

**Minutes of Board of Adjustment Meeting
Held Tuesday, July 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 (*absent*)
Terry McGill (*Vice Chairperson*) (*absent*)
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 Reasa Pabst regarding BOA #100172. The other Board members advised that they had no ex-parte communications.

Approval of Minutes

It was moved by Mr. Moreland, seconded by Mr. Hall, and passed, to approve the Minutes of the July 6, 2005, meeting as presented.

Correspondence

The correspondence pertained to an item on the agenda and was read when that item was presented.

Old Business

Case: BOA #05-100134

Location: N ½ of Lot 1, Block 43, Cooks R/P; 422 2nd Street North

Applicant: Ramin Partow

Motion: It was moved by Mr. Hall, seconded by Mr. Moreland, to approve a request for a corner side yard of 10 feet in lieu of 20 feet required, for a 10 foot rear yard in lieu of 30 feet required and for 68% lot coverage in lieu of 65% maximum; to allow for construction of a new multi-family residential development.

The applicant stated that he wishes to build 14 three-story units with two-car parking garages. He advised that two of the units would have a small office space attached.

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 of the request:

Steve Proctor, 2312 Pine Island Court, Jacksonville
John Atkins, 112A 7th Avenue South, Jacksonville Beach
Scott Gay, 172 San Juan Drive, Ponte Vedra
Barry Kosrozadeh, 500 South 3rd Street, Jacksonville Beach

Mr. Partow presented a petition signed by 36 neighbors in favor of the request.

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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, Hartkemeyer, Sellers and Gilliom. Nays – Moreland. Motion carried by a vote of 4 to 1.

New Business

Case: BOA #05-100170

Location: Lot 88 together with the E 50 ft of Lots 89 & 90, Flagler Tract; 129 North 11th Avenue
Applicant: Barry Kosrozadeh

Motion: It was moved by Mr. Hall, seconded by Mr. Moreland, to approve a request for a westerly side yard of 6 feet in lieu of 10 feet required and for a rear yard of 20 feet in lieu of 30 feet required; to allow for a new multi-family dwelling.

Mr. Hall presented a letter from the applicant requesting that this case be carried over to the August 2, 2005, meeting.

It was moved by Mr. Hall, seconded by Mr. Moreland, and passed, to carry this item over to the next meeting.

Case: BOA #05-100171

Location: Lot 17, Block 4, Sea Side Park; 1637 South 7th Street
Applicants: Mike Hanna

Motion: It was moved by Mr. Hall, seconded by Mr. Moreland, to approve a request for a rear yard of 18 feet in lieu of 30 feet required and for 46% 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 lot is substandard in size for the RS-2 zoning requirements. He advised that he wishes to build a single family home with two detached one car garages. One of the garages will have a second story to be used as a mother-in-law suite and there will be a wooden bridge linking that garage to the main house. There would also be a swimming pool located between the house and the garages. He went on to explain that there is a 12 foot alleyway in the rear of the property that the City abandoned. When that happens, the property owners on either side of the alley are entitled to split that 12 feet, which would give the applicant an additional 6 feet in the rear of his property.

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

Scott Hardy, 1620 6th Street South, Jacksonville Beach, spoke in favor of the request.

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Mr. Hanna presented a petition signed by 7 neighbors in favor.

Wendy Barkoski, 1593 South 6th Street, Jacksonville Beach, spoke in opposition.

Mr. Hall presented 2 letters in opposition to the request.

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

Mr. Hays advised the Board that when you factor in the additional 6 feet of property in the rear, it changes the lot coverage requested from 46% to 42.7%.

Mr. Hall made a substitute motion, which was seconded by Ms. Gilliom, to approve a request for a rear yard of 24 feet in lieu of 30 feet required and for 42.7% lot coverage in lieu of 35% maximum.

