

1 **MINUTES OF THE CITY OF LAKE MARY, FLORIDA, BOARD OF ADJUSTMENT**
2 **MEETING HELD ON NOVEMBER 7, 2007, 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 Chairman Jim Lormann
13 Vice Chairman Frank Martin
14 Member George Ludwig
15 Member Meryem Stanek
16 Alternate Sean Fitzgerald

17
18 Member Shawn O'Brien 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
24 Also present was Clay Simmons.

25 V. Approval of Minutes - September 12, 2007

26 **MOTION:**

27 **Member Ludwig moved to approve the Minutes of the September 12, 2007,**
28 **Board of Adjustment meeting, as presented. Vice Chairman Martin**
29 **seconded the motion. Member O'Brien was absent. The motion carried**
30 **unanimously 5-0.**

31 VI. Old Business

32 None

NOVEMBER 7, 2007-1
BOARD OF ADJUSTMENT

1 VII. New Business

2 A. 2007-VA-04: Request for a variance from § 154.14 (A) (3), City of Lake Mary
3 Code of Ordinances, of 5' from the minimum 10' rear yard setback for an
4 accessory structure, located 445 Cardinal Oaks Court, Lake Mary, Florida;
5 Applicant: Clayton D. Simmons
6

7 Gary Schindler, City Planner, presented the request and the related Staff Report.
8 The Location Map that is attached to the Staff Report was on the overhead
9 projector. He said that this involves a request for a variance of five feet from the
10 rear yard setback for accessory structures. He stated that the Code says that
11 accessory structures shall have a ten-foot rear yard setback, but the Applicant is
12 requesting a variance of five feet from that standard.
13

14 Mr. Schindler said, as a separate but related issue, on October 4, 2007, the City
15 Commission approved Mr. Simmons' request to vacate a 99 square-foot area of
16 the Drainage & Recreational Easement located within the rear yard of the subject
17 property. He stated that this was necessary because the City does not allow
18 structures within easements, so the first step was to vacate the portion of the
19 easement, and all that was vacated was the portion of the easement directly
20 under the pad of where the proposed storage shed is going to be located.
21

22 Mr. Schindler said, that being done, it set the stage for the next phase, which is
23 the request for the variance. He stated, the ten-foot requirement for the setback
24 is found in § 154.14 (A) (3), City of Lake Mary Code of Ordinances. He said that
25 staff has reviewed the request in light of the six variance criteria and finds that
26 the Applicant has met all of said criteria as stated in the Staff Report to grant the
27 requested variance.
28

29 Mr. Schindler proceeded to put a copy of Mr. and Mrs. Simmons' survey on the
30 overhead projector. He indicated where the house and the pool are located. He
31 also indicated where the old/previous shed was located on the property for about
32 20 years. He explained that several years ago, it was discovered that the
33 Simmons' septic system was over a City water line and they had to relocate their
34 septic system, which was subsequently moved to the rear. He stated that Mr.
35 Simmons had a wooden storage shed, and the only reason it remained standing
36 was evidently the termites were holding hands, because when he went to move
37 it, it collapsed. He said, he then proposed to relocate a storage shed to this
38 location (indicating), and one of the reasons he did is it is at the rear of the lot.
39 There is a drainage way that goes through here (indicating). He is outside the
40 drainage way, and there is also a neighbor that has a storage shed here
41 (indicating). So, they are back, towards each other, and in light of the fact that if

1 he moved the storage shed any farther, it would – there is the potential that it
2 would impact the drainage way.

3
4 Mr. Schindler stated, in light of this, staff has reviewed the criteria and, as I said,
5 we find that all the criteria have been met.

6
7 Mr. Schindler concluded, saying that staff has looked for similar incidences
8 where there has been a variance for a rear yard setback for an accessory
9 structure but did not find any.

10
11 Chairman Lormann asked if staff has received any positive or negative feedback
12 in regards to the requested variance.

13
14 Mr. Schindler answered, no. We have not received any cards, calls or letters for
15 the variance.

16
17 Chairman Lormann questioned, and I understand the hardship is the fact that he
18 had to relocate his septic tank system?

19
20 Mr. Schindler responded, that, yes, and also if he were to comply with the ten
21 feet, it would be locating this more within the drainage way, which is not
22 something that we want to do because this drainage way serves not only his
23 property but adjacent properties.

24
25 Chairman Lormann requested Mr. Schindler to indicate to him the Drainage &
26 Recreational Easement on the overhead.

