

**A REGULAR MEETING MINUTES
PLANNING AND ZONING BOARD
MAY 07, 2007**

CALL TO ORDER

Chairman Larry Bedsole called the regular meeting of the City of Winter Garden Planning and Zoning Board to order at 6:32 p.m. in City Hall Commission Chamber. The invocation was given followed by the Pledge of Allegiance. The roll was called and a quorum was declared present.

PRESENT: Chairman Larry Bedsole, Board Members: Tina Aldrich, Jerry Carris, Mac McKinney, James Dunn, and James Balderrama. Also present were Assistant City Attorney Dan Langley, City Manager Mike Bollhoefer, Assistant City Manager Marshall Robertson, Building Official Willie Herbert, Human Resources Manager Frank Gilbert, Commissioner Harold Bouler, Planner Regina McGruder, Planner Brandon Byers, and Planning Technician Leontyne James.

ABSENT: Minister Xerxes Snell

ADMINISTRATION OF OATH OF OFFICE

Assistant City Attorney Langley administrated the Oath of Office to new Board Member James Dunn.

1. APPROVAL OF MINUTES

Approval of minutes from regular meeting held April 02, 2007

Motion by Tina Aldrich to approve the above minutes. Seconded by Jerry Carris, the motion carried unanimously 6-0.

2. PLANNING AND ZONING BOARD DUTIES AND PROCEDURES

Assistant City Attorney Langley gave a presentation concerning the Planning and Zoning Board duties and standards. Mr. Langley emphasized on matters such as Powers and Duties; Quasi-judicial decisions; Ex-parte communications; Citation of legal authority upon denial; Decision standards for approvals; Sunshine Law; and Voting conflicts.

Variances

3. 2739 Balforn Towers Way

Planner Byers presented the Board with a request for 2739 Balforn Towers Way for approval of a 3 foot front yard setback variance that will allow the property owners to construct a single family home. City Staff has reviewed the application and recommends approval.

Amelyn Regis and Mike O'Neil, of Lennar Homes, 101 Southhall Lane, Maitland, approached the Board and in response to James Balderrama's question stated that the variances were not anticipated at the time the PUD was approved. Mr. O'neil explained that the design engineer for this lot did not provide the appropriate building pad size.

Motion by Tina Aldrich to approve the Variance. Seconded by Jerry Carris, the motion carried unanimously 6-0.

4. 2507 Balforn Towers Way

Planner Byers presented the board with a request for 2507 Balforn Towers Way for approval of a 2 foot side yard setback variance to allow the builder to construct a single family home. City Staff reviewed the application and recommends approval.

Motion by Tina Aldrich to approve the Variance. Seconded by Mac McKinney, the motion carried unanimously 6-0.

5. 2702 Balforn Towers Way

Planner Byers presented the board with a request for 2702 Balforn Towers Way for approval of a 3 foot side yard setback variance to allow the builder to construct a single family home. City Staff reviewed the application and recommends approval.

Motion by Tina Aldrich to approve the 3 foot side yard setback Variance. Seconded by Jerry Carris, the motion carried unanimously 6-0.

6. 35 W. Morgan Street Setback

Planner Byers presented the board with a request for 35 W. Morgan Street for approval of a 5 foot rear setback variance and a 5 foot side setback variance to allow the property owners to construct a single family home. City Staff reviewed the application and recommends approval.

Amber Boas, 8 Broad Street, Winter Garden, (*adjacent property owner to the north*) approached the Board and asked if the proposed residence will be 5 feet from her property line. Chairman Bedsole responded negatively and stated that the residence will be 20 feet from her property line. Ms. Boas stated that she did not have any objections to the request.

Motion by James Balderrama to approve the Variance. Seconded by James Dunn, the motion carried unanimously 6-0.

7. 701 Clancy Street

Planner Byers presented the board with a request for 701 Clancy Street, for approval of a 6 foot rear setback variance to allow the property owner to construct an enclosed screen porch. City Staff reviewed the application and recommends approval.