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

Case: BOA #05-100172

Location: Lot 1, Block 64, R/P Pt Pablo Beach North; 640 North 3rd Street

Applicant: Reasa Pabst

Motion: It was moved by Mr. Hall, seconded by Mr. Moreland, to approve a request for 0 additional parking spaces in lieu of 6 parking spaces (1/300) required for an 1800 square foot second floor addition to an existing commercial building.

The applicant stated that she has purchased this property with the idea of moving her printing business there. She wishes to add a second story over a portion of the building to be used for office space for her and her 3 employees.

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 of the request:

Jud Spence, 617 5th Street North, Jacksonville Beach

John Atkins, 112A 7th Avenue South, Jacksonville Beach

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

Mr. Hartkemeyer asked if, in the event that the applicant moved out, the parking variance would stand for any other business that might locate there? Mr. Hays responded that it would apply for any business that fell into the same usage category. The exception would be a higher usage such as a restaurant which would call for more parking spaces and would require another variance.

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

Case: BOA #05-100173

Location: Lot 2, Block 2, Palm Courts; 1013 North 6th Avenue

Applicant: Barry J. Nemeth, Jr.

Motion: It was moved by Mr. Hall, seconded by Mr. Moreland, to approve a request for a front yard of 22.75 feet in lieu of 25 feet required, for an easterly side yard of 7 feet in lieu of 10 feet required and for 47% lot coverage in lieu of 35% maximum; to allow for improvements to a single family dwelling.

The applicant stated that they wish to turn the existing one-car garage into an office and build a new two-car garage onto the front of the house and add an enclosed porch and a new master bedroom onto the rear. He advised that they are requesting the variance because the lot is non-conforming in size. He also stated that there is a slate walkway which he plans to remove and that would reduce the lot coverage.

Mr. Hays advised that if they remove the walkway, it would reduce the lot coverage to 43%.

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. Hall made a substitute motion, which was seconded by Ms. Gilliom, to approve a request for a front yard of 22.75 feet in lieu of 25 ft required, for an easterly side yard of 7 feet in lieu of 10 feet required and for 43% lot coverage in lieu of 35% maximum.

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

Case: BOA #05-100175

Location: The S 90 ft of Lot 7, Block 72, Pablo Beach South; 131 South 8th Avenue

Applicant: Ramon Castello & Pilar Escuder

Motion: It was moved by Mr. Hall, seconded by Ms. Gilliom, to approve a request for a front yard of 15 feet in lieu of 20 feet required, for side yards of 7 feet in lieu of 10 feet required, for a rear yard of 20 feet in lieu of 30 feet required and for 55% lot coverage in lieu of 35% maximum; to allow for a new two-family dwelling.

John Atkins, agent for the applicant, stated that they wish to build a duplex with two-car garages. There are currently two buildings on the property, which will be removed. He advised that they are requesting the variance because 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?

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The following people spoke in favor of the request:

Michael Meyer – the landowner
Jeannie Thomas, 185 8th Avenue South, Jacksonville Beach
Scott Gay, 172 San Juan Avenue, Ponte Vedra

Steve Reedberry, owner of property at 753 & 757 South 2nd Street, Jacksonville Beach, spoke in opposition.

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

Mr. Hartkemeyer asked what the current lot coverage is and Mr. Hays responded that the lot coverage is now at 85.4%.

There followed a brief discussion concerning the hardship being monetary in nature and the reluctance to issue a variance for vacant land.

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

Case: BOA #05-100177

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

Applicants: Mitch Brown

Motion: It was moved by Mr. Hall, seconded by Ms. Gilliom, to approve a request for side yards and a corner side yard on Lot 6 of 7 feet in lieu of 8 feet and 10 feet corner side yard required; to allow for new two family dwellings on each of Lots 4, 5 and 6.

Tim Franklin, agent for the applicant, requested that this case be carried over to allow it to be advertised again because he made an error in the variance application.

Adjournment

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 9:00 P.M.

Chairman

/lmw