**Minutes of Board of Adjustment Meeting**
**held Tuesday, March 4, 2014, at 7:00 P.M.,**
**in the Council Chambers, 11 North 3rd Street,**
**Jacksonville Beach, Florida**

JACKSONVILLE BEACH

## Call to Order

The meeting was called to order by Vice-Chairman Osewalt.

## Roll Call

Tom Buck, Chairman *Absent*
Joseph Loretta
John Moreland
Sylvia Osewalt Vice-Chairman

Alternates:
Scott Cummings

## Purpose and Ex-Parte Statement

Ms. Osewalt 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.

**Approval of Minutes**

It was moved by Mr. Loretta, seconded by Mr. Moreland, and passed, to approve the February 4, 2014 meeting minutes as presented.

**Correspondence**

There was no correspondence.

**OLD BUSINESS:**

**(A)** **Case Number:** **BOA 13-100246**
**Name of Applicant:** James Fletcher
**Property Address:** 215 7th Avenue North

**Motion to Approve:** It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for an easterly side yard of 4.9 feet and westerly side yard of 4.7 feet in lieu of 10 feet required, for a rear yard of 15 feet in lieu of 30 feet required, and for no additional parking in lieu of 2 parking spaces required to allow for the addition of a third dwelling unit for property legally described as Lot 9, Block 83, Pablo Beach Improvement Company's Plat of Part of Northern Portion of Pablo Beach, Florida.

The applicant was absent.

**Public Hearing:**

Ms. Osewalt 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, Ms. Osewalt closed the public hearing.

**Discussion:**

The Board discussed the application and noted that this was the second time that the applicant did not appear for the hearing.

**Roll call vote:** Nays – Loretta, Osewalt, Cummings, and Moreland; motion denied unanimously.

**(B)** **Case Number:** **BOA 14-100011**
**Name of Applicant:** Elias Wilson
**Property Address:** 535 15th Avenue South

**Motion to Approve:** It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for 45% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling and swimming pool for property legally described as Lot 7, Block 146, Oceanside Park.

**Applicant:**

The applicant, Elias Wilson, 884 7th Avenue South, Jacksonville Beach stated that he is requesting a variance so that he and his family can build a single family home and pool. Mr. Wilson advised that the building currently on the property would be demolished.

**Public Hearing:**

Ms. Osewalt 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, Ms. Osewalt closed the public hearing.

**Discussion:**

There was a brief discussion about the applicant having a hardship due to the lot being substandard in size. Mr. Moreland stated that if the lot size was standard, the lot coverage would equate to 37%.

**Roll call vote:** Ayes – Moreland, Loretta, Cummings, and Osewalt; motion carried unanimously.

**NEW BUSINESS:**

**(A)** **Case Number:** **BOA 14-1000011**
**Name of Applicant:** Angela Gainey
**Property Address:** 801 18th Street North

**Motion to Approve:** It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a rear yard of 18 feet in lieu of 30 feet required, and for 47% lot coverage in lieu of 35% maximum to allow for a improvements to a single family dwelling for property legally described as Lot 6 and the south 30 feet of Lot 5, Block 103, Jacksonville Beach Section "A".

The applicant, Angela Gainey, stated that she is requesting a variance so that she can have a two-car garage and addition built onto the rear of the home.
Mr. Moreland noted that the lot is oversized and asked the applicant to explain what hardship has been incurred for this lot.

Mr. Loretta stated that the placement of the home could present a hardship. However, the lot coverage request is quite large considering this is an oversized lot. Mr. Loretta asked the

applicant what the minimum amount of lot coverage is needed to accomplish the addition and the two-car garage.

Ms. Gainey replied, in order to reduce the requested amount, she would be willing to remove the wooden deck.

Mr. Loretta stated that if the applicant is able to remove the steps and the wooden deck the lot coverage would be decreased by 181 square feet.

Mr. Cummings asked the applicant about the garage that currently exists.

Ms. Gainey replied that a one-car garage is there now.

Mr. Loretta asked about the live oaks on the property.

Ms. Gainey replied that there are three live oaks that exist on the front of the property that have been there since she was a child. She stated that she does not want to remove them.

**Public Hearing:**

Ms. Osewalt 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, Ms. Osewalt closed the public hearing.

**Discussion:**

A brief discussion ensued about the application not having a hardship due to the oversized lot. The board did state that the applicant does have a valid request for the rear yard setback due to the placement of the home. Additionally, with the applicant stating that she will not be removing the three live oaks in the front yard, this causes a hardship for lot coverage. Mr. Loretta moved to amend the motion to reduce the lot coverage.

