

**Minutes of Board of Adjustment Meeting  
Held Tuesday, September 19, 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 Chairperson Steven Hartkemeyer.

**Roll Call**

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

Jon Hays, Building Official, and Linda Wilkins, Recording Secretary, were also present.

Mr. Hartkemeyer read the following statement into the record:

“The 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.”

“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 advised that they had all spoken with Terry DeLoach, John Lipka and Peter Mittleman concerning BOA 06-100205.

### **Approval of Minutes**

It was moved by Mr. Jolley, seconded by Mr. Moreland, and passed, to approve the minutes of the Board of Adjustment meeting held on July 18, 2006, as presented.

### **Correspondence**

There was no correspondence.

### **Old Business:**

There was no old business.

### **New Business:**

#### **Case No.: BOA 06-100195**

**Location:** 424 & 432 North 14<sup>th</sup> Avenue; Lot 5 & the West 5 ft of Lot 6, Block 1, Surf Park 1

**Applicant:** Chris Lambertson

**Motion:** It was moved by Mr. Hall, seconded by Mr. Jolley to approve a request for a front yard of 18 feet in lieu of 20 feet required and for a rear yard of 10 feet in lieu of 30 feet required; to allow for a new townhouse development.

Tim Franklin, the applicant’s agent, requested that this application be withdrawn and stated that he would like to have Case #BOA 06-100205 heard at this time instead.

It was moved by Mr. Hall, seconded by Mr. Jolley, to amend the agenda to hear Case No. BOA 06-100205 at this time.

Minutes of Board of Adjustment  
held Tuesday, September 19, 2006

**Case No.: BOA 06-100205**

**Location: 2202 South 1<sup>st</sup> Street; Lots 1 & 2, Block "W", Permenters R/P of Atlantic Camp Grounds**

**Applicant: Ron Matthews**

**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 20 feet required, for a corner side yard of 10.17 feet in lieu of 16 feet required, for a rear yard of 12.5 feet in lieu of 30 feet required, for 49.8% lot coverage in lieu of 35% maximum or 42.8% lot coverage and for pervious driveways in lieu of paving; all to allow for a new two-family dwelling.

Tim Franklin, agent for the applicant, stated that the applicant wished to build a three story duplex with two car garages on the first floor.

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

The following people spoke in favor:

Susan Sanders, 2207 South 1<sup>st</sup> Street  
Jay Sengstacke, 409 South 13<sup>th</sup> Avenue  
Diane Matthews, 14387 Marsh Hammock Drive South

Mr. Hall presented 17 letters from the following people, in favor:

Grady Kearsy, 731 South 1<sup>st</sup> Street, #5D  
Robert Kocoly, 2211 South 1<sup>st</sup> Street  
J. B. Williams, 2043 South 2<sup>nd</sup> Street  
Kenneth Fox, Sunrise II, North 1<sup>st</sup> Street  
William Hunt, 3463 South 3<sup>rd</sup> Street  
Ken & Carol Ackis, 1818 South 1<sup>st</sup> street  
Jay Sengstacke, 409 South 13<sup>th</sup> Avenue  
Jack Henry, 133 29<sup>th</sup> Avenue South  
Pam Henry, 133 29<sup>th</sup> Avenue South  
Daniel Green, 211 7<sup>th</sup> Avenue South  
Larry Zuleba, 209 7<sup>th</sup> Avenue South  
Robert Jones, 620 South 2<sup>nd</sup> Street, #3  
Jim Hughes, 526 11<sup>th</sup> Avenue South  
John Dugan, 402 14<sup>th</sup> Avenue South  
Thomas Cusick, 601 South 1<sup>st</sup> Street, #2A  
Michael S., 3523 Pintail Drive South  
J. Spuria, 1505 South 1<sup>st</sup> Street, #601

Minutes of Board of Adjustment  
held Tuesday, September 19, 2006

The following people spoke in opposition:

Salem A. Salem, 2200 Ocean Drive  
Marie Hamilton, 2123 South 2<sup>nd</sup> Street  
Sarah O'Grady, 2231 South 2<sup>nd</sup> Street  
Angela Thomas, 2215 South 2<sup>nd</sup> Street  
Margaret Rachal, 2233 South 2<sup>nd</sup> Street  
Jeff Whit, 2237 South 2<sup>nd</sup> Street

Mr. Hall read letters from John R. Lipka, 2211 2<sup>nd</sup> Street South and Terry DeLoach, 405 32<sup>nd</sup> Avenue South, 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. Jolley, to amend the motion to read as follows: "to approve a request for a front yard of 17 feet in lieu of 20 feet required, for a corner side yard of 10.17 feet in lieu of 16 feet required, for a rear yard of 12.5 feet in lieu of 30 feet required, for 49.8% lot coverage in lieu of 35% maximum or 42.8% lot coverage and for pervious driveways in lieu of paving; all to allow for a new two-family dwelling."

