

**Minutes of Board of Adjustment Meeting  
Held Tuesday, March 7, 2006, 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 Vice Chairperson Terry McGill.

**Roll Call**

Keith Hall (absent)  
Steven Hartkemeyer (*Chairperson*) (absent)  
Bobby Jolley  
Terry McGill (*Vice Chairperson*)  
John Moreland  
Charlie Sellers  
John Loretta

Jon Hays, Building Official, was also present.

Mr. McGill 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

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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. Moreland and Mr. Jolley stated that they both had conversations with Ms. Patricia McClusky in reference to Case BOA 06-100032..

**Approval of Minutes**

It was moved by Mr. Jolley, seconded by Mr. Moreland, and passed, to approve the Minutes of the February 7, 2006, meeting, as presented.

**Correspondence**

Mr. Moreland stated that there was correspondence that would be presented when the particular case was heard.

**OLD BUSINESS:**

**Case: BOA 06-100012**

**Location: 1011 North 13<sup>th</sup> Street, Lot 3, Block 67, Section “A”**

**Applicant: Walter Wilson**

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

Walter Wilson, 1011 13<sup>th</sup> Street North, stated that he would like to build a deck, but building the deck would exceed the 35% maximum lot coverage.

Mr. Moreland asked Mr. Wilson what his hardship was; Mr. Wilson responded by saying the size of the lot is his hardship.

Mr. McGill 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.

A brief discussion ensued concerning whether the lot size created a hardship.

Mr. Loretta advised that he wanted to amend the motion by adding the verbiage "as shown".

**Amended Motion:** It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for 48 % lot coverage in lieu of 35% to allow for improvement to a single-family dwelling, and to be limited to the site plan as shown.

**Roll call vote:** Ayes – Jolley, McGill, Moreland, Sellers, Loretta. Motion carried unanimously.

**NEW BUSINESS:**

**Case: BOA 06-100021**

**Location: 3212 Pullian Street, Lot 10, Block 12, Jacksonville Beach Heights**

**Applicant: Douglas Othmer**

**Motion:** It was moved by Mr. Moreland, seconded by Mr. Jolley to approve a request for 43% lot coverage in lieu of 35% maximum to allow for a single-family dwelling,

Paul Eakin, agent for Ms. Pomerance, President of Allied Restoration Corporation, is requesting 43% lot coverage. Since the lot size is 60X100 it is extremely difficult to build a decent size home. Mr. Eakin also stated that the Board of Adjustment Committee has granted several requests similar to this before. By approving the request for 43%, this would allow them to construct a type of home that would be consistent with the neighborhood.

Mr. Moreland asked Mr. Eakin if 43% was the absolute minimum that he could get buy with. Mr. Eakin replied yes.

Mr. McGill 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 stated that he believes that the applicant can build a decent size home with 40% instead of 43%.

There followed a brief discussion about amending the motion to 40% instead of the original 43% that is being requested.

**Amended Motion:** It was moved by Mr. Moreland, seconded by Mr. Sellers, to approve a request for 40% lot coverage in lieu of 35% to allow for a single-family dwelling.

**Roll call vote:** Ayes – Jolley, McGill, Moreland, Sellers, Loretta. Motion carried unanimously.

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**Case: BOA 05-10022**

**Location: 3180 Pullian Court, Lot 11, Block 12, Jacksonville Beach Heights**

**Applicant: Douglas Othmer**

**Motion:** It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve a request for 43% coverage in lieu of 35% maximum to allow for a new single-family dwelling.

Paul Eakin, agent for the applicant, stated that the reason for the request for 43% is so that there will be sidewalks and driveways. If the request is amended by the board once again to 40%; the sidewalks and driveway will be absent from the project. He also stated that 43% was the absolute least the applicant could live with.

Mr. Moreland asked if the request was granted for 43%, would there be full driveways; Mr. Eakin replied yes.

Mr. McGill 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 stated that if the board approves the request for 43% lot coverage, there isn't much room left for the future applicant to have a pool, pad or patio.

Mr. McGill stated that would have to be addressed at a later time.

**1<sup>st</sup> Amended Motion:** It was moved by Mr. Loretta, seconded by Mr. Sellers, to approve a request for 40% lot coverage in lieu of 35% to allow for a single-family dwelling.

Mr. Moreland stated that he believes that the house should be placed farther off the road.

Mr. Loretta stated that the site plan does not show where the sidewalks should be.

There followed a discussion on whether or not the motion could be reverted back to the original 43% lot coverage request.

Mr. Hays informed the board that an amended motion could be made to the amended motion.

**2<sup>nd</sup> Amended Motion:** It was moved by Mr. Jolley, seconded by Mr. Moreland, to approve a request for 43% lot coverage in lieu of 35% to allow for a single-family dwelling.

