Minutes of Board of Adjustment Meeting
held Tuesday, July 18, 2017, at 7:00 P.M.,
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida

Call to Order

The meeting was called to order by Chairman Moreland.

Roll Call

Tom Buck *absent*
Jeff Truhlar
John Moreland (Chairman)
Sylvia Osewalt (Vice-Chairman)
Scott Cummings

Alternates:
Francis Reddington
Chase Sams

Ex-parte Communications

Mr. Moreland stated that he had a conversation with Mr. Dunlap regarding cases 17-00078 and 17-00080.

Approval of Minutes

Ms. Osewalt moved approval of the minutes of June 6 and June 20. The motion was seconded by Mr. Sams. Motion was approved unanimously.

Correspondence

Mr. Moreland noted that there was one letter of correspondence that would be read when that agenda item addressed.

OLD BUSINESS:

(A) Case Number: BOA 17-100078

Name of Applicant: JWB Real Estate Capital

Agent: Curtis Hart

Property Address: 1010 North 2nd Avenue

City of Jacksonville Beach Land Development Code Section(s): 34-339(e)(4)(h), for an accessory structure setback of 1 foot, in lieu of 5 feet required; 34-373(d), for vehicular use area of 1 foot, in lieu of 5 feet required; to allow construction of a 6-unit townhouse structure.

Applicant: The agent for the applicant, Mr. Alex Sifakis, 440 7th Avenue South, requested that all five cases which JWB Real Estate Capital applied for, be deferred due to agent Curtis Hart not being available. Mr. Mann stated that they were allowed to defer once before, any subsequent deferrals were at the discretion of the Board.

Ms. Osewalt noted that there were already five cases on the next agenda so it may be pushed out further.

Motion: It was moved by Ms. Osewalt, seconded by Mr. Cummings to approve the applicant's request to defer Agenda Items BOA 17-100078, BOA 17-00079, BOA 17-100080, BOA 17-00081 and BOA 17-100082 to the next available meeting date.

Roll Call Vote: Ayes – Cummings, Moreland, Truhlar, Osewalt, and Reddington. Motion to defer all five cases was approved unanimously.

(B) Case Number: BOA 17-100025

Name of Applicant: Richard W. Withers, Attorney for Owner

Owner: Hasteh, LLC

Property Address: 1198 Beach Blvd.

City of Jacksonville Beach Land Development Code Section(s): 34-343(e)(5) for 97% lot coverage in lieu of 85% maximum to allow construction of a new commercial building.

Applicant: The Attorney for the applicant, Mr. Richard Withers, no address given, stated that they were asking the City for them to allow designated areas for landscaping purposes. He stated that they received a permit from Florida Department of Transportation (FDOT) to allow such landscaping. He added they were surrounded by a sea of parking spaces but still had to get a variance to count parking that already existed. He explained that this would allow them to use the FDOT property to satisfy the landscaping requirements of the City. He provided two pictures with landscape designs, one how it would look according to City's guidelines, and another on how it would look per their desired intentions.

Mr. Truhlar asked about the parking situation. Mr. Withers stated that they had converted the space near Beach Blvd. as tandem spaces. Ms. Osewalt noted that they had granted a variance for 32 less parking spaces last year. Mr. Withers stated that there was plenty of parking available even with this variance. Discussion followed on the parking situation.

Ms. Osewalt noted that she was confused why there is a hardship since they could build with what they had. Mr. Withers stated that they could not build to the maximum extent unless this variance is granted. He stated that the hardship is they can't develop the parcel to its maximum potential.

Mr. Mann noted that they would have to reduce the building size by about 1200 s.f. if the variance was not granted but will drop parking by five spaces.

Public Hearing:

Mr. Jim Sorrell, 1410 Pinewood Road, stated he believes that this Board and the Planning

Commission do not have the knowledge or details given to each other. He stated that they received the variance for parking that was received and some of those lots were being consumed by the landscaping. He stated this proposal would add to the parking dilemma in this area and requested denial.

Mr. Withers stated that the easement is public record, recorded in 2006 Official Records book 13386 pages 1025-1034. Mr. Withers noted that they had an easement over all parking spaces and that the parking spaces cannot be used without permission of the applicant. Ms. Osewalt asked about the 32 spaces. Mr. Withers explained the parking situation there. Mr. Withers explained how the easement with FDOT worked. Mr. Mann explained the easement of convenience with the adjacent parcel and how that worked, and how he felt that a shared parking agreement would not work here.

Discussion:

Mr. Truhlar asked if the building is reduced if it would affect the variance. Mr. Mann responded that he would not be in violation of that variance.

Mr. Reddington stated that everyone is biased and says their lot is unique. He also stated that the applicant not getting maximum use of their property was not a hardship.

Mr. Cummings noted that the landscaping does beautify the lot however he did not hear a hardship in this case. Mr. Moreland added that it would be nice to have to landscape but not granting this variance does not negate his ability to landscape this parcel.

Motion: It was moved by Ms. Osewalt to deny the finding that the applicant would not be denied reasonable use of his property without the requested variance, and that the requested variance was not the minimum necessary to make possible the reasonable use of the property. The motion was seconded by Mr. Truhlar.