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

**Case No.: BOA 06-100196**

**Location: 3177 Horn Court, Lot 4, Block 12, Jax Beach Heights**

**Applicant: Paul Nichols**

**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 new single family dwelling.

Mr. Nichols stated that he is requesting the variance because the lot is long and narrow. He advised that he is able to stay within the setbacks, but he needs the additional lot coverage.

Mr. Hartkemeyer opened a public hearing and asked if anyone wished to speak 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.

**Case: BOA 06-100199**

**Location: 3810 Tropical Terrace; Lot 12, Block 8, Ocean Terrace**

**Applicants: Gino and Jenny Cannon**

Minutes of Board of Adjustment  
held Tuesday, September 19, 2006

**Motion:** It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for side yards of 5 feet each in lieu of 10 feet required and for 51% lot coverage in lieu of 35% maximum; to allow for a new single family dwelling.

Steve Williams, agent for the applicants, stated that they are requesting the variance because the lot is substandard in size.

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

Linda Steinmann, 3855 Tropical Terrace, spoke in favor.

Mr. Hall presented letters in favor from the following people:

Amos Gainey, 3817 Tropical Terrace  
Mabry Dewault Hatch, 3803 Poincianna Blvd.  
Joseph & Amy Corpe, 3804 Tropical Terrace  
K. Ann & Richard Hanus, 3867 Tropical Terrace  
George & Ann Speyerer, 3824 Tropical Terrace

John Rosso spoke for his father who lives at 3847 Tropical Terrace. He was going to speak in opposition, but he realized that this was not the property he was concerned with.

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. Jolley, to amend the motion to approve a request for side yards of 5 feet each in lieu of 10 feet required and for 49.9% lot coverage in lieu of 35% maximum.

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

**Case No: BOA 06-100201**

**Location: 2884 St. Maarten Court; Lot 122, Ocean Cay Unit 1**

**Applicant: Cheryl Barber and Doug Prindle**

**Motion:** It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 53% lot coverage in lieu of 45% maximum; to allow for a swimming pool addition to a single-family dwelling.

The applicant stated that he wishes to build a swimming pool in his back yard. He presented a fax from the homeowners association giving approval for the project.

Mr. Hartkemeyer opened a public hearing and asked if anyone wished to speak in favor of, or in opposition to the request? Seeing no one, he closed the public hearing.

Minutes of Board of Adjustment  
held Tuesday, September 19, 2006

It was moved by Mr. Sellers, seconded by Mr. Jolley, to amend the motion to approve a request for 49% lot coverage in lieu of 45% maximum.

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

**Case No: BOA 06-100204**

**Location: 810 4<sup>th</sup> Avenue North; W 40 ft of Lots 1 & 2, E 20 ft of Lot 3, Mundy Drive Terrace S/D**

**Applicant: John Perez -Guerra**

**Motion:** It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for no garage or carport in lieu of a one car garage or carport required and for 37% lot coverage in lieu of 35% maximum; to allow for improvements to a single-family dwelling.

The applicant stated that they wish to add on to their house to gain some additional living space. In order to stay within the setbacks, they would like to exclude the carport and garage.

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

Sarah Perez-Guerra, wife of the applicant, spoke in favor.

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

There followed a brief discussion concerning the reluctance to grant a variance for no carport or garage and the possibility of setting a bad precedence.

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

**Case No: BOA 06-100206**

**Location: 411 South 3<sup>rd</sup> Avenue, Units A & B; Lot 11, Block 25, Pablo Beach South**

**Applicant: Cornelius Ashley Bird**

**Motion:** It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for 37.6% lot coverage in lieu of 35% maximum; to allow for improvements to a two-family dwelling.

The applicant stated that she wishes to add a 12 ft X 8 ft wooden deck onto the rear of the house.

Mr. Hartkemeyer opened a public hearing and asked if anyone wished to speak in favor of or in opposition to the request. Seeing no one, he closed the public hearing.

Minutes of Board of Adjustment  
held Tuesday, September 19, 2006

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

**Adjournment**

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 9:29 P.M.

Submitted by: Linda Wilkins, Recording Secretary

Approval:

/s/Steven Hartkemeyer  
Steven Hartkemeyer, Chairman

Date: November 8, 2006