

**MINUTES  
BOARD OF ADJUSTMENT  
PUBLIC HEARING  
June 9, 2011**

The Lake County Board of Adjustment met on June 9, 2011 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  
Robert Levens  
Christopher Cheshire  
Lloyd M. Atkins, Jr.

**Board Members Absent:**

Bob Peraza

**Staff Present:**

David Heath, AICP, Deputy County Manager  
Brian T. Sheahan, AICP, Planning Director, Planning & Community Design Division  
Anita Greiner, Chief Planner, Planning & Community Design Division  
Donald P. Simmons, Planner, Planning & Community Design Division  
Aziza Bryson, Public Hearing Coordinator, Planning & Community Design Division  
Erin Hartigan, Assistant 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 Lloyd M. Atkins, Jr., SECONDED by Robert Levens to APPROVE the May 12, 2011 Board of Adjustment Public Hearing minutes, as submitted.

FOR: Wuenschel, Schreiner, Levens, Cheshire, Atkins

ABSENT: Peraza, Bennett (arrived late)

AGAINST: None

MOTION CARRIED: 5-0

Opening Remarks

Anita Greiner, Chief Planner, stated that there were no changes to the agenda.

Board member Mary Link Bennett arrived at 1:01 p.m.

Regular Agenda

CASE NO.: BOA #7-11-2 AGENDA NO.: 1

OWNERS: Norman and Janet Kerns

Paul Simmons presented the case. Showing an aerial of the property, he explained that the owners are requesting a variance to allow an existing single-family dwelling unit, which is narrower than 23 feet 4 inches wide with a roof pitch of less than four to one, to remain as an accessory dwelling unit. After a review by staff of the required findings as outlined in Chapter XIV of the Lake County Land Development Regulations, as amended, staff recommended denial of the requested variance.

Mary Link Bennett, Board member, asked if there was any medical data or documentation of a hardship. Erin Hartigan, Assistant County Attorney, stated that medical information is exempt from public record.

Lloyd M. Atkins, Jr., Board member, asked if the owners could build their home and attach it to the existing mobile home and have a type of in-law home. Mr. Simmons stated that it would be up to the discretion of the Growth Management Director whether or not it would be considered an addition or an accessory dwelling unit.

Christopher Cheshire, Board member, clarified that one of the main concerns is that the mobile home is visible from the road. He asked about trees or shrubbery being planted. Mr. Simmons affirmed that if trees or shrubbery were planted, that would mitigate some of the visual effects of seeing the mobile home from the road.

Ms. Bennett asked questions in regards to roof pitch and landscaping. She was interested to know if there were any alternatives and mentioned a family lot split.

Chairman Schreiner stated that they needed to decide on the two inconsistencies, one being the minimum width and the other being the minimum roof pitch. Mr. Schreiner mentioned that before getting too creative with alternatives, that granting a variance to allow the inconsistencies would be within the scope of the Board.

Mr. Simmons stated that by granting the variance, this would allow the owners to keep their single-wide mobile home and also build a primary dwelling unit.

Norman Kerns, one of the owners, stated that he has no problems with his neighbors and that they can not see the single wide mobile home from their homes. He stated that the single-wide mobile home can only be seen from the street and he suggested painting it dark blue or green and adding lattice work on either side to disguise it from the street. He mentioned that one day he would like to remove the single-wide mobile home and replace it with a double-wide mobile home so there would be more space for his family.

Chairman Schreiner stated that his one concern is if there were any intentions of renting once the permanent dwelling is built.

Mr. Kerns explained that he and his wife are locked into a family lot split for five years. He also stated that now that the impact fees have been lifted, they are also in the process of selling their home in Edgewater, Florida. He stated that the home that would be built would probably be rented out because they would have to wait five years before they could move in. He stressed that he is a very discriminate renter.

Chairman Schreiner asked if an accessory dwelling can be used as rental property. Mr. Simmons answered that the use of the accessory dwelling is not regulated and that the owner could rent the new home or the accessory dwelling if he chose to.

Robert Levens, Board member, asked Mr. Kerns several questions, including when he planned to build and if he currently lives in the single wide mobile home. Mr. Kerns responded that as soon as the house plans are drawn that he will put in for a permit. He stated that he was not living in the single-wide but stated that he has someone looking after the property.

