MINUTES OF THE CITY OF LAKE MARY, FLORIDA, BOARD OF ADJUSTMENT MEETING HELD ON FEBRUARY 21, 2007, 7:00 P.M., CITY HALL, 100 N. COUNTRY CLUB ROAD

TAPE 1, SIDE A

I. Call to Order

The meeting was called to order at 7:00 p.m.

II. Moment of Silence

III. Pledge of Allegiance

IV. Roll Call - Determination of a Quorum

The following members were present:

Chairman Jim Lormann (7:29 p.m.)
Member Frank Martin (Acting Chairman)
Member Nancy Vallianatos
Member George Ludwig
Meryem Stanek (Alternate)

Vice Chairman Shawn O'Brien was absent.

City staff present were Gary Schindler, City Planner; Tom Connelly, P.E., Planning Engineer; and Diana T. Adams, Administrative Secretary.

Also present were Ellie Ellison, Bob Cherry and Eric Olsen.

V. Approval of Minutes - November 2, 2005

MOTION:

Member Ludwig moved to approve the Minutes of the November 2, 2005, Board of Adjustment meeting, as presented. Member Vallianatos seconded the motion. Chairman Lormann and O'Brien were absent. The motion carried unanimously 4-0.

VI. Old Business

None

VII. New Business

A. 2007-VA-02: Request for a variance from the minimum rear yard setback for property located at 273 Hanging Moss Circle, Lake Mary, Florida; Applicant: Ellie Ellison for Eric and Joan Olsen

Tom Connelly, P.E., Planning Engineer, presented the request and the related Staff Report. A copy of the survey that is attached to the Staff Report was on the overhead projector. He said this request involves a variance from an existing 20' rear setback requirement established in the requirements of the PUD for Huntington Pointe II. He stated that Mr. and Mrs. Olsen are hoping to expand their existing house to the rear wanting to place a 12' deep and 25' wide sunroom, an area that would be fully enclosed, air conditioned and heated, at the rear of their property. He said the Olsen's hope to do this because they anticipate that, in the near future, they will have their parents actually coming to reside at their house and this would give them additional living space.

Mr. Connelly stated that in positioning this as proposed currently, the sunroom, sun-enclosed area, will project into the 20'-wide rear yard setback. He said that as shown on the exhibit on the overhead the way the sunroom is situated will basically be a diagonal area that will project into this setback area. He stated that based on his measurements and calculations, the sunroom will vary from zero extension into the setback area from the enclosure on the left side, the south side, and then progressively expand until a maximum of approximately nine feet into the 20' rear yard setback, which would then leave approximately 11 feet to the rear of the lot, which there is also a brick wall there.

Mr. Connelly proceeded to discuss the six variance criteria listed in the Staff Report, which staff answered "NO" to all.

Mr. Connelly said that after the Applicant received a copy of the Staff Report, they did submit two additional pieces of information which he placed in front of the Board prior to the meeting (see attached).

Mr. Connelly concluded saying, staff finds that the Applicant has not met all of the criteria listed in the Staff Report to grant the requested variance and, thus, staff is not recommending approval of this requested variance. If the Board wishes to approve the variance, it must include in its motion that conditions pertaining to all criteria have been met.

Alternate Stanek asked if staff found any of the other homes in the area that have an existing sunroom, or are there any other sunrooms in that neighborhood that have this same variance.

Mr. Connelly answered negatively. He stated that the only thing staff found was for a fence in 1996.

Acting Chairman Martin requested the Applicant to come forward and address the Board.

Ellie Ellison, 1151 Central Park Drive, Sanford, Florida 32771, addressed the Board in favor of granting the proposed variance. She said she is the permit person for Florida Exteriors. She stated that one of the things she looks at for a sunroom is the size of the lot. She said that Mr. Olsen's lot is small to have a 20' setback, and the irregular shape is a very big hardship that fits at least one of the criteria for approval of the variance. She stated, we are not asking for a whole lot. There is only that little pie shape that is out there. We fit, as best as we can, to the good side of the setback line and are only asking for a little bit. She said Mr. and Mrs. Olsen will be having their parents live here and they need the additional living space because they do have small children also. She stated that they also need to assure for their ailing parents' medical needs and quiet time. She said she knows that this is not one of the criteria of justification for a variance, but this is very much needed or they would not be pleading with the Board today.

Ms. Ellison stated that there are other sunrooms and screen rooms in this area, but they have met the setbacks obviously, because they did look for other variances granted in this area and there were none, so she guessed everybody met the setback rules at that time.

Discussion ensued as to if there was a way to move the sunroom to fit onto the lot and make it smaller without the variance. Ms. Ellison said there is no way to entrance the room from the left side of the house, and the homeowner does not want a diagonal wall, if it was to be scaled back, plus that would not be very attractive at all, would be an eyesore and you would need to consider resale value.

Bob Cherry, Owner of Florida Exteriors, 1151 Central Park Drive, Sanford, Florida 32771, addressed the Board in favor of granting the proposed variance. He stated that he and Ms. Ellison have discussed at length with Mr. Olsen about changing the room around, but originally they thought they were within the setback limits because they looked at the survey prior to designing the room. He said there is a lot more property in the rear than it looks like behind this house and there is a 6' red brick wall at the back property line dividing it from another development. He stated that if they made the room smaller and conform with the zoning, without angling the wall, he believed that they would only have a two-foot projection on the right corner to get within that line, which kind of just nullifies the

whole reason for the room because it would not give you enough usable space and the value would just go right out the window because of the angle as discussed by Ms. Ellison. He said that this proposed sunroom would not be staring any of the rear neighbors in the face because of the red brick wall being there.

