

**Minutes of Board of Adjustment Meeting
Held Tuesday, May 3, 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 Vice Chairperson Terry McGill.

Roll Call

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

Charlie Sellers, Alternate
Vicki Gilliom, Alternate

Jon Hays, Building Official, was also present.

Mr. McGill 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.”

The Board Members advised of their ex-parte communications as follows:

Mr. McGill stated he had a telephone conversation with John Adkins, BOA 05-100090, who called to explain his intent for his application. Also, Mr. McGill stated he had a telephone conversation with Lee Buck regarding BOA 05-1000103 (JaxCornerstone Partners, LLC) to clarify correspondence he sent to this Board.

Ms. Gilliom stated she received correspondence from Mr. Buck.

Mr. Sellers stated he received correspondence from Mr. Buck.

Mr. Moreland stated he received correspondence from Mr. Buck.

Mr. Hall stated he received correspondence from Mr. Buck.

Mr. Jolley stated he received correspondence from Mr. Buck.

Approval of Minutes

It was moved by Mr. Jolley, seconded by Mr. Moreland, to approve the Minutes of the April 5, 2005, and April 19, 2005, Meetings, as presented.

Motion carried unanimously.

Mr. Hall was acting Vice Chairperson.

Correspondence

Mr. Hall stated there was correspondence that would be submitted with each corresponding case as presented.

Old Business

There was no old business.

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New Business

Case: BOA #05-100089

Location: Lot 2, Block 43, except the North 75' of the West 25' thereof and the Easterly 25' of Lot 3, Block 43 except the North 75', Pablo Beach North; 218 4th Avenue South

Applicant: Grace Hand

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 0 in lieu of 8 parking spaces required; to allow for a conversion to a mixed use (ie: commercial/residential) property.

Gray Edwards, Edwards Engineering, representing the applicant, took the floor to address the Board. Mr. Edwards stated that there are two structures on this property which were zoned residential in a C-1 (commercial) zoning district. One of the structures (front) sat vacant for a year and the property was then rezoned to commercial use as per City code, which demands 8 more parking spaces in addition to the existing 5 spaces. Ms. Hand plans to convert the front structure for commercial use and continue using the rear structure for residential use. There are currently 4 units/tenants in the one apartment building (rear). The proposed commercial use (front) will allow for one business tenant and that business is not yet determined.

Mr. McGill 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 opposition of this case:

John Tipton, 503 North 6th Street, Jacksonville Beach, FL

Lee Buck, 136 17th Avenue North, Jacksonville Beach, FL

Wendell Fenner, 420 Lower 8th Avenue South, Jacksonville Beach, FL

The Chairperson asked if anyone else wished to address the Board? Seeing no one, he closed the public hearing.

Ms. Hand took the floor to address the Board. She stated that the surrounding properties are commercial use and her desire is to match what is existing in that neighborhood.

Discussion ensued and the consensus of the Board was that elimination of parking might not be in the best interest of this area or for the unknown proposed business that would occupy the front building.

Roll call vote: Nays – Hall, Jolley, McGill, Moreland, Sellers. Motion denied unanimously.

Case: BOA #05-100090

Location: Lots 8, 10 and 11, Block 43, Cooks Replat; 412 North 2nd Street/215 3rd Avenue North

Applicant: John Atkins

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Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a corner side yard of 10 feet and a side yard of 5 feet in lieu of 20 feet and 10 feet respectively, for a rear yard of 15 feet in lieu of 30 feet required and for 66% lot coverage in lieu of 65% maximum to allow for a new multi-family dwelling.

The applicant stated that he wants to construct 10 townhome condominiums on this corner lot. Mr. Atkins stated the plan for each unit will be a live/work situation consisting of a first floor home office and a two-car garage, second and third floors for living space. Mr. Atkins reviewed the attached footprint showing there are two buildings, one with 6 units, one with 4 units. All of the garages face inward towards each building and will only be accessed from 3rd Avenue North – no garages face the streets. Mr. Atkins stated the lot size permits 14 units but he is only planning for 10 units.

Mr. McGill 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 of this case:

Bob Gray, 13759 Deer Chase Place, Jacksonville, FL
Ramin Partow, 335 11th Street, Atlantic Beach, FL
Sonny Martin, 212 34th Avenue South, Jacksonville Beach, FL

The Chairperson asked if anyone else wished to address the Board? Seeing no one, he closed the public hearing.

