

Minutes of Board of Adjustment Meeting
held Wednesday, January 20, 2016, 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 Cummings.

Roll Call

Tom Buck
Joseph Loretta
John Moreland Vice-Chairman
Sylvia Osewalt *absent*
Scott Cummings Chairman

Alternates:

Jeff Truhlar *absent*
Francis Reddington *absent*

Ex-parte Communications

Mr. Loretta stated that he saw Tim Franklin, but he told Mr. Franklin that he wasn't going to the meeting, as he thought it was on Tuesday.

Approval of Minutes

There were no minutes to approve.

Correspondence

Mr. Cummings stated that there was correspondence and it would be address in the individual cases.

OLD BUSINESS:

(A) Case Number: BOA 15-100215

Name of Applicant: South Jax Beach, LLC

Property Address: 35 37th Avenue South

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a front yard of 15.3 feet in lieu of 25 feet required; for an easterly side yard of 8.8 feet in lieu of 10 feet required; and for 40% lot coverage

in lieu of 35% maximum to allow for substantial improvement and a swimming pool addition to a single family dwelling.

Applicant: The applicant, Rick Johnston, 3528 Ocean Drive, introduced himself. Mr. Cummings noted that there were four members present, so a 2-2 tie would effectively be a denial and he had the right to defer his item. Mr. Johnston stated that he wanted to continue.

Mr. Johnston presented a packet of information that addressed issues that came up at the last meeting. He noted the areas that they proposed to be demolished. The proposal was an increase to a two-car garage and he provided information on landscaping and architecture.

Mr. Moreland inquired about the second floor and asked if it extends closer to the street. Mr. Loretta added that the second-floor porch was eight feet behind the first floor. Discussion followed on line of sight issues and the proposed changes.

Mr. Loretta stated that he was more comfortable with the greater detail that was provided. Mr. Cummings requested that the large photos be positioned to face the audience.

Public Hearing:

Ms. JoDee Evans, 63 37th Avenue South, stated that her house faces a different direction than the other houses along the street. She provided photos for the Board to consider. She stated her concern for the proposal and its impact on her line of sight to the ocean. She stated that she was concerned that others along the street would request the same variance if this one was granted.

Mr. Kurt Simpson, 4158 Ponce de Leon Blvd., stated that he thought it was in bad faith to bring this item up so soon. He noted that Mr. Johnston represents a corporation who purchased a piece of property and was aware of the regulations. He added that the burden of proof was on the applicant to prove that he qualified for the variance. Mr. Cummings requested that Mr. Simpson state how the plans address his issues, and not go point by point through the variance requirements. Mr. Simpson responded that the level of information was still not adequate. He added that a non-conforming structure could not be expanded, according to code. He thought this house could be put on the lot and meet the front yard setback.

Mr. Peymon Ata-Abadi, 533 Meteor Street, Jacksonville, stated that he was the architect for the project. He stated that they were there because the existing structure does not meet current building setbacks.

Mr. Lee Ligo, 3938 Duval Drive, stated that any variance granted would be a precedent for the other houses along the street. He stated that the wide-open space on the street that currently exists helps with access to the beach. He stated

that extending the garage on the first floor was ok, but extending closer to the street is of concern. Mr. Ligo added that drainage is an issue and additional coverage would exacerbate the situation. He thought that it was feasible to construct to existing requirements and no hardship was shown to justify a variance.

Mr. Johnston stated that Ms. Evans' property fronted on 37th Street and thought that this proposal would complement her house. He added the precedent for the other lots was not an issue because he was asking for setbacks that they already have on the non-conforming structure. He noted that he had neighbors who were in support of the project because it would increase property values. Mr. Johnston stated that the coverage area was the same so they would not be increasing runoff.

Discussion:

Mr. Loretta stated that Ms. Evans' view would not be impacted by the plan, but understood her concern with the precedent, even though he did not believe the same conditions would apply to others on the street. Mr. Loretta stated that a redesign of the plan would be possible to address concerns.

Mr. Buck noted that he has voted against these types of requests in the past (15 feet off the right of way), and expressed concern that if granted, cars could eventually be parked partially on sidewalks.

Mr. Cummings added that this was a nice neighborhood and, while he thought the proposal would improve the neighborhood, recognized the neighbors' concerns.

Mr. Moreland stated that he would feel better about the request if the second floor was pushed back a few more feet. He added that the hardship was somewhat self-imposed if you buy property that was non-compliant and then request a variance. He added that if the second floor did not extend beyond the air-conditioned portion of the first floor, he could support it.

Roll Call Vote: Nays - Moreland, Cummings, Loretta, and Buck. Motion denied unanimously.

NEW BUSINESS:

(A) Case Number: BOA 15-100189

Name of Applicant: Handmade Properties, Inc. aka Homemade Properties, Inc.

Property Address: 317 23rd Avenue South

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for zero parking spaces in lieu of three spaces required to allow for a second floor addition to an existing building.

Applicant: The applicant, Bobby Handmaker, stated that this was not correct and he was not giving up three spaces, but rather he would like to put a second floor on an existing office but did not want to add spaces. Mr. Loretta stated that they were not giving up three but not adding three as required. Mr. Handmaker concurred.

