

**MINUTES OF THE
SUMMERFIELD BOARD OF ADJUSTMENT
SUMMERFIELD TOWN HALL
July 23, 2009
6:30 P.M.**

The meeting was called to order at 6:40 pm by Chair Gene Grubb

INTRODUCTIONS:

Gene Grubb, Chairman
Darrin Taylor
Mike Stewart
Ron Willis

Jim Brady
Blair Carr, Town Attorney
Carrie Spencer, Planning Technician

3. CONSENT AGENDA

The agenda was approved as presented. The minutes from the February 23, 2009 meeting were approved as presented.

4. NEW BUSINESS

Ms. Carr introduced a case for the board for review, pointing out the tests that must be met for the variance:

- No reasonable use because of the application of the ordinance
- Is any hardship on the applicant caused by the applicant?
- Won't interfere with the spirit of the ordinance
- Won't interfere with health, safety, or welfare issues

Ms. Carr addressed the questions individually as follows:

If the variance is granted, will it harm public safety or welfare?

There are no facts to indicate that the building distance from the road would be a safety issue, but if it was a corner lot then sight distance would be different.

Was there any hardship brought on by the applicant?

It was the applicant's responsibility to hire an engineer to confirm the location of the building. Even though inspectors didn't catch the error the first time, it wasn't their responsibility. The magnitude of the mistake indicates that the applicant should have known about it. Compassion for the applicant's hardship does not affect the decision to deny since the hardship was brought on by him.

Ms. Carr stated that these tests alone are reason enough to deny, and the city's denial of the variance was upheld.

Ms. Carr introduced another case for review.

Westover Church wanted to add parking across the street from the church. The rule for such a large campus is that parking must feed out onto a major thoroughfare, but the church was concerned that the traffic feed would be too close to Tower Rd and asked to feed traffic onto Benway Place instead of onto the thoroughfare. GDOT did not think that the proximity of the drive to tower Rd posed a safety hazard.

The tests to satisfy are:

Is allowing the driveway close to Tower Rd posing a public safety issue? There is conflicting opinions (GDOT and the church) then the board of Adjustment must make the decision.

Was the hardship created by the church? Yes, since they built the church with such a large need for parking.

But for the application of the ordinance, can they still make reasonable use of the property? Can they make other use of the lots besides parking? Does the ordinance interfere with the church's ability to worship since not being able to park can prevent you from attending services? Yes, if they didn't have an alternative, but Lot 2 is an alternative that allows them to have thoroughfare access.

The church was allowed to use Benway Place as their primary drive. The high court reversed the decision, saying they could still make reasonable use without Benway Pl as their primary drive, using a "right in-right out" traffic.

Ms. Carr stated that churches, while allowed as a use, must still follow zoning requirements such as buffers, architecture, parking, and setbacks.

Ms. Carr stated that the next training meeting would be a "101" breakdown of all BOA duties.

The board asked of the status of their request for more setback flexibility in the ordinance on large lots. Ms Spencer informed the board that the Zoning Board will be looking at text amendments at their meeting the following Monday.

Jim Brady made a motion to adjourn, Ron Willis seconded, and it passed unanimously. The meeting adjourned at 8:00pm.

Gene Grubb, Board of Adjustment Chair

Carrie Spencer, Clerk to the Board