Roll call vote: Ayes –Jolley, McGill, Moreland, Sellers, Hall. Motion approved unanimously.

Case: BOA #05-100091

Location: Lot 13, Seagate Woods; 1888 Kings Court

Applicant: Tammy Ann Sparks

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a corner side yard of 9 feet in lieu of 20 feet required and for 41% lot coverage in lieu of 35% maximum; to allow for improvements to a single family dwelling.

The applicant stated that she wants to install a swimming pool with a screen porch. She stated the odd shape to the lot creates the hardship.

George Hand, representing the applicant, took the floor to address the Board. Mr. Hand stated the screen porch will cover the corner side yard area. The exact design of the pool is pending but there will be a maximum of 500 sq.ft. of pool deck which will contribute to the total 41% lot coverage.

Mr. McGill 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.

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Roll call vote: Ayes – McGill, Sellers, Hall, Jolley. Nays - Moreland. Motion approved with a 4 to 1 vote.

Case: BOA #05-100097

Location: Lots 4, 5 and 6, Block 68, Oceanside Park; 750 South 6th Avenue

Applicant: Mitch Brown

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for side yards and a corner side yard on Lot 6 of 6 feet in lieu of 8 feet required and 10 feet corner side required and for 50% lot coverage in lieu of 35% maximum; to allow for a new two family dwelling on each of Lots 4, 5 & 6.

The applicant stated that the lot widths and current setbacks limit the development of this property. Mr. Brown stated he is asking for the variances in order to have a third bedroom for each unit, along with a two-car garage for each unit.

Mr. McGill 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 opposition of this case:

Wendell Fenner, 420 Lower 8th Avenue South, Jacksonville Beach, FL

Lee Buck, 136 17th Avenue North, Jacksonville Beach, FL

Kathleen DeGuzman, 624 7th Avenue South, Jacksonville Beach, FL

Mr. Hall stated there were two letters submitted in favor of this case - one from Chris Lambertson, one from Benton Rodriguez.

The Chairperson asked if anyone else wished to address the Board? Seeing no one, he closed the public hearing.

Substitute motion: Mr. Hall made a substitute motion to approve a request for side yards and a corner side yard on Lot 6 of 6 feet in lieu of 8 feet required and 10 feet corner side required and for 50% lot coverage in lieu of 35% maximum; to allow for a new two family dwelling on each of Lots 4, 5 & 6 *per the plans as submitted*. Motion died for lack of a second.

Discussion ensued noting this proposed plan appeared to be overbuilding on the lots.

Roll call vote: Ayes – Hall, McGill. Nays - Moreland, Sellers, Jolley. Nays. Motion denied with a 3 to 2 vote.

Case: BOA #05-100098

Location: The West 45 feet of Lot 7, all of Lot 8, Block 111, Pablo Beach North; 1125 1st Street North and 1115 First Street North.

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Applicant: Donald E. Griffin

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 15 feet in lieu of 20 feet required, for side yards of 5 feet in lieu of 10 feet required and for a rear yard of 15 feet in lieu of 20 feet required; to allow for a new multi-family dwelling.

The applicant, William Register, stated that he would like Steve Manis, Connelly & Wicker, and Brad Negard, GBN Construction, to address the Board on his behalf.

Mr. Negard stated that this is an 'L' shaped lot which creates the hardship. The plan is to convert the existing 7 units on this property to a 4 unit, three floor condominium, each with a two-car garage and including two additional spaces per unit. The plan also includes creating a green-space and installation of a swimming pool along with heavy landscaping.

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

The following spoke in opposition to this case:

Richard Conway, 1224 1st Street South, Jacksonville Beach, FL
Wade Grimes, 1113 1st Street North, Jacksonville Beach, FL
Lee Buck, 136 17th Avenue North, Jacksonville Beach, FL

The following spoke in favor of this case:

Scott Gay, 3948 3rd Street South #291, Jacksonville Beach, FL

Mr. Hall stated there was a letter submitted in opposition to this case from James Bruski, 1125 1st Street North, Jacksonville Beach, FL.

The Chairperson asked if anyone else wished to speak? Seeing no one, he closed the public hearing.

Discussion ensued noting that the proposed plan was an improvement to the property by decreasing the number of units and enhancing the landscaping with more green space.

