

**Minutes of Board of Adjustment Meeting  
held Tuesday, March 5, 2013, at 7:00 P.M.,  
in the Council Chambers, 11 North 3<sup>rd</sup> Street,  
Jacksonville Beach, Florida**



**Call to Order**

The meeting was called to order by Chairman Loretta.

**Roll Call**

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

Alternates:

Mike Gallimore  
Sylvia Osewalt

**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.”

Mr. Moreland, Mr. Corey, Mr. Buck, Mr. Jolley and Mr. Loretta all had phone conversations with Terry DeLoach regarding BOA 12-100203.

Mr. Loretta had conversations with Mr. Lindorff and Gary McGraw regarding BOA 12-100203.

### **Approval of Minutes**

It was moved by Mr. Moreland, seconded by Mr. Jolley, and passed, to approve the minutes for the January 2, 2013 and January 15, 2013 meetings as presented.

### **Correspondence**

There was no correspondence.

### **OLD BUSINESS:**

There was no old business.

### **NEW BUSINESS:**

#### **(A) Case Number: BOA 12-200203**

**Name of Applicant:** Eva Zwack, Perry Family Properties, LLC

**Property Address:** 4020 South Beach Parkway

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for 5% gross land area for common recreation and open space in lieu of 20% minimum required to allow for a new platting for a planned unit development.

#### **Applicant:**

The agent for the applicant, Tim Shea, 2251 St. Johns Bluff, Jacksonville, stated that he represents the applicant, with the property located at the southwest corner of South Beach Parkway and Jacksonville Drive. This is the last large property to be developed in the South Beach Redevelopment Area.

When this land was platted, none of the improvements for the South Beach area were constructed. Redevelopment improvements to Butler Blvd. and South Beach Parkway have created a hardship for this property as it is currently platted.

The Property was originally platted for 57 single family units. When JTB was built it took 4 lots - so it is now for 53 lots. The current plat has 10 lots with their only access being South Beach Parkway. Mr. Shea noted that the current plat provides for two connection points onto Jacksonville Drive with four connection points to Sanctuary Point frontage road.

The City suggested that the applicant seek a residential PUD rezoning to address problems with ingress and egress. The applicant has discussed the option with City staff; direct connections onto South Beach Parkway would be eliminated through this PUD.

However, the City's PUD residential requirements impose a 20% open space requirement. The developer is requesting a variance to reduce that to 5%.

Mr. Moreland stated that he understands the disadvantage being the last to develop and asked whether there was an advantage. Mr. Shea noted that he was not sure that there was one, noting that six lots were eliminated from the original plat.

Mr. Jolly asked how many lots would be lost if they had to come up with an additional 15 percent open space? Mr. Shea responded that 20% represents 2 acres, and that open space can be in the form of lakes and ponds. The plan is more than 5% currently addressed by this variance.

Mr. Loretta asked why the applicant is only requesting 5%. Mr. Shea responded that it gives the developers the flexibility in lot design.

Ms. Osewalt asked how many lots would be removed from the plan in order to satisfy the 20% requirement. Mr. Shea responded that it would be approximately 9 lots.

Mr. Loretta referred to the newly developed Avalon PUD and questioned the maintenance of the right-of-way. Mr. Shea responded that all of the right-of-ways will be maintained by the Home Owners Association and will enhance this area of Jacksonville Beach.

**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 favor of the application:

Steve Williams, 3731 Duval Drive, Jacksonville Beach

Deborah Frank, 2337 Tropical Terrace, Jacksonville Beach  
James Johnson, 3892 Tropical Terrace, Jacksonville Beach

The following people spoke in opposition to the application:

Tom Larson, 887 Marsh Court, Jacksonville Beach  
Ann Fruedenthal, 4021 Palm Way, Jacksonville Beach  
Kathleen Gall, 4059 Palm Way, Jacksonville Beach  
Scott Fruedenthal, 4021 Palm Way, Jacksonville Beach  
Joe Shad, Palm Way, Jacksonville Beach  
John Gray, 3972 Poinciana Blvd., Jacksonville Beach

Doug Burnett, representing the Perry Family, 509 Anastasia Blvd., St. Augustine, stated that the developer wants to promote a unique development and is willing to take into consideration the trees and any mitigation requirements.

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

### **Discussion**

Discussion ensued about removal of trees and if there would be any required mitigation.

Mr. Moreland stated that this PUD is a much more acceptable plan than how the lots are currently platted, however, he said he wished to amend the motion for a minimum of 15% gross land area for common area and open space, instead of the 5% that is being requested.

**Amended Motion:** An amended motion was made by Mr. Moreland, seconded by Mr. Jolley, to approve a request for 15% gross land area for common recreation and open space in lieu of 20% minimum required to allow for a new platting for a planned unit development.

There was a brief discussion about the suggested 15% gross land area. Mr. Moreland explained that this could enable the developer to protect more trees in the PUD.

**Roll call vote:** Ayes –Moreland  
Nays – Buck, Corey, Jolley and Loretta  
Amended motion denied with a 4 to 1 vote.

\*\*Due to the amended motion being denied, the original motion stands.

**Roll call vote:** Ayes – Buck, Jolley, and Loretta  
Nays – Moreland and Corey  
Original motion passed with a 3 to 2 vote.

