

**Minutes of Board of Adjustment Meeting
Held Tuesday, April 19, 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
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.”

Mr. Hartkemeyer advised that he spoke with Shannon Armstrong concerning BOA #05-100085.

The other Board Members advised that they had no ex-parte communications.

Approval of Minutes

There were no minutes to approve.

Correspondence

There was no correspondence.

Old Business

There was no old business.

New Business

Case: BOA #05-100067

Location: Lot 30, Seabreeze Woods; 126 Seagrape Drive

Applicant: Eric Riley

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 addition to a single family dwelling.

The applicant stated that he wishes to build a swimming pool with decking on his back yard.

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.

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

Case: BOA #05-100084

Location: Lot 13, Pine Grove Unit 3 S/D; 1334 1st Avenue North

Applicants: Shannon Armstrong

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Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for no additional parking in lieu of 5 total parking spaces required; to allow for the conversion of an existing nonconforming residential use into a professional office use.

The applicant stated that he wishes to relocate his construction company business office to this building. He advised that he had 2 employees and they would be able to park across the street from the property.

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

Aaron Altman, 1080 Nightingale Road, Jacksonville, asked if variances were transferable.

Mr. McGill presented four letters from neighbors in favor of 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 fact that a variance remains with the property, and granting a variance for no parking could cause problems should the property change hands at a later date.

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

Case: BOA #05-100085

Location: Lot 91, Flagler Tract; 1229 North 2nd Street

Applicant: Shannon Armstrong

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for side yards of 5 feet each in lieu of 10 feet required, for a rear yard of 20 feet in lieu of 30 feet required, and for 58% lot coverage in lieu of 35% maximum; to allow for the construction of a new two-family dwelling.

The applicant stated that he wishes to tear down the existing dwelling and replace it with a new, three-story one. He also advised that instead of following the original footprint, he intends to turn the building so that the windows face the ocean.

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 a substitute motion to approve a request for side yards of 10 feet each and for a rear yard of 20 feet in lieu of 30 feet required. The motion died from lack of a second.

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

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Case: BOA #05-100086
Location: Lot 43, Seabreeze Woods; 105 Trudee Dee Lane
Applicant: Kent Arceneaux

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 41% lot coverage in lieu of 35% maximum; to allow for improvements to a single family dwelling.

The applicant stated that he wishes to put additional decking on the north end of his swimming pool and a small storage shed in the rear of the 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, Hall, Hartkemeyer and Jolley. Nays – Moreland. Motion carried by a vote of 4 to 1.

Case: BOA #05-100087
Location: Lot 6, Block 50, Jax Beach Section “A”; 1065 North 16th Street
Applicant: Christopher J. Danser

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 43% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

The applicant stated that he is within the setbacks on the house, but he needs the additional lot coverage for a porch, driveway and walkway. He advised that he is requesting the variance because the lot is small.

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

Kay White, 1100 16th Street North, and Betty Ware, 1066 16th Street North, had questions about how many stories the building would be and how that would affect their taxes and property values.

Roll call vote: Ayes – Hartkemeyer, Jolley and McGill. Nays – Hall and Moreland. Motion carried by a vote of 3 to 2.

Case: BOA #05-100088
Location: Lot 5, Block 17, Ocean Forest Unit 3; 88 Oakwood Road
Applicant: Thomas Fisher

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for a front yard of 17 feet in lieu of 25 feet required and for 39% lot coverage in lieu of 35% maximum; to allow for improvements to a single family dwelling.

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The applicant stated that he wishes to add a garage onto the front of the house.

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

Aaron Altman, 1080 Nightingale Road, Jacksonville, spoke in favor.

Ann Williams, 45 Oakwood Road, Jacksonville Beach, spoke in opposition.

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

Mr. McGill made a substitute motion, which was seconded by Mr. Jolley, to approve a request for a front yard of 19 feet in lieu of 25 feet required.

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

Adjournment

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 8:14 P.M.

Chairman

/lmw