Roll call vote: Ayes – Hall, Jolley, McGill, Moreland. Nays - Sellers. Motion approved with a 4 to 1 vote.

Case: BOA #05-100099

Location: Lot 6, Block 24, Atlantic Park; 334 2nd Avenue North

Applicant: Troy Hobbs

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 3 parking spaces in lieu of 4 spaces required, for 0 feet in lieu of 5 feet minimum parking area set back and for no

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turning/maneuvering space adjacent to handicap parking; to allow for a 1296 square feet addition to a (1/300 requirement) professional and business office.

The applicant stated that his tenants are outgrowing the existing office spaces and he wants to expand both the first and second floors. Mr. Hobbs stated that most of the tenants and their customers park in the neighboring businesses' lots and along 4th Street. He stated he wants to put the handicap parking in the rear instead of the front of the building to avoid backing out into the right-of-way.

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

The following spoke in opposition of the case:

John Tipton, 503 6th Street North, Jacksonville Beach, FL

The Chairperson asked if anyone else wished to speak? Seeing no one, he closed the public hearing.

Discussion ensued and the consensus of the Board was that elimination of parking might not be in the best interest of this area.

Roll call vote: Nays – Hall, Jolley, McGill, Moreland, Sellers. The motion was denied unanimously.

Case: BOA #05-100100

Location: Lot 50, Plantation Oaks; 1381 Plantation Oaks Drive South

Applicants: Scott & Jodi Snyder

Motion: It was moved by Mr. Hall, 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 they want to build a detached room addition in the rear yard. This would be used as a guest house/office. Mr. Snyder stated they are expecting their second child late summer and they need to make room for the baby's nursery. Mrs. Snyder currently works from home and would be moving her office to this room addition.

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

The following spoke in favor of the case:

Bob Gray, project architect, 13759 Deer Chase Place, Jacksonville, FL

The following people spoke in opposition of the case:

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Joseph Largo, 1362 Ashley Oaks Drive, Jacksonville Beach, FL
Alan M, 1386 Ashley Oaks Drive, Jacksonville Beach, FL
Jeff , 1361 Ashley Oaks Drive, Jacksonville Beach, FL
Terry , 1325 Plantation Oaks Drive South, Jacksonville Beach, FL
Theresa M, 1386 Ashley Oaks Drive, Jacksonville Beach, FL

The Chairperson asked if anyone else wished to speak? Seeing no one, he closed the public hearing.

Discussion ensued and the consensus of the Board was that there was no real hardship presented.

Roll call vote: Nays – Jolley, McGill, Moreland, Sellers, Hall. The motion was denied unanimously.

Case: BOA #05-100101

Location: Lot 1, Block 21, Ocean Forest Unit 9; 3 Palmwood Court

Applicant: E. Bland Cologne

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a side yard of 7.5 feet in lieu of 10 feet required; to allow for an addition to a single family dwelling.

The applicant stated that he wants to build an addition for a family room at the rear of the existing house. Mr. Cologne deferred to his architect, Bob Gray.

Bob Gray, 13759 Deer Chase Place, Jacksonville, FL, took the floor to address the Board. Mr. Gray stated the plan is to follow the roof line and add a family room off the kitchen area and the existing screened porch area. Mr. Gray stated the configuration of the lot creates a hardship.

Mr. McGill 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 of the case:

Jerry Nicholson, 1723 Tanglewood Road, Jacksonville Beach, FL
Dave Sullivan, 7 Palmwood Court, Jacksonville Beach, FL

The Chairperson asked if anyone else wished to speak? Seeing no one, he closed the public hearing.

Mr. Moreland amended the motion to approve *as presented* for a request for a side yard of 7.5 feet in lieu of 10 feet required; to allow for an addition to a single family dwelling. Mr. Jolley seconded the amended motion.

Roll call vote: Ayes – McGill, Moreland, Sellers, Hall, Jolley. The amended motion was approved unanimously.

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Case: BOA #05-100102

Location: Lot 5, Block 6, Atlantic Shores Division "C"; 23 30th Avenue South

Applicant: Keystone Development Group LLC

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 9.6 feet in lieu of 25 feet required, for a side yard of 6.2 feet and a corner side yard of 9.7 feet in lieu of 10 feet required, for a rear yard of 15 feet in lieu of 30 feet required and for 59% lot coverage in lieu of 35% maximum; to allow for a substantial improvement to a single family dwelling.

