

**Minutes of Board of Adjustment Meeting
held Tuesday, December 4th, 2018 at 7:00 P.M.,
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



CALL TO ORDER

Chairperson Sylvia Osewalt called the meeting to order.

ROLL CALL

Chairperson: Sylvia Osewalt
Vice-Chairperson: Jeff Truhlar
Board Members: Scott Cummings Francis Reddington John Moreland
Alternates: Lucas Snyder Gary Cater

Building Official George Knight was also present.

EX-PARTE COMMUNICATION: *None*

APPROVAL OF MINUTES:

It was moved by Mr. Moreland, seconded by Mr. Reddington, and passed unanimously, to approve the following minutes:

- November 20, 2018

CORRESPONDENCE: *None*

OLD BUSINESS: *None*

NEW BUSINESS:

(A) Case Number: BOA 18-100190

Applicant/Owner: Bonnie McGinnis-Kelly
Agent: Keith Tomerson, Esq.
Property Address: 1867 McClure Lane

City of Jacksonville Beach Land Development Code Section(s) 34-338(e)(1)c.2, for a southerly side yard setback of 3 feet in lieu of 5 feet required; and 34-338(e)(1)e., for 43.7% lot coverage, in lieu of 35% maximum; for the addition of a screen porch over existing stone pavers, for property located at 1867 McClure Lane, legally described as Lot 14, Block O, *Williams Addition to South Pablo*.

Agent: Keith Tomerson, 822 A1A South, Ponte Vedra Beach, stated the lot is small for its size and nonconforming. He added the room to be constructed is within the same line of the existing home, but the Board pointed to conflicting information on the survey. It was later understood there is an error in the survey. Mr. Tomerson explained there is no need for the 3-foot side yard setback that was requested in the variance.

The owner, Ms. McGinnis-Kelly, approached the Board and clarified this variance request is solely for covering the area over the pavers. The currently-existing, additional pavers that would require the 3 feet side yard setback, in lieu of 5 feet, will not remain, which will make the property in compliance with Code. She is asking to bring an existing, nonconforming lot into Code to allow for the addition of a screen room.

Public Hearing:

The following were in favor of the variance request, but chose not to speak:

- Dan Schreurs, 3787 Valverde Circle, Jacksonville

Ms. Osewalt closed the public hearing.

Discussion:

There was no discussion by Board Members regarding this application.

Motion: It was moved by Mr. Moreland, and seconded by Mr. Truhlar, to approve BOA# 18-100190, as presented and discussed, with the modification that the request for 34-338(e)(1)c.2, for a southerly side yard setback of 3 feet in lieu of 5 feet required, is eliminated.

Roll Call Vote: Ayes – Scott Cummings, John Moreland, Francis Reddington, Jeff Truhlar, and Sylvia Osewalt
The motion was approved unanimously.

(B) Case Number: BOA 18-100191

Applicant/Owner: Jeff and Jacqueline Ball
Agent: Devany Noblit
Property Address: 616 South 7th Avenue

City of Jacksonville Beach Land Development Code Section(s) 34-337(e)(1)e., for 42% lot coverage, in lieu of 35% maximum; to allow a pool and deck addition to be added to an existing single-family dwelling. Previous variance for 40% was exceeded, for property located at 616 South 7th Avenue, legally described as Lot 8, Block 7, *Oceanside Park*.

Agent: Devany Noblit, 3709 San Pablo Road South, Jacksonville, stated the hardship is the lot's nonconformance. She explained upon receiving the approval of the previous variance for 40% lot coverage and the building of the decking, it was noted that the lot coverage maximum was exceeded. She added that according to zoning laws, the lot is allowed up to 7,500 square feet lot coverage, and the current lot coverage is only 5,000 square feet. She explained it was an error on behalf of Surfside Pools, as there was a miscalculation with a 2% margin of error.

Ms. Osewalt stated it was unfair to the residents of Jacksonville Beach if this variance was approved.

• Public Hearing:

The following spoke in favor of the variance request:

- Gary Carlee, 1129 Sebago Avenue South, Atlantic Beach, explained the miscalculation was not a contractor's error, but from using two different methods of measuring. He added BOA #18-100191 and BOA #18-100192 would be the last two cases presented before the Board with this issue.

