

**MINUTES
BOARD OF ADJUSTMENT
PUBLIC HEARING
March 8, 2012**

The Lake County Board of Adjustment met on March 8, 2012 in the Commission Chambers on the second floor of the County Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

Board Members Present:

Donald Schreiner, Chairman
Mary Link Bennett, Vice Chairperson
Marie Wuenschel
Christopher Cheshire
Bob Peraza
Craig Covington

Board Members Absent:

Lloyd M. Atkins, Jr.

Staff Present:

Brian T. Sheahan, Planning Manager, Planning & Community Design Division
Anita Greiner, Chief Planner, Planning & Community Design Division
Donald P. Simmons, Planner, Planning & Community Design Division
Janie Barron, Associate Planner, Planning & Community Design Division
Melanie Marsh, Deputy County Attorney

Chairman Schreiner called the meeting to order at 1:00 p.m. He noted for the record that there was a quorum present. He confirmed Proof of Publication for the case as shown on the screen. He added that if a variance is approved, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter to finalize their paperwork.

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Minutes

MOTION by Craig Covington, SECONDED by Mary Link Bennett to APPROVE the February 9, 2012 Board of Adjustment Public Hearing minutes, as submitted.

FOR: Bennett, Cheshire, Wuenschel, Schreiner, Peraza, Covington

ABSENT: Atkins

AGAINST: None

MOTION CARRIED: 6-0

Opening Remarks

Anita Greiner, Chief Planner, stated that there are a couple changes to the agenda. Staff would like to move agenda item #1 BOA #6-12-2 and agenda item #2 BOA #7-12-3 to the regular agenda. Staff received letters of opposition on both cases.

Consent Agenda

CASE NO.: BOA #8-12-1 AGENDA NO.: 3

OWNER/APPLICANT: Frank and Peggy Hollinger

There was no one who wished to speak regarding the above consent agenda item.

MOTION by Mary Link Bennett, SECONDED by Christopher Cheshire to APPROVE the Consent Agenda with conditions as submitted by staff.

CASE NO.: BOA #9-12-2 AGENDA NO.: 4

OWNER/APPLICANT: John Grainger and Natalie Cockerill

There was no one who wished to speak regarding the above consent agenda item.

MOTION by Mary Link Bennett, SECONDED by Christopher Cheshire to APPROVE the Consent Agenda with conditions as submitted by staff.

FOR: Bennett, Cheshire, Wuenschel, Schreiner, Peraza, Covington

ABSENT: Atkins

AGAINST: None

MOTION CARRIED: 6-0

Regular Agenda

CASE NO.: BOA #6-12-2 AGENDA NO.: 1

OWNER/APPLICANT: Liberty Baptist church, Inc. / SCI Towers, LLC

Melanie Marsh, Deputy County Attorney, advised the Board that under the Telecommunications Act they cannot consider health issues, radiation or electric magnetic frequencies in their deliberations in this case. She asked the Board to keep in mind that there will be a rezoning on this case and to not confuse the rezoning issues with the issues that are before them today. She reminded the Board that they are making a decision on a very narrow scope regarding a particular variance for particular provisions of the LDRs and their job is strictly limited to whether or not the request meets the intent of the Code and whether or not there is a substantial hardship or violation of principals of fairness, so any testimony that they hear today or any deliberation they make needs to be limited to that specific issue.

Donald Schereiner, Chairman, asked the Board members if they had any questions for the attorney.

Paul Simmons, Planner, presented the case. He stated that the owners are requesting a variance to Land Development Regulation 3.13.07 Setbacks and to Chapter 15.02.04.J Architectural Standards to allow a camouflaged communications tower to be located off center on the parent parcel and to have a maximum height of 175 feet. He stated that the property has been continuously used as a church since the 1970s and in the mid 1980s they applied for and received a rezoning to Community Facilities District (CFD), the CFD zoning allows a church, parsonages, associated outbuildings and cemeteries. The site is surrounded by citrus groves and the terrain consists of rolling hills. Mr. Simmons stated that the applicant submitted the design to the City of Clermont and the City Council approved the height to be 175 feet and recognized the proposed flag pole design as camouflaged. The addition of this telecommunications tower on this site will require an amendment to the existing CFD Zoning. The intent of the Code is to adapt to the growing and changing needs of the wireless community and not negatively affect the area. If the tower is placed in the center of this parcel it will be directly in front of the existing cemetery and in the parking area of the church, which is in front of the existing sanctuary. The applicant is requesting the variance to allow the tower to be placed behind the sanctuary, which will not be centered, but will meet the minimum setback distances from the surrounding property lines. The proposed placement of the tower will not conflict with the intent of the Code. The applicant submitted their proof of hardship and how they will meet the intent of the Code.