**(B) Case Number: BOA 13-10020**

**Name of Applicant:** Nancy Tuttle

**Property Address:** 1521 Penman Road

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for gravel in lieu of asphalt or concrete paving for 13 parking spaces and associated vehicular use area; and for a total of 21 spaces on-site in lieu of 32 spaces required to allow change of use of an existing commercial property to a dance studio.

**Applicant:**

The applicant, Nancy Tuttle, 520 Anderson Street, Neptune Beach, owns Nancy Dance Studio and has entered into a purchase agreement with Patsy and Thomas Underwood for locating the dance studio. Ms. Tuttle also informed the Board that she has entered into a 20 year lease agreement with Mike Cinotti and Dwight's Bistro for use of their parking lot for hours that they are not open.

Mr. Lindorff informed the Board that he was not aware of a parking lease agreement, however, he has administrative authority to approve that and it can be done in his office. Mr. Loretta asked Ms. Tuttle if she would consider paving the area instead of using gravel.

Ms. Tuttle replied that she had considered paving, but due to finances would not be able to do so.

**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 person spoke in favor of the application:

Heather Bishop, 1895 Buckridge Drive, Jacksonville FL

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

There was a discussion about the pavers not being a hindrance to the surrounding properties, however, Mr. Buck stated that since Mr. Lindorff would be handling the parking requirement, he wished to amend the motion.

**Amended Motion:** An amended motion was made by Mr. Buck, seconded by Mr. Jolley, to approve a request for gravel in lieu of asphalt or concrete paving parking spaces and

associated vehicular use area; to allow change of use of an existing commercial property to a dance studio.

**Roll call vote:** Ayes – Buck, Moreland, Jolley, Loretta and Corey  
Amended motion passed with a unanimous vote.

**(C) Case Number: BOA 13-100035**

**Name of Applicant:** Steve Roberts

**Property Address:** 132 8<sup>th</sup> Avenue North

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a corner side yard of 2 feet in lieu of 5 feet minimum to allow a second story deck addition to an existing multifamily structure (Ref. BOA #12-100204).

**Applicant:**

The applicant, Steve Roberts, 132 8<sup>th</sup> Avenue North, Jacksonville Beach, stated that he had previously requested a variance for a deck, and it was approved. Mr. Roberts stated there was a problem with location of the one of the beams. In order to construct the deck, a variance is needed for an additional corner side yard to allow for vehicle clearance on the ground level.

**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 who wished to address the Board, Mr. Loretta closed the public hearing.

There was a brief discussion about the applicant clearly having a hardship. Mr. Buck wished to amend the motion to include the verbiage “as shown and submitted”.

**Amended Motion:** An amended motion was made by Mr. Buck, seconded by Mr. Jolley, to approve a request for a corner side yard of 2 feet in lieu of 5 feet minimum to allow a second story deck addition to an existing multifamily structure (Ref. BOA #12-100204) as shown and submitted.

**Roll call vote:** Ayes – Buck, Moreland, Jolley, Loretta and Corey  
Amended motion passed with a unanimous vote.

**(D) Case Number: BOA 13-100016**

**Name of Applicant:** Timothy Abell

**Property Address:** 328 9<sup>th</sup> Avenue North #924

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for parking space width of 8 feet in lieu of 9 feet for five spaces, to avoid loss of one parking space in conjunction with the placement of an ATM machine in an existing parking lot.

**Applicant:**

The agent for the applicant, Joe Wallis, stated that he would like to restripe and designate five parking spaces as “Compact” in order to avoid the loss of one parking space so that he can install an ATM .

**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 who wished to address the Board, Mr. Loretta closed the public hearing.

Mr. Moreland stated that he would like to see “Compact” signs in conjunction with the restriping making it more visible to the public.

**Roll call vote:** Ayes – Buck, Moreland, Jolley, Loretta and Corey  
Motion passed with a unanimous vote.

**(E) Case Number: BOA 13-100018**

**Name of Applicant:** Bernard Frazer

**Property Address:** 4230 Duval Drive

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a northerly side yard of 7.9 feet in lieu of 10 feet required; and for 41% lot coverage in lieu of 35% maximum to allow for improvements to a single family dwelling.

**Applicant:**

The applicant, Bernard Fraser, 4230 Duval Drive, stated that he is applying for the lot coverage variance and side yard so that he may be able to construct a single family home. Mr. Fraser also stated that the proposed construction will be consistent with the surrounding neighborhood.

**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 who wished to address the Board, Mr. Loretta closed the public hearing.

**Discussion**

Mr. Moreland stated that this request was minimal and is consistent with the surrounding neighborhood. He wished to add the verbiage “as shown and submitted” to the motion.

**Amended Motion:** An amended motion was made by Mr. Moreland, seconded by Mr. Jolley, to approve a request for a northerly side yard of 7.9 feet in lieu of 10 feet required; and for 41% lot coverage in lieu of 35% maximum to allow for improvements to a single family dwelling as shown and submitted.

**Roll call vote:** Ayes – Buck, Moreland, Jolley, Loretta and Corey  
Amended motion passed with a unanimous vote.

**Building Department Report:** The next scheduled meeting is Tuesday, March 19, 2013.  
There are currently four (4) scheduled cases.

**Adjournment**

There being no further business coming before the Board, Mr. Loretta adjourned the meeting at 8:35 P.M.

Submitted by: Amber Maria Lehman  
Senior Secretary

Approval:

/s/Joseph Loretta

Chairperson

Date: April 16, 2013

Minutes of Board of Adjustment Meeting  
Held March 5, 2013