



I and 2, Block 202, together with the East half of a 12 foot alley, closed by City of Jacksonville Beach, Ordinance No. 5386, *Ocean Villa Replat*.

**Agent:** John Atkins, 786 North 2<sup>nd</sup> Street, Jacksonville Beach, stated the hardship is present based on a miscalculation of a variance previously granted [BOA# 18-100057]. The applicant was originally approved for 41.5% lot coverage in the previous variance request. An as-built survey is done at the end of every construction project, and the buildings shown in the civil plans for this variance are five feet shorter than on the architectural and structural plans. He added this miscalculation was not found by the City, the Building Department, or himself.

Ms. Osewalt commented this area is normally very flooded. Discussion ensued regarding the different surveys on the agenda with relation to the previous variance. Ms. Osewalt stated a miscalculation is not a hardship. Mr. Atkins commented it is the same hardship from the previous variance, which is the lot is undersized. The construction on parcels one and two are 57.6 feet and 62.6 feet, respectively. A conforming lot is 6,000 square feet, with a 60-foot frontage, and the one in the variance conforms to that minimum. Ms. Osewalt commented that hardship could not be used. Mr. Atkins stated there is not one side of the home that was expanded, but the whole home was, and the distance between the two constructions did not change. Mr. Truhlar commented the liability is with the builder and asked if there were other ways the lot coverage can be reduced. Mr. Atkins responded the homes have already been sold.

Ms. Osewalt reiterated concerns about flooding and parking. Mr. Knight commented this error could happen, especially with recurring Jacksonville Beach builders, and the City bears some responsibility for this error as well. Ms. Osewalt read a letter addressed to the Board of Adjustment [*on file*] from Maureen and William Modrack expressing opposition to the variance request. They state Mr. Atkins has broken City codes and came back to the City for more variances. Mr. Cummings inquired about the process of City inspection of construction. Mr. Knight commented when construction is signed and sealed by a design professional, the City does not normally check every dimension. Mr. Atkins added he found the mistake and brought the error to the Planning and Development Department's attention.

**Public Hearing:**

Speakers of BOA #19-100038 were also given the chance to speak for this case, as the two variance applications are similar. The following spoke in favor of the variance application:

- Athena Mann, 11729 Alexander Court, Jacksonville, is the co-owner of 2088 1<sup>st</sup> Street North. Ms. Mann stated her family had owned the property for over 70 years. She commented it rarely floods on the property, and there was never an intent to not comply with the letter of the variance, but it was simply a mistake.
- Kristie Campbell, 103 19<sup>th</sup> Avenue North, Jacksonville Beach, neighbor to the north of the property in the variance, commented the builder helped alleviate any flooding that would occur.
- Bob Phillips, 1550 Selva Marina Drive, Atlantic Beach, the project's engineer, explained in detail how the error occurred.
- Daniel Klausner, 2016 1<sup>st</sup> Street North, Jacksonville Beach
- Vivian Smith, 1924 1<sup>st</sup> Street North, Jacksonville Beach, the neighbor to the south, praised the new construction's method of sending gutters straight to the drain.

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

- Athena Grainger, 20622034 1<sup>st</sup> Street North, Jacksonville Beach, co-owner of 2088 1<sup>st</sup> Street North
- Scott Campbell, 103 19<sup>th</sup> Avenue North, Jacksonville Beach, neighbor to the north of the property in the variance
- Richard Smith, 1924 1<sup>st</sup> Street North, Jacksonville Beach

The following were opposed to the variance request:

- Maureen and William Modrack, 1809 1<sup>st</sup> Street North, Jacksonville Beach [*letter on file*]

Mr. Truhlar closed the public hearing.

Mr. Reddington questioned Mr. Knight if there are fines builders must pay for mistakes like this, and Mr. Knight responded there are none. Discussion ensued regarding lot coverage minimum for RM-2 zoning. Mr. Atkins spoke of how the gutter is directly piped into the stormwater system in the new constructions. Ms. Osewalt stated there is still no hardship presented. Mr. Cummings responded there is a difficulty in altering something already built. Mr. Reddington expressed concerns regarding this issue reoccurring in the future. Mr. Knight stated the buildings currently have a Conditional Certificate of Occupancy.