James Balderrama inquired about the dimensions of the proposed screen porch. Planner Byers responded that the screen porch will be approximately 10' by 40', and the property owner would like to expand an existing concrete slab 6 feet to accommodate the screened porch. Contemplation

Motion by Jerry Carris to approve the Variance. Seconded by Tina Aldrich, the motion carried unanimously 6-0.

8. 12537 Westfield Lakes Circle

Planner Byers presented the board with a request for 12537 Westfield Lakes Circle, for approval of a 4 foot side setback variance to allow the property owner to construct a single family home. City Staff reviewed the application and recommends approval

Motion by Mac McKinney to approve the Variance. Seconded by Jerry Carris, the motion carried unanimously 6-0.

9. 234 S. Main Street

Planner McGruder presented the board with a request for 234 S. Main Street, for approval of a 15 foot rear yard setback variance to allow the property owner to construct a carport. City Staff reviewed the application and recommends approval

Tina Aldrich inquired about the height of the proposed carport. Planner McGruder responded that the proposed carport will not exceed the maximum height allowed for accessory structures.

James Balderrama asked if the proposed carport will be consistent with the neighborhood, and inquired about the access to the carport. Planner McGruder responded that the proposed structure is consistent with the neighborhood and that the access to the carport will be off Maple street.

Motion by Jerry Carris to approve the Variance. Seconded by James Dunn, the motion carried unanimously 6-0.

10. 238 N. Highland Avenue

Planner McGruder presented the board with a request for 238 N. Highland Avenue, for approval of a 7 foot side yard (south) setback variance to allow the property owner to build a detached garage and an 8 foot side yard (south) setback to construct a carport. The

applicant also owns the adjacent 60'X 120' parcel and he will be combining the parcels with Orange County Property Appraiser. City Staff reviewed the application and recommends approval.

Chairman Bedsole asked if the oak trees located on the rear of the property will be removed. Planner McGruder responded negatively.

Tina Aldrich asked if the existing shed located on the rear of the property will be removed. Planner McGruder responded affirmatively.

Motion by Tina Aldrich to approve the Variance, with the condition that the applicant will be combining the subject parcel with the adjacent parcel to the north. Seconded by Jerry Carris, the motion carried unanimously 6-0.

11. 505 Lake Cove Pointe Circle – Lake Cove Pointe Subdivision

Planner McGruder presented the board with a request for 505 Lake Cove Pointe Circle (*Lake Cove Pointe Subdivision*) for approval of an after the fact variance to allow the increase of the impervious surface ratio from the allowed 50 % in the R-1 zoning to 66 % and reduce the drive way culvert separation from the required 42 feet to 28 feet. Planner McGruder explained that the City of Winter Garden is located within the Wekiva Protection Area, which requires additional environmental protection restrictions, and because the subject property is located in front of Lake Apopka, City Staff is recommending denial to the petition.

Tina Aldrich inquired about the applicant's statement on the application stating that "at the time of the inspection by the city, nothing was said and the design was passed and the driveway was poured". Mrs. McGruder responded that such statement was incorrect, since the floor plans approved and permitted by the Building Department were different than the ones used by the builder.

City Manager Bollhoefer stated that there are several reasons why City Staff is recommending denial of the subject petition. He explained that the driveway was constructed without the appropriate permit from the City; that the homes located in the community were designed to provide a certain amount of green areas in the front of the homes; and the City has received several complaints from the neighbors in regards to the driveway.

James Balderrama inquired about the drainage outfall from the driveway. Planner McGruder responded that it will drain into the City's Stormwater system.

Cathy Fulbright, 443 Tierra Verde Lane, Winter Garden (*Lake Cove Pointe Subdivision*), approached the Board and spoke in opposition to the subject request, stating that the driveway is not attractive and provides too much concrete in front of the residence; that it will increase the number of cars in the neighborhood; and that approving the variance

will set a standard in the community. She added that there were 5 other neighbors in the audience that were opposing to the subject petition.