Mr. Simmons stated that staff recommends approval of this variance request to allow the placement of a camouflage communications tower off center on the parcel and to allow the tower to exceed the height allowance by 35 feet, with the following conditions:

1. The communications tower shall be placed as indicated on Exhibit "A".
2. The tower shall be a monopole communications tower, not to exceed 175 feet in height.
3. The tower shall be a camouflage monopole design with a flag.
4. A generator shall be required to provide emergency power to the communications tower.

Paul Simmons stated that staff received two letters of opposition from the adjoining neighbors.

Craig Covington, Board member, asked for the difference in elevation from the two opposing neighbors and the proposed tower site.

Paul Simmons indicated that he could not give a clear answer without mapping it.

Christopher L. Cheshire, Board member, asked if staff knew who the tower carriers were.

Paul Simmons explained that would be up to the applicant.

Mary Link Bennett, Board member, asked if there were any other monopole towers within 5 miles.

Paul Simmons responded that the tower meets the minimum separation distance and there are no towers within 3000 feet.

Mary Link Bennett, Board member, responded that it is only a little over half a mile.

Paul Simmons explained that it meets the minimum separation requirements.

Russell Morrison representing SCI Towers, LLC, explained that throughout the past few years there has been a need to establish additional communication facilities and wireless market in the area. The need was established in a number of ways, including the number of dropped calls. The location was selected because the site is in the coverage area and will best serve the customer in that area. The closest tower to the site is three miles away on Highway 27. Mr. Morrison explained that the site is surrounded by an orange grove and is zoned CFD. He also stated that SCI Towers has worked with staff since April, 2011 to identify which tower design would qualify as a camouflaged tower. Florida High Speed Internet is interested in this site, along with other carriers. Mr. Morrison stated that the additional 35 feet in height has been approved by the City of Clermont. Part of the intent of the Code is to reduce the number of towers; that is the reason for the additional 35 feet height request, which establishes the ability to provide more carriers on the tower and reduce the need for additional towers in the future.

Richard Langley, Attorney and member of Liberty Baptist Church, indicated that the American Flag tower is on the corner of the South Lake Connector and Highway 27. Mr. Langley stated that Mr. Suggs is the property owner of the land that surrounds the church on all sides and he does not object to this request. He stated that Mr. Suggs does not get cell phone service in that area. Mr. Langley indicated that the Clermont City Council gave an approval with the condition that the company have a full-time standby generator.

Les Lindgren, citizen, stated that four years ago he requested the same variance; BOA #34-08-2 after Verizon Wireless approached him about a tower. Mr. Lindgren indicated that at that time he did not want to center the tower within his 10 acres and his variance request was denied. Mr. Lindgren stated that SCI wants two variances; they do not want to be centered and they want to go from 140 feet to 175 feet to accommodate more carriers. Mr. Lindgren indicated that SCI claims they have investigated several sites, but he was never approached and he believes that he has the best site. He stated that Verizon Wireless indicated to him that his property elevation was more appropriate and that he was centrally located within four towers. Mr. Lindgren stated that the church site will provide an over coverage to the east and not enough coverage on the west side for the residents in the Green Swamp. He stated that if the rule for him was to center the tower on his lot, the same rule should apply to SCI. Mr. Lindgren stated that variances are granted for hardships and he does not believe the applicant has a valid hardship because nothing has been built

or needs to be demolished and rebuilt. He stated that the unfairness was to him because he has a nice site and he would like to put a tower on his site. Mr. Lindgren stated that he has submitted an application for a tower that he will be building and Verizon, AT&T, T-Mobile, Sprint and possibly MetroPCS will be the carriers. Mr. Lindgren summarized by indicating that he was denied a variance, he does not recommend approval of this variance because it is not in the best location in the County, it will cause damages from the tower falling and does not meet Code.