**Discussion:**

There was no further discussion regarding this case.

**Motion:** It was moved by Mr. Reddington, seconded by Mr. Cummings, to approve BOA# 19-100036, as written and discussed.

**Roll Call Vote:** Ayes– Scott Cummings, Francis Reddington, Gary Cater, and Jeff Truhlar  
Nays– Sylvia Osewalt

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

**(B) Case Number: BOA 19-100038**

**Owner:** The Palms of Jacksonville, LLC  
**Applicant:** Atkins Builders, Inc.  
**Agent:** John Atkins  
**Property Address:** 2016 & 2034 North 1st Street

**City of Jacksonville Beach Land Development Code Section(s)** 34-340(e)(1)f., for 48.7% lot coverage, in lieu of 42.9% previously approved lot coverage to correct an error in calculations, and allow a larger footprint on a new two-family dwelling; for property legally described as part of Lots 1 and 2, Block 202, together with the East half of a 12 foot alley, closed by City of Jacksonville Beach, Ordinance No. 5386, Ocean Villa Replat.

**Agent:** John Atkins, 786 North 2<sup>nd</sup> Street, Jacksonville Beach, was present to discuss the case. The details of this variance applications are similar to and have been discussed in the previous application. Mr. Reddington commented there is a large difference between what was approved and

what was built in regard to lot coverage. Mr. Knight commented the same mistake was made in the two cases, but this lot is smaller than the lot in Parcel 1.

**Public Hearing:**

Speakers of BOA #19-100038 were called to speak during the Public Hearing for BOA #19-100036, as the two variance applications are similar.

**Discussion:**

There was no further discussion regarding this case.

**Motion:** It was moved by Mr. Reddington, seconded by Mr. Cummings, to approve BOA# 19-100052 [*actual case number for this motion is BOA# 19-100038*], as written and discussed.

**Roll Call Vote:** Ayes—Francis Reddington, Scott Cummings, Gary Cater, and Jeff Truhlar  
Nays— Sylvia Osewalt

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

**NEW BUSINESS:**

**(A) Case Number: BOA 19-100046**

**Owner:** R&S Property Solutions, LLC  
**Applicant:** Gene Pruett  
**Property Address:** 1012 South 1<sup>st</sup> Avenue

**City of Jacksonville Beach Land Development Code Section(s)** 34-390(e)(l)c.3., for a rear yard setback of 12.9 feet, in lieu of 30 feet required; and for 34-390(e)(l)f., for 37.6% lot coverage, in lieu of 35% maximum; and section 34-373(d) for a parking area setback of 0 feet, in lieu of 5 feet required, to allow construction of a new two-family dwelling, for property legally described as part of Lot 1, Block 6, of West Pablo, *PT Govt Lots 6, 7, Recorded O/R 18467-1271.*

**Applicant:** Gene Pruett, 4837 Headley Terrace, Jacksonville, has a 5,979 square-foot lot, and the current minimum required for RM-1 zoning is 6,000 square feet, with a 60-foot frontage. Mr. Pruett added the requested lot coverage is also for maintaining the home under three stories. Discussion ensued between Mr. Truhlar and Mr. Pruett regarding the shape of the driveway. Mr. Cummings asked if the applicant can separate the driveways to increase the parking area setback, and Mr. Pruett responded he could, and added he designed the structure with the intent of complimenting the neighborhood. Mr. Cummings commented he appreciates the design of the driveway to alleviate parking issues, as there is an elementary school nearby.

**Public Hearing:**

The following spoke in opposition to the variance application:

- Sam Thomas, 2249 South Beach Parkway, Jacksonville Beach, expressed concerns regarding parking. Mr. Thomas stated the notice he received and the property posting referenced construction of a single family home, not two-family. He did not find out it was a two-family construction until the meeting.