Roll Call Vote: Ayes – Cummings, Truhlar, Osewalt, Reddington and Moreland. Motion to deny the application was approved unanimously.

NEW BUSINESS:

(A) Case Number: BOA 17-100105

Name of Applicant: Lony and Carla Taylor

Owner: Timothy Durden

Property Address: 3502 Isabella Blvd.

City of Jacksonville Beach Land Development Code Section(s) 34-336(e)(1)c.2., for side yards of 7.5 each, in lieu of 10 feet required; 34-336(e)(1)e. for 49% lot coverage in lieu of 35% maximum; to allow construction of a single-family dwelling with pool.

Applicant: The applicant was not present to represent his application.

Motion: Ms. Osewalt moved to deny the application because the applicants were not present to present their hardship to the Board. The motion was seconded by Mr.

Reddington.

Roll Call Vote: Ayes – Cummings, Osewalt, Reddington, Truhlar. Nays - Moreland. Motion to deny approved 4-1.

(B) Case Number: BOA 17-100106

Name of Applicant: Jeffrey Hall

Property Address: 605 S. Upper 8th Avenue

City of Jacksonville Beach Land Development Code Section(s) 34-337(e)(1)e., for 46.6% lot coverage in lieu of 35% maximum; to allow a patio addition to a single-family dwelling.

Applicant: Mr. Mann noted that they received a request to continue this because they were unable to attend.

(C) Report from City Attorney – Special Magistrate Report and Recommendation Pursuant to Section 70.51, Florida Statutes: Application BOA 16-100187

City Attorney, Ms. Erdelyi stated after the board denied a variance for BOA 16-100187, the applicant filed a demand for proceeding under Florida Statutes 70.51. Originally, there was a permit to build a four-unit condo structure but decided they wanted to build four townhomes instead. With the change they couldn't meet setback requirements for lot lines. The City and the applicant hired a Special Magistrate per the FL Statutes 70.51. The first step was to come up with a mediated solution, however in this case parties were unable to come up with one. The Special Magistrate then is required to come up with a recommendation. The Special Magistrate pointed out that the applicant could build up to 6 condominium units without a variance. The recommendation from the Special Magistrate was to grant the variance. The Special Magistrate believes that four townhomes are a better option than a six condo unit. She stated that the board could accept the report, reject it, or accept with modifications.

Ms. Erdelyi noted that there was one member of the public who attended the proceedings, and stated that in his statement he thought four townhomes were better than six condos. Mr. Moreland noted that the Special Magistrate had additional information that the Board did not have.

Mr. Truhlar asked for an interpretation of how they could approve this and still be in violation of their Code. Ms. Osewalt stated that if we granted the variance they are not abiding by the standard. Ms. Erdelyi stated that the statute allows that. Mr. Cummings asked what would happen if they denied it. Ms. Erdelyi stated that they could appeal the decision.

Mr. Sid Ansbacher, 780 Ponce de Leon Blvd., St. Augustine, spoke for the appellant. He explained that this statute was intended to minimize litigation and provide flexibility. He explained the decision made about the rear yard setback and that it be 25 feet and not 30 feet was his recommendation. He noted that those most affected by the proposal did not testify. Mr. Ansbacher explained that the finding was that there was a unique situation

because of the bottleneck at the front driveway. He stated that the neighbor's concerns on multi-family in a single-family zone this was in fact multi-family. He added that the report does act as evidence in the determination, and the record as supplemented is the record. Mr. Ansbacher then reviewed the reasons that this was a reasonable finding. Mr. Moreland asked if one option was to approve the recommendation of the Magistrate and vary on the rear yard. Mr. Ansbacher noted that the recommendation was that the setback be 5 feet in the rear.

Discussion:

Mr. Truhlar stated that he could build six units with no approval. Mr. Moreland was that was the stance they took originally. He added that they are not bound by the Code in this case, and the Special Magistrate makes good arguments for allowing four townhomes.

Mr. Cummings stated that the issue was what is right for the neighborhood. He stated that they should take it to the neighbors first. Ms. Osewalt stated that they had already heard from the neighbors. Mr. Moreland stated that he supposed they could defer action tonight. Mr. Mann stated that the adjacent property owners were made aware of the proceedings. Ms. Erdelyi stated that deferral would be a deviation from the Statute.

Mr. Ansbacher noted that the Statute allows for conditions, and they could condition it on a public notice hearing. Discussion followed on the neighbors who spoke for and against this issue.

Mr. Cummings stated that he would ultimately like to make the neighbors happy if possible. Ms. Erdelyi agreed that they could give notice to the interested parties and adjoining property owners and go through what was reviewed at this meeting. Mr. Moreland reviewed how this could be addressed in a workshop or on the regularly scheduled agenda.

Motion: Mr. Cummings moved to defer this debate until a scheduled public meeting in the future and requested that the City give notice to interested parties and adjoining property owners of the meeting. The motion was seconded by Mr. Truhlar.

Roll Call Vote: Ayes – Cummings, Moreland, and Truhlar. Nays – Reddington and Osewalt. Motion approved 3-2.

Planning Directors Report

Adjournment

There being no further business coming before the Board, Ms. Osewalt adjourned the meeting at 8:36 P.M.

Submitted by: Amber Maria Lehman
Staff Assistant

Approval:

Chairman

Date: 10/3/2017