**Roll call vote on 2<sup>nd</sup> Amended Motion:** Ayes – Moreland, McGill, and Jolley. Nays – Loretta and Sellers. Motion carried 3 to 2.

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**Case: BOA 05-100023**

**Location: 3222 Horn Court, Lot 13, Block 13, Jacksonville Beach Heights**

**Applicant: Douglas Othmer,**

**Motion:** It was moved by Mr. Moreland, 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.

Paul Eakin, agent for the applicant, asked the board to adopt the prior arguments that were made. All the cases that involve Mr. Othmer are the same, in terms of the request for lot coverage.

Mr. McGill 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 – Moreland, McGill, and Jolley. Nays – Loretta and Sellers. Motion carried 3 to 2.

**Case: BOA 05-100024**

**Location: 3244 Pullian Court, Lot 9, Block 12, Jacksonville Beach Heights**

**Applicant: Douglas Othmer**

**Motion:** It was moved by Mr. Moreland, 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.

Paul Eakin, agent for the applicant, asked the board to adopt the prior arguments that were made. All the cases that involve Mr. Othmer are the same, in terms of the request for lot coverage.

Mr. McGill 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 – Moreland, McGill, and Jolley. Nays – Loretta and Sellers. Motion carried 3 to 2.

**RECONSIDER - Case: BOA 06-100021**

**Location: 3212 Pullian Street, Lot 10, Block 12, Jacksonville Beach Heights**

**Applicant: Douglas Othmer**

Mr. Eakin asked that the board reconsider hearing Case Number BOA 06-100021 due to the fact that the board fully understands that the applicant will not be able to build sidewalks or driveways with the amended motion for 40% lot coverage in Case BOA 06-100021.

**Motion to Rehear:** It was moved by Mr. Loretta, seconded by Mr. Sellers, and passed, to rehear Case Number 06-100021, Douglas Othmer.

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**Motion:** It was moved by Mr. Loretta, seconded by Mr. Sellers, to approve a request for 43% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling.

**Roll call vote:** Ayes – Moreland, McGill, and Jolley, Sellers. Nays – Loretta. Motion carried 4 to 1.

**Case: BOA 05-100029**

**Location: 507 North 15<sup>th</sup> Avenue, Lot 5, Block 5, Surf Park Unit One**

**Applicant: Bruce Cataldo**

**Motion:** It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve a request for 43% lot coverage in lieu of 35% maximum to allow for a swimming pool addition for a single family dwelling,

Bruce Cataldo, 507 North 15<sup>th</sup> Avenue, stated that would like to put in a pool. He also stated that he would be using brick pavers so that some of the water will be absorbed.

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

Valerie Britt, stated that she had reviewed the request and looked at the comprehensive plan and the request is clearly not in violation of the land use code. She is in favor of the project.

Mr. McGill asked if anyone would like to speak in opposition.

Seeing no one else who wished to speak, Mr. McGill closed the public hearing.

Mr. Moreland stated that the following correspondence was received:

A letter in support from Gerald Britt.  
3 signatures of surrounding neighbors in support.

Mr. Moreland stated that mathematically there is a hardship – the lot size is 9200 square feet; but he believed the request for lot coverage could be reduced.

**Amended Motion:** It was moved by Mr. Moreland to approve a request for 39% lot coverage in lieu of 35% maximum to allow for a swimming pool addition to a single family dwelling.

Motion died due to lack of a second.

Mr. McGill stated that he believes that this project will have no negative impact.

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**Roll call vote on Original Motion:** Ayes – McGill, Sellers, Loretta, and Jolley. Nays – Moreland. Motion carried 4 to 1.

**Case: BOA 05-100030**

**Location: 684 South 9<sup>th</sup> Avenue, Lot 9, Block 10, Oceanside Park**

**Applicant: Tobias Kraut**

**Motion:** It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve a request for 40% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling.

Tobias Kraut, stated that the lot size is 50 X 100 which is causing him a hardship. The proposed house will be 2100 square feet with a full driveway and sidewalk.

Mr. Sellers asked if the driveway will be wide enough for two cars; Mr. Kraut responded yes and added that the project will meet all setback requirements.

Mr. McGill 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 – Jolley, McGill, Moreland, Sellers, Loretta. Motion carried unanimously.

**Case: BOA 05-100031**

**Location: 480 South 14<sup>th</sup> Avenue, Lot 5, Block 145, Ocean Side Park**

**Applicant: John McIntyre**

**Motion:** It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve a request for a front yard of 10.4 feet in lieu of 20 feet required, to allow for improvements to a single-family dwelling.