The following submitted a letter of opposition to the Planning Division [*on file*]:

- Bob and Teri Meyer, 1147 1<sup>st</sup> Avenue South, Jacksonville Beach

Mr. Pruett commented he prioritized parking when designing the structure. Mr. Truhlar discussed the elimination of the 0-foot parking setback.

Mr. Truhlar closed the public hearing.

**Discussion:**

Ms. Osewalt commented the applicant needs a variance to meet the lot size minimum, but other requested items are not necessary.

**Motion:** It was moved by Mr. Cummings, seconded by Mr. Reddington, to approve BOA# 19-100046, as written and discussed; with the exception that section 34-373(d) for a parking area setback of 2.5 feet, in lieu of 5 feet required.

**Roll Call Vote:** Ayes– Francis Reddington Scott Cummings, Gary Cater, and Jeff Truhlar  
Nays– Sylvia Osewalt

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

**(B) Case Number: BOA 19-100052**

**Owner:** Tom Braddock  
**Applicant:** Bottom Line Ventures, Inc.  
**Property Address:** 1132 North 5th Avenue

**City of Jacksonville Beach Land Development Code Section(s)** 34-336(e)(1)c.2, for an easterly side yard setback of 6.7 feet, in lieu of 10 feet required; and 34-336(e)(1)e., for 47.28% lot coverage, in lieu of 35% maximum; to ratify existing non-conformities on an existing single-family dwelling, for property legally described as *Lots 4 and 5, Block 3, Pine Grove Unit 2*.

**Agent:** Timothy Millard, 3409 Pinetree Road, Jacksonville, stated the property and its detached garage in the application were built in 1948 on three lots. Lots 4 and 5 contain these structures, and lot 3 is empty. The owners need the variances in order to sell lot 3. There would be no new or additional construction on the remaining two lots. Discussion ensued regarding lot separation and lot size minimums. The area of the lot is 13,200 square feet, and the detached garage is over 625 square feet. Ms. May stated there are no currently-existing nonconformities, but the agent would be creating the hardship when he separates and sells Lot 3. She added there is only one lot in the application(s), as there is only one residential structure on it.

Mr. Truhlar explained by selling the third lot, the owners would be creating nonconformities on the residence existing today. He added the owners currently have a conforming lot. Mr. Millard takes the perspective there are three lots in the discussion, and each should be a minimum of 10,000 square feet, which creates a hardship. Discussion ensued regarding how this application should be studied in regard to number of lots. Ms. Osewalt commented the lot is oversized for one address, but Mr. Millard believes the lots are undersized. Mr. Truhlar asked Mr. Knight about how the lots would be

treated in the future, Mr. Knight affirmed once the Board treats this property as having three lots, the variance would remain in the future. Further discussion ensued regarding the platting of the lots.

Ms. Osewalt questioned the agent about the intent of the owners regarding the currently-existing structures on the two lots, and Mr. Millard responded the structures would remain as is. The easterly side yard setback of 6.7 feet stems from the distance between the house on lot 4 and the property line between lots 3 and 4 if the case was treated as having three lots. Mr. Millard asked about the treatment of the 6.7-foot variance if the house was demolished, and two structures were built on each of the lots. Ms. May responded the variances travel with the land, according to the laws of the State of Florida. She reiterated for the purposes of property record, lots 3,4, and 5 are aggregated and treated as one.

Mr. Cummings asked Ms. May if the Board can make an amended proposal to limit the utilization of the variance to the currently-existing structure only, and if the structure is demolished or changed, then the variance does not apply. Ms. May responded while conditions for variances are uncommon, as variances are typically attached to the land and not properties or owners, the Board can add them to their motions.

**Public Hearing:**

No one came before the Board to speak about this case.

Mr. Truhlar closed the public hearing.

**Discussion:**

There was no further discussion regarding this case.

**Motion:** It was moved by Ms. Osewalt to approve BOA# 19-100052, for section 34-336(e)(1)c.2, for an easterly side yard setback of 6.7 feet, in lieu of 10 feet required, only.

