

# BOARD OF ADJUSTMENT

## MINUTES

THURSDAY  
DECEMBER 11, 2008

1:02  
PM

COMMISSIONER CHAMBERS,  
ADMINISTRATION BUILDING


<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 Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel
<b>NOT PRESENT</b>	Steven Berk
<b>DEPARTMENT OF GROWTH MANAGEMENT REPRESENTATIVES</b>	Terrie Diesbourg, Director, Zoning Division Anita Greiner, Chief Planner, Zoning Division Janie Barron, Associate Planner, Zoning Division Lorena McCarroll, Associate Planner, Zoning Division Anna Ely, Public Hearing Coordinator, Zoning Division
<b>BOARD ATTORNEY</b>	Melanie Marsh, Deputy County Attorney Erin Hartigan, Assistant County Attorney

MINUTE APPROVAL APPROVAL OF MINUTES OF NOVEMBER 13, 2008 MEETING

<b>MOTION READS:</b>	To approve the minutes of the NOVEMBER 13, 2008 Board of Adjustment hearing with notes from Ruth Gray.		
<b>MOTION BY:</b>	<b>MARY LINK BENNETT</b>	<b>SECONDED BY:</b>	<b>LLOYD ATKINS</b>
<b>MOTION APPROVED: 6-0</b>	<b>FOR:</b> Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		<b>AGAINST:</b> None

## **CONSENT AGENDA**

BOA #66-08-4  
OWNER: ADAM GUTMAN  
APPLICANT: SHATINA L. GILMORE

<b>DISCUSSION</b>	There was no objection to BOA#66-08-4 remaining on the consent agenda.		
<b>MOTION READS:</b>	To approve with conditions of staff, BOA#66-08-4 from the Lake County Land Development Regulations (LDRs) 9.01.06.A.1.b Plan Approval, and 9.01.04.B.2.a Landscape Requirements to allow relief from the landscape requirements and the requirement that the landscape plans have to be drawn by a landscape architect.		
<b>MOTION BY:</b>	<b>LLOYD ATKINS</b>	<b>SECONDED BY:</b>	
<b>MOTION APPROVED: 6-0</b>	<b>FOR:</b>		<b>AGAINST:</b>

	Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		None
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**BOA#58-08-3**

BOA #58-08-3  
OWNER: BARTHOLOMEW E. AND JOAN G. SANFILIPPO  
APPLICANT: JOAN G. SANFILIPPO

<b>DISCUSSION</b>	Ms. Greiner, Chief Planner, stated that an arrangement had been agreed upon that would not require a variance. She stated that Ms. Sanfilippo is now requesting to withdraw her variance request.		
<b>MOTION READS:</b>	TO <b>WITHDRAW</b> BOA#58-08-3 as requested.		
<b>MOTION BY:</b>	<b>MARY LINK BENNETT</b>	<b>SECONDED BY:</b>	<b>LLOYD ATKINS</b>
MOTION APPROVED 6-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		<b>AGAINST:</b> None

**BOA#61-08-2**

BOA #61-08-2  
OWNER: CITRUS VALLEY INVESTORS, LLC  
APPLICANT: CARL LANDI (PHOENIX CONSTRUCTION LLC)

<b>DISCUSSION</b>	<p>Ms. Greiner, Chief Planner, presented the staff report. She explained the variance request and showed the aerial from the staff report. Ms. Greiner explained the previously granted variance and explained the intent of the Code in regards to transient purposes. She presented an aerial showing the letters of objection (County Exhibit "A") and stated that staff did not believe that the applicant has shown proof of hardship or intent of meeting the Code.</p> <p>Mary Link Bennett, Board member, asked for clarification as to the type of RV lot and whether tent camping is allowed and Ms. Greiner stated that tents were not allowed.</p> <p>Fred Morrison, Attorney, was present to represent the owner/applicant. He explained the park's past as a RV park and its change to condominium status. He talked about past meetings with staff and explained the RV Code and talked about the business model of Citrus Valley. He stated that it is now a condominium type ownership with a deed requirement that the lots cannot be used more than 180 consecutive days. He also stated that the owners of these properties are in residence only part time, but the units remain there year-round. The properties are rented out the rest of the year. He stated that he felt that principles of fairness as described in the Land Development Regulations was being violated, as there are other parks in the County that are being allowed to have what they are asking for. He spoke about screen rooms and vinyl rooms and permits issued for acrylic rooms. He stated that he felt that the park met the intent of the Code regarding transient temporary placement and felt that there was a</p>
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difference between transient occupancy and transient placement. Mr. Morrison acknowledged that the Code, as it pertains to RV parks, talks about transient placement but he felt that by acknowledging the park's condominium status, the County had also acknowledged that it was no longer a transient type park. He stated that this park has different needs from a park where the units only stay there overnight, as the units on this property stay there year round. He also stated that he feels it does meet the intent of the Code as it was dealt with by the County a couple of years ago. He feels like they have fought this battle before. He asked that the Board follow through and recognize the difference.

