

**Minutes of Board of Adjustment Meeting
Held Tuesday, August 16, 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
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.”

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

Approval of Minutes

It was moved by Mr. Moreland, seconded by Mr. Jolley, and passed, to approve the Minutes of the August 2, 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 #05-100177

Location: Lots 4, 5 & 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 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, stated that they wish to build a duplex with 2 car garages on each of the 3 lots. He also advised that they would like to amend their request to have a corner side yard of 8 feet in lieu of 10 feet required on lot 6 and that they are requesting the variance because the lots are smaller than the normal for RS-3 zoning. He also stated that the new buildings would result in a 1.5% reduction in lot coverage.

It was moved by Mr. Hall, seconded by Mr. Sellers, to approve a request for a corner side yard of 8 feet in lieu of 10 feet required on lot 6.

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

Kathleen DeGuzman, 624 7th Avenue South, Jacksonville Beach, spoke in opposition.

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

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

Case: BOA #05-100189

Location: Lot 4, Block 1, The Gates of Ponte Vedra Unit 1; 191 Bermuda Place

Applicant: Kathleen Braddock

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 44% lot coverage in lieu of 35% maximum; to allow for a swimming pool addition.

Mr. Hall presented a letter from the applicant requesting that this case be carried over to the September 20, 2005 meeting.

It was moved by Mr. Hall, seconded by Mr. Moreland, to carry this item over to the September 20, 2005, meeting.

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

New Business

Case: BOA #05-100191

Location: Lot 12, Block 13, Jax Beach Heights; 3154 Horn Court

Applicants: Paul W. Nichols

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 45% 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 non-conforming in size. He advised that he has received many similar variances in the past for lots in this area and he distributed a list of those addresses. He also stated that he would be adhering to the setback requirements.

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 brief discussion concerning the advisability of granting variances on vacant land.

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

Case: BOA #05-100192

Location: Lot 2, Block 11, Jax Beach Heights; 3113 Pullian Court

Applicant: Paul Nichols

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Motion: It was moved by Mr. Hall, 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 requesting this variance because the lot is also non-conforming in size. He also stated that he would be adhering to the setback requirements.

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 40% lot coverage in lieu of 35% maximum. Motion died from lack of a second.

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

Case: BOA #05-100201

Location: Lot 6, E ½ of Lot 7, Block 6, R/P Atlantic Shores Div. “C”; 15 30th Avenue South

Applicant: Michael Hanna

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 25 feet required, for an easterly side yard of 5 feet in lieu of 10 feet required, for a rear yard of 10 feet in lieu of 30 feet required and for 55% 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 only 64.89 feet deep, which is substandard in size. He wishes to build a 3 story structure, which will adhere to the 35 foot height requirement.

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

Debi Cunningham, 3001 South 1st Street, Jacksonville Beach, spoke in favor.

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

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

Case: BOA #05-100202

Location: S 41 feet of Lots 11 & 12, Block 112, Pablo Beach South; 1132 1st Street South

Applicant: H. Wayne & Deborah C. Oatman

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Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a side yard and corner side yard of 5 feet in lieu of 10 feet required, for 1 parking space per dwelling unit in lieu of 2 parking spaces per dwelling unit required and for 42% lot coverage in lieu of 35% maximum; to allow for a new two family dwelling.

The applicant stated that they are requesting the variance because the lot is only 41 feet by 100 feet, which is substandard in size. They wish to demolish the existing building and replace it with a duplex. He distributed pictures of the existing structure.

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

Bob Pennington, 1034 11th Avenue North, Jacksonville Beach, spoke in favor.

William Black, 1122 ½ South 1st Street, Jacksonville Beach, spoke in opposition.

Mr. Hall presented 2 letters in favor and 1 letter in opposition to the request.

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

Mr. Sellers made a substitute motion, which was seconded by Mr. Hall, to approve a request for a side yard and corner side yard of 5 feet in lieu of 10 feet required and for 42% lot coverage in lieu of 35% maximum.

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

Case: BOA #05-100203

Location: Lot 15, Block 4, Hannah Terrace; 12 Sandra Drive

Applicant: Dallas C. Nelson

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 14 feet total for both side yards in lieu of 15 feet required and for 39% lot coverage in lieu of 35% maximum; to allow for improvements to a single family dwelling.

The applicant stated that he wishes to remove the small shed and the concrete slab in the rear of the property and build a new master suite and a swimming pool.

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 – Hartkemeyer, Jolley, Moreland, Sellers and Hall. Motion carried unanimously.

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Adjournment

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 9:02 P.M.

/lmw

Chairman