

### **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 *Absent*  
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 stated that he had a conversation with the applicant, Shari Acireale, regarding BOA 12-100023.

### **Approval of Minutes**

It was moved by Mr. Moreland, seconded by Mr. Jolley, and passed, to approve the minutes for the February 19, 2013 meetings as presented.

### **Correspondence**

There was no correspondence.

### **OLD BUSINESS:**

There was no old business.

### **NEW BUSINESS:**

#### **(A) Case Number: BOA 12-100023**

**Name of Applicant:** Shari Acireale, as Guardian for Barbara Anderson

**Property Address:** 106 Seagrape Drive

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a rear yard of 6.37 feet in lieu of 30 feet required to allow for improvements to a single family dwelling.

#### **Applicant:**

Shari Acireale stated that she is the legal guardian to her mother Barbara Anderson, and she is requesting a variance to construct an addition, two bedrooms, onto the rear of the home.

Mr. Loretta asked the applicant if adding a second story had been considered so that encroaching on the rear yard setback could be avoided.

Ms. Acireale responded that adding an additional story to the home would cause a financial hardship.

Ms. Osewalt asked if this lot was substandard in size.

Mr. Moreland replied that it was not substandard, however there is a 35 foot electrical easement in the rear of the property.

**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 request and the 35 foot easement in the rear of the property. Mr. Moreland wished to amend the motion to include the verbiage “as shown and submitted”.

**Amended Motion:** An amended motion was made by Mr. Moreland, seconded by Mr. Jolley, to approve a request for a rear yard of 6.37 feet in lieu of 30 feet required to allow for improvements to a single family dwelling, as shown and submitted.

**Roll call vote:** Ayes – Buck, Moreland, Jolley, Loretta  
Nays – Osewalt.  
Amended motion passed with a vote of 4 to 1.

**(B) Case Number: BOA 13-10030**

**Name of Applicant:** Marta and Charles Roth

**Property Address:** 255 South 41<sup>st</sup> Avenue

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for 10 foot front yard limited to open porches, 15 feet for enclosed portions of habitable space, and 18 feet for garage walls in lieu of 25 feet required, for 15 feet in total for both side yards provided that no side yard is less than 5 feet, in lieu of 10 feet required, except when the lot is a corner lot. For corner lot, side yard on the corner shall be 10 feet in lieu of 20 percent of the lot width or 10 feet, whichever is greater, for 20 foot rear yards in lieu of 30 feet required, and for 50% lot coverage in lieu of 35% maximum, conditioned that above includes the Avalon Neighborhood Architectural Guidelines, as shown and submitted, to allow for a new single family home.

**Applicant:**

The agent for the applicant, Ken Atlee, President of Atlee Development Group, stated that he is representing Martha & Charles Roth. This lot was not included in the original application for the Avalon Subdivision, hence this request for variance. Mr. Atlee also stated that the variance, if approved, will bring this lot into compliance with the others in the Avalon 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:**

There was a brief discussion about the applicant clearly having a hardship due to the lot size being grossly substandard.

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

**(C) Case Number: BOA 13-100031**

**Name of Applicant:** Charles Roth

**Property Address:** 240 40<sup>th</sup> Avenue South

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for 10 foot front yard limited to open porches, 15 feet for enclosed portions of habitable space, and 18 feet for garage walls in lieu of 25 feet required, for 15 feet in total for both side yards provided that no side yard is less than 5 feet, in lieu of 10 feet required, except when the lot is a corner lot. For corner lot, the side yard on the corner shall be 10 feet in lieu of 20 percent of the lot width, or 10 feet, whichever is greater, for 20 foot rear yards in lieu of 30 feet required, and for 50% lot coverage in lieu of 35% maximum, conditioned that above includes the Avalon Neighborhood Architectural Guidelines, as shown and submitted, to allow for a new single family home.

**Applicant:**

The agent for the applicant, Ken Atlee, President of Atlee Development Group, stated that this request is exactly as the previous application.

Mr. Moreland stated that this lot is not as substandard as the previous application. Mr. Moreland asked the applicant if this was the minimum needed to construct a single family dwelling on the property.

Mr. Atlee replied that the lot is a little wider than the previous but it is the minimum needed to construct a home that the applicant wants.

**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 lot being substandard, however, Mr. Moreland wished to amend the motion to include the verbiage “as shown and submitted” and reduce the lot coverage amount to 42%.

**Amended Motion:** An amended motion was made by Mr. Moreland, seconded by Mr. Jolley, to approve a request for 10 foot front yard limited to open porches, 15 feet for enclosed portions of habitable space, and 18 feet for garage walls in lieu of 25 feet required, for 15 feet in total for both side yards provided that no side yard is less than 5 feet, in lieu of 10 feet required, except when the lot is a corner lot. For corner lot, the side yard on the corner shall be 10 feet in lieu of 20 percent of the lot width, or 10 feet, whichever is greater, for 20 foot rear yards in lieu of 30 feet required, and for 42% lot coverage in lieu of 35% maximum, conditioned that above includes the Avalon Neighborhood Architectural Guidelines, as shown and submitted, to allow for a new single family home.

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

**(D) Case Number: BOA 13-100032**

**Name of Applicant:** Jason Huntley

**Property Address:** 455 33<sup>rd</sup> Avenue South

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for side yards of 5.5 feet in lieu of 10 feet required, and for 43% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

**Applicant:**

The applicant, Jason Huntley, stated that he would like to construct a single family home in keeping with the surrounding neighborhood. Mr. Huntley also stated that he has a severe substandard lot which has created a hardship.

**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 to the application:

Randy DeLoach, 59 South 34<sup>th</sup> Avenue, Jacksonville Beach.  
Steven Dudley, Jacksonville Beach.

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

**Discussion:**

Mr. Moreland stated that he sees that there is a hardship due the narrow lot size, however with the neighbors comments, he feels the side yard setbacks could be 6.5 feet instead of the 5.5 feet that the applicant has requested.

**Amended Motion:** An amended motion was made by Mr. Moreland, seconded by Mr. Buck, to approve a request for side yards of 6.5 feet in lieu of 10 feet required with an 18 inch overhang, and for 43% lot coverage in lieu of 35% maximum to allow for a new single family dwelling, as submitted and discussed.

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

**Building Department Report:** The next scheduled meeting is Tuesday, April 2, 2013.  
There are currently scheduled six (6) scheduled cases.

**Adjournment**

There being no further business coming before the Board, Mr. Loretta adjourned the meeting at 7:35 P.M.

Submitted by: Amber Maria Lehman  
Senior Secretary

Approval:

/s/Joseph Loretta  
Chairman

Date: May 7, 2013