Eric Olsen, 273 Hanging Moss Circle, Lake Mary, Florida, addressed the Board in favor of the proposed variance. He stated that he is the owner of the subject property in question. He pointed out that approximately 150 square feet out of 1400 is all that they are interested in getting a variance for and from behind the back of the sunroom to the nearest portion of the neighbor behind the subject property is close to 50' and both houses are single-story houses. He said that he has never even seen his neighbor behind him because of the wall.

Acting Chairman Martin opened the hearing to public comment. Hearing none, he closed that portion and entertained board discussion and/or a motion.

Discussion ensued regarding the possibility of setting a precedence if the Board was to grant this proposed variance. Mr. Schindler stated, staff looks at every case on a case-by-case basis, but unless there is a clear hardship, there could be the potential of establishing a precedence. The criteria by which staff has to respond are very specific.

Member Ludwig asked if the addition of the two letters change staff's opinion.

Mr. Connelly answered negatively.

Mr. Schindler added, the Architectural Review Board (ARB) does not enforce city standards nor does the City enforce covenants and deed restrictions. It is almost as though the ARB is saying, well, if you can get the variance, it is okay with us.

Member Ludwig expressed the reasons why he is torn on this.

Acting Chairman Martin expressed that he is sympathetic to this, but he did not see an extraordinary circumstance at this point.

Member Vallianatos commented that if we look at it on a case-by-case basis, it is not necessarily opening up the door, especially since there is the red brick wall in the rear. She did not see it to be a problem.

Mr. Schindler reminded the Board that if they wish to grant the variance, they must answer yes to each of the six variance criteria and must provide very specific basis upon which it has made its decision. He explained that this is a

quasi-judicial proceeding and that there is a Sign-In Sheet at the back of the room for any interested party to be kept abreast of this matter.

Mr. Cherry requested to further address the Board with regard to this item.

Acting Chairman Martin reopened the public hearing to allow Mr. Cherry to further address the Board.

Mr. Cherry pointed out that if they were constructing a screen room, they could be within five feet of the setback, but since they are upgrading to something more beneficial to the neighborhood ($50,000 sunroom), they are getting penalized. He said this could be construed as a hardship, in his opinion, because of the way the rule is written in this particular area. He reiterated that this is on a case-by-case situation, and they are building something that is a lot of value and you are not going to have hundreds of people walking in and spending $50,000 on a project like this.

Chairman Lormann entered the meeting here at 7:29 p.m.

Mr. Schindler clarified that if anyone in Huntington Pointe wanted to add a screen room to the back of their house, they could not go within five feet. He stated that it is a swimming pool and screened enclosure, and the City Commission, across the Board, has made a decision that swimming pools and screened enclosures are to be treated differently than other screened or other room additions. He said, in areas outside of Huntington Pointe, a screened room may go within three feet of a rear property line, but this is not a screened room. This is an enclosed room that becomes part of the house. It would be no different than if someone were to come in, on a lot similar to this, and say, I'm building a house and the house is going to go within 11 feet of the rear yard setback.

Acting Chairman Martin closed the public comment portion of the meeting again and reopened it for board discussion and/or a motion.

Member Ludwig commented that he was not sure that the cost of the project should really enter into the decision at all.

Alternate Stanek commented that she couldn‘t see the hardship.

Chairman Lormann apologized for being late and questioned if there was any opposition from the public.

Acting Chairman Martin answered, no, there was not, but the ARB for Huntington Pointe has indicated their approval of the project.

Chairman Lormann asked if the Applicant has specified the hardship.

Acting Chairman Martin replied, the shape of the lot was brought up and adding a room that would be an appropriate size.

Member Ludwig commented that the sunroom could be added but just not the size they would like.

MOTION:

Member Ludwig moved to deny the request by Ellie Ellison for Eric and Joan Olsen for a variance from the minimum rear yard setback for property located at 273 Hanging Moss Circle, Lake Mary, Florida, consistent with staff's Findings of Fact listed in the Staff Report. Alternate Stanek seconded the motion.

Acting Chairman Martin requested a roll-call vote on the motion, and was taken as follows:

Member Vallianatos - No
Acting Chairman Martin - Yes
Member Ludgwig - Yes
Alternate Stanek - Yes
Chairman Lormann - Yes

Vice Chairman O'Brien was absent. The motion carried 4-1.

Chairman Lormann explained the appeal process to the Applicant; that anybody may appeal this decision of the Board of Adjustment to the City Commission within 30 days, or to the Courts.

VIII. Other Business

Annual Elections of Chairman and Vice Chairman to the Board

MOTION:

Acting Chairman Martin moved to elect Jim Lormann as the Chairman to the Board of Adjustment. Member Ludwig seconded the motion. Vice Chairman O'Brien was absent. The motion carried 5-0.

MOTION:

Member Vallianatos moved to elect Acting Chairman Martin as the Vice Chairman to the Board of Adjustment. Alternate Stanek seconded the motion. VIce Chairman O'Brien was absent. The motion carried 5-0.

IX. Reports of Other Members

None

X. Adjournment

The meeting was adjourned at 7:41 p.m.

Jim Lormann, Chairman	Diana T. Adams, Administrative Secretary