

**Minutes of Board of Adjustment Meeting  
held Tuesday, August 19, 2008 at 7:00 P.M.,  
Council Chambers, 11 North 3<sup>rd</sup> Street,  
Jacksonville Beach, Florida**



**Call to Order**

The meeting was called to order by Chairperson Hall.

**Roll Call**

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

Also present was Recording Secretary, Amber Lehman.

**Purpose and Ex-Parte Statement**

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

Minutes of Board of Adjustment  
held on Tuesday, August 19, 2008

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.”

No ex-parte communications were disclosed by Board members.

### **Approval of Minutes**

It was moved by Mr. Corey, seconded by Mr. Jolley, and passed, to approve the June 17, 2008 and July 1, 2008 minutes as presented.

Voice vote resulted in all ayes by Board members.

### **Correspondence**

There was no correspondence

### **OLD BUSINESS:**

#### **Case Number: BOA 08-100107**

**Name of Applicant:** Brad Hollett

**Property Address:** 522 North 1<sup>st</sup> Street (Real Estate # 174088-0000)

**Motion:** It was moved by Mr. Corey, seconded by Mr. Jolley to approve a request for a 20 foot two-way parking aisle, in lieu of 23 feet; a no parking setback along southerly property line (alley), in lieu of five feet required; 16 spaces in an uninterrupted row, in lieu of 10 spaces maximum; and for a three foot compatibility landscape buffer along the northerly property line, in lieu of seven feet required; adjacent to a two-family residential use, to allow for the construction of a surface parking lot.

The agent for the applicant, Tim Franklin, 418 Seagate Avenue, Neptune Beach, stated that his clients are developing a boutique hotel on the site of Mangos, which will be a three-story structure, Jacksonville Beach’s first green building which will have a grass rooftop. The grass rooftop will have the ability to absorb stormwater with self-irrigation. The hotel operator is Trust Hotel Group, which maintains Marriott, Trump and MGM hotels, all with four and five 5 star distinctions.

Mr. Franklin further stated, for the record, that there is a small sand lot located between Tankos and Lynchs – that would be used for offsite parking for the hotel. The lot is located within 214 feet from the hotel; and within code for such use. The variance request before the Board is based on a hardship, that the lot size is only 40 feet wide, whereas the standard is 50 feet wide.

**Public Hearing**

Mr. Hall opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

The following person spoke in opposition:

Mr. Noble, 9<sup>th</sup> Avenue, Jacksonville Beach, owner of the Holiday Inn Express, stated that he is not opposed to competition, but he does not agree with this request since his similar variance request was denied.

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

**Amended Motion:** It was moved by Mr. Hall, seconded by Mr. Jolley, to approve a request for a 20 foot two-way parking aisle in lieu of 23 feet; for no parking setback along southerly property line (alley), in lieu of five feet required; for 16 spaces in an uninterrupted row, in lieu of 10 spaces maximum; and for a three foot compatibility landscape buffer along the northerly property line, in lieu of seven feet required, adjacent to a two-family residential use, to allow for the construction of a surface parking lot; and also to include a knee wall with fencing that extends six feet above grade along the rear with the parking lot to be used for valet parking only. Contingent upon approval of Application BOA -100108 and the approval and recordation of an Off-Site Parking Agreement between the two properties, pursuant to LDC Sec 34-375. If such agreement is not approved, the variance shall be deemed null and void.

**Roll call vote:** Ayes – Jolley, Loretta and Moreland; motion unanimously approved.

**Case Number: BOA 08-100108**

**Name of Applicant:** Brad Hollett

**Property Address:** 123, 129 & 135 North 5<sup>th</sup> Avenue & 602 North 1<sup>st</sup> Street

**Motion:** It was moved by Mr. Corey, seconded by Mr. Jolley, to approve a request for no access aisle in lieu of a 12 foot one way aisle to access seven parking spaces along alley, 34-373 (d); for no parking setback in lieu of five feet required along northerly and southerly property lines, 34-377; for 81 spaces in lieu of 93 required (65 on-site, 16 off-site) to allow for the construction of an 80-room hotel.