Board members questioned Mr. Carlee regarding the steps required to create the survey and construct the pool to better understand how this error was made. Mr. Knight added this type of miscalculation was rectified and will not appear before the Board again.

When questioned by Mr. Truhlar, Ms. Noblit explained this lot would have been nonconforming with or without the pool addition. Mr. Truhlar concluded the pool, in this case, is not the question at hand.

Ms. Osewalt closed the public hearing.

Discussion:

Mr. Moreland stated he understands the issue and thinks it is a reasonable request.

Motion: It was moved by Mr. Moreland, and seconded by Mr. Truhlar, to approve BOA# 18-100191, as written and discussed.

Roll Call Vote: Ayes – John Moreland, Francis Reddington, Jeff Truhlar, and Scott Cummings
Nays – Sylvia Osewalt

The motion was approved by a vote of 4-1.

(C) Case Number: BOA 18-100192

Applicant/owner: Mark and Taryn Hannah
Agent: Devany Noblit
Property Address: 1213 North 10th Street

City of Jacksonville Beach Land Development Code Section(s) 34-336(e)(1)e., for 47.9% lot coverage, in lieu of 35% maximum, and 34-336(e)(1)g., for an accessory structure setback of 4 feet, in lieu of 5 feet required; to allow an existing pool and patio addition to remain. Existing variance for 46% lot coverage was exceeded, for property located at 1213 North 10th Street, legally described as Lot 11, Block 12, *Beach Homesites Unit 2*.

Agent: Devany Noblit, 3709 San Pablo Road South, Jacksonville, stated the hardship is the lot's non-conformance and that, according to zoning laws, the lot size should be a minimum of 10,000 square feet, but it is currently 7,500 square feet. She explained this variance request resembles BOA #18-100191 and is the result of a miscalculation error. The survey was off by 1.9%. She also clarified that the accessory structure discussed in this case is only the paver decking.

Ms. Noblit stated Surfside Pools was not trying to cheat the system, but simply made an error that they take responsibility for. Ms. Osewalt stated she is concerned this variance extends what was requested to begin with; she does not like precedents being set by the Board. Mr. Truhlar questioned Mr. Knight regarding pavers placed into the easement, and Mr. Knight explained since it is a utility easement, then a permit would be required.

The owner, Mark Hannah, approached the Board and explained he purchased the home in November of 2017 for his family and wanted to provide a safe place for leisure use, referring to his backyard.

He asked for mercy on behalf of his family and the contractor. He has been involved in this process for approximately ten months and would prefer this issue be resolved.

Public Hearing:

The following spoke in favor of the variance request:

- Gary Carlee, 1129 Sebago Avenue South, Atlantic Beach, explained that while the previous variance request was granted for this property, the lot coverage that was approved is less than requested; and even in that situation, he tried to be in compliance.

Mr. Knight commented this is one of the reasons why a change in the surveying policy was made, and now a survey is required before and after the variance to avoid similar miscalculations.

Ms. Osewalt closed the public hearing.

Discussion:

There was no discussion regarding this application.

Motion: It was moved by Mr. Moreland, and seconded by Mr. Truhlar, to approve BOA# 18-100192, as presented and discussed.

Roll Call Vote: Ayes – Francis Reddington, Jeff Truhlar, Scott Cummings, and John Moreland
Nays – Sylvia Osewalt

The motion was approved by a vote of 4-1.

(D) Case Number: BOA 18-100193

Applicant/owner: Andrew Lane
Property Address: 1206 North 18th Avenue

City of Jacksonville Beach Land Development Code Section(s) 34-336(e)(1)e., for 37.6% lot coverage, in lieu of 35% maximum; to allow for a shed addition to an existing single-family dwelling, for property located at 1206 North 18th Avenue, legally described as Lot 8, Block 3, *San Pablo Terrace*.

Owner: Andrew Lane stated he has a nonconforming lot, measuring to approximately 7,300 square feet, and the minimum is 10,000 square feet according to zoning laws. He is requesting to add a 12x8 foot utility shed, which will increase the lot coverage to 37.6%. The Board thanked the owner for his compliance with Code.

Public Hearing:

No one came forward to speak about this case.
Ms. Osewalt closed the public hearing.

Discussion:

Board members agreed the lot is nonconforming.

Motion: It was moved by Mr. Reddington, and seconded by Mr. Cummings, to approve BOA# 18-100193, as presented and discussed.

