

**Minutes of Board of Adjustment Meeting
Held Tuesday, February 16, 2005, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**

Call to Order

The meeting was called to order by Chairperson Steven Hartkemeyer.

Roll Call

Keith Hall (*absent*)
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.”

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“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.”

Ms. Gilliom advised that she spoke with Paul Eakin on BOA #04-100403.

Mr. Jolley advised that he spoke with Bob Baxter on BOA #05-100016.

Approval of Minutes

It was moved by Mr. Jolley, seconded by Mr. Moreland, to approve the Minutes of the February 1, 2005, 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 1st Street

Applicant: Desmond Lynch

Motion: It was moved by Mr. McGill, 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.

Attorney Paul Eakin, representing the applicant, stated that Mr. Lynch is not adding more seating, he is going to use the additional space for storage, larger coolers, restrooms and changing rooms. He also advised that he is going to have pool tables and a bar in that area. Mr. Eakin went on to explain that the portion of the property that Mr. Lynch wants to build this addition on is land locked and is inaccessible by vehicle. Since it can't be used for parking, the only use would be the proposed addition. He also stated that most of the customers who would make use of this additional space are already there, and have been spilling out of the existing building into this back area when this building is overcrowded. Having a place to contain this crowd would cut down on the noise to the neighbors.

Mr. Eakin requested that the following documents be entered into the record:

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1. Site Plan of Proposed Addition
2. Memo to Members of the Board of Adjustment from City Manager George Forbes and Planning and Development Director Steve Lindorff dated September 23, 2002, concerning variances.
3. Business Master Inquiry list of businesses licensed at 524-528 North 1st Street.
4. Drawing of Proposed Addition
5. Completed copy of Variance Application Standards and Conditions.

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

The following people spoke in favor:

John Burns, 1975 Ibis Point Lane, Jacksonville, FL

Debra McFall, 2091 Lois Lane, Jacksonville Beach, FL

Charles Norville, Jacksonville, FL

Sally Chitko, 1800 The Greens Way, Jacksonville Beach, FL

Sam McVee, 266A South Street, Neptune Beach, FL 32266

The following people spoke in opposition:

Jud Spence, 617 5th Street North, Jacksonville Beach, FL

Roy Williams, 453 Big Pine Tree Road, Ponte Vedra Beach, FL

Susie White, 429 2nd Avenue North, Jacksonville Beach, FL

Sylvia Osewalt, 3 Freedom Way, Jacksonville Beach, FL

Thad Moseley, 3701 Duval Drive, Jacksonville Beach, FL

Mr. McGill presented a letter from Thad Moseley, in opposition to the request.

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

There followed a lengthy discussion concerning the parking problems in the City and the lack of a hardship.

Roll call vote: Ayes – McGill. Nays – Hartkemeyer, Jolley, Moreland and Sellers. Motion was denied by a vote of 4 to 1.

New Business

Case: BOA #05-100016

Location: Lot 12, Block 146, Oceanside Park; 501 South 15th Avenue

Applicant: Ana Stauch

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 12 feet total for side yards in lieu of 15 feet required; to allow for improvements to a single family dwelling.

The applicant stated that they wish to add on a living room/sun room to their house.

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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.

Mr. Jolley made an amended motion, which was seconded by Mr. McGill, to approve a request for 12 feet total for side yards in lieu of 15 feet required, and for the 22.4ft x 12 ft addition to remain as submitted and extending from the existing patio to the rear of the house as clarified in the meeting.

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

Case: BOA #05-100017

Location: Lot 1, Roberts Hammock; 2091 Lois Lane

Applicant: Deborah Ann McFall

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 39% lot coverage in lieu of 35% maximum; to allow for a swimming pool deck addition to a single family dwelling.

The applicant stated that she wishes to install decking around her swimming pool.

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, Sellers, Hartkemeyer and Jolley. Motion carried unanimously.

Case: BOA #05-100019

Location: Lot 16, Block 2, Bentin Estates; 1601 South Bentin Drive

Applicant: Frank Thurlow, Jr.

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 43% lot coverage in lieu of 35% maximum, for a parking area set back of 3 feet in lieu of 5 feet minimum and for a parking area constructed of pavers in lieu of asphalt or concrete; to allow for improvements to a single family dwelling.

The applicant stated that they currently have a one car driveway and they wish to replace it with a two car driveway. They would like to use pavers instead of concrete for the driveway. There is a concrete slab in the rear of their property that is not included on the survey and they plan to remove that in order to reduce the amount of lot coverage that the new driveway will produce.

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 – Moreland, Sellers, Hartkemeyer, Jolley and McGill. Motion carried unanimously.

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Adjournment

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 8:46 P.M.

/lmw

Chairman