

**Minutes of Board of Adjustment Meeting
Held Tuesday, February 21, 2006, 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
John Loretta

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

Minutes of Board of Adjustment Meeting
held Tuesday, February 21, 2006

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.”

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

Approval of Minutes

It was moved by Mr. Moreland, seconded by Mr. Jolley, and passed, to table the minutes until the next meeting when all board members have had a chance to read the minutes.

Mr. Moreland also stated that he would like to receive the minutes prior to the board meeting.

Correspondence

Mr. Hall stated that there was no correspondence.

Old Business

None.

New Business:

Case: BOA #05-100385

Location: 2902 Madrid Street, Lot 35, Block 22, Atlantic Shores

Applicant: Jon Walker

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

Tim Franklin, 418 Seagate Avenue, appearing before the board on behalf of the applicant, stated that the lot size is only 5200 square feet. The proposed house will be two stories with a third story cantilever off the master bedroom, open air balcony; compatible with other homes in the South Beach PUD.

Minutes of Board of Adjustment Meeting
held Tuesday, February 21, 2006

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

Chris Lambertson, 2038 Beach Ave, stated that he had one correction; cantilever on the side will be a window seat. This property was drawn into the southbeach PUD, and has building restrictions. The southbeach village is 50% lot coverage, same architectural features, not a very big house, would be a great addition,

Jon Walker, 1923 Woodlink Drive, Orange Park, spoke in favor of the application.

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

There followed a brief discussion about the substandard size of the lot, thus creating a hardship for the property.

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

Case: BOA #06-100004

Location: 1103 Owen Avenue, Lots 10 and 11, Block 11, Williams Coastal Boulevard Heights

Applicant: Mr. and Mrs. Barry Scott Nicol

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 47% lot coverage in lieu of 35% maximum to allow for a swimming pool addition to a single-family dwelling.

Kerry Shown, 871 Sherry Drive, agent for Mr. And Mrs. Nicol's, believes it is consistent with other houses in the neighborhood; there is an existing screen porch and a concrete patio.

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 about the lot coverage.

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

Case: BOA #06-100005

Location: 408 7th South Avenue, Lot 2, Block 2, Oceanside Park

Applicant: Roger Van Dusen

Minutes of Board of Adjustment Meeting
held Tuesday, February 21, 2006

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 11 feet; in lieu of the required 20 feet; and for a rear yard of 19 feet in lieu of 30 feet required; and for 48% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

Roger Van Dusen, 131 32nd Avenue South, stated that he would like to build a “Key West” style house on the lot. The lot size is 50X100, which is very hard to build upon. Mr. Van Dusen submitted several attachments for the record.

Mr. Moreland asked about the location of the two-car garage.

Mr. Van Dusen stated that the garage would be located under the building.

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 stated that he believed that an amended motion needed to be made since the applicant wished to reduce the requested front yard setback from 11 feet to 14 feet in lieu of the 30 feet required, and also the lot from 48 % to 44%.

Amended Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 14 feet in lieu of 20 feet required, for a rear yard of 19 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.

There followed a brief discussion to add the following verbiage to the motion “as submitted and testified”.

Roll call vote on amended motion: Ayes - Hartkemeyer, Jolley, and McGill. Nays – Hall and Moreland. Motion carried 3 to 2.

Case # BOA 06-100006

Location: 3201 South Ocean Drive, Lot 8, Block 1, Atlantic Shores, Ocean Front Section, Division B.

Applicant: Norma and Ralph Badanowski

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 22.5 feet in lieu of 25 feet required and for a northerly side yard of 7.2 feet in lieu of 10 feet required to allow for a second story addition to a single family dwelling.

Ms. Badanowski explained her reasoning for the request, and that it was an additional story to an existing structure.

Minutes of Board of Adjustment Meeting
held Tuesday, February 21, 2006

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

Case # BOA 06-100007

Location: 74 Tallwood Road, Lot 9, Block 21, Ocean Forest, Unit 9

Applicant: John and Ambler Atchinson

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 23 feet in lieu of 25 feet required, and for a northerly side yard of 8 feet in lieu of 10 feet required, and for 39% lot coverage in lieu of 35% maximum, to allow for improvement to a single family dwelling.

Tim Franklin, 418 Seagate Avenue, spoke as authorized agent for the applicant.