Public Hearing:

There was no one present to speak in favor of or in opposition to the request.

Discussion:

Mr. Loretta stated that this should not create an overall hardship for parking at the shopping plaza.

Roll Call Vote: Ayes - Moreland, Cummings, Loretta, and Buck. Motion approved unanimously.

(B) Case Number: BOA 15-100221 and BOA 15-100233

Name of Applicant: J.R. Rushing and Steger Life Estate

Property Address: 620 South 1st Street and 636 South 1st Street

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a front yard of 12 feet in lieu of 20 feet required; for a northerly side yard of five feet on the south half of Lot 8 and southerly side yard of five feet on the north half of Lot 8, Block 62, in lieu of 10 feet required; for a rear yard of 12.5 feet in lieu of 30 feet required; and for 57% lot coverage in lieu of 35% maximum to allow for a two-family dwelling.

Applicant: The applicant, J.R. Rushing, 701 South 2nd Street, and Tim Taylor, 7536 Pottsburg Landing Drive, Jacksonville introduced themselves. They stated that they are partnering to tear down two existing structures and build something that will be an improvement to the neighborhood. Mr. Rushing stated that these lots were both non-conforming and the existing buildings were old and in need of much improvement. However, they cannot tear these properties down and rebuild to existing setbacks. He then reviewed the proposed improvement plan. He added that he had an e-mail from neighbors who could not be there who were in support of the variance.

Mr. Taylor stated that his mother-in-law owned the property and lived in the lower section since 1969. He stated that as tax and insurance costs have risen they have had to rent out the second floor, and now his mother-in-law will have to move to a senior center. The house was built in 1942 with asbestos shingles, and there has been a large investment just to keep it habitable. Mr. Taylor stated that they would like to move in as the inheritor.

Mr. Cummings noted that the hardship had to be based on the property and not personal finance issues. Mr. Taylor responded that there were drainage issues that would be addressed by the proposed change. Mr. Rushing emphasized that the hardship was that the lot was non-conforming.

Mr. Loretta stated that the existing house on Mr. Taylor's property basically hugs the property line, and the property to the west does not meet the setbacks. He asked if they were willing to accept a condition on the second floor. In addition he did not want air-conditioned space and the six-foot encroachment does not pertain to the second and third floors.

Public Hearing:

Ms. Ann Heusinger, 112 7th Avenue South, stated that she would lose her view to the north if this was approved. She added that the address given by Mr. Rushing was a vacation home.

Ms. Pam Fellabaum, 117 7th Avenue South, stated she is one property to the west. She stated that she would like to see the plans before providing comments. She stated that her only concern was stormwater due to the 57% lot coverage.

Mr. Rushing responded that they did rent out the house but they were still the owners and questions that issue's relevancy. He addressed Ms. Heusinger's concerns by stating that the palm trees on the site would block the view anyway.

Discussion:

Mr. Loretta stated that they have granted similar type variances before, noting that it was a reduction in total number of units. There is an existing building at eight feet that is going to 12 feet. He added that the lot coverage is greatly reduced in the north parcel and minimal in the south parcel.

Mr. Buck asked that they would have to meet stormwater runoff criteria. Mr. Hays responded that they would.

Amended Motion: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a front yard of 12 feet in lieu of 20 feet required; for a northerly side yard of 5 feet on the south half of Lot 8 and southerly side yard of 5 feet on the north half of Lot 8, Block 62, in lieu of 10 feet required; for a rear yard of 12.5 feet in lieu of 30 feet required; and for 57% lot coverage in lieu of 35% maximum to allow for a two-family dwelling as shown and conditioned upon open air porches on the second and third floors.

Roll Call Vote: Ayes - Moreland, Cummings, Loretta, and Buck. Motion approved unanimously.

(D) Case Number: BOA 15-100227

Name of Applicant: Frank Verducci III

Property Address: 1265 18th Street North

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for 56% lot coverage in lieu of 42% maximum and for an accessory structure (walkway) 2.5 feet to a property line in lieu of five feet minimum to allow for improvements to a single family dwelling.

Applicant: The applicant, Frank Verducci, 1265 18th Street North, stated that the lot size was non-conforming, with the backyard being non-functional. He stated that he recognized that the Board was hesitant to approve greater than 50% lot coverage and had other options if necessary, but this was the optimum plan.

Mr. Loretta noted that there were impervious pavers proposed. He stated that perhaps if constructed correctly, they may not count against the maximum coverage.

Mr. Moreland asked how the plan would be modified to bring it down to 50% lot coverage. Mr. Verducci responded that the walkway would be modified and that would help reduce it to close than 50%.

Mr. Brian Burghardt, 510 Shetter Ave., explained how the pavers would prevent runoff issues. Mr. Loretta agreed.

Public Hearing:

There was no one present to speak in favor of or opposed to the proposed variance application.

