

**Minutes of Board of Adjustment Meeting  
Held Tuesday, January 4, 2005, 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 Chairperson Steven Hartkemeyer.

**Roll Call**

Keith Hall  
Steven Hartkemeyer (*Chairperson*)  
Bobby Jolley  
Terry McGill (*Vice Chairperson*)  
John Moreland

Charlie Sellers, Alternate  
Vicki Gilliom, Alternate

Jon Hays, Building Official, was also present.

Mr. Hartkemeyer 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

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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.”

John Moreland advised that he spoke with Mr. Tiliakos concerning case #04-100421. All other Board members advised that they had no ex-parte communications.

### **Approval of Minutes**

It was moved by Mr. Jolley, seconded by Mr. Moreland, to approve the Minutes of the December 21, 2004, Meeting.

### **Correspondence**

There was no correspondence.

### **Old Business**

**Case: BOA #100358**

**Location: Lot 6, Block 92, Pablo Beach South; 138 South 9<sup>th</sup> Avenue**

**Applicant: Alan Dickinson, Developer for the Lorelei**

This case was withdrawn by the applicant.

### **New Business**

**Cases: BOA #04-100409, BOA #04-100410, BOA #04-100411 & BOA #04-100412**

**Applicant: Allied Restoration Corporation; Agent - Douglas Othmer**

Mr. Othmer was not present and it was moved by Mr. Jolley, seconded by Mr. McGill, to carry these cases over to the end of the meeting to give him time to arrive.

**Roll call vote:** Ayes – Hall, Hartkemeyer, Jolley and McGill. Nays - Moreland. Motion carried by a vote of 4 to 1.

**Case: BOA #04-100415**

**Location: Lot 5, Pengate Forest; 1556 Seagate Avenue**

**Applicant: William A. Cooper, Jr.**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 42% lot coverage in lieu of 35% maximum; to allow for improvements to a single family dwelling.

The applicant stated that he had a gazebo built over his Jacuzzi without realizing that he needed a permit to have this work done. He is requesting the variance because he does not want to have to remove the gazebo.

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Mr. Hartkemeyer opened a public hearing and asked if anyone wished to speak either in favor of or in opposition to the request? Seeing no one, he closed the public hearing.

**Roll call vote:** Ayes – Hartkemeyer, Jolley, McGill and Hall. Nays – Moreland. Motion carried by a vote of 4 to 1.

**Case: BOA #04-100416**

**Location: Lot 6, Block 42, Pablo Beach South; 125 South 5<sup>th</sup> Avenue**

**Applicant: Scott A. Worthley**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for a front yard of 10 feet in lieu of 20 feet required and for a rear yard of 20 feet in lieu of 30 feet required; to allow for a new multi-family dwelling.

The applicant stated that he wishes to build a four unit condominium. He advised that these units would be three stories high with a garage on the first level.

Mr. Hartkemeyer opened a public hearing and asked if anyone wished to speak either in favor of or in opposition to the request? Seeing no one, he closed the public hearing.

There followed a brief discussion concerning the lack of a hardship in this case.

**Roll call vote:** Nays – Jolley, McGill, Moreland, Hall and Hartkemeyer. Motion was denied unanimously.

**Case: BOA #04-100417**

**Location: A portion of Lots 7, 8 and 9, Block 12, R/P of Atlantic Shores Unit 1; 366 South 32<sup>nd</sup> Avenue**

**Applicant: Darsh & Laura Woods**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 40% lot coverage in lieu of 35% maximum; to allow for a swimming pool addition to a single family dwelling.

The applicants stated that they wish to add a swimming pool with adjoining decking in their back yard.

Mr. Hartkemeyer opened a public hearing and asked if anyone wished to speak either in favor of or in opposition to the request? Seeing no one, he closed the public hearing.

**Roll call vote:** Ayes – McGill, Moreland, Hall, Hartkemeyer and Jolley. Motion carried unanimously.

**Case: BOA #04-100421**

**Location: Lot 1, Block 99, Oceanside Park; 802 South 9<sup>th</sup> Avenue**

**Applicant: Ted & Kathy Tiliakos**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 47% lot coverage in lieu of 35% maximum; to allow for a swimming pool addition to a single family dwelling.

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The applicants stated that they wish to build a swimming pool with adjoining decking in their back yard.

Mr. Hartkemeyer opened a public hearing and asked if anyone wished to speak either in favor of or in opposition to the request? Seeing no one, he closed the public hearing.