The previous request for a variance was denied in December. Applicant has come back with a minimal variance that gets them what they need. Mr. Franklin explained that the garage is not of sufficient size; and that the variance will allow for a pool, which will be a therapeutic pool for rehabilitation purposes,

When the lot was platted, the original developer did minimum code requirements. A hardship is due to lot shape, and the placement of the building on the lot. The improvement can not go up due to economic hardships, and there is the need to do an inside pool. The best way to do improvement is to construct to the northern property line.

Mr. Franklin explained that the front yard is an architectural embellishment; looking at structure is in keeping with the other structures in the neighborhood, and the setback will help maintain that look. All of this is within in the 10 percent administrative variance – the lot coverage is at 38.5 percent in lieu of the 35% lot coverage,

There is a petition showing that the neighbors are happy with the proposed architectural designs.

Mr. Franklin stated that the redesign was done with minimal impact to neighboring properties.

Mr. Moreland asked if the proposal was to tear up a fair amount of driveway. Mr. Franklin stated yes, that this will be a drainage improvement. Mr. Franklin noted that the percent of lot coverage requested was being decreased from 42% to 39%.

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

Minutes of Board of Adjustment Meeting
held Tuesday, February 21, 2006

Ambler Atchinson, also the applicant, stated that they appreciated all of the suggestions that the Board has given in December, and that they have not impact as much of their backyard. Considerable modifications have been made.

Mr. Hartkemeyer asked if there was anyone to speak in opposition to the applications. Hearing no one, he closed the Pubic Hearing.

Mr. Moreland stated that he buys the argument that the shape creates the hardship, but finds it hard to believe the size creates a hardship. Mr. Hartkemeyer advised that they have made dramatic changes to the improvements and have decreased the original request of lot coverage and there is minimal amount of side yard setback

Mr. McGill stated that he saw one improvement to the original request; that by removing existing driveway they are attempting to keep down the lot coverage, by the shape of the their driveway, as far as the setback in the front, that involves the support columns that they plan on adding,

Mr. McGill submitted the Motion to add the phrase as submitted, TM, seconded by Mr. Jolley.

Mr. Hall stated that the changes made from before are positive. Mr. Moreland stated that it was a minimal request.

Mr. Hall asked Mr. Hays about a 10% administrative variance request. Mr. Hays responded that the Code does provide for 10% variance, but are hesitant to use it because it detracts from the function of the Board and the public hearing offered by the Board. Mr. Hall stated that we should address that at a workshop.

Roll call vote: Ayes – McGill, Moreland, Jolley, Hall and Hartkemeyer. Nays - Mr. Moreland. Motion carried 4-1.

Case: BOA #06-10010

Location: 29 South 20th Avenue, Lot 3, Block “K”, Perimeters Replat of Atlantic Campgrounds

Applicant: Robert Ford

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a front yard of 6.8 feet in lieu of 20 feet required, for a side yard of 4 feet in lieu of 5 feet required and for a rear yard of 7 feet in lieu of 30 feet required, and for 69% lot coverage in lieu of 35% maximum, to allow for a single family dwelling.

Robert Ford, 29 South 20th Ave, stated that he is requesting to build a new structure where there is an existing structure not conforming to today's standards.

Minutes of Board of Adjustment Meeting
held Tuesday, February 21, 2006

Changed the zoning from multi-family to single family residential, and he spoke with neighbors, who were all in favor. They are trying to keep the same foot print that exists, not adding additional paving on the property. Would like to have balconies eastward for ocean view.

The lot adjacent on the west side is vacant.

Mr. Jolley requested clarification concerning the lot in question.

Mr. Moreland asked if they were basically keeping the patio area that is already in place. Mr. Ford responded yes, it will be used for parking.

Mr. Ford submitted two letters for the record.

Mr. Hartkemeyer opened the public hearing and asked if anyone wished to speak in favor of the request? Hearing no one, he then asked if there was anyone to speak in opposition.

Bonnie Donovan, 135 20th South, stated that her property faces the lot, and bought condominium to look at the ocean. She was told by the seller that there were setbacks and shouldn't have to worry about her view being obstructed. She believes that the proposal will reduce the condo's value, and believes that the owners knew the setback requirements when they bought.

Bill Brisson, 12755 Hunt Glen Road, spoke on behalf of his father in law, who had sent a letter to the Board, and stated that he opposed applicant. He stated that three owners objected to the variance; that it would decrease the value of the property.

Two letters of correspondence were presented in support of the application.

Mr. Ford addressed the Board and added that the fact that there is an empty lot, there will be time when it is developed and the view will be obstructed anyway.

