

**Minutes of Board of Adjustment Meeting
Held Tuesday, May 17, 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*) (*absent*)
John Moreland (*absent*)

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

Jon Hays, Building Official, was also present.

Mr. Hartkemeyer advised the audience that because there were only four board members present, it would require at least three votes to approve a variance. He stated that if anyone with a variance request on tonight's agenda would like to carry over their case until the next meeting, when there would be full Board representation, they could do so at this time. Seeing no one, he continued with the meeting.

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

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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

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. Sellers advised that he spoke with Kent Arceneaux concerning BOA 05-100108.

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 #05-100108

Location: Lot 43, Seabreeze Woods; 105 Trudee Dee Lane

Applicant: Kent Arceneaux

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 21 feet in lieu of 25 feet and for 42% lot coverage in lieu of 41%; to allow for improvements to an existing single family dwelling.

The applicant stated that they wish to add a new master bedroom and bath on top of the existing garage and a covered front porch onto the front of the existing dwelling.

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

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The following people spoke in favor:

Leslie Jurs, 108 Rita Rae Lane, Jacksonville Beach
Brian McInerney, 1830 Tanglewood Road, Jacksonville Beach

Mr. Hall presented letters from Wayne Carlisle, 101 Trudee Dee Lane, and David E. Harrell, Jr., 109 Trudee Dee Lane, in favor of the request.

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

Mr. Jolley made a substitute motion, which was seconded by Mr. Sellers, to approve a request for a front yard of 21 feet in lieu of 25 feet, for 42% lot coverage in lieu of 41%, and for the structure to remain open and as presented.

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

Case: BOA #05-100111

Location: Lot 12, Block 6, Atlantic Shores; 3014 1st Street South

Applicants: Linda & Chris Felker

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a corner side yard of 9.9 feet in lieu of 16 feet required, for a rear yard of 11.5 feet in lieu of 30 feet required and for 43% lot coverage in lieu of 35% maximum; to allow for substantial improvements to a single family dwelling.

The applicant stated that they wish to add a 2nd story to the dwelling as well as a front porch with a covered entry. He advised that they are requesting the variance because the lot is oddly shaped.

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.

The Board held a brief discussion concerning the fact that, although the front yard is technically on 32nd Street, the actual entryway is on 1st Street; and the house would extend farther into 1st Street than the majority of the surrounding buildings.

Roll call vote: Yes – Jolley and Hall. Nays – Hartkemeyer and Sellers. Motion was denied by a vote of 2 to 2.

Case: BOA #05-100112

Location: Lot 35, Block 22, R/P Unit 1, Atlantic Shores; 2902 Madrid Street

Applicant: Joseph S. Cronk

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Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 21.33 feet in lieu of 25 feet required, for 46% lot coverage in lieu of 35% maximum and for a parking area set back of 2 feet in lieu of 5 feet minimum; to allow for a new single family dwelling.

The applicant stated that they have reconfigured the layout and eliminated the need for side yard variances. He advised that the lot is substandard in size.

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 opposition:

Georgia O'Daniel, 2753 Madrid Street, Jacksonville Beach
Joseph Burns, 2907 Madrid Street, Jacksonville Beach

Mr. Burns presented a letter from Susan and Barry Robertson, 2908 Madrid Street, in opposition.

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

There followed a discussion concerning the fact that, traditionally, the Board has not been eager to grant front yard setbacks because of the site line of the neighboring property.

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

Case: BOA #05-100113

Location: Lot 36, Block 22, R/P Unit 1 Atlantic Shores; 2906 Madrid Street

Applicant: Joseph S. Cronk

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 21.33 feet in lieu of 25 feet required, for 48% lot coverage in lieu of 35% maximum and for a parking area set back of 2 feet in lieu of 5 feet minimum; to allow for a new single family dwelling.

The applicant stated again that they have reconfigured the layout and eliminated the need for side yard variances. He advised that the lot is substandard in size.

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 opposition:

Joseph Burns, 2907 Madrid Street, Jacksonville Beach
Georgia O'Daniel, 2753 Madrid Street, Jacksonville Beach

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

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The Board briefly discussed granting front yard variances for new development.

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

Case: BOA #05-100114

Location: Lot 6, Block 8, Ocean Terrace; 3840 Tropical Terrace

Applicant: Edge Water Companies

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a southerly side yard of 6 feet in lieu of 10 feet required and for 40% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

The applicant stated that he is requesting the variance because the property is zoned RS-1, which requires a minimum area of 10,000 sq. ft. and the width of the lot at the street must be at least 90 feet. The lot is 6,650 sq. ft. in area and the width is 50 feet, which makes it non-conforming in size.

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

Gino Cannon, 3818 Tropical Terrace, Jacksonville Beach, spoke in favor.

The following people spoke in opposition:

Neil Barbour, 3916 Poinciana, Jacksonville Beach

James Johnson, 3892 Tropical Terrace, Jacksonville Beach

Nancy Sabbag, 3836 Tropical Terrace, Jacksonville Beach

Donna Wheeler, 3861 Tropical Terrace, Jacksonville Beach

Mr. Hall presented a letter from Amos Gailey, 3817 Tropical Terrace, Jacksonville Beach, in favor.

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

Mr. Jolley made a substitute motion, which was seconded by Mr. Hall, to approve a request for a southerly side yard of 7.5 ft in lieu of 10 ft required and for 40% lot coverage in lieu of 35% maximum.

Roll call vote: Ayes – Hall, Hartkemeyer and Jolley. Nays – Sellers. Motion carried by a vote of 3 to 1.

Case: BOA #05-100115

Location: Lot 5, Block 8, Ocean Terrace; 3842 Tropical Terrace

Applicant: Edge Water Companies

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Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a northerly side yard of 9 feet and a southerly side yard of 6 feet in lieu of 10 feet required and for 40% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

The applicant stated that he is requesting the variance because the property is zoned RS-1, which requires a minimum area of 10,000 sq. ft. and the width of the lot at the street must be at least 90 feet. The lot is 6,650 sq. ft. in area and the width is 50 feet, which makes it non-conforming in size.

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

Gino Cannon, 3818 Tropical Terrace, Jacksonville Beach, spoke in favor.

The following people spoke in opposition:

Neil Barbour, 3916 Poinciana, Jacksonville Beach
James Johnson, 3892 Tropical Terrace, Jacksonville Beach
Donna Wheeler, 3860 Tropical Terrace, Jacksonville Beach

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

Mr. Hall made a substitute motion, which was seconded by Mr. Jolley, to approve a request for a northerly side yard of 9 feet and a southerly side yard of 7.5 feet in lieu of 10 feet required, and for 40% lot coverage in lieu of 35% maximum.

Roll call vote: Ayes – Hartkemeyer, Jolley and Hall. Nays – Sellers. Motion carried by a vote of 3 to 1.

Adjournment

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 8:47 P.M.

Chairman

/lmw