Craig Covington, Board member, asked Mr. Lindgren if his tower is a camouflage tower. Mr. Lindgren indicated that his tower is a monopole tower and stated that there is no definition for a camouflage tower.

Harry Suggs, surrounding property owner, indicated that he does not have any objection. The only question he has is how the flag pole will relate to the cemetery that his parents and grandparents rest in. Mr. Suggs indicated that the tower will provide him with cellular service.

Richard Langley, Attorney and member of Liberty Baptist Church, indicated that if the tower has to be centered on the site, it will be right next to the cemetery and in the center of the existing parking lot.

David Allyn, citizen, questioned what type of flag will be displayed on the tower.

David McFadden, citizen, stated throughout the years he questioned if a flag pole is considered camouflage and he was told that is determined on a case-by-case basis. Mr. McFadden asked if the flag pole is an American Flag, if it will need to have a light on it at night and if it will make a difference for visibility. Mr. McFadden stated that he felt there is no hardship and asked if the applicant plans on increasing the height of the tower in the future.

Christopher Johnson, Pastor of Liberty Baptist Church, indicated that the approval of this variance will help the cause of their church and the community. Mr. Johnson discussed the location of the proposed tower and thanked Mr. Suggs for his support.

Russell Morrison, representing the applicant, readdressed the Board to clarify citizen issues. Mr. Morrison explained that the towers are built to meet the guidelines set by the Telecommunications Industry, which are more stringent than state structural codes. Mr. Morrison discussed the design of the tower, why the church site was selected and the location of the tower in relationship to other towers in the area and reminded the board of the approval from the City of Clermont.

Mary Link Bennett, Board member, asked if it is possible for the proposed tower to function without the additional 35 feet in height. Mr. Morrison explained that with a lower height tower the antennas are unable to transmit as far and that a taller tower was established to compensate for the antenna they are required to use on this type of tower.

Mary Link Bennett, Board member, explained that the primary reason for the request is not to see how many carriers can be supported by this tower and questioned if they could use a two carrier tower. Mr. Morrison explained that the reason for the taller tower is to reduce the need of an additional tower.

Robert Peraza, Board member, asked if there is coverage east and west of the area. Mr. Morrison explained that there is existing coverage in the area, but it is a weak signal and it is related to the population density.

Donald Schreiner, Chairman, asked if the footprint of the tower will overlap. Mr. Morrison explained that the footprint of all towers overlap to some degree.

Mary Link Bennett, Board member, asked if they considered all types of towers. Mr. Morrison explained that they would like to construct a standard monopole tower, but it does not meet the definition of camouflage.

David Allyn, citizen, informed the Board that he is concerned because he does lose his calls, but also is concerned about the eyesore the tower may create. Mr. Allyn disagrees with the proposed location of the tower.

Paul Simmons clarified that the tower will be camouflaged and it will meet the minimum setback distances from structures in residential zoning districts. He displayed a conceptual site plan identifying the approximate location on the site if the tower were to be centered on the parcel. He explained that staff reviews camouflage on a case-by-case basis and that Lake County prefers co-location because it reduces the amount of towers in the County.

Donald Schreiner, Chairman, explained that co-location has been a consideration of the Board. Mr. Schreiner questioned the requirement for a flag. Mr. Simmons explained that this design was determined and accepted by the Clermont City Council and the Planning & Community Design Manager. Mr. Schreiner and Mr. Simmons discussed the requirements of lighting the flag.

Melanie Marsh, Deputy County Attorney, explained that for purposes of the tower there is no Code under the FCC requirement for lighting, but that there might be a protocol.

MOTION by Christopher Cheshire, SECONDED by Robert Peraza, to APPROVE variance request BOA #6-12-2 with the conditions of staff along with an additional condition that the flag must meet the regulations of the display code.