Mr. Moreland made a substitute motion, which was seconded by Mr. Jolley, to approve a request for 44% lot coverage in lieu of 35% maximum.

**Roll call vote:** Ayes – Moreland, Hall, Hartkemeyer, Jolley and McGill. Motion carried unanimously.

**Case: BOA #04-100422**

**Location: Lot 4, Block 11, Beach Homesites Unit 3; 1432 North 10<sup>th</sup> Street**

**Applicant: James C. Mills**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for a front yard of 10 feet in lieu of 25 feet required, for a northerly side yard of 8.3 feet in lieu of 10 feet required and for 36% lot coverage in lieu of 35% maximum; to allow for improvements to a single family dwelling.

The applicant stated that he wishes to increase the size of the existing carport by adding four feet onto the front of the structure.

Mr. Harkemeyer opened a public hearing and asked if anyone wished to speak either in favor of or in opposition to the request? Seeing no one, he closed the public hearing.

There followed a brief discussion concerning the fact that extending the carport by four feet would place it well out in front of the neighboring properties. Mr. Moreland made a substitute motion, which was seconded by Mr. Hall, to approve a request for a front yard of 12 feet in lieu of 25 feet required, for a northerly side yard of 8.3 feet in lieu of 10 feet required, for 36% lot coverage in lieu of 35% maximum and for the structure to remain open and as submitted.

**Roll call vote:** Ayes – Hall, Hartkemeyer, Jolley, McGill and Moreland. Motion carried unanimously.

At this time, it was determined that the applicant for the first four cases on the agenda was still absent.

It was moved by Mr. Jolley to carry these cases over to the next meeting. The motion died from lack of a second.

Mr. Hartkemeyer asked Mr. Hays if the Board could hear the cases in the absence of the applicant. Mr. Hays responded in the affirmative.

**Case: BOA #04-100409**

**Location: Lot 9, Block 12, Jax Beach Heights; 3180 Pullian Street**

**Applicant: Allied Restoration Corporation/Douglas Othmer**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 48% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

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The applicant was not present.

Mr. Hartkemeyer opened a public hearing and asked if anyone wished to speak either in favor of or in opposition to the request?

Jim Overby, 21 Burling Way, Jacksonville Beach, spoke in opposition.

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

There followed a brief discussion in which the Board expressed concern over granting a variance on vacant land and the lack of a hardship.

**Roll call vote:** Nays – Hartkemeyer, Jolley, McGill, Moreland and Hall. Motion was denied unanimously.

**Case: BOA #04-100410**

**Location: Lot 13, Block 13, Jax Beach Heights; 3122 Horn Street**

**Applicant: Allied Restoration Corporation/Douglas Othmer**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 48% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

The applicant was not present.

Mr. Hartkemeyer opened a public hearing and asked if anyone wished to speak either in favor of or in opposition to the request?

John Tipton, 503 6<sup>th</sup> Street North, Jacksonville Beach, spoke in opposition.

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

There followed a brief discussion in which the Board expressed concern over granting a variance on vacant land and the lack of a hardship.

**Roll call vote:** Nays – Jolley, McGill, Moreland, Hall and Hartkemeyer. Motion was denied unanimously.

**Case: BOA #04-100411**

**Location: Lot 10, Block 12, Jax Beach Heights; 3272 Pullian Street**

**Applicant: Allied Restoration Corporation/Douglas Othmer**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 48% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

The applicant was not present.

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Mr. Hartkemeyer opened a public hearing and asked if anyone wished to speak either in favor of or in opposition to the request? Seeing no one, he closed the public hearing.

There followed a brief discussion in which the Board expressed concern over granting a variance on vacant land and the lack of a hardship.

**Roll call vote:** Nays – McGill, Moreland, Hall, Hartkemeyer and Jolley. Motion was denied unanimously.

**Case: BOA #04-100412**

**Location: Lot 11, Block 12, Jax Beach Heights; 3244 Pullian Street**

**Applicant: Allied Restoration Corporation/Douglas Othmer**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 48% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

The applicant was not present.

Mr. Hartkemeyer opened a public hearing and asked if anyone wished to speak either in favor of or in opposition to the request? Seeing no one, he closed the public hearing.

There followed a brief discussion in which the Board expressed concern over granting a variance on vacant land and the lack of a hardship.

**Roll call vote:** Nays – Moreland, Hall, Hartkemeyer, Jolley and McGill. Motion was denied unanimously.

### **Adjournment**

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 8:01 P.M.

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Chairman

/lmw