John McIntyre, 480 South 14<sup>th</sup> Avenue, stated that his hardship is that he cannot park a car in the garage. The extra ten feet that he is requesting would allow him to get a car in the garage. Mr. McIntyre added, that some of his neighbors had expressed that they would like him to ask for fifteen feet instead of the 10-foot setback, in keeping with the neighborhood.

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

Mary Cherio, 488 South 14<sup>th</sup> Avenue, stated that she is opposed to the request of 10.4 feet, but would not be opposed to 15.4 feet of a front yard setback.

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Ron Harnick, stated that he is opposed to the 10.4 feet request, but does like the idea of 15.4 feet setback, but would like to see the plans first before any action is taken though.

Seeing no one else who wished to address the board, Mr. McGill closed the public hearing.

There was a brief discussion about the public input and amending the motion.

**Amended Motion:** It was moved by Mr. Moreland, seconded by Mr. Sellers, to approve a request for a front yard of 15.4 feet in lieu of 20 feet required, to allow for improvements to a single family dwelling.

**Roll call vote on Amended Motion:** Ayes – Sellers and McGill. Nays – Loretta, Moreland, and Jolley. Motion denied 3 to 2.

**Case Number: BOA 05-100032**

**Location: 1719 North 1<sup>st</sup> Street, Lot 2, Block 171, Pablo Beach North**

**Applicant: Mark Mantarro**

**Motion:** It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve a request for a front yard of 0 feet in lieu of 20 feet required to allow for improvements to a multi-family dwelling.

Bill Blasingame, agent for Mr. Mantarro, stated that he is asking to build a first and second story deck to the home. The decks will be slotted and will have architectural features that will enhance the surrounding area of Jacksonville Beach.

Mr. McGill asked if Mr. Mantarro had plans to add a roof onto the second story deck; Mr. Blasingame replied no.

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

Stan Zinger, 1701 Seacrest, spoke in opposition.

Mr. Moreland stated that there was correspondence from Ms. Patricia McClusky, 1728 First Street North, and Mr. Lee Buck, both in opposition of the project.

Seeing no one else who wished to address the board, Mr. McGill closed the public hearing.

Mr. Moreland stated that he believed that size of the lot does create a hardship, however, that does not justify the zero front yard that is being requested.

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**Roll call vote:** Ayes – none. Nays – McGill, Moreland, Sellers, Loretta, and Jolley. Motion denied unanimously.

**Case Number: BOA 05-100033**

**Applicant:** MaliVai Washington

**Location:** 403 South 5<sup>th</sup> Avenue, Lots 10 and the southerly half of lots 11 and 12, Block 45, Pablo Beach South

**Motion:** It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve a request for side yards of 7.5 feet in lieu of 10 feet required and for 41% lot coverage in lieu of 35 % maximum to allow for a new two-family dwelling on each of lots 10, 11, 12.

MaliVai Washington, 5 South Roscoe Blvd, stated that he was faced with two building options for this property. One being that he could build multifamily units, or he could build a two-family dwelling on each lot, which would fit better with the surrounding community.

Mr. Washington also stated for the record that Robert Gray, Architect for the project, is present and able to answer questions from the board.

Mr. McGill 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 stated that the lot size exceeds the minimum lot size and he believes that the building could be built without impeding on the setbacks.

There followed a brief discussion on whether or not there was a hardship.

**Roll call vote:** Ayes – Jolley, McGill, Sellers, and Loretta. Nays – Moreland. Motion carried 4 to 1.

**Case Number: BOA 05-100037**

**Applicant:** Geoff Gartner

**Location:** 1116 Owen Avenue, Lots 18, 19, and a portion of lot 13 lying west of lands conveyed in official records, block 10, Williams Coastal Boulevard Heights

**Motion:** It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve a request for 56% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling.

Geoff Gartner, 1258 Ripkin Circle North, stated that he would like to be able to build his dream home at the beach. Mr. Gartner also went on to explain that his hardship was size and shape of the lot.

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Mr. McGill asked what the 56% lot coverage would cover; Mr. Gartner responded that the 56% being requested would cover the pool, house, and patio.

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

Robert Grays, 350 6<sup>th</sup> Street, spoke in favor.  
Chestin Caslowski, 1951 Pullian Street, spoke in favor.  
Dr. Scott Wagner, 2 17<sup>th</sup> Avenue South, spoke in favor.  
Don Weldy, spoke in opposition.

Seeing no one else who wished to address the board, Mr. McGill closed the public hearing.

Mr. Sellers stated that he likes the plan of the house, but believes it would be better suited on another lot.

A brief discussion ensued about the percentage of lot coverage being too high and inconsistent with the comprehensive plan.

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

**Adjournment**

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 9:18 P.M.

Submitted by: Amber Maria Lehman

Approval:

/s/Steven Hartkemeyer  
Steven Hartkemeyer, Chairman

Date: April 4, 2006