The Public Hearing was then closed.

Mr. Jolley stated that there is no guarantee of an ocean view unless you are on the ocean, and that this board cannot tell anyone that they cannot build under 35 feet.

Mr. Hall stated that he believed that there was a clear hardship due to the size of the lot.

Mr. Moreland stated that this clearly meets the hardship criteria, even though he has empathy with those property owners who are losing ocean views.

Mr. Hartkemeyer questioned what kind of a building could be built on this 40X70 lot; it is questionable what kind of livable building could be built.

Minutes of Board of Adjustment Meeting
held Tuesday, February 21, 2006

Mr. Loretta stated that the plan functionally does not work very well and that there is unnecessary concrete pavement in the back yard, and in the front yard.

Mr. Hartkemeyer asked if we are eliminating off street parking.

Mr. Loretta stated that the plan could be redesigned and that it could come in within 50% lot coverage.

Mr. Hall stated that he did not agree with the 50% lot coverage as the cutoff for lot coverage, that there are different size lots.

Mr. Hartkemeyer did not want to see it stated that lot coverage must be 50%

Mr. Loretta stated that the plan can be easily modified, and maybe something more reasonable could be proposed.

Mr. Jolley asked on whether there should be a second motion on the lot coverage. Mr. Hartkemeyer stated no, that he needed to work on his lot coverage and rework the design.

Roll call vote: Ayes – Jolley. Nays – McGill, Moreland, Hall, and Hartkemeyer. Motion denied 4-1.

Case: BOA #06-100011

Location: Jeffrey Flaig

Applicant: 534 North 17th Avenue, Lot 15, Block 6, Sure Park Unit One

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 40% lot coverage in lieu of 35% maximum and for a gravel vehicle use area (driveway) in lieu of concrete or asphalt paving, to allow for a single family dwelling.

Jeffrey Flaig, 534 North 17th Avenue, spoke that plans have changed, due to the need for more cars than originally envisioned, need variance for the gravel vehicle use area.

Mr. Hartkemeyer asked if the driveway was driving this request.

Mr. Flaig stated that they didn't want parking in the front and were trying to make it pervious, and aesthetic as possible trying to make in pervious

Mr. Hartkemeyer asked if they were tearing down the existing home. Mr. Flaig stated that were not impeding on any setbacks.

Minutes of Board of Adjustment Meeting
held Tuesday, February 21, 2006

Mr. McGill asked if they were using a gravel driveway for aesthetics. Mr. Flaig said yes; and also to not impact an existing tree.

Mr. Moreland asked about what is the hardship. Mr. Flaig responded that there was the need for a larger home due to in laws, offices in the home, storage purposes, and garage purposes.

Mr. Hartkemeyer opened the 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 stated that the lot appears to have the required zoning, and that he would be open to granting the gravel in lieu of the asphalt but not over 35%.

Mr. Moreland stated that the oversized lot does not create a hardship and liked the idea of gravel and not concrete driveway.

Mr. McGill stated that he had a hard time with the gravel, that gravel is very fluid and gets displaced and has a tendency to become projectiles and would personally want concrete.

Mr. Hartkemeyer stated that he thought that there are other things other than gravel, and that turf block is good.

Mr. Hays stated that the board could ask the applicant be advised to an alternative of gravel, that the Board could condition it to be a geoweb or other materials,

Mr. Hall stated that the type of surface does not address the hardship of lot coverage.

Geo Web counts as no lot coverage and looks like grass, if it is turf block will take the percentage that the turf block permits.

Roll call vote: Ayes – Jolley, McGill. Nays – Hartkemeyer, Moreland, Hall Motion was denied 3-2.

Case #BOA 06-100012

Location: 1011 North 13th Street, Lot 3, Block 67, Section “A”

Applicant: Walter Wilson

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 48% lot coverage in lieu of 35% maximum to allow for improvements to a single-family dwelling.

Linda Smitherman, agent for the applicant, stated that Mr. Wilson was out of town and that she would be speaking on his behalf.

Minutes of Board of Adjustment Meeting
held Tuesday, February 21, 2006

Mr. Hays stated that since there was not a letter on file stating that Ms. Smitherman would be acting as the agent, this case could not be heard.

Adjournment

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 9:15 P.M.

Submitted by: Amber Maria Lehman

Approval:

/s/Steven Hartkemeyer
Steven Hartkemeyer, Chairman

Date: March 21, 2006