

**Minutes of Board of Adjustment Meeting  
Held Tuesday, September 20, 2005, at 7:00 P.M.  
in the Council Chambers, 11 North 3<sup>rd</sup> 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*)  
John Moreland

Charlie Sellers, Alternate  
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.”

Mr. Hartkemeyer advised that he spoke with William Goodling concerning BOA #05-100207. The other Board members advised that they had no ex-parte communications.

### **Approval of Minutes**

It was moved by Mr. McGill, seconded by Mr. Hall, and passed, to approve the Minutes of the September 7, 2005, meeting as presented.

### **Correspondence**

There was no correspondence.

### **Old Business**

**Case: BOA #05-100207**

**Location: Lot 2, Block 116, Oceanside Park; 500 South 11<sup>th</sup> Avenue**

**Applicant: Chris Lambertson**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Hall, to approve a request for a corner side yard of 5 feet in lieu of 10 feet required and for 53% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

Tim Franklin, representing the applicant, stated that they have reconfigured the plans and the lot coverage request should be for 49.8% in lieu of 35% maximum. He advised that the corner side yard is on 5<sup>th</sup> Street which is a closed street and will provide a buffer to the east and the westerly sideyard would be the required 10 feet.

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:

Brian Vonn, 512 11<sup>th</sup> Avenue South, Jacksonville Beach  
Scott Jacobs, 490 11<sup>th</sup> Avenue South, Jacksonville Beach  
Tony Komarek, 533 11<sup>th</sup> Avenue South, Jacksonville Beach  
Chris Lambertson, 2038 Ocean Boulevard, Atlantic Beach

William Goodling, 516 11<sup>th</sup> Avenue South, spoke in opposition.

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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. McGill, to approve a request for a corner side yard of 5 feet in lieu of 10 feet required and for 44% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

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

**Case: BOA #05-100221**

**Location: Lot 1, Block 64, Pablo Creek; 640 North 3<sup>rd</sup> Street**

**Applicant: Reasa Pabst (A1A Surfside Printing)**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Hall, to approve a request for 0 additional parking spaces in lieu of 4 parking spaces required; to allow for a 1200 square feet business office addition.

The applicant stated that she wishes to build a second floor addition to the original structure. The extra 1200 square feet of space would require 4 more parking spaces. She currently has 6 spaces and 4 employees. She advised that the type of business she runs does not require any more parking than is currently there because she does not have much drive up trade.

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. Moreland made a substitute motion, which was seconded by Mr. Hall, to add the wording “for the exclusive purpose of the proposed printing business”.

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

**Case: BOA #05-100226**

**Location: Lot 7, Block 58, Oceanside Park; 737 6<sup>th</sup> Avenue South**

**Applicant: Chris Lambertson (Elite Homes, Inc.)**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Hall, to approve a request for 48% lot coverage in lieu of 35% maximum; to allow for a new two-family dwelling.

Tim Franklin, representing the applicant, stated that the applicant wishes to build a duplex on the property. He advised that the applicant would be able to stay within the setbacks, but needs the lot coverage for the driveways, patios, sidewalks and A/C pads.

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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Chris Lambertson, 2038 Ocean Boulevard, Atlantic Beach, spoke in favor.

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

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

**Case: BOA #05-100189**

**Location: Lot 4, Block 1, Ponte Vedra Unit 1; 191 Bermuda Place**

**Applicants: Kathleen Braddock**

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

The applicant was not present and it was moved by Mr. McGill, seconded by Mr. Hall, and passed, to carry this item over to the October 4, 2005, meeting.

**New Business:**

**Case: BOA #05-100239**

**Location: Lot 3, Block 12, Jax Beach Heights; 3145 Horn Court**

**Applicant: Paul Nichols**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Hall, to approve a request for 46% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

Tim Franklin, representing the applicant, stated that he is requesting the variance because the lot is non-conforming in size. He advised that the applicant doesn't need help with the setbacks, only the lot coverage.

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

Tony Komarek, 533 11<sup>th</sup> Avenue South, Jacksonville Beach, spoke in opposition.

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. McGill, to approve a request for 44% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

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

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**Case: BOA #05-100241**

**Location: Lot 15, the E 32 ft of Lots 13 & 14 and the S 25 ft of the E 32 ft of Lot 12, Block 4, R/P Atlantic Shores Div. "A"; 139 36th Avenue South**

**Applicant: Steven Ruben & Glenn Katz**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Hall, to approve a request for an easterly side yard of 7.1 feet, for a westerly side yard of 6.5 feet in lieu of 10 feet required and for 39% lot coverage in lieu of 35% maximum; to allow for substantial improvements to a single family dwelling.

The applicant stated that they are completely updating a 50 year old house and are unable to meet the side setbacks without tearing out the walls. He advised that they are using the existing footprint of the house where possible.

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

James Johnson, 3892 Tropical Terrace, Jacksonville Beach, spoke in opposition.

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

It was moved by Mr. Moreland, seconded by Mr. McGill, to amend the motion to include "as submitted".

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

**Case: BOA #05-100220**

**Location: Lot 4, Block 62, Pablo Beach South; 603 South 2<sup>nd</sup> Street**

**Applicant: J. R. Rushing**

**Motion:** It was moved by Mr. McGill, seconded by Mr. Hall, to approve a request for a front yard of 9.2 feet in lieu of 20 feet required, for a southerly side yard of 7.1 feet in lieu of 10 feet required, for a corner side yard of 9.8 feet in lieu of 20 feet required and for a rear yard of 6.9 feet in lieu of 30 feet required; to allow for a second story addition to a multi-family structure.

The applicant stated that this apartment building is in bad condition and he wishes to renovate it and add a second story. He advised that he intends to use the same footprint and reduce the number of units to seven.

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. Sellers amended the motion, which was seconded by Mr. McGill, to condition the request to seven units as written.

**Roll call vote:** Ayes – Hartkemeyer, McGill, 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 9:46 P.M.

/lmw

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Chairman