Roll Call Vote: Ayes – Jeff Truhlar, Scott Cummings, John Moreland, Francis Reddington, and Sylvia Osewalt

The motion was approved unanimously.

(E) Case Number: BOA 18-100194

Applicant/owner: Rob Johnson
Agent: Robert Esposito
Property Address: 202 South 30th Avenue

City of Jacksonville Beach Land Development Code Section(s) 34-336(e)(1)c.1, for a front yard setback of 20 feet in lieu of 25 feet required; and for 34-336(e)(1)c.2, for corner side yard setback of 8 feet, in lieu of 10 feet required; and for 34-336(e)(1)e., for 38.8% lot coverage, in lieu of 35% maximum; and 34-336(e)(1)g., for an accessory structure setback of 0 feet, in lieu of 5 feet required; to allow for substantial improvement to an existing single-family dwelling, for property located at 202 South 30th Avenue, legally described as Lot 14, Block 21, *Replat Unit 1 Atlantic Shores*.

Agent: Robert Esposito, 1530 Beluthahatchee Road, Saint Johns, stated there are nonconformance problems with the property. Ms. Osewalt added it is nonconforming by approximately 4,000 square feet. Mr. Esposito commented he is confused about section 34-336(e)(1)c.2, for corner side yard setback of 8 feet, in lieu of 10 feet required, in the variance; because the stairs on the property that would require a variance would be removed. He added he met with Heather from Planning and Development at length and discussed the changes to be made. It was later noted that section 34-336(e)(1)g., for an accessory structure setback of 0 feet, in lieu of 5 feet required, is also not required, because the owner already removed the wood deck that would be considered an accessory structure.

Mr. Esposito stated the improvements would be within the existing building lines. The Board agreed to disregard sections 34-336(e)(1)c.2 and 34-336(e)(1)g., from the variance request. When discussion ensued about lot coverage, Mr. Knight clarified that 38.8% includes the stairs and wooden deck that was to be removed, which would decrease the coverage by 112 square feet. The Board chose to maintain the request because the owner would be making further changes that might require the lot coverage.

Public Hearing:

No one came forward to speak about this case.
Ms. Osewalt closed the public hearing.

Discussion:

Board members agreed the variance request is reasonable.

Motion:

It was moved by Mr. Cummings, and seconded by Mr. Truhlar, to approve BOA# 18-100194, for sections 34-336(e)(1)c.1, for a front yard setback of 20 feet in lieu of 25 feet required; and for 34-336(e)(1)e., for 38.8% lot coverage, in lieu of 35% maximum; to allow for substantial improvement to an existing single-family dwelling, for property located at 202 South 30th Avenue, legally described as Lot 14, Block 21, *Replat Unit 1 Atlantic Shores*; as written and discussed.

Roll Call Vote: Ayes – Scott Cummings, John Moreland, Francis Reddington, Jeff Truhlar, and Sylvia Osewalt
The motion was approved unanimously.

OPEN FLOOR

Gerhard Paetaw, 725 Bonaire Circle, Jacksonville Beach, approached the Board to discuss the issue of lot coverage. He stated many applications for variance are being approved, and that will increase the impervious surface of lots and lead to issues in the future, like drain water runoff. He questioned how this is rectified with the stormwater management in the City. Ms. Osewalt clarified this Board is concerned with variance applications, and anything pertaining Land Development Code is discussed and imposed by the City. Mr. Knight commented stormwater management is being taken under consideration by the City with a reviewing process.

The Board also discussed every case must be looked at individually. They have encountered many lots that are too small in accordance with zoning laws, and variances would be needed. After further discussion with Mr. Paetaw, Ms. Osewalt stated there are specific criteria the Board has to refer to when making decisions, and altering Land Development Code is not their duty. Mr. Knight reiterated there are already stormwater improvement operations in the City, and the Board added if Mr. Paetaw wants to address this issue, he needs to speak before the City Council.

PLANNING DEPARTMENT REPORT

The next scheduled meeting is **Tuesday, December 18, 2018**. There are two (2) scheduled cases.

ADJOURNMENT

There being no further business coming before the Board, Ms. Osewalt adjourned the meeting at 8:00 P.M.

Submitted by: Sama Kaseer
Administrative Assistant

Approval:

Sylvia Osewalt
Chairperson

12/8/2018
Date