

**Minutes of Board of Adjustment Meeting
Held Tuesday, October 18, 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*)
John Moreland

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

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

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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. Jolley advised that he spoke with several neighbors concerning BOA #05-100279 and 05-100280. The other Board members stated that they had no ex-parte communications.

Approval of Minutes

It was moved by Mr. Jolley, seconded by Mr. Hall, and passed, to approve the Minutes of the October 4, 2005, meeting as presented.

Correspondence

There was no correspondence.

Old Business

There was no old business.

New Business:

Case: BOA #05-100274

Location: Lot 5, Block 1, Beach Homesites Unit 3; 1423 8th Street North

Applicant: James A. Kendrick

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

The applicant stated that he wished to add a swimming pool with decking in the back yard.

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, Hartkemeyer, Jolley, McGill and Moreland. Motion carried unanimously.

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Case: BOA #05-100276

Location: Part of Lots 1 & 2, Block 21, Atlantic Shores Unit 1 R/P; 259 32nd Avenue South

Applicant: Michael Quick

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for a front yard of 20 feet in lieu of 25 feet required, for a corner side yard of 7.5 feet in lieu of 12 feet required and for a rear yard of 24.67 feet in lieu of 30 feet required to allow for a new single family dwelling.

The applicant stated that the lot is not square and the corners extend into the setbacks.

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.

It was moved by Mr. McGill, seconded by Mr. Hall, to amend the motion to add the wording “as submitted”.

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

Case: BOA #05-100277

Location: Lot 14, Block 12, Jax Beach Heights; 3084 Pullian Court

Applicants: Paul W. Nichols

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for 46.3% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

Tim Franklin, agent for the applicant, stated that Mr. Nichols is building within the setbacks but, in order to build a marketable home, he requires the additional 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? Seeing no one, he closed the public hearing.

Following a brief discussion concerning the amount of lot coverage requested, 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.

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

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Case: BOA #05-100278

Location: Lot 1, Block 12, Jax Beach Heights; 3081 Horn Court

Applicant: Paul W. Nichols

Motion: It was moved by Mr. McGill, seconded by Mr. Hall, to approve a request for 46.3% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

Tim Franklin, agent for the applicant, stated again that the applicant is building within the setbacks but, in order to build a marketable home, he requires the additional 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? Seeing no one, he 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.

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

Case: BOA #05-100279

Location: Lot 3, Block 6, Atlantic Shores R/P Div. B; 3300 1st Street South

Applicants: Daniel & Lynnda Twehues

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for a rear yard of 20 feet in lieu of 30 feet required; to allow for a new single family dwelling.

The applicant stated that they wish to remove the existing house that is located on Lots 3 and 4 and replace it with a duplex on each lot. He advised that lot 3 is only 60 ft X 87.3 ft, which 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:

Tom Richardson, 39 33rd Avenue South, Jacksonville Beach

Chris Mickelson, 70 33rd Avenue South, Jacksonville Beach

Larry Stewart, 121 33rd Avenue South, Jacksonville Beach

Randy DeLoach, 59 34th Avenue South, Jacksonville Beach

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

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There followed a brief discussion concerning the fact that the other lots in the area are also small, but the owners were able to build on them without a variance.

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

Case: BOA #05-100280

Location: Lot 4, Block 6, Atlantic Shores R/P Div. B; 3300 1st Street South

Applicants: Daniel & Lynnda Twehues

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for a rear yard of 20 feet in lieu of 30 feet required; to allow for a new single family dwelling.

The applicant stated that this lot is only 65 ft X 86.7 ft, which is also 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?

Randy DeLoach, 59 34th Avenue South, spoke in opposition.

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

The Board again held a short discussion concerning the size of the lots.

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

Case: BOA #05-100281

Location: Lot 6, Block 32, Pablo Beach South; 129 4th Avenue South

Applicant: Jason Decker

Motion: It was moved by Mr. McGill, seconded by Mr. Jolley, to approve a request for a front yard of 4 feet in lieu of 20 feet required, for a westerly side yard of 3.1 feet in lieu of 6.8 feet required and for 57% lot coverage in lieu of 35% maximum; to allow for a single family dwelling.

The applicant stated that the original structure was built in 1922. They wish to lift the house, move it back 20 feet and build a concrete block first story below. They also plan to move the front porch north 1 foot to align it with the westerly neighbor's front porch.

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

Bill Wilson, 323 South 2nd Street, Jacksonville Beach, spoke in favor of the project.

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

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It was moved by Mr. Hall, seconded by Mr. Jolley, to amend to motion to include the wording “as submitted”.

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

Adjournment

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 8:54 P.M.

Chairman

/lmw