

**Minutes of Board of Adjustment Meeting  
Held Tuesday, February 1, 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*) (*absent*)  
John Moreland

Charlie Sellers, Alternate  
Vicki Gilliom, Alternate (*absent*)

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.”

Mr. Hartkemeyer, Mr. Moreland, Mr. Sellers, Mr. Jolley and Mr. Hall advised that they received a letter from Thad Moseley concerning BOA #04-100403. Mr. Hall advised that he also spoke with Steve Proctor concerning BOA #04-100403 and Mr. Jolley advised that he also spoke with Mr. Johnson with Johnson Gallery about BOA #04-100403.

**Approval of Minutes**

It was moved by Mr. Jolley, seconded by Mr. Moreland, to approve the Minutes of the January 19, 2004, Meeting, as presented.

**Correspondence**

The correspondence pertained to an item on the agenda and was presented when that item was discussed.

**Old Business**

**Case: BOA #04-100403**

**Location: N ½ of Lot 7, N ½ of Lot 8, Block 52, Pablo Beach North; 514 North 1<sup>st</sup> Street**

**Applicant: Desmond Lynch**

**Motion:** It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 0 parking spaces as follows:

- (1) The elimination of 5 existing spaces and
- (2) A variance of 40 spaces required to support a proposed 4,000 square foot additional to an existing tavern.

Paul Eakin, attorney for the applicant, advised that there was some confusion as to when this case would be heard. At the last meeting, the applicant had requested that the case be carried over to the next meeting and was told that meeting would take place on February 8, 2005. It was only when the applicant received his notice that he was aware that the meeting would be held on February 1, 2005, instead. He requested a continuance to give him time to properly prepare for the meeting.

It was moved by Mr. Moreland, seconded by Mr. Hall, to carry this case over to the next meeting.

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

**New Business**

**Case: BOA #04-100420**

**Location: Lot 67, Flagler Tract; 134 North 9<sup>th</sup> Avenue**

**Applicant: David S. Kode**

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**Motion:** It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 10 feet in lieu of 20 feet required, for a side yard of 5 feet in lieu of 10 feet required, for a rear yard of 10 feet in lieu of 30 feet required and for 65% lot coverage in lieu of 35% maximum; to allow for a new two-family dwelling.

The applicant stated that he wishes to build a duplex on the property. When asked by Mr. Moreland, the applicant was unable to state a hardship for the variance.

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

Scott Gay, 1034 North 3<sup>rd</sup> Street, Jacksonville Beach, spoke in favor.

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

There followed a brief discussion on the lack of a hardship and the possibility that the applicant might be trying to overbuild on the property.

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

**Case: BOA #04-100433**

**Location: Lot 15, Block 4, Ocean Terrace; 3887 Tropical Terrace**

**Applicant: Debra Gaskin**

**Motion:** It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a rear yard of 27.5 feet in lieu of 30 feet required; to allow for improvements to a single family dwelling.

The applicant stated that she wishes to build a screened room onto the rear of the house using an existing concrete slab.

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 amended the motion, which was seconded by Mr. Jolley, to add that the enclosure remain screened as presented.

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

**Case: BOA #05-100002**

**Location: Lot 2, Block 3, Atlantic Shores; 3622 South 1<sup>st</sup> Street**

**Applicant: Steve & Kate Johnston**

**Motion:** It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for side yards of 5 feet in lieu of 10 feet required; to allow for a new single family dwelling.

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The applicant stated that there is a large logustrum tree in the front yard and they have separated the two car detached garage into two units, one on either side of the tree.

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

Dr. Daniel Broderick, 3611 & 3618 South 1<sup>st</sup> Street, Jacksonville Beach, spoke in favor and presented a petition with 20 signatures of neighbors in favor of the request.

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

Mr. Moreland amended the motion, which was seconded by Mr. Jolley, to add that the structure remain as presented.

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

**Adjournment**

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

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Chairman

/lmw