Mike Jacobs, 447 Tierra Verde Lane, Winter Garden (*Lake Cove Pointe Subdivision*), approached the Board and spoke in opposition to the subject request, stating that one of the Homeowners Association regulations is that vehicles must be parked inside the garages. He added that if the City approves the circular driveway, other property owners in the subdivision will request approval of similar petitions. Mr. Jacobs also stated that the stormwater system is privately owned, not owned by the City of Winter Garden.

Peter Palermo, property owner of the subject property, approached the Board and stated that the Building Department inspected and passed the driveway on October 31, 2006. He added that the circular driveway enhances the appearance of the home.

James Balderrama pointed out that the plan approved by the City was not the one displaying the circular driveway.

Assistant City Attorney Langley asked Mr. Palermo in regards to his claimed hardship. Mr. Palermo responded that there is a sewer drain on the let side of the lot located 19 feet from the property line, therefore to provide an easier access and more attractive entrance, the circular driveway was constructed.

Ron Dowdy, developer for Lake Cove Pointe Subdivision, approached the Board and spoke in opposition to the subject petition. He stated that the Homeowners Association, which he represents, never approved the circular driveway.

Building Official Willie Herbert, approached the Board and in response to Mr. Balderrama's concern stated that what the Building Department approved and inspected was the straight driveway (*Board Members were provided with a copy of the Inspection Record form*), and as soon as they found out about the circular driveway, the property owner was told not to proceed any further.

James Balderama asked Mr. Dowdy if part of the Home Owner Association Covenants is to receive approval for any designs or building plans before construction. Mr. Dowdy responded affirmatively. Mr. Balderrama asked Mr. Dowdy if the building plans for the subject site included a circular driveway. Mr. Dowdy responded negatively.

Motion by Jerry Carris to deny the After the Fact Variance. Seconded by Mac McKinney, the motion carried unanimously 6-0.

Special Exception Permits

12. 700 West Plant

Planner McGruder presented the board with a request for 700 W. Plant Street, for approval of a Special Exception Permit to allow the operation of a professional office in the R-NC zoning district. This property previously received a SEP on December 08, 2003, and as a condition of approval by the Planning and Zoning Board, if the property was sold; the new owner will need to receive approval of a new Special Exception Permit. City Staff has reviewed the application and recommends approval with the original conditions placed on the property on December 08, 2003, which are:

1. Any expansion of the building and/or any development of the property will require an amendment of the Special Exception Permit.
2. Office hours will be limited from 7am to 6pm, Monday through Friday.
3. Outdoor storage of trucks, material or equipment shall be prohibited.
4. Signage shall be limited to the existing monument sign, and two wall signs (no more than 4 square feet each, mounted flat against the building face) No internally illuminated signs shall be allowed.
5. The parking lot shall be buffered with a decorative metal or PVC fence to be approved by the Planning Director (no chain link will be allowed) and shall be heavily landscaped to prevent light and noise intrusion in to the adjacent residential area.
6. Total parking shall be limited to 15 parking spaces. The City will reserve the right to refuse to issue additional Commercial Business Tax Applications when, in the judgment of the Planning Director there is insufficient parking available for the proposed business.

Planner McGruder provided the Board with copies of an email received from Mrs. Sharon Lambert, stating concerns in regards to the subject petition.

Anette Luck, 230 Clacyn Court, Winter Garden (*Oak Park Subdivision*) approached the Board and stated that she would like to make sure that the original conditions previously placed on the property will continue to be in effect, especially the condition stating that if the property is sold, the new owner will need to receive approval of a new Special Exception Permit. She expressed concerns in regards to construction equipment or supplies being on the property.

City Manager Bollhoefer explained that the building will be used by a construction company, but only as a professional office and construction equipment or supplies will not be allowed in the property.