Mr. Atkins clarified that Mr. Kerns could build a home and could potentially rent both the home and mobile home. Mr. Simmons stated that he could. Mr. Atkins asked Mr. Kerns if this is an investment property. Mr. Kerns stated that they are building the home to move into in two years and that if they have to rent the property that he is very discriminate. After Mr. Atkins asked Mr. Simmons about a family lot split, there was discussion in regards to whether the lots could be split again and by whom.

**A MOTION was made by Robert Levens, to approve the variances with the criteria of landscaping, painting, and adding bushes around the single-wide mobile home to hide it.**

Marie Wuenschel, Board member, agreed with Mr. Levens. She also expressed concerns in regards to bad paint jobs of mobile homes and about how she would hate to see the property divided after the new home is built.

Mr. Levens withdrew his original motion and made a new motion.

**A NEW MOTION** was made by Robert Levens, **SECONDED** by Marie Wuenschel, to approve the variance for the minimum width and the minimum roof pitch provided that the existing dwelling is screened by landscaping to make it invisible from the road, noting that the single-wide mobile home does not have to be painted.

Ms. Hartigan asked for clarity of the motion. Mr. Simmons clarified that the Board would need to be more specific as to the landscape buffer. Some Board discussion took place in regards to trees and shrubbery.

**An AMENDED MOTION** was made by Robert Levens, **SECONDED** by Marie Wuenschel, to approve the variance for the two inconsistencies, the minimum width and the minimum roof pitch provided that the existing dwelling is screened by landscaping consisting of a Type A buffer to be provided by the property owner in compliance with the Code; noting that the buffer will not go the full length of the property, but will cover the portion where the existing dwelling can be seen from the road and also noting the single-wide mobile home does not have to be painted.

Mr. Atkins stated that this request does not meet the intent of the Code and that the owners have not shown a hardship. He mentioned that Mr. Kerns had shared that he owned several properties and therefore there is no financial hardship. He also mentioned that the principles of fairness have not been violated. Mr. Atkins said that this would be a financial advantage for Mr. Kerns to have the variance approved because it will save him a lot of money. Mr. Atkins stated that he doesn't think that the Board should deviate from the Code for someone else's financial gain. Chairman Schreiner agreed with Mr. Atkins.

Mr. Levens commented that it is an agricultural property, there are quite a few acres, no opposition from the neighbors has been presented and Mr. Kerns will build the home in two years. He expressed that he does not feel that there are any major problems and therefore the Board can make an adjustment.

Chairman Schreiner called for a vote on the motion.

**FOR:** Wuenschel, Bennett, Levens

**ABSENT:** Peraza

**AGAINST:** Atkins, Schreiner, Cheshire

**MOTION FAILED:** 3-3

Further Board discussion took place. Ms. Hartigan advised that the Board must take some action; either to make a new motion or to postpone the case for thirty days.

**A MOTION** was made by Robert Levens, **SECONDED** by Mary Link Bennett, to approve a continuance of thirty days.

Ms. Bennett instructed the applicants to provide justification for their proof of hardship.

**An AMENDED MOTION** was made by Robert Levens, **SECONDED** by Mary Link Bennett, to approve a postponement to the meeting of August 11, 2011.

**FOR:** Wuenschel, Bennett, Levens, Atkins, Schreiner, Cheshire

**ABSENT:** Peraza

**AGAINST:** None

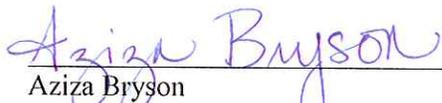
**MOTION CARREID:** 6-0

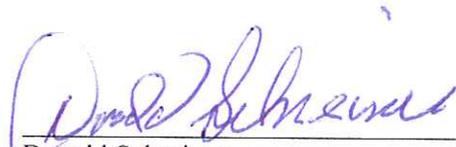
**Adjournment**

Ms. Greiner introduced Mr. David Heath, the new Deputy County Manager. She also mentioned a new change to the draft ordinances.

There being no further business, the meeting was adjourned at 1:55 p.m.

Respectfully submitted,

  
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Aziza Bryson  
Public Hearing Coordinator

  
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Donald Schreiner  
Chairman