

BOARD OF ADJUSTMENT

MINUTES

THURSDAY
NOVEMBER 13, 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
DEPARTMENT OF GROWTH MANAGEMENT REPRESENTATIVES	Amye King, AICP, Growth Management Director Terrie Diesbourg, Director, Zoning Division Anita Greiner, Chief Planner, Zoning Division Janie Barron, Associate 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 OCTOBER 9, 2008 MEETING

MOTION READS:	To approve the minutes of the OCTOBER 9, 2008 Board of Adjustment hearing.		
MOTION BY:	LLOYD ATKINS	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

BOA#50-08-2

BOA #50-08-2

OWNER/APPLICANT: DONNIE AND SHERRY RIFE

DISCUSSION	<p>Anita Greiner, Chief Planner, discussed October's meeting and showed newly submitted evidence from Mr. Rife.</p> <p>Donnie Rife, owner and applicant, was present to speak regarding his variance request. He stated that he has additional power bills to present to the Board if needed.</p> <p>Steve Berk and Lloyd Atkins, Board members, discussed the dates of previous documents Mr. Rife had supplied and asked for clarification from staff as to whether the documents were to be used to determine</p>
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	<p>intent of the Code.</p> <p>Ms. Greiner gave clarification of the Code, explained the right to request a variance and the need to show hardship and intent of meeting the Code.</p> <p>Ruth Gray, Board member, stated that she felt that you can have more than one residence and one can be the primary.</p> <p>Mr. Rife stated that the power was seasonal because his parents were not spending as much time there.</p> <p>Ms. Greiner showed the additional power bills that Mr. Rife supplied (Applicant Exhibit "A").</p> <p>Don Schreiner, Board member, stated that you do not have to live in a primary residence to maintain it as the primary residence. He stated that if you were traveling around the world for a year, it could still be your primary residence.</p> <p>Mr. Atkins asked if his parents had a home in Ohio and Mr. Rife stated that, yes, they had a small trailer on his aunt's property. He also asked for clarification from staff as to whether Mr. Rife could hold ownership in the property and Ms. Greiner informed him that he could.</p> <p>Mr. Schreiner clarified for the Board what was needed to approve the variance. He stated that what was before the Board was whether to grant the variance so that the property can be sold.</p> <p>Mr. Atkins stated that he felt that Mr. Rife has presented enough evidence to prove primary residence.</p> <p>Ms Gray asked Mr. Rife if when he and his wife were married had they planned on taking care of his parents; Mr. Rife stated yes.</p>		
MOTION READS:	TO APPROVE BOA#50-08-2 with the restriction that any new owner cannot sell the property until the original Family Lot Split restriction has been met in May of 2011.		
MOTION BY:	STEVE BERK	MOTION BY:	MR. ATKINS
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
<u>BOA#58-08-3</u>	BOA #58-08-3 OWNER: BARTHOLOMEW E. AND JOAN G. SANFILIPPO APPLICANT: JOAN G. SANFILIPPO		
DISCUSSION	Ms. Greiner, Chief Planner, explained the request and showed the aerial contained in the staff report. She spoke of the property dimensions and the jurisdictional wetland line and showed the marked exhibit contained in the staff report. She explained the requested driveway and carport dimensions. She showed the exhibit from the staff report		

with information regarding the average setback. She pointed out other possible solutions for placement of the carport. She explained that staff felt that approving the variance would be inconsistent with the Lake County Comprehensive Plan. She reminded the Board of their duties in regards to the Comprehensive Plan.

Ms. Greiner stated that Public Works staff informed her that they would be opposed to the variance request for the driveway setback. She stated that staff does not believe the owners have shown hardship or proof of meeting the intent of the Code and therefore recommends denial of the request.

Mary Bennett, Board member, asked where the drain field was located in regards to the septic tank on the sketch by Ted Wicks.

In response, Ms. Greiner pointed out the septic tank and stated that moving the driveway over would not cause it to be over the septic tank.