Alan Haughey, 11548 Delmar Avenue, Orlando, (*property owner of 700 W. Plant Street*), approached the Board and stated that concerning the previously placed condition in regards to the hours of operations, they would like to have the flexibility to allow their

employees to sometimes work after 6:00 p.m. City Manager Bollhoefer clarified that office hours are specifically the hours of operation when an office is open to the public.

Anette Luck approached the Board again and stated that since the operations conducted at the subject property will directly affect their community (*Oak Park Subdivision*), they would like the Planning and Zoning Board to place the condition that if the property changes its use or its ownership, the new owner will be required to obtain Special Exception Permit by the Planning and Zoning Board.

Assistant City Attorney Langley stated that the uses allowed on the R-NC zoning district are stipulated by the City's Code of Ordinances; therefore approval of a Special Exception Permit will only be necessary if the use changes. Chairman Bedsole explained that if a new owner desires to change the use or any of the previously established conditions, it will impact the community; therefore, approval of a Special Exception Permit will be required, but not if the use is the same and the conditions remain the same.

Further discussion took place among the Board Members, Assistant City Attorney Langley, Planner McGruder and Ms. Luck concerning the uses allowed under the R-NC zoning district and the previously established conditions on the subject property. It was determined that if the proposed use is a R-NC permitted use, it does not need approval from the Board; it will only be required approval from the Board if the new use is one of those listed under the "permitted uses as Special Exception Permit".

Paul Friedland, 230 Clancy Court, Winter Garden, approached the Board and expressed concerns in regards to commercial operations conducted at the subject site.

Motion by Tina Aldrich to approve the Special Exception Permit to allow the operation of a professional office at 700 W. Plant Street with City Staff conditions (see attached). Seconded by Jerry Carris, the motion carried unanimously 6-0.

Site Plans

13. StarChild Academy

Planner Byers presented the Board with a request for site plan approval for StarChild Academy located on C.R. 535 behind the House of Rentals. This project was approved for a Special Exception Permit by the Planning and Zoning Board on December 04, 2006. City Staff has reviewed the applications and recommends approval with the conditions included in the agenda package.

Tina Aldrich asked if the developer was required to complete the turning lanes on C.R. 535 before construction. Planner Byers responded that the turning lanes must be completed before the issuance of the Certificate of Occupancy. Ms. Aldrich expressed concerns related to heavy construction trucks driving into the property.

City Manager Bollhoefer stated in response to Ms. Aldrich's concerns that the City has been working with the developers in regards to the turning lanes issue. He stated that the developers have already purchased the land from Apopka Natural Gas, and the turning lanes will be built as part of the site plan construction. Mr. Bollhoefer also informed the Board that the speed limit on C.R.535 will be decreased from 45 mph to 35 mph.

James Balderrama expressed concerns related to the many new developments taken place on C.R. 535, and encouraged City Staff to further examine the traffic issues and the speed limit on C.R. 535. City Manager stated that the City is obtaining a lot of the right-of-way along C.R. 535 and a series of turn lanes will be placed on C.R. 535.

Jerry Carris inquired about the House of Rentals property and whether or not the developers will obtain an access easement to C.R. 535. Planner Byers responded that the developers are required, as one of the conditions of approval, to plat the property, which will provide access, utilities and drainage easements.

Motion by James Balderrama to approve the Site Plan with City Staff conditions (see attached). Seconded by James Dunn, the motion carried unanimously 6-0.

Final Plat

14. Stoneybrook West Parcel 19

Planner Byers presented the Board with a request for final plat approval for Stoneybrook West Parcel 19 located on the southeast corner of Stoneybrook West Parkway and Avalon Road. City Staff reviewed the request and recommends approval with the conditions included in the agenda package.

Motion by James Dunn to approve the Final Plat with City Staff conditions (see attached). Seconded by Mac McKinney, the motion carried unanimously 6-0.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:11 p.m.

APPROVED:

ATTEST:

Chairman Larry Bedsole

Planning Technician Leontyne James

Minutes transcribed by Planning Technician Lorena Blankenship