Marie Wuenschel, Board member, asked about the ownership of each lot and Mr. Morrison explained the condominium document and talked about the deed restrictions regarding type of structures, etc. He stated that the condominium document allows what they are requesting. In response to Ms. Wuenschel's questions, he stated that these structures would not be built unless there was an RV permanently parked there. He explained that the individual owners own a portion of the overall park versus an individual lot.

Donald Schreiner, Board Chairman explained Code and deed restriction differences.

Mary Link Bennett asked whether the requested structures would be insurable if permitted and would they be taxable as a structure. Mr. Morrison stated to the affirmative and that it would increase the value of the property.

Ms. Greiner stated that they have to go by what the ordinance allows and what it allows is an RV park. She stated that condominium ownership does not change the transient RV status granted in the ordinance. She also stated that she had talked to the Planning Director and he is opposed to the variance request as well. She suggested a postponement if Mr. Morrison was suggesting that there was an agreement by the County to allow what he is asking to do.

She stated that any structure would be required to meet and that approving or disapproving the variance would not affect that requirement.

Mr. Schreiner explained that the condominium documents are separate from the Code requirements.

Ms. Gray stated that if there was any kind of earlier agreement, that she felt that without knowledge of it, the Board should not agree to it.

Ms. Bennett stated that she thought the case should be postponed if a prior agreement exists, so that it could be investigated.

Mr. Morrison stated that there was not an agreement regarding the additions, but instead that staff had agreed that the 180 day requirement meets the transient status. He stated that he felt the County was being inconsistent in what they are requesting.

In response to Ms. Schreiner's questions regarding the August approval

	<p>for modernization, Carl Landi, Phoenix Construction, explained that they had basically gutted the park and brought it up to current standards.</p> <p>Ms. Greiner stated that the park is transient because it was approved as an RV park, an agreement was not necessary; an RV park is transient.</p> <p>Ms. Bennett asked about how the 180 day residency limit is monitored.</p> <p>Charles (Bob) Helms, a resident of the adjacent PUD, was present to speak regarding the request. He stated that 45 years ago the property was approved as a travel trailer park, and stayed that way until it was bought by the current owner and changed into condominium status. He stated that the community is an RV community and many of the residents own condominium sites across the country. He explained that when you are an RVer you have the choice to go to older parks with no amenities or to the newer updated condominium type parks. He stated that he felt condominium sites were a great choice. He stated that many of the occupants were opposed to the park models that are allowed in the RV parks. He also felt that there is no monitoring of the 180 day status. He stated that is a good thing that people own their own sites but when you allow them to add more and more improvements, they don't rent out their properties and then it no longer becomes a transient rental park. Mr. Helms stated that he would personally agree to park models, and that it is a great thing to have RV ports for friends to come and stay, but he felt there should not be any permanent structures allowed. He stated that he felt that it is still a travel trailer park and should remain so.</p> <p>Mr. Morrison spoke regarding the monitoring and he stated that they addressed this at the time they set the 180 day restriction. He stated that the people who monitor it are the owners themselves and he felt this would result in more monitoring not less.</p> <p>Lloyd Atkins and Ms. Bennett, Board members, both stated their support of denial of the variance request.</p>		
<b>MOTION READS:</b>	TO DENY BOA#61-08-2 as the request does not meet the intent of the Code and the owner/applicants have not shown any substantial hardship or violation of principles of fairness.		
<b>MOTION BY:</b>	<b>RUTH GRAY</b>	<b>SECONDED BY:</b>	<b>MARY LINK BENNETT</b>
MOTION APPROVED 6-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		<b>AGAINST:</b> None