**Amended Motion:** An amended motion was made by Mr. Loretta, seconded by Mr. Moreland, to approve a request for a rear yard of 18 feet in lieu of 30 feet required, and for 44% lot coverage in lieu of 35% maximum to allow for improvements to a single family dwelling for property legally described as Lot 6 and the south 30 feet of Lot 5, Block 103, Jacksonville Beach Section "A".

**Roll call vote:** Ayes – Moreland, Loretta, and Cummings
Nays – Osewalt
Amended motion carried with a 3 to 1 vote.

**(B)** **Case Number:** **BOA 14-100013**
**Name of Applicant:** JBTH, LLC

**Property Address:** 502 5th Avenue South

**Motion to Approve:** It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a corner side yard and a side yard of 5 feet in lieu of 10 feet required, and for 46% lot coverage in lieu of 35% maximum to allow for a new two family dwelling for property legally described as Lot 1, Block 56, Pablo Beach South.

**Applicant:**

The agent for the applicant, Eric Shiendling, 7536 Philips Highway, Suite 109, Jacksonville, stated that the hardship is due to the lot being undersized per the zoning. The minimum width is 65 feet and this lot is 50 feet wide.

Mr. Moreland asked how wide both units would be once construction is complete.

Mr. Shiendling replied that each unit would be 20 feet wide.

Mr. Loretta asked the applicant if he had considered reducing the width of the units to 17 feet wide.

Mr. Shiendling responded that it is very difficult, from a structural standpoint, to build a home that is only 17 feet wide.

**Public Hearing:**

Ms. Osewalt 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:

- Tim Millard, 230 15th Street South, Jacksonville Beach

The following person spoke in opposition to the application:

- David Reed, 418 4th Avenue South, Jacksonville Beach

**Rebuttal:**

Mr. Shiendling addressed the concern raised by Mr. Reed regarding the encroachment on the neighbor's property. He assured the Board and Mr. Reed that this will not encroach onto the neighbor's property. In response to the design element and the setbacks, Mr. Shiendling stated that this is in line with the surrounding neighborhood.

Seeing no one else who wished to address the Board, Ms. Osewalt closed the public hearing.

**Discussion:**

There was a brief discussion regarding the hardship and the majority of the Board concurred.

**Roll call vote:** Ayes – Moreland, Loretta, and Cummings
Nays – Osewalt
Motion carried with a 3 to 1 vote.

**(C)** **Case Number:** **BOA 14-1000014**
**Name of Applicant:** JBTH, LLC
**Property Address:** 424 4th Avenue South

**Motion to Approve:** It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for side yards of 5 feet in lieu of 10 feet required to allow for a new two family dwelling for property legally described as Lot 4, Block 45, Pablo Beach South.

The agent for the applicant, Eric Shiendling, 7563 Phillips Highway, Suite 109, Jacksonville, stated that this request is similar to the previous application. Additional lot coverage is not needed, only the side yard setbacks. The duplex will be in line with the surrounding neighborhood and is consistent with what has been approved for adjacent properties.

Mr. Loretta asked the applicant if the units were reduced to 17 feet wide, where would the entrance be located.

Mr. Shiendling responded that if he was to reduce the width to 17 feet, the entry would be limited to the front of the home.

**Public Hearing:**

Ms. Osewalt 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:

- Erick Reed, 418 4th Avenue South, Jacksonville Beach
- Linda Torres, 418 4th Avenue South, Jacksonville Beach

**Rebuttal:**

There was no rebuttal by the applicant.

Seeing no one else who wished to address the Board, Ms. Osewalt closed the public hearing.

**Discussion:**

Mr. Moreland stated that he was more inclined to grant approval to the previous request since it was a corner lot. With this application, he moved to amend the motion to increase the side yards to 7.5 feet.

**Amended Motion:** An amended motion was made by Mr. Moreland, seconded by Mr. Loretta, to approve a request for side yards of 7.5 feet in lieu of 10 feet required to allow for a new two family dwelling for property legally described as Lot 4, Block 45, Pablo Beach South.

**Roll call vote:** Ayes – Loretta and Moreland
Nays – Cummings and Osewalt
The amended motion failed with a tied vote of 2 to 2.

Due to the amended motion failing, the original motion was then considered.

**Roll call vote:** Ayes – Loretta
Nays – Cummings, Moreland, and Osewalt
Motion failed with a 3 to 1 vote.

**(D)** **Case Number:** **BOA 14-1000015**
**Name of Applicant:** JBTH, LLC
**Property Address:** 424 5th Avenue South

**Motion to Approve:** It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for side yards of 5 feet in lieu of 10 feet required and for 46% lot coverage in lieu of 35% maximum to allow for a new two family dwelling for property legally described as Lot 4, Block 55, Pablo Beach South.

