

**Minutes of Board of Adjustment Meeting
held Tuesday, February 19, 2013, 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 Loretta.

Roll Call

Tom Buck, Vice-Chairman
Josh Corey - *Absent*
Bobby Jolley
Joseph Loretta, Chairman
John Moreland

Alternates:

Mike Gallimore
Sylvia Osewalt

Also present were Jon Hays, Building Official, and Assistant City Clerk Nancy Pyatte.

Purpose and Ex-Parte Statement

Mr. Loretta read the following statement into the record:

“These variance applications are before the Board of Adjustment for public hearing and consideration. A variance is an approved deviation from the terms of the LDC that will not be contrary to the public interest when owing to special circumstances or conditions where the literal enforcement of the provisions of the LDC would result in undue and unnecessary hardship.

Under the laws of the State of Florida, a public hearing for a zoning variance application is handled as a “quasi-judicial” proceeding. A quasi-judicial proceeding means that the decision-making group is functioning in a manner similar to a court with the voting members sitting as impartial decision makers hearing testimony and questioning presenters, who are to provide substantial and competent evidence to support their side of the issue under consideration. It is the duty of the Board of Adjustment to arrive at sound decisions. This includes receiving citizen input regarding the effect of the variance on the neighborhood, especially where the input is fact-based and not a simple expression of opinion.

It is the applicant’s burden to demonstrate that their application is consistent with the Land Development Code and Comprehensive Plan. If the applicant is successful in showing consistence, then it is up to the Board of Adjustment to produce competent, substantial evidence of record to the contrary, if the application is to be denied. The Board of Adjustment’s decision on a variance application is to be based on the criteria contained in Section 34-286 of the Land Development Code. Each member of the Board of Adjustment has been provided a copy of the criteria. In addition, the Board of Adjustment has received a copy of the application being presented.”

“Before opening the meeting and requesting a motion on any of the applications before us this evening, beginning with myself, each of the members is requested to indicate for the record both the names of the persons and the substance of any ex-parte communications regarding any of the applications. An ex-parte communication refers to any meeting or discussion with person or citizen who may have an interest in this decision, which occurred outside of public hearing process.”

There were no ex-parte communications disclosed by the board members.

Approval of Minutes

There were no minutes.

Correspondence

There was correspondence pertaining to Case Number BOA 13-100007 and it will be read at the case.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

(A) Case Number:BOA 13-100005
Name of Applicant: John Atkins

Property Address: 520 and 522 1st Street South

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for side yards of 7.5 feet in lieu of 10 feet required, for a rear yard of 25 feet in lieu of 30 feet required, and for accessory walkways 3 feet from property line in lieu of 5 feet minimum, to allow for a new multi-family dwelling.

Applicant:

Applicant, John Atkins, stated that the hardship is the shape of the lot. Mr. Atkins stated his plan is to develop the property as a multi-family, three-unit condo (not fee simple). It does not meet the minimum lot size requirements of 2,500 square feet for a townhouse development. He submitted a drawing of the proposed project for the record.

Public Hearing:

Mr. Loretta opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

Mr. John Keiser, 590 South 1st Street – spoke in favor of the project

There was no one else who wished to address the board; Mr. Loretta closed the public hearing.

Roll call vote: Ayes – Moreland, Jolley, Loretta, Osewalt, and Buck; motion passed unanimously.

(B) Case Number:BOA 13-10007

Name of Applicant: Mercedes Premier Homes, LLC

Property Address: 210 South 37th Avenue

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a front yard of 11.83 feet in lieu of 25 feet required; for a rear yard of 7.5 feet in lieu of 30 feet required to allow for a new single-family dwelling.

Applicant:

The applicant, Mercedes Premier Homes LLC, was not present. The property owner, John K. Jeremiah, 20 Ponte Vedra Circle, Ponte Vedra, addressed the Board. The Chairman advised Mr. Jeremiah that due to the absence of the applicant the case could be carried over to the next meeting. Mr. Jeremiah requested the Board vote at this meeting; he did not wish to carry over.

Public Hearing:

Mr. Loretta opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

The following people spoke in opposition:

Edward Malcom, 215 S. 38th Avenue

Tim Shay, 4021 Ponte Vedra Blvd.

Letter read into record, from Wade P. Olszewski, 124 S. 28th Avenue

Seeing no one else who wished to address the board, Mr. Loretta closed the public hearing.

Discussion ensued about no hardship presented. Also, suggestions were made for different variances and other options to construct the house.

Point of order made by Mr. Hays, through the Chairman, stating that it is the Boards' duty to weigh the evidence submitted in making their determination and not to design the project.

Roll call vote: No – Loretta, Osewalt, Buck, Moreland, Jolley; motion denied unanimously.

(C) Case Number:BOA 13-10008

Name of Applicant: Greg S. Kupperman/Green & Kupperman, Inc.

Property Address: 301 Jacksonville Drive

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for 22 parking spaces in lieu of 25 parking spaces required to allow for a veterinarian clinic (1/300).

Applicant:

The applicant, Greg Kupperman, 200-B 1st Street, Neptune Beach, addressed the Board. Mr. Kupperman stated that the second floor of the clinic will be for boarding kennels and a pet walk, both indoors. He referred to the photo provided in his application.

Public Hearing:

Mr. Loretta opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

Seeing no one else who wished to address the board, Mr. Loretta closed the public hearing.

Roll call vote: Ayes - Osewalt, Buck, Moreland, Jolley, Loretta; motion passed unanimously.

Adjournment

There being no further business coming before the Board, Mr. Loretta adjourned the meeting at 7:40 P.M.

Submitted by: Nancy J. Pyatte
Assistant City Clerk

Approval:

/s/ Joseph Loretta
Chairperson

Date: March 19, 2013