**BOA#62-08-5**

BOA #62-08-5  
 OWNER: TAIL END FARMS, LLC  
 APPLICANT: PAUL AND MARNI LEWIS

<b>DISCUSSION</b>	<p>Ms. Greiner, Chief Planner, showed the aerial from the staff report and explained the variance request. She stated that she had spoken with the owners before the meeting and felt they had come to some agreements. She explained the prior Conditional Use Permit (CUP) on</p>
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the property and the owners/applicants request for a new CUP. She stated that issues became apparent when the old surveys showed the wetlands inaccurately. She pointed out the wetland areas on the aerial. She stated that she had a staff member (Environmental Specialist) follow up on the survey and the staff member agreed with the increased wetland area shown on the new survey. She showed County Exhibit "1" and pointed out the difference in wetlands and stated that the applicants do not have the upland area that had been shown on the old survey. She stated that the Environmental Specialist for the County had stated that pet waste should be picked up each day, a doggie loo should be installed, and tall grasses planted around the dog runs. She also stated that the dogs should not be allowed to walk along standing water. She stated that staff felt the owners have a hardship and that they would be in favor of the request if these conditions are met.

Mr. Schreiner asked about the change in the wetlands and how it was determined. Ms. Greiner explained how the determination was made. He also asked if the original survey was done at a time when the waters were low. He stated that, with conditions, he would not have any problem with the request as long as the Health Department and Animal Control did not have a problem.

Ms. Greiner stated that the applicants would still have to go through the site plan approval process and that the Health Department, Public Works, Planning and the County Environmental Specialist would all be looking at the request.

Mr. Schreiner clarified that the request before the Board was just the setbacks.

Ms. Greiner showed an aerial showing the wetlands (County Exhibit "A") that was provided by the Environmental Specialist.

Lloyd Atkins, Board member, asked about notification and opposition; Ms. Greiner stated that the property had been posted, the neighboring property owners notified and the legal advertisement placed in the newspaper. She stated that staff had received no letters either in opposition or support.

Aaron Mercer was present to represent the owner and applicant. He stated that he felt the applicants and staff had come to an agreement. He spoke of the wetlands and stated that they had moved the building as far south as they could. He spoke of setbacks along the roadway and stated that the nearest home to the west would be around 300 feet away. He stated that the applicants had received their initial CUP on bad information and the applicants have had great financial hardship with regards to this process. He stated that they are living in Mount Dora at this time, having sold their prior business and are without income at this time as they await the outcome of their request.

Mr. Atkins stated that he would not be in approval of anything less than a 200-foot setback for any reason. He stated that he understands their hardship, but he still felt that the setback to the property line as stated in the Code should be met.

Ms. Greiner stated that the actual dog runs would be in a different area

	<p>of the property and that they would be more than 200 feet away.</p> <p>Ms. Bennett asked if they would be required to put in fill to elevate the dog runs.</p> <p>Ms. Greiner stated that the only time fill would be required to elevate a structure is within a 100-year flood zone area and that they could not fill wetlands. She stated that the proposed dog runs are to be located in uplands and not within a 100-year flood zone.</p>		
<b>MOTION READS:</b>	TO APPROVE BOA #62-08-5 with conditions of staff, based on the fact that they have shown hardship and meeting the intent of the code.		
<b>MOTION BY:</b>	<b>RUTH GRAY</b>	<b>SECONDED BY:</b>	<b>MARY LINK-BENNETT</b>
MOTION APPROVED 6-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		<b>AGAINST:</b> None