The applicant stated that the hardship is that this is an existing 3,298 sq.ft. lot in RS-1 zoning which now requires 10,000 sq.ft. lot size. Mr. Warnock stated that the plan for this house is to maintain the existing first floor, modify the second floor, and add a third story, not changing the existing footprint. Also it is planned to remove the concrete surfaces and replace with pavers.

Mr. McGill 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 of the case:

Beth Riggsbee, 23 30th Avenue South, Jacksonville Beach, FL

Charles Davis, 112 30th Avenue South, Jacksonville Beach, FL

Dan Almeleh, , Jacksonville Beach, FL

Allen Cunningham, 3001 1st Street South, Jacksonville Beach, FL

Sal Peno, 15 30th Avenue South, Jacksonville Beach, FL

Steve William, 3731 Duval Drive, Jacksonville Beach, FL

Mr. Williams submitted a signed petition in favor of this case listing three names and addresses of neighboring residents.

The following people spoke in opposition of the case:

Scott Chesnut, 224 2nd Avenue South, Jacksonville Beach, FL

Wendell Fenner, 420 Lower 8th Avenue South, Jacksonville Beach, FL

The Chairperson asked if anyone else wished to speak? Seeing no one, he closed the public hearing.

Discussion ensued noting the small lot size being a hardship, engineer's report as to soundness of existing structure and addition of second and third floors still pending, possibility of substantial improvements to a non-conforming structure exceeding the allowable limits.

Mr. Hall amended the motion to approve *using the existing footprint as per the plans presented* for a request for a front yard of 9.6 feet in lieu of 25 feet required, for a side yard of 6.2 feet and a corner side yard of 9.7 feet in lieu of 10 feet required, for a rear yard of 15 feet in lieu of 30 feet required and for 59% lot coverage in lieu of 35% maximum; to allow for a substantial improvement to a single family dwelling. Mr. Moreland seconded the amended motion.

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Roll call vote: Ayes – Moreland, Sellers, Hall, Jolley, McGill. The amended motion was approved unanimously.

Case: BOA #05-100103

Location: Lots 18 & 19, Jax Beach Terrace; 1809 North 2nd Street

Applicant: Jaxcornerstone Partners LLC

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 17.5 feet in lieu of 20 feet required, for side yards of 7.5 feet in lieu of 10 feet required and for a rear yard of 24 feet in lieu of 30 feet required; to allow for a new multi-family dwelling.

The applicant stated that he has amended his plans and submitted, to the Board and for the record, revised drawings. Mr. Birdsong stated that originally it was planned to construct a four unit, three floor, multi-family structure. The request has been changed to allow for a three unit, three floor, multi-family structure, each unit with a two-car garage and with two additional parking spaces.

Discussion ensued about the changes to the plans and to the variance request. It is less that what was advertised so the Board can continue with an amended motion.

An amended motion was made by Mr. Hall, seconded by Mr. Jolley, to approve a request for side yards of 8.6 feet in lieu of 10 feet required; for a rear yard of 24 feet in lieu of 30 feet required; to allow for a new multi-family dwelling.

Mr. Birdsong stated that the variance will allow the garages and additional parking for the three units as there is no on-street parking.

Mr. McGill 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 of the case:

Bob Gray, 13759 Deer Chase Place, Jacksonville, FL

Lee Buck, 136 17th Avenue North, Jacksonville Beach, FL

Joe Lewis, 1020 Girvin Road, Jacksonville, FL

The Chairperson asked if anyone else wished to speak? Seeing no one, he closed the public hearing.

Mr. Hall stated there was correspondence submitted in opposition to this case from Cora Wood, 1717C 2nd Street North, and Anita Osborn, 118 17th Avenue North, Jacksonville Beach, FL.

Discussion ensued about adding language to the amended motion to include ‘as plans submitted’.

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An amended motion was made by Mr. Hall, seconded by Mr. Moreland, to approve a request for side yards of 8.6 feet in lieu of 10 feet required; for a rear yard of 24 feet in lieu of 30 feet required; to allow for a new multi-family dwelling *as per plans submitted for three units*.

Roll call vote: Ayes – Sellers, Hall, Jolley, McGill, Moreland. The amended motion was approved unanimously.

Adjournment

There being no further business coming before the Board, Mr. McGill adjourned the meeting at 10:15 P.M.

Chairman

/njp