The agent for the applicant, Eric Shiendling, 7563 Philips Highway, Suite 109, Jacksonville stated that this lot is substandard due to the width not meeting the minimum requirements for the zoning. Mr. Shiendling reported that there are single-family homes to the right of the property and multi-family units to the left of the property.

Mr. Cummings asked the applicant what the sale price would be for the units.

Mr. Shiendling responded that the minimum sale price would be $350,000.

**Public Hearing:**

Ms. Osewalt 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:

- Erick Reed, 418 4th Avenue South, Jacksonville Beach

- Linda Torres, 418 4th Avenue South, Jacksonville Beach

**Rebuttal:**

There was no rebuttal by the applicant.

Seeing no one else who wished to address the Board, Ms. Osewalt closed the public hearing.

**Discussion:**

Discussion ensued about the hardship created due to the lot being substandard. Further discussion resulted in an amended motion by Mr. Moreland to increase the side yards to 7.5 feet.

**Amended Motion:** An amended motion was made by Mr. Moreland, seconded by Mr. Cummings, to approve a request for side yards of 7.5 feet in lieu of 10 feet required and for 46% lot coverage in lieu of 35% maximum to allow for a new two family dwelling for property legally described as Lot 4, Block 55, Pablo Beach South.

**Roll call vote:** Ayes – Moreland, Loretta, and Cummings
Nays – Osewalt
The amended motion passed with a 3 to 1 vote.

**(E)** **Case Number:** **BOA 14-100016**
**Name of Applicant:** Alisha Pieraccini
**Property Address:** 516 9th Avenue North

**Motion to Approve:** It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for 47% lot coverage in lieu of 35% maximum to allow for a new walkway and patio addition to a single family dwelling for property legally described as Lot 3, Block 96, Florida Land Investment Co. & Pablo Beach Improvement Co's Replat.

**Applicant:**

The applicant, Alisha Pieraccini, 516 9th Avenue North, stated that she is requesting a variance so that she can have a small patio and walkway around the home.

Ms. Osewalt asked the applicant what hardship exists.

Ms. Pieraccini stated that the lot is substandard in size being only 6,200 square feet.

Mr. Loretta asked the applicant if she considered stepping stones instead of solid pavers.

Ms. Pieraccini replied yes.

**Public Hearing:**

Ms. Osewalt 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:

- Tim Millard, 230 15th Street South, Jacksonville Beach

The following person spoke neither in favor of nor in opposition to the application:

- Joe Sorrell, 428 10th Avenue North, Jacksonville Beach

Seeing no one else who wished to address the Board, Ms. Osewalt closed the public hearing.

**Discussion:**

The majority of the Board concurred there was a hardship due to the substandard size of the lot, and that ground improvements were being made. This was a reasonable request.

**Roll call vote:** Ayes – Moreland, Loretta, and Cummings
Nays – Osewalt
Motion passed with a 3 to 1 vote.

**(F)** **Case Number:** **BOA 14-100017**
**Name of Applicant:** Bottom Line Ventures, Inc.
**Property Address:** 1005 North 24th Street

**Motion to Approve:** It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for 42% lot coverage in lieu of 35% maximum to allow for a new single family dwelling for property legally described as Lot 4, Block 89, Jacksonville Beach Section "A".

**Applicant:**

Applicant, Tim Millard, 230 15th Avenue South, Jacksonville Beach, stated that the lot is 50 ft. x 102 ft. and the minimum size lot for this zoning is 7,500 square feet. Therefore, he is requesting a variance for additional lot coverage.

**Public Hearing:**

Ms. Osewalt 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 opposition to the application:

- Frank Thorpe, 1010 North 24th, Jacksonville Beach.-
  Mr. Thorpe did not state a specific opposition to the variance. He voiced concerns regarding flooding and drainage issues on surrounding properties.

**Rebuttal:**

Mr. Millard addressed Mr. Thorpe's statements and encouraged Mr. Thorpe to contact Public Works regarding drainage issues for this area.

Seeing no one else who wished to address the Board, Ms. Osewalt closed the public hearing.

**Discussion:**

The Board concurred that there is a clear hardship associated with this property due to the lot being undersized.

**Roll call vote:** Ayes – Moreland, Loretta, Osewalt, and Cummings; motion carried unanimously.

**Building Department Report:** The next scheduled meeting is Tuesday, March 18, 2014. There are currently three (3) scheduled cases.

**Adjournment**

There being no further business coming before the Board, Ms. Osewalt adjourned the meeting at 8:40 P.M.

Submitted by: Amber Maria Lehman
Recording Secretary

Approval:

Chair

Date: 4/1/14