-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk		AGAINST: None

BOA#116-07-4

**JOHN R. AND MARY ANN BEATTY
LESLIE CAMPIONE, ATTORNEY AT LAW**

DISCUSSION	<p>Paul Simmons, Planner, presented the case and showed the aerial and Exhibit "6" from the staff report. He pointed out the location of the property and explained the requested variance and staff's recommendation of denial. In response to a question from the Board, he showed Exhibits "1", "2" and "3" contained in the staff report. He showed the original 120-acre parcel and explained subsequent lot splits.</p> <p>Leslie Campione, Attorney, was present to represent Ms. Beatty. She spoke of the size of surrounding properties and the history of the lot splits. She spoke in regards to the owners' hardship, desiring a fair distribution of the properties between the two owners, based on the location of the wetlands on the property.</p> <p>Neighboring property owners, Pete Stadler, Bruce Lawrence, Mary Thomas, Betty Ann Christian and Marshall Minks were in attendance and all spoke in opposition to the requested variance. Mr. Stadler submitted photos of the Beatty's property (Opposition Exhibit "A") and the neighbors spoke of ingress and egress issues and the problems that granting this variance would cause.</p> <p>Ms. Campione, spoke in regards to the past lot splits, the easements used for ingress and egress and the future sale of the current rental properties and the proposed new lots. She made suggestions of restrictions to be placed on the easements used to access the properties.</p> <p>Mr. Simmons explained the current access to the subject property and that access to adjacent properties are not part of the variance request.</p> <p>Anita Greiner, Chief Planner, explained the staff's recommendation of</p>
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	<p>denial based on the fact that granting this variance would result in a total of nine parcels from the original 120-acre parent parcel versus the two lots allowed by Code. She explained that the owners could go through the subdivision platting process to subdivide the land.</p> <p>Mr. Simmons stated that the owners also have the choice of doing a lot line deviation to adjust the property lines of the existing lots.</p> <p>Ms. Campione suggested that if the variance is approved that the Board could place a restriction that the newly created tracts could not utilize Shetland Trail for access.</p> <p>In regards to questions from the Board, LeChea Parson, Assistant County Attorney, stated that they could not put conditions on restrictions on northern parcels adjacent to the subject property, that were not part of the variance request.</p>		
MOTION READS:	TO DENY BOA#116-07-4		
MOTION BY:	RUTH GRAY	SECONDED BY	LLOYD ATKINS, JR.
MOTION APPROVED 5-0	<p>FOR: Donald Schreiner Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk</p>		<p>ABSTAIN: Mary Link Bennett</p>

BOA#123-07-5

THOMAS J. AND MICHELLE R. HUBER

DISCUSSION	<p>Anita Greiner, Chief Planner, presented the case and showed the aerial from the staff report and pointed out the location of the property. She explained the requested variance and showed a site plan outlining the request (County Exhibit "A") and stated that staff's recommendation of denial is based on the fact that staff does not believe the owners have demonstrated proof of a significant hardship.</p> <p>Thomas Huber, owner, was present to represent his case. He stated that his home is under construction, and at this time they are living in a house they own in Tavares until it is finished. He stated that they will put that house up for sale once they move into their new home. He also stated the rental property they own in Tavares will be put up for sale when the current lease is up. He explained their hardship based on his health issues, and their desire to sell one parcel created by the family density exemption.</p> <p>Ms. Denise Hudson, an adjacent property owner, spoke of her concerns and opposition to the requested variance.</p> <p>Mr. Huber explained that they have no intention of increasing the density any further.</p>		
MOTION READS:	TO APPROVE BOA#123-07-5 to allow them to sell one of the parcels they created through the family density exception, prior to the required five-year retention period.		
MOTION BY:	STEVEN BERK	SECONDED BY	RUTH GRAY

MOTION FAILED 3-3	FOR: Mary Link Bennett Ruth Gray Steven Berk		AGAINST: Donald Schreiner Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr.
DISCUSSION	<p>In response to questions from the Board, Ms. Greiner explained the history of the parcel and the creation of the subject parcels through the family density exception.</p> <p>Mr. Huber answered questions from the Board in regards to the history and time frame of the purchase and dividing of the subject property.</p>		
MOTION READS:	TO DENY BOA#123-07-5		
MOTION BY:	LLOYD ATKINS, JR.	SECONDED BY	HOWARD B. (BOB) FOX, JR.
DISCUSSION	<p>Michele Huber, owner, spoke in regards to their hardship and need to sell the subject lot and their plans to sell and consolidate their properties.</p> <p>Mr. Atkins and Mr. Fox rescinded their motion to deny the variance request. Mr. Atkins stated that he believed the Huber's have shown proof of hardship.</p>		
MOTION READS:	TO APPROVE BOA#123-07-5		
MOTION BY:	LLOYD ATKINS, JR.	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. Steven Berk		AGAINST: None

BOA#125-07-3

RICHARD AND MICHELE DAVIS

DISCUSSION	<p>Anita Greiner, Chief Planner, presented the case and showed the aerial and Exhibit "1" from the staff report and pointed out the location of the property. She stated that there is an existing code case on this property; she stated that staff's recommendation was for denial, as staff did not believe the owners have shown proof of hardship or proof of meeting the intent of the Code. She stated that staff received three letters of objection and she showed an aerial designating the locations of the property owners that were in objection (County Exhibit "A"). She also informed the Board that staff received two letters of support, one from another greyhound rescue operation and one from a kennel, neither of which was located in the immediate area of the subject parcel.</p> <p>Mr. James Hyde was present to voice his concerns and speak in opposition to the variance request.</p> <p>Ms. Greiner stated the property was not large enough to accommodate the owner's request for a kennel without a variance.</p> <p>The owners were not present to speak about their request.</p>
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MOTION READS:	TO DENY BOA#125-07-3		
MOTION BY:	STEVEN BERK	SECONDED BY	LLOYD ATKINS, JR.
MOTION APPROVED 6-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk		AGAINST: None

BOA#126-07-4

**PAUL TUCKER
LESLIE CAMPIONE, ATTORNEY AT LAW**

DISCUSSION	Anita Greiner, Chief Planner, presented the case and showed the aerial and a survey, she explained the swales and water retention plan. She stated that staff recommended approval with conditions. Mr. Paul Tucker, owner, was present to answer questions from the Board and to explain his variance request.		
MOTION READS:	TO APPROVE BOA#126-07-4 to allow a single-family dwelling unit and addition to be located 28 feet from the jurisdictional wetland line along the easterly property line, and to allow the driveway varying from four feet to 14 feet from the jurisdictional wetland line, as show on Exhibit #1 of the staff report, with the conditions stated in the staff report.		
MOTION BY:	MARY LINK BENNETT	SECONDED BY	LLOYD ATKINS, JR.
MOTION APPROVED 6-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk		AGAINST: None

The meeting was adjourned at 4:30 p.m.

Respectfully submitted.

Anna Ely, Recording Secretary

Donald Schreiner, Chairman