**BOA#64-08-5**

BOA #64-08-5  
 OWNER: UPSON DOWNS, LP AND T. E. NEVILLE  
 APPLICANT: UPSON DOWNS, LP

<b>DISCUSSION</b>	<p>Anita Greiner, Chief Planner, presented the staff report and showed the aerial from the staff report. She explained the lot split request. She stated that the 40-acre parcel was created as part of an agricultural lot split in 1999. At this time, Upson Downs and Mr. Neville own 30 acres and Mr. and Ms. Pearce own the other 10 acres. She stated that the Pearce's house was built on the full 40-acre parcel before they purchased it. She explained that approval had previously been granted for a six-lot subdivision and that approval had become null and void due to time frame conditions not being met.</p> <p>Ms. Greiner explained why the variance was required and spoke of the location of the flood zones. She spoke of legal access issues and stated that the private road through the 40-acre parcel was never paved and is poorly maintained.</p> <p>Ms. Greiner stated that staff believes the applicants have shown substantial hardship and believes the intent of the Code will be met. Staff recommended approval with the following five conditions:</p> <ol style="list-style-type: none"> <li>1. The lots being created will be a 20-acre parcel and a ten-acre parcel (a combination of Upson Downs LP and Neville properties), which will create the Pearce's ten-acre parcel as shown on the survey attached to the staff report (Exhibit #1).</li> <li>2. Before the lot split can be approved, the owners must submit a title opinion by an attorney at law licensed in Florida or a certification by an abstractor or a title company, which must show who has legal access to the parcel and where the access is located, as described by a legal description. The title opinion must be reviewed and approved by the County Attorney's office indicating that all owners involved have legal</li> </ol>
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	<p>access to their parcels.</p> <p>3. Any easement/access being created to the parcel shall not cause any existing lot or structure to become nonconforming.</p> <p>4. The access to each parcel must be of sufficient width, vertical clearance and condition as to allow easy access of emergency vehicles.</p> <p>5. The parcels being created through the minor lot split process cannot be split further</p> <p>Ms. Greiner stated there was a letter of support signed by the Upson Downs Homeowners Association, the Lakes of Black Bear Reserve Homeowners Association, the Villages of Black Bear Reserve Homeowners Association and the Black Bear Reserve Homeowners Association; there was one letter of objection which she read into record, as requested by the Mr. and Ms. Pearce. She showed (County Exhibit "A) showing properties in support and opposition.</p> <p>Mr. Schreiner stated the Board did not have the authority to grant the Pearce's request to clear their title.</p> <p>Mark Carson, owner/applicant of Upson Downs was present to speak regarding the request. He explained the easements shown in the backup (Applicant Exhibit "1").</p> <p>Mr. Carson stated that the requirements for the previously approved subdivision could not be met as it was determined that access for the subdivision did not connect to a publicly maintained road. He stated that in section four of (Applicant Exhibit "1"), on the last three pages, there are maps showing two easements. He stated that the lots in the Black Bear Subdivision are one acre lots, which will allow sufficient area to meet staff requirements. He also pointed out the lots in Bear Meadows Subdivision that would connect to the northeast corner of the 20-acre parcel. He pointed out where, to the south, it connects to the County-maintained road. He stated the Pearce's driveway would not be impacted and that upon receipt of the lot split he would be glad to give the Pearce's quit claim to their access.</p> <p>Ms. Wenscheul asked about the request for quit claim deed.</p> <p>Mr. Carson stated that if the variance is approved it would clear the legal issues and allow all the parcels owned by all three parties to be legally recognized.</p>		
<b>MOTION READS:</b>	TO APPROVE with conditions of staff BOA#64-08-5 on the grounds that the applicants have shown proof of hardship and are endeavoring to comply with the intent of the Code.		
<b>MOTION BY:</b>	<b>RUTH GRAY</b>	<b>SECONDED BY:</b>	<b>MARY LINK-BENNETT</b>
MOTION APPROVED 6-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		<b>AGAINST:</b> None

**BOA#63-08-3**

BOA #63-08-3  
 OWNER: ARNOLD F. THIBAULT  
 APPLICANT: LESLIE CAMPIONE, ESQUIRE

<b>DISCUSSION</b>	Ms. Greiner, Chief Planner, stated that the issues between the owner and the person who had requested the case to be taken from the consent agenda had been resolved and there was no longer anyone present in objection.		
<b>MOTION READS:</b>	TO APPROVE BOA#63-08-3 with conditions of staff.		
<b>MOTION BY:</b>	<b>LLOYD ATKINS</b>	<b>SECONDED BY:</b>	<b>MARY LINK-BENNETT</b>
MOTION APPROVED 6-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		<b>AGAINST:</b> None

**BOA#65-08-2**

BOA #65-08-2  
 OWNER/APPLICANT: SHERI AND SHAWN A SORENSON

<b>DISCUSSION</b>	Ms. Greiner, Chief Planner, stated that she has spoken to Ms. Sorenson several times regarding this case. She stated that after receiving the staff report, Ms. Sorenson understands that her variance request was against the Comprehensive Plan. Ms. Sorenson did not send in a letter of withdrawal and was not present to represent her case.		
<b>MOTION READS:</b>	TO DENY BOA#65-08-2 as the request is inconsistent with the Comprehensive Plan.		
<b>MOTION BY:</b>	<b>MARY LINK BENNETT</b>	<b>SECONDED BY:</b>	<b>BOB FOX</b>
MOTION APPROVED 6-0	<b>FOR:</b> Donald Schreiner Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Marie Wuenschel		<b>AGAINST:</b> None

Practice presentation by Janie Barron 2:50 pm

The meeting was adjourned at 2:58 p.m.

Respectfully submitted.

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Anna Ely, Recording Secretary

DRAFT