27
28 Mr. Schindler complied.

29
30 Juan (John) A. Omana, Jr., Community Development Director, said that the
31 topography of the backyard is such that it mounds, so to physically be able to put
32 the shed back onto the original, former location is practically impossible and does
33 not make any sense. He stated that staff believes that there is the hardship and
34 the unique circumstances to support it.

35
36 Mr. Schindler added, and also you may not put a pad on top of a septic system.

37
38 Member Martin asked if the shed on the adjacent property meets the 10-foot
39 setback requirement.

40
41 Mr. Schindler replied, we do not know that it does or doesn't. This was brought
42 to our attention. We have no way of knowing how long it has been there and if it

1 was or was not located with or without a permit. We are focusing on the location
2 of the shed on Mr. Simmons' property.

3
4 Member Martin questioned if this was going to be an 8' x 10' shed.

5
6 Mr. Schindler answered, roughly. 9' x 11' is the size of the pad. It may be an 8' x
7 10' shed, but the pad is 9' x 11'.

8
9 Mr. Schindler announced that staff has posted and advertised the property and
10 notified all property owners within 300 feet.

11
12 Chairman Lormann requested the Applicant to come forward and address the
13 Board.

14
15 Clayton Simmons, 445 Cardinal Oaks, Court, Lake Mary, Florida 32746,
16 addressed the Board in favor of the requested variance. He said that he has
17 lived on the subject property for the last 26 years. He reiterated history of the
18 previous shed Mr. Schindler spoke of earlier and also why they had to move their
19 septic tank and drain field. He stated that they didn't know about the water main
20 when they bought the house from Bill Harkins 26 years ago. He said that Larry
21 Dale did the subdivision. He stated that when he enlarged their septic tank due
22 to an addition being put on their house, neither the City nor the County Health
23 Department would permit it in its old location because it was over a water main,
24 so they had to move it to the back of the property. He said that his entire
25 backyard is a Drainage & Recreational Easement and there is a history to that,
26 but he stated that when this was platted, the topography was such that it drains
27 through here (indicating) and then drains – this is basically east and west
28 (indicating).

29
30 Mr. Simmons then discussed the complaints about flooding. He said that the City
31 has installed an 18" pipe running all the way to Lake Lee.

32
33 Mr. Simmons stated that there is nowhere on his property that he can put his
34 shed other than where he has proposed it, and he said that he has proposed it so
35 that it would block his neighbor's shed, which has been there for at least 15
36 years, if not more, and is virtually right on the property line. He stated that back
37 when his old shed was put in and his neighbor's shed was put in, he didn't think
38 you needed a permit for a shed. He said that he could not put the new shed
39 forward because it would be almost on top of the pipe, and if they had to come in
40 and do any maintenance on the pipe, his shed would be in the way.

41
42 Mr. Simmons concluded, saying that every one of his neighbors around him have
43 sheds and none of them object to his new shed, as he has talked to all of them.

NOVEMBER 7, 2007-4
BOARD OF ADJUSTMENT

1 He stated that it has been an interesting prospect getting this done with all the
2 City drainage issues that came up, but he respectfully requested the Board to
3 grant the variance.
4

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

7 **MOTION:**
8

9 **Member Ludwig moved to approve the request by Clayton D. Simmons for a**
10 **variance from § 154.14 (A) (3), City of Lake Mary Code of Ordinances, of 5'**
11 **from the minimum 10' rear yard setback for an accessory structure, located**
12 **445 Cardinal Oaks Court, Lake Mary, Florida, consistent with staff's**
13 **Findings of Fact listed in the Staff Report. Member Stanek seconded the**
14 **motion.**
15

16 **Chairman Lormann requested a roll-call vote on the motion, and was taken**
17 **as follows:**
18

19 **Member Martin - Yes**

20 **Member Stanek - Yes**

21 **Member Ludwig - Yes**

22 **Alternate Fitzgerald - Yes**

23 **Chairman Lormann - Yes**
24

25 **Member O'Brien was absent. The motion carried unanimously 5-0.**
26

27 The appeal process was explained to Mr. Simmons.
28

29 VIII. Other Business

30 None

31 IX. Reports of Other Members

32 None

33 X. Adjournment

34 The meeting was adjourned at 7:14 p.m.
35
36
37

1
2
3
4
5
6
7

Jim Lormann, Chairman

Diana T. Adams, Administrative
Secretary

**NOVEMBER 7, 2007-6
BOARD OF ADJUSTMENT**