Discussion:

Mr. Loretta stated that he was comfortable with the proposed plan if the amount of coverage was lowered to 50%

Amended Motion: It was moved by Mr. Loretta, seconded by Mr. Moreland, to approve a request for 50% lot coverage in lieu of 42% maximum and for an accessory structure (walkway) 2.5 feet to a property line in lieu of five feet minimum to allow for improvements to a single family dwelling.

Roll Call Vote: Ayes - Moreland, Loretta, Cummings, and Buck. Motion approved unanimously.

(E) Case Number: BOA 15-100229

Name of Applicant: Joseph Kenney

Property Address: 215 and 281 8th Avenue North and 214 and 220 9th Avenue North

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a rear yard of 11 feet on the second and third floors and 16 feet on the first floor in lieu of 30 feet required and for 70% lot coverage in lieu of 65% maximum to allow for two, 10 unit multi-family dwellings on each two lot parcel.

Applicant: The agent for the applicant, Tim Franklin, 60 Ocean Boulevard, Atlantic Beach, provided the Board with materials.

Mr. Moreland asked if these were two buildings. Mr. Franklin reviewed the site plan stating that it was a total of 20 units. Mr. Franklin explained how the site plan is different from what was originally submitted.

Mr. Franklin explained how the plan has been substantially revised since the denial in November. They have reduced the number of variances from five to two. They are now just looking at the rear yard and the percent lot coverage. They meet the criteria for a substantially revised application; thus they can avoid the requirement to wait a year. Mr. Franklin explained that they are shifting some impacts to property they own. This setback will be greater than what may be allowed if commercial property was developed along the rear line. He added that if it weren't for the alley, they wouldn't be there tonight.

Mr. Franklin stated that this housing would be more affordable than typical housing in Jacksonville Beach, which will help with some Comprehensive Plan policies. He added that they are not asking for any variance to parking, and they are adding eight spaces on the street, which will help an existing parking deficiency for other buildings along 2nd Street. He added that all water will be retained on the site.

Mr. Franklin addressed how they have modified the plan to meet some of the variance criteria. He stated that there is a hardship because they have four lots aggregated which causes an increase in costs. In addition, these lots are infill development, which makes it more difficult to develop than an undeveloped site. He added that it is adjacent to U.S. A1A and commercial property, which makes it less desirable for residential development. He added it is difficult to provide this type of housing that aligns with the Jacksonville Beach regulations.

Mr. Loretta asked what the commercial lot coverage was. Mr. Franklin responded that it was 80%. Mr. Franklin also responded to a question from Mr. Loretta that stated that there are presently three buildings with eight total units on the site.

Mr. Franklin added that there could be additional reduction in impervious surface because of the types of pavers that they were using.

Public Hearing:

Mr. Jeb Branham, 3500 3rd Street South, was representing the property owner directly to the east, which are multi-family units. Mr. Branham stated that they are opposed to the proposed development. He stated that the amount of development was too dense and there was no hardship created by the property itself. He stated that they were not getting notices for these proposed changes. He questioned whether the application has been substantially revised and thought it would still be subject to the year delay. Mr. Branham stated that there were drainage issues that would be worsened by the proposed plan. In addition, Mr. Branham stated that the applicant may not be the owner of the lots in question. He questioned whether Mr. Kenney has received the conditional use permit. Mr. Branham stated that the applicant did not meet the requirements for minimum lot size to get multi-family.

Mr. Loretta stated that the information was helpful but wondered why it was not provided to the Planning Department earlier. However, Mr. Branham noted that they had not received the information as timely as they wanted.

Mr. Branham went on to state that this proposal is twice as dense as what is allowed by code. Density for C-1 zoning should be 20 units per acre, which is not met by this proposal. Mr. Branham stated that there is no hardship on these lots and the applicant could build five units per lot with no variance.

Mr. Loretta provided his interpretation of the Code to address Mr. Branham's comments.

Mr. Franklin stated that these issues did not affect this approval process. The issue of density was not under the purview of this Board. He added that they would not be allowed to build to a greater density than allowed regardless of whether this will be granted.

Discussion:

Mr. Cummings noted that the Board would have to vote on the motion before them. Mr. Loretta stated that staff has pushed the application through based on assumptions on density requirements. He added that there is plenty of opportunity to argue the point on overall density. Mr. Buck agreed that they will only vote on what was presented.

Mr. Loretta stated that the drainage should be improved from this development. In addition, he stated that they could have zero lot line if it was commercial.

Mr. Hays stated that they could continue this to the next meeting so that the attorneys and staff could address some of the issues.

Mr. Moreland added that if Mr. Franklin is right that staff would have a chance to address the density issues that were raised tonight, then he is comfortable making a decision tonight.

Amended Motion: It was moved by Mr. Buck, seconded by Mr. Moreland, to table this item until the next meeting.

Roll Call Vote: Ayes - Moreland, Cummings, Loretta, and Buck. Motion to table this item to the next meeting approved unanimously.

Adjournment

There being no further business coming before the Board, Mr. Buck adjourned the meeting at 9:20 P.M.

Submitted by: Amber Maria Lehman
Senior Secretary

Approval:



Scott Cummings, Chairman

Date: 2/16/16