

**Minutes of Board of Adjustment Meeting
Held Tuesday, April 3, 2007 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 Hall.

Roll Call

Keith Hall (*Chairperson*)
Bobby Jolley *Absent*
Terry McGill
John Moreland (*Vice Chairperson*) *Absent*
Joseph Loretta
Josh Corey

Mr. Hall 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 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

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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. Loretta stated that he spoke with a constituent that was against application BOA 07-100049. He also stated that he spoke with the applicants for case BOA 07-100050.

Approval of Minutes

It was moved by Mr. Jolley, seconded by Mr. Loretta, and passed, to approve the March 6, 2007, minutes as presented.

Correspondence

There was no correspondence.

OLD BUSINESS:

Case: BOA 06-100282

Location: 1650 South 6th Street

Applicant: Joe Crozier

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley to approve a request for 39% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

Tim Franklin, 418 Seagate Avenue, agent for the applicant, stated that although this lot is not undersized; it is irregularly shaped. It also has topography and location issues. The easement is currently very mucky. Mr. Franklin also stated that the applicant will only build a single story home with approximately 2100 square feet.

Mr. Hall opened the public hearing and asked if anyone wished to speak for or against the application.

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

There was a brief discussion on limiting the structure to a single story only.

Amended Motion: It was moved by Mr. Jolley, seconded by Mr. McGill, to approve a request for 39% lot coverage in lieu of 35% maximum to allow for a new single story family dwelling.

Roll call vote: Ayes –Hall, McGill, Jolley, and Corey; Nays - Loretta. Motion carried 4 to 1.

NEW BUSINESS:

Case: BOA 07-100038

Location: 1417 Constitution Court

Applicant: David Peters

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley to approve a request for a rear yard of 18 feet in lieu of 30 feet required and for 41% lot coverage in lieu of 35% maximum to allow for improvements to a single family dwelling.

David and Casey Peters, 1417 Constitution Court, stated that they previously applied for a variance in 2000 to build a screen room. It was approved; however they have only poured the concrete; they are now asking that they be able to enclose the room with walls and windows as opposed to the screened porch.

Mr. Hall opened the public hearing and asked if anyone wished to speak for or against the application.

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

There was a brief discussion about the rear yard setback and that the requested 18 feet in lieu of 30 feet required is a moot point considering they are not adding to the current concrete slab that is already in place.

Amended Motion: It was moved by Mr. Jolley, seconded by Mr. Corey, to approve a request for 41% lot coverage in lieu of 35% maximum to allow for improvements to a single family dwelling.

Roll call vote: Ayes –Loretta, McGill, Jolley, and Corey; Nays - Hall. Motion carried 4 to 1.

Case: BOA 07-100049

Location: 304 South 1st Street

Applicant: Barbara Buck

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley to approve a request for a front yard of 5 feet in lieu of 20 feet required, for a rear yard of 6.7 feet in lieu of 30 feet required, and for 52% lot coverage in lieu 35% maximum to allow for substantial renovation to an existing single family dwelling.

The applicant, Barbara Buck, 10109 Lake Lamar Court, stated that she has been currently renovating her 100+ year old house and has had some serious issues while renovating. Recently she had to ask the Planning Committee for a variance for zoning requirements due to the house

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being too small to develop into multi-family housing. Ms. Buck also stated that she will not be adding to the house, but will be turning the attic into a second story.

Mr. Hall opened the public hearing and asked if anyone wished to speak for or against the application.

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

There was a brief discussion about the lot being incredibly substandard in size, therefore, creating a hardship.

Roll call vote: Ayes –Loretta, McGill, Jolley, Hall and Corey. Motion carried unanimously.

Case: BOA 07-100052

Location: 402 North 15th Street

Applicant: Dennis & Frances Povloski

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley to approve a request for a corner side yard of 18 feet in lieu of 20 feet required and for a rear yard of 27 feet in lieu of 30 feet required to allow for improvements to a single family dwelling.

The applicant, Frances Povloski, stated that she would like to build a two story garage. Currently she does not have a garage, their family is growing and desperately needs extra space. Ms. Povloski stated that her hardship is that her lot is irregularly shaped.

Mr. Hall opened the public hearing and asked if anyone wished to speak for or against the application.

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

Amended Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a corner side yard of 18 feet in lieu of 20 feet required and for a rear yard of 27 feet in lieu of 30 feet required to allow for improvements to a single family dwelling as submitted and discussed.

Roll call vote: Ayes –Loretta, McGill, Jolley, Hall and Corey. Motion carried unanimously.

Case: BOA 07-100050

Location: 408 Beach Blvd

Applicant: WindCrest Development Group (Craig Buchanan)

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley to approve a request for 12% open and recreation space and 8% green areas within the parking areas to make up the required 20% open and common recreation space.

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John Kidd of Avid Group, agent for the applicant, 8650 Baypine Road, Jacksonville stated that WindCrest Development would like to build a Publix at the above referenced address. However, the requirements set by the PUD are clearly targeted for residential space and not for retail or commercial spaces; thereby, creating a hardship for this particular project. He added that the This proposed project will not affect any adjacent development.

Mr. Loretta asked how many projects has WindCrest developed.

Craig Buchanan, Maitland Florida, stated that Publix is their main client with many stores located from the panhandle all the way to Jupiter, FL.

Mr. Buchanan stated that the proposed store will mimic the store in Hutchinson Island, which is a resort store.

Mr. Loretta asked if there was a way that this proposed Publix could have roof top parking like the Publix in Riverside. Mr. Buchanan stated that was not an option due to cost. There also could not be off street parking due to there not being enough space.

Mr. Hall asked if Publix will own the property. Mr. Buchanan stated that they will lease the property.

Mr. Hall asked if there would be additional retail space available to other tenants. Mr. Buchanan replied that there would be additional retail space for lease.

Mr. Lindorff stated that PUD zoning was clearly intended for larger scale residential projects. The requirements for common and recreational space in the PUD zoning are intended for these large residential projects and not for a commercial land use such as Publix.

Mr. Kidd stated that the Publix will be meeting the requirement for open space by providing islands and open walkways.

Mr. Hall opened the public hearing and asked if anyone wished to speak for or against the application.

The following people spoke in favor of the application:

Lee Buck, 136 17th Avenue North, Jacksonville Beach
Steve Hartkemeyer, 713 11th Avenue South, Jacksonville Beach
Julio Williams, 702 5th Street North, Jacksonville Beach

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

Mr. Loretta stated that the site plans do not meet any of the requirements and feels would like to see the site plans modified.

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Roll call vote: Ayes –Hall, McGill, Jolley, and Corey; Nays – Loretta. Motion carried 4 to 1.

Adjournment

There being no further business coming before the Board, Mr. Hall adjourned the meeting at 8:45P.M.

Submitted by: Amber Maria Lehman, Recording Secretary

Approval:

Chairperson

Date: _____