

1 **MINUTES OF THE CITY OF LAKE MARY, FLORIDA, BOARD OF ADJUSTMENT**
2 **MEETING HELD ON NOVEMBER 3, 2004, 7:00 P.M., CITY HALL, 100 N. COUNTRY**
3 **CLUB ROAD**

4
5 **TAPE 1, SIDE A**

6 I. Call to Order

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

8 II. Moment of Silence

9 III. Pledge of Allegiance

10 IV. Roll Call - Determination of a Quorum

11 The following members were present:

12 Vice Chairman Eileen Hoppen (Acting Chair)

13 Member Frank Martin

14 Member Nancy Vallianatos

15 Member Shawn O'Brien

16 George Ludwig (Alternate)

17
18 Chairman Jim Lormann was absent.

19
20 City staff present were Juan (John) A. Omana, Jr., Community Development
21 Director; Gary Schindler, City Planner; and Diana T. Adams, Administrative
22 Secretary.

23 V. Approval of Minutes - July 7, 2004

24 **MOTION:**

25 **Member Martin moved to approve the Minutes of the July 7, 2004, Board of**
26 **Adjustment meeting, as presented. Member O'Brien seconded the motion.**
27 **Chairman Lormann was absent. The motion carried unanimously.**

28 VI. Old Business

29 None

30 VII. New Business

NOVEMBER 3, 2004-1
BOARD OF ADJUSTMENT

1 A. 2004-VA-11: Request for two variances from § 154.59 (C)(2)(c) & (e), City of
2 Lake Mary Code of Ordinances, on property located on the south side of C.R.
3 46-A west of Rantoul Lane, Lake Mary, Florida; Applicant: City of Lake
4 Mary/Community Development Department
5

6 Gary Schindler, City Planner, presented the request and the related Staff Report.
7 The Location Map was on the overhead projector. He said this item is for two
8 variances for The Villas of Lake Mary a/k/a Dorchester Square Apartments. He
9 stated that the subject property is located on the south side of County Road 46-A
10 just west of Rantoul Lane. He said it has an R-3 (Multiple Family) zoning
11 designation. He stated that it contains 8.884 acres and is developed as 80
12 dwelling units.
13

14 Mr. Schindler said that in 1980 the City approved the site plan for the apartments.
15 He stated that subsequently the apartments were sold and the new owner came
16 in and made a significant number of improvements, but then the owner sold the
17 apartments by metes and bounds. He said the City did not become aware of this
18 until late 2001, and as such, because it never went through the City's subdivision
19 process we have an illegal subdivision. He stated that the owners of these units
20 are as much the victim as the City because they did nothing to create this. It was
21 the seller of the development. He said that since that time the City has been
22 looking for a way to try to rectify some of the problems. He stated that since
23 these are nonconforming lots, the City has not been willing to issue a building
24 permit for ancillary uses such as screen rooms. He said the City has issued
25 building permits for needed maintenance, say, for a roof repair and things like
26 that.
27

28 Mr. Schindler stated that the City wishes to find a way to rectify as many of the
29 problems as possible, and the way that it has arrived at this is to request two
30 variances from § 154.59 (C)(2)(c) to allow the minimum lot width at the setback
31 to be reduced from 75 feet to 26 feet, and from § 154.59 (C)(2)(e), the front, side
32 and rear yard setbacks to be reduced from 25 feet to 0. He made it clear that
33 this applies only to the existing 80 units and does not apply to the larger property
34 nor to any new units, if any should ever be proposed.
35

36 Mr. Schindler said that what staff is saying is, by approving these two variances
37 for the 80 units, the City can take these from nonconforming to conforming. He
38 stated that will then allow the City to approve any building permits for ancillary
39 structures. He mentioned that he knew the City had a number of people who
40 applied for screen enclosures where the City said, no, we can't do that. You are
41 nonconforming. He said this will take care of that.
42

1 Mr. Schindler stated that staff has reviewed these two variances in light of the six
2 variance criteria, and Finding of Fact No. 7 in the Staff Report states that staff
3 finds that the Applicant has met all of the criteria as stated above to grant the
4 requested variances. "If the Board of Adjustment wishes to approve the
5 requested variances, it must state that all the criteria for granting the variances
6 have been met".
7

8 Mr. Schindler concluded, stating that although there are a number of variances
9 related to setbacks and minimum lot width, staff was unable to discover any
10 similar variance request on the basis of the creation of an illegal subdivision.
11

12 Member Martin asked Mr. Schindler if there was room on this piece of property
13 for additional units/additional building at this point.
14

15 Mr. Schindler answered, not really. He explained that between the recreational
16 facilities and the stormwater facilities it is pretty much every part that can be
17 developed is developed. He reiterated that these two variances relate only to the
18 existing 80 dwelling units.
19

20 Member O'Brien commented that certainly there is common ownership of the
21 maintenance system, the stormwater system, the roads, the parking lot,
22 structures and whatnot. He questioned if there was any vacant space that was
23 part of the sub-divide when it was done.
24

25 Mr. Schindler responded, saying that staff is not aware of any. He said that staff
26 is aware that there are 80 units and it appears to be that the lots are pretty much
27 coterminous with the units, and that staff believes that the variances it has
28 identified address the minimum necessary to make the units conforming.
29

30 Alternate Ludwig commented that the advantages of doing this seems fairly
31 obvious. He asked if there was anything adverse about granting the two
32 proposed variances.
33

34 Mr. Schindler replied that staff did not see any. He explained that even if staff
35 had gone through subdivision, it would still have to have the variances because
36 the lots just don't comply with anything, and a PUD could not be done because a
37 PUD takes 10 acres and two uses. He stated this site has 8.884 acres and one
38 use. He reiterated that this is the minimum action necessary to achieve what the
39 City proposes to achieve.
40

41 Member O'Brien commented that basically what the owner had done was take an
42 apartment community and made it like a town home community, but instead of

1 recording as a condo recorded as basically common shared roofs and common
2 maintenance responsibilities with all the units.