Ms. May commented there is also a lot coverage issue requiring a variance that would bring the already-existing house into conformance. The future of the variance was discussed.

**Amended Motion:** It was moved by Mr. Cummings, seconded by Mr. Reddington, to approve BOA# 19-100052, as written and described, as long as the house exists today.

**Mr. Knight clarified the amended motion to include: "as long as the house remains on the property, and if the house is demolished, then the variance will be rescinded." Mr. Cummings affirmed this addition.**

**Roll Call Vote:** Ayes –Francis Reddington, Scott Cummings, Gary Cater, and Jeff Truhlar  
Nays– Sylvia Osewalt

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

**(C) Case Number: BOA 19-100051**

**Owner:** Tom Braddock  
**Applicant:** Bottom Line Ventures. Inc.

**Property Address:** 1132 North 5th Avenue

**City of Jacksonville Beach Land Development Code Section(s)** 34-336(e)(1)e., for 45.1% lot coverage, in lieu of 35% maximum; to allow construction of a new single-family dwelling, on Lot 3, for property legally described as Lot 3, Block 3, *Pine Grove Unit 2*.

**Agent:** Timothy Millard, 3409 Pinetree Road, Jacksonville Beach, stated the lot size is 6,600 square feet, and the minimum required is 10,000 square feet. He may also add a pool, with decking, that would increase the variance request from 39.4% to 45.1%. The pool is not included in the survey. He added no building restriction lines are being crossed.

**Public Hearing:**

No one came before the Board to speak about this case.  
Mr. Truhlar closed the public hearing.

**Discussion:**

Ms. Osewalt commented there is a hardship due to the undersized lot.

**Motion:** It was moved by Mr. Reddington, seconded by Ms. Osewalt, to approve BOA# 19-100051, as written and read.

**Board discussed the possibility a larger house may be built, as the variance did not specify the pool decking addition.**

**Amended Motion:** It was moved by Mr. Cummings, seconded by Mr. Reddington, to approve BOA# 19-100051, as shown and described; for 45.1% lot coverage, in lieu of 35% maximum; which must include a 375-foot patio pool deck.

Board chose to vote to turn-down the first motion. A "no" vote meant the first motion does not pass.

**Roll Call Vote:** Ayes – Sylvia Osewalt  
Nays– Scott Cummings, Francis Reddington, Gary Cater, and Jeff Truhlar

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

Board voted on the amended motion.

**Roll Call Vote:** Ayes – Sylvia Osewalt, Francis Reddington, Scott Cummings, Gary Cater, and Jeff Truhlar

The amended motion was approved unanimously.

**CITY ATTORNEY**

The Board was given handouts on proposed Rules of Procedures to follow in upcoming meetings. Ms. May offered to discuss it later to give Board members enough time to review the handouts and prepare questions. She introduced herself and briefly explained in the Code there are requirements that allow each board to

install their rules. There are certain requirements the Board must abide by. For every meeting, there must a notice, an opportunity to be heard, and competent substantial evidence.

Ms. May added in a quasi-judicial setting, the law is being applied to a set of facts, and the public speakers approaching the Board are putting evidence in the record. These public speakers need to be sworn-in, especially if the Board intends to rely on their testimonies. Mr. Cummings questioned Ms. May about the letters that serve as ex-parte communication, and she commented the Board had taken the correct measures when it read the letters into the record. There would also be further discussion regarding variance law. Ms. May later provided the Board with critiques, comments and examples of variance cases and common case laws and spoke of platting changes.

**PLANNING DEPARTMENT REPORT**

The next scheduled meeting is **Tuesday, June 4, 2019**. There are three (3) scheduled case.

**ADJOURNMENT**

There being no further business coming before the Board, Mr. Truhlar adjourned the meeting at 9:30 P.M.

Submitted by: Sama Kaseer  
Administrative Assistant

Approval:

*C. J. Nudler*

Chairperson

*06-18-2019*

Date