

**Minutes of Board of Adjustment Meeting
Held Tuesday, October 3, 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*) (*Absent*)
John Moreland
Charlie Sellers
Joseph Lorretta

Jon Hays, Building Official, Steve Lindorff, Director of Planning & Development and Amber Lehman, Recording Secretary were 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

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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.”

There were no ex-parte communications by the board.

Approval of Minutes

It was moved by Mr. Jolly, seconded by Mr. Sellers, and passed, to approve August 15, 2006 minutes as presented.

Correspondence

There was no correspondence.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

Case: BOA 06-100217

Location: 3772 Poinciana Blvd, Lot 1, Block 12, Ocean Terrace.

Applicant: William Register (Heritage III, Ltd.)

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley to approve for 42% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

Amended Motion: It was moved by Mr. Jolley, seconded by Mr. Hall, and passed to rearrange the agenda with Case: BOA 06-100217 being the last due to the applicant not being present.

2nd Amended Motion: It was moved by Mr. Hall, seconded by Mr. Jolley, to table Case: BOA 06-100217 until the next available meeting due to the absence of the applicant.

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Roll Call Vote on 2nd Amended Motion: Ayes – Sellers, Hartkemeyer, Moreland, Hall, and Jolley. Motion carried unanimously.

Case: BOA 06-100218

Location: 1101 Beach Blvd, B de Castro y Ferrer Grant, Section 38

Applicant: Bobby Bhikha (Shivam Properties, LLC.)

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley to approve a request for no turning and maneuvering space associated with 7 parking spaces adjacent to 11th Street North to allow for a new hotel.

Bill Ebert, agent for the applicant stated that this proposed project had been before the board in August with two variance requests. However, both were denied. At this time, all setback requirements have been met as well as the required amount of parking spaces for all 84 units as well as parking spaces for staff members.

Mr. Hartkemeyer opened the public hearing and asked if anyone wished to speak in favor or against the application.

The following people spoke in favor of the application:

Shawn Lenovel, 702 9th Avenue South, Jacksonville Beach
Greg Sutton, 47 Tallwood Road, Jacksonville Beach

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

Mr. Lindorff stated that in regards to parking issues, staff's opinion is that there is an obvious hardship imposed by the code in respect to this particular application.

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

Case: BOA 06-100219

Location: 88 Oakwood Road, Lot 5, Block 17, Ocean Forest, Unit 3

Applicant: Thomas S. Fisher

Motion: It was moved by Mr. Hall, seconded by Mr. Jolley to approve a request for corner side yards of 15 feet in lieu of 17 feet to allow for improvements to a single family dwelling.

Tom Fisher, 88 Oakwood Road, stated that he had started to build a covered porch but halfway through construction realized he needed a permit, due to the setback requirements. He advised that only the flooring had been installed thus far.

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Mr. Hartkemeyer opened the public hearing and asked if anyone wished to speak in favor or against the application.

Seeing no one who wished to speak in favor or against, Mr. Hartkemeyer closed the public hearing.

Mr. Jolley stated that he did not feel that this would affect his neighbors, and that this was a minimal request.

Amended Motion: It was moved by Mr. Hall, seconded by Mr. Sellers, to approve a request for corner side yards of 15 feet in lieu of 17 feet to allow for a covered open air porch, as submitted and discussed.

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

Adjournment

There being no further business coming before the Board, Mr. Hartkemeyer adjourned the meeting at 7:50 P.M.

Submitted by: Amber Maria Lehman, Recording Secretary

Approval:

/s/Steven Hartkemeyer
Chairman

Date: December 19, 2006