FOR: Peraza, Cheshire, Wuenschel, Schreiner

ABSENT: Atkins

AGAINST: Covington, Bennett

MOTION CARRIED: 4-2

CASE NO.: BOA #7-12-3 AGENDA NO.: 2

OWNER/APPLICANT: Donald and Edna Welling

Paul Simmons, Planner, presented the case. He stated that the owners and applicants are Donald and Edna Welling. The owners are requesting a variance to Land Development Regulations 3.01.02.A.1.b Classification of Uses to allow a single-family dwelling unit to be placed on the property with a roof pitch that is less than one foot of rise for each four feet of horizontal run, which is typically referred to in the Building Industry as a 3/12 pitch. Mr. Simmons explained that the owners recently purchased lot 78 in Spark's Village and the owners would like to construct a custom single-family dwelling unit. Mr. Simmons stated that the home will be simple concrete block structure with unique "green" features. He discussed the design and construction

of this custom single-family dwelling unit. Mr. Simmons explained the intent of the Code and stated that the homes in Spark's Village vary in architectural styles. He stated that the owners submitted their plan to meet the intent of the Code and their proof of hardship, both of which are listed in the staff report. Staff reviewed the application and found that it is consistent with the Comprehensive Plan Policies and Land Development Regulations, which attempts to encourage green development. Staff recommends approval of the request with the condition that the roof pitch meet the Florida Building Code, as amended.

Don Welling, owner, explained that he and his wife would like to construct a home that is safe, secure, economical and easy to maintain. He explained that they built their first green home in Kansas and discussed how they are planning to construct the proposed home. He stated that the house was designed by a Florida Architect.

Gene Grantham, a neighbor, explained that he provided staff with a letter of opposition from the Morgans, which are adjoining neighbors. Mr. Grantham stated that he disagrees with staff's recommendation, is against the look of the proposed home and objects to the type of roof.

John Veldhuis, a citizen, stated that he lives in the neighborhood and is opposed to the type of roof that is being proposed. Mr. Veldhuis discussed humidity, mold and the effect it will have with the design of this home. Mr. Veldhuis explained that there are alternative green building types that will meet architectural standards that he prefers.

Sharon Carl, a neighbor, explained that she and her son are neighbors. Ms. Carl stated that she is opposed to this request, described the design of her house and the design of her son's proposed home. Ms. Carl stated that the proposed home does not resemble her home and she does not want to look at a home like the one proposed.

Gloria Grantham, a neighbor, stated that if the other homes have to meet the Code then this proposed home will need to meet the same Code. She expressed that the proposed home will not fit in the neighborhood and will decrease the value of the other homes.

Mr. Simmons stated that the proposed home will meet the minimum requirements of the Florida Building Code and that the Land Development Regulations require the 3/12 pitch roof. Mr. Simmons reminded the Board that the variance request is for the slope of the roof only, and they have to decide if the owners have proven that they will meet the intent of the Code and that a hardship exists.

Mary Link Bennett, Board member, questioned if there is a problem if they decrease the pitch of the roof. Mr. Simmons stated the owners will submit the design and will be required to meet the minimum standards of the Florida Building Code.

Robert Peraza, Board member, questioned a finding of fact in the staff report. Mr. Simmons clarified that there was a typo and it should have stated that the request is consistent with LDR 3.01.02.

MOTION by Robert Peraza, SECONDED by Mary Link Bennett, to APPROVE variance request BOA #7-12-3 to include the condition as set by staff:

- **The roof pitch shall meet the Florida Building Code, as amended**

FOR: Bennett, Cheshire, Peraza, Wuenschel, Covington, Schreiner

ABSENT: Atkins

AGAINST: None

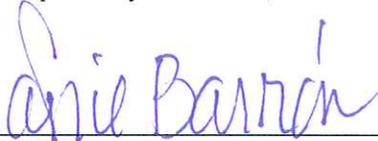
MOTION CARRIED: 6-0

Closing Remarks

Adjournment

There being no further business, the meeting was adjourned at 2:27 p.m.

Respectfully submitted,



Janie Barron
Associate Planner



Donald Schreiner
Chairman