Lloyd Atkins, Board member, stated that moving the driveway over would only leave a four foot wide driveway, and Ms. Greiner explained that moving the driveway over would still leave sufficient room for the full width of the driveway.

Joan Sanfilippo, property owner, was present to explain her case. She stated that they cannot move the driveway over because the drain field and septic tank would be in the way. She showed the location of the septic and drain field (County Exhibit "2") and stated that if they moved the driveway over it would go over the septic tank. She explained that they used a prod to find the edges of the tank when maintenance had been done on the tank and drain field about a year ago.

Ms. Greiner reiterated that to move the driveway over would not interfere with the septic and drain field.

There was Board discussion regarding the drain field and types of impervious material that could be used for the driveway.

Ms. Greiner stated the five-foot setback requirement for the driveway is a new Code that took effect approximately two months ago. She spoke of the Code changes since the subdivision was developed.

In response to a question from Ms. Gray, Ms. Sanfilippo stated that she had someone from a concrete company come and look at the property before trying to get a permit, to make sure there was room.

Ms. Gray asked whether a gravel driveway would be acceptable and Mr. Schreiner explained that no type of driveway should go across a septic tank or drain field.

Ms. Bennett asked about the impervious surface ration (ISR); Ms. Greiner stated that the request met the ISR.

Mr. Schreiner stated that he felt that the case should be continued so that Ms. Sanfilippo could have someone come out and give accurate measurements of where the septic tank and drain field are located.

	<p>In answering questions from the Board, Ms. Greiner explained that any type of impervious surface, such as packed clay, would be an issue.</p> <p>Mr. Atkins asked whether a pine straw or mulch driveway would cause a problem. He asked what staff felt was the most important of the issues.</p> <p>Ms. Greiner explained that staff has issues with both requests. She stated that staff feels that the carport request does not meet the intent of the Comprehensive Plan since the Code requires structures to be placed as far landward as possible. Staff believes there is room to move the carport forward.</p> <p>Mr. Schreiner stated that the requested placement of the carport is against the Comprehensive Plan, but moving the carport forward as far as it can go would meet the plan.</p> <p>Mr. Schreiner restated that he felt the applicant needed professional measurement of the septic tank and drain field. He stated that in regards to the carport that he would not go against Comprehensive Plan.</p> <p>Mr. Atkins stated that he would not vote against the Comprehensive Plan and he felt that the carport could be brought forward.</p> <p>Mr. Berk stated that he felt that they needed more information and measurements so that they could make an informed decision.</p> <p>There was Board discussion regarding required setbacks and the approved average setback.</p> <p>Ms. Sanfilippo asked for clarification on what was needed and why her carport could not be that far back; she explained that her home has windows that would interfere with moving the carport forward.</p> <p>Ms. Weunschel and Ms. Gray stated that they needed more accurate measurements to make a decision.</p> <p>Howard Pataky, neighboring property owner was present to speak regarding this case. He stated that he had been required to follow Code and that he objected to the requested variance.</p> <p>Ms. Greiner explained that in regards to the driveway request, any pervious surface can go to the property line. She also explained that if the carport was moved forward on the property to the distance allowed by the average setback, a variance would not be needed.</p> <p>Ms. Bennett suggested that Ms. Sanfilippo should bring her contractor to the Zoning Division to discuss the setbacks and requirements.</p>		
MOTION READS:	TO POSTPONE BOA#58-08-3 for 30 days, until the December meeting.		
MOTION BY:	STEVE BERK	MOTION BY:	MARY LINK-BENNETT
MOTION APPROVED 7-0	FOR: Donald Schreiner Mary Link Bennett Ruth Gray		AGAINST: None

	Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk Marie Wuenschel		
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Ms. Greiner introduced Janie Barron and stated that she would be coming before the Board to present cases in the future.

The meeting was adjourned at 2:15 p.m.

Respectfully submitted.

Anna Ely, Recording Secretary

Donald Schreiner, Chairman