3
4 Mr. Schindler concurred. He explained that these are fee simple; they own the
5 land under their unit and they were each done by a metes and bounds legal
6 description. He (the owner) used one title company to do all the title work, and
7 he used one company to prepare the legal descriptions.

8
9 Member Martin asked if the space that is currently not built on is currently owned
10 by the homeowners association.

11
12 Mr. Schindler answered, "we can only assume so". He explained that there is a
13 homeowners association and we can only assume that, outside of their units, that
14 the 80 owners commonly own the common area.

15
16 Member O'Brien questioned Mr. Schindler if staff found any taxable portions of
17 common area.

18
19 Mr. Schindler responded, stating that staff was not looking. He explained that
20 staff was simply trying to address the problem. "It sticks out like a big, sore
21 thumb and staff was trying to find at least a band-aid to put on it".

22
23 Member O'Brien asked Mr. Schindler if staff has any concern with other existing
24 apartment communities that could be converted and sold off outside of the
25 subdivision process to create the same situation.

26
27 Mr. Schindler replied, stating that there is always that chance, but this appears to
28 be rather unique because the City does not have that many apartments.

29
30 Juan (John) A. Omana, Jr., Community Development Director, added, and of the
31 apartments that the City does have, those have been generally developed by the
32 larger developers, the national developers, so they are fairly aware of how the
33 City's process works and are familiar with the City's subdivision regulations, so
34 the City has a certain comfort level there.

35
36 Mr. Schindler added, "and the other thing is that those are multi-story where
37 these are one-story and so they couldn't do fee simple. They would have to go
38 condo. Well, see, that's not a problem. It's not a problem if they go condo. The
39 fact was that this they went fee simple".

40
41 Member O'Brien questioned if there was another procedure for subdivision of
42 existing dwelling units like this, or is this just so unique that.....
43

1 Mr. Schindler answered, stating that even if they had gone through the
2 subdivision process, staff would still be asking for variances because the City's
3 R-3 Zoning District is not designed for fee-simple townhomes. It is designed for
4 apartments. He said it could be condominiums, that would not be a problem, but
5 it is when it is fee simple. He stated that mostly when you are wanting to do
6 townhomes, you do PUD. He said that is by far the easier process.
7

8 Member O'Brien asked Mr. Omana if he was pretty secure that this would not
9 create a situation that would create a further potential for a developer to come in
10 and go around the subdivision process.
11

12 Mr. Omana answered affirmatively. He explained that the City Attorney has let
13 staff know on various occasions in the past that every variance application that
14 comes in is unique unto itself, has to stand on its own merits, and are reviewed
15 on a case-by-case basis. He stated, considering feedback from the City
16 Attorney's Office and based on the uniqueness of this particular case, staff feels
17 comfortable that a recommendation of approval to the Board is appropriate and
18 that is why staff recommends that the Board move forward with it.
19

20 Vice Chairman Hoppen opened the hearing to public comment. Hearing none,
21 she closed that portion and opened it to board discussion and/or a motion.
22

23 **MOTION:**
24

25 **Member O'Brien moved to approve the request by the City of Lake**
26 **Mary/Community Development Department for two variances from § 154.59**
27 **(C)(2)(c) & (e), City of Lake Mary Code of Ordinances, on property located**
28 **the south side of C.R. 46-A west of Rantoul Lane, Lake Mary, Florida,**
29 **consistent with staff's seven Findings of Fact listed in the Staff Report and**
30 **based on this being a singularly unique situation "where should the**
31 **subdivision process have been gone through, the Board would have been**
32 **here anyway". And based on the facts that were presented/associated with**
33 **this community and the way it was developed, he did not see any harm.**
34 **"Move that the variances be granted as written in the Staff Report".**
35

36 Mr. Schindler questioned Member O'Brien if the motion was applicable only to
37 the existing 80 dwelling units.
38

39 Member O'Brien answered, "absolutely".
40

41 **Alternate Ludwig and Member Vallianatos both seconded the motion.**
42

1 **Vice Chairman Hoppen requested a roll-call vote on the motion, and was**
2 **taken as follows:**

3
4 **Member Vallianatos - Yes**

5 **Member Martin - Yes**

6 **Member O'Brien - Yes**

7 **Alternate Ludwig - Yes**

8 **Vice Chairman Hoppen - Yes**

9
10 **Chairman Lormann was absent. The motion carried unanimously 5-0.**

11
12 Vice Chairman Hoppen explained that anyone may appeal this decision of the
13 Board of Adjustment to the City Commission within 30 days.

14
15 VIII. Other Business

16 Juan (John) A. Omana, Jr., Community Development Director, enlightened the
17 Board that the City will be getting a 35'-high clock tower located just outside City
18 Hall in Central Park fronting Lake Mary Boulevard. He stated that he would keep
19 the Board posted on the progress of the clock tower.

20 IX. Reports of Other Members

21 None

22 X. Adjournment

23 The meeting was adjourned at 7:20 p.m.
24
25
26
27

28 _____
29 Eileen Hoppen, Vice Chairman

28 _____
29 Diana T. Adams, Administrative
30 Secretary