

**Minutes of Board of Adjustment Meeting
Held Wednesday, July 6, 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

Charlie Sellers, Alternate (*absent*)
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.”

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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 that they had no ex-parte communications.

Approval of Minutes

It was moved by Mr. Jolley, seconded by Mr. Moreland, and passed, to approve the Minutes of the June 21, 2005, and the June 22, 2005, meetings as presented.

Correspondence

There was no correspondence.

Old Business

There was no old business.

New Business

Case: BOA #05-100135

Location: Lot 1, and the S 13.2 ft of Lot 2, Block 2, together with the E 20 ft of South 1st Street (now closed) lying westerly and adjacent thereof; Atlantic Shores Division “A”; 63 South 37th Avenue

Applicant: Jo Dee Evans

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a corner side yard of 8.5 feet in lieu of 10 feet required, for a rear yard of 7 feet in lieu of 30 feet required and for 49% lot coverage in lieu of 35% maximum; to allow for additions to an existing nonconforming single-family structure.

The applicant stated that her house was built before the current guidelines were in place and it does not meet any of the setback or lot coverage requirements that exist today. She advised that she wishes to increase the size of the garage to accommodate 2 vehicles and the additional space in the house would allow her to move the washer, dryer and hot water heater inside. Ms. Evans also presented a petition signed by 18 neighbors in favor of the request.

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.

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Mr. Moreland made a substitute motion, which was seconded by Mr. Jolley, to approve a request for a corner side yard of 8.5 feet in lieu of 10 feet required, for a rear yard of 7 feet in lieu of 30 feet required and for 44% lot coverage in lieu of 35% maximum.

After a brief discussion concerning the amount of lot coverage, Mr. Moreland amended the motion, which was seconded by Mr. Jolley, to approve a request for a corner side yard of 8.5 feet in lieu of 10 feet required, for a rear yard of 7 feet in lieu of 30 feet required and for 46% lot coverage in lieu of 35% maximum.

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

Case: BOA #05-100146

Location: Lot 10, Block 12, Jax Beach Heights; 3272 Pullian Court

Applicants: Allied Restoration Corporation

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 40% lot coverage in lieu of 35% maximum; to allow for a new single-family dwelling.

Douglas Othmer, agent for the applicant, stated that they are requesting the variance because the lot is only 6,000 sq. ft and the RS-1 zoning calls for 7,500 sq. ft.

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.

There followed a lengthy discussion concerning the Board's reluctance to grant a variance on vacant land.

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

Case: BOA #05-100147

Location: Lot 13, Block 13, Jax Beach Heights; 3122 Horn Court

Applicant: Allied Restoration Corporation

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 40% lot coverage in lieu of 35% maximum; to allow for a new single-family dwelling.

Mr. Othmer left the meeting following the disposition of the previous case.

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

Lance Folsom, 1022 No. 23rd Street, Jacksonville Beach, spoke in opposition.

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

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

Case: BOA #05-100148

Location: Lot 9, Block 12, Jax Beach Heights; 3244 Pullian Court

Applicant: Allied Restoration Corporation

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 40% lot coverage in lieu of 35% maximum; to allow for a new single-family dwelling.

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

Mike Hanna, 134 36th Avenue South, Jacksonville Beach, spoke in favor.

Lance Folsom, 1022 North 23rd Street, Jacksonville Beach, spoke in opposition.

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

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

Case: BOA #05-100149

Location: Lot 11, Block 12, Jax Beach Heights; 3180 Pullian Court

Applicant: Allied Restoration Corporation

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 40% lot coverage in lieu of 35% maximum; to allow for a new single-family dwelling.

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 – Hall. Nays – Hartkemeyer, Jolley and Moreland. Motion was denied by a vote of 3 to 1.

Case: BOA #05-100159

Location: Lot 9, Block 43, Pablo Beach South; 223 5th Avenue South

Applicants: Jack J. & Rania M. Gabriel

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for no parking in lieu of one space required to allow for the conversion of a single-family dwelling unit to ± 971 square foot commercial use.

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The applicant stated that they wish to convert the single-family dwelling on the southern side of the property from residential to commercial use. They are grandfathered in for 2 parking spaces, which they don't have, and are requesting that they be granted a variance for no parking for the additional space that would be required for a commercial use. In essence, they would have no parking spaces for this commercial use.

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 there is already a shortage of parking in Jacksonville Beach, and the advisability of granting a variance for no parking.

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

Case: BOA #05-100160

Location: Lot 6, Block 3, Atlantic Shores Division "A"; 122 36th Avenue South

Applicants: Ron & Misti Stephens

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a rear yard of 22 feet in lieu of 30 feet required and for 44% lot coverage in lieu of 35% maximum; to allow for a new single-family dwelling.

Bob Gray, architect for the project, stated that there is currently a single family home located on Lots 6 and 7 which will be torn down. This will leave 2 vacant lots and the applicants plan to build a single family home on each lot.

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:

Mike Hanna, 134 36th Avenue South, Jacksonville Beach
Misti Stephens, 3809 Deer Chase Place E., Jacksonville

The following people spoke in opposition:

Tom Mnich, 3618 South 1st Street, Jacksonville Beach
Dr. Daniel Broderick, 3618 South 1st Street
Lorraine Johnson, 115 36th Avenue South, Jacksonville Beach
James Johnson, 3892 Tropical Terrace, Jacksonville Beach

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

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The Board held another discussion concerning their reluctance to grant a variance for vacant land.

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

Case: BOA #05-100161

Location: Lot 7, Block 3, Atlantic Shores Division “A”; 128 36th Avenue South

Applicants: Ron & Misti Stephens

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for side yards of 9 feet each in lieu of 10 feet required, for a rear yard of 29 feet in lieu of 30 feet required and for 44% lot coverage in lieu of 35% maximum; to allow for a new single-family dwelling.

Bob Gray, Architect for the project, asked the Board to consider granting the lot coverage, even if they didn't approve the side and rear yard variance requests.

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

Mike Hanna, 134 36th Avenue South, Jacksonville Beach, spoke in favor.

The following people spoke in opposition:

Lorraine Johnson, 115 36th Avenue South, Jacksonville Beach

James Johnson, 3892 Tropical Terrace, Jacksonville Beach

Dr. Daniel Broderick, 3618 South 1st Street, Jacksonville Beach

Tom Mnich, 3618 South 1st Street, Jacksonville Beach

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

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

Adjournment

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 8:30 P.M.

Chairman

/lmw