The agent for the application, Tim Franklin, 418 Seagate Avenue, Neptune Beach, stated that parking on this property would be difficult due to the property being an irregular shaped lot, as well as the land being priced higher than anticipated. The applicant is proposing 82 parking spaces, 65 onsite, 16 offsite and a 12 percent reduction in parking requirements.

Mr. Loretta asked Mr. Franklin how many handicapped parking will there be.

Mr. Franklin replied that his client would be willing to install as many handicapped parking spaces as required. Mr. Franklin stated that he believed that number to be four required handicapped parking spaces.

Mr. Hall asked what special consideration exists to the property.

Mr. Franklin responded that the property is a narrow and irregular lot, therefore creating a hardship for parking. Mr. Franklin also stated that the alleyway is rare in having three different streets accessing it. He added that alley ends in mid-block and resulting in a much lower land value for this piece of property.

### **Public Hearing**

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

Mr. Noble, 9<sup>th</sup> Avenue, Jacksonville Beach, stated that he was reiterating his prior statement. He is not against the application but feels as though this particular hotel is getting special consideration. He requested a variance on parking spaces for his hotel and was denied.

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

Mr. Jolley stated that he understood the opposition because they were denied. However, staff's recommendation is for a 3-year period on the parking variance.

Mr. Hall stated that this is a reasonably minimum variance, however, financial reason should not be considered as a hardship when granting variances of this nature.

**Amended Motion:** It was moved by Mr. Jolley, seconded by Mr. Corey to approve a request for no access aisle in lieu of a 12 foot one way aisle to access seven parking spaces along alley; 34-373(d) for no parking setback, in lieu of 5 feet required along northerly and southerly property lines; 34-377 for 81 spaces, in lieu of 93 required (65 on-site, 16 off-site), to allow for the construction of an 80-room hotel for a period of three years, during which time applicant must obtain a building permit for the proposed hotel development. If such permit is not obtained, the variance shall be deemed null and void.

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

Minutes of Board of Adjustment  
held on Tuesday, August 19, 2008

## **7. NEW BUSINESS:**

### **Case Number: BOA 08-100109**

**Name of Applicant:** Don and Alice Martz

**Property Address:** 930 North 7<sup>th</sup> Avenue

**Motion:** City of Jacksonville Beach Land Development Code Section: 34-337 (e)(1)e, for 43% lot coverage, in lieu of 35% maximum, to allow for a swimming pool addition to a single-family dwelling.

The applicant, Don Martz, 930 North 7<sup>th</sup> Avenue, Jacksonville Beach, stated that he is requesting a variance so that he can have a swimming pool in his backyard.

Mr. Loretta asked Mr. Martz what the hardship is for this lot.

Mr. Martz replied that the size of the lot is the hardship, as it does not meet the minimum requirement.

Mr. Buck asked the applicant if everything outside of the pool area would remain grassed.

Mr. Martz replied yes.

### **Public Hearing**

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 size being a hardship.

Mr. Corey advised he felt that this request was minimal.

**Roll call vote:** Ayes – Loretta, Jolley, Hall, Buck, and Corey; motion unanimously approved.

### **Case Number: BOA 08-100110**

**Name of Applicant:** Brian & Erika Wilhelm

**Property Address:** 2905 Madrid Street

**Motion:** It was moved by Mr. Corey, seconded by Mr. Jolley 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.

The applicant, Brian Wilhelm, 2905 Madrid Street, stated that he would like to install a swimming pool in his backyard for his family.

Minutes of Board of Adjustment  
held on Tuesday, August 19, 2008

**Public Hearing**

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.

Mr. Buck advised that this was a minimal request and did not feel that it would intrude on the surrounding properties.

**Roll call vote:** Ayes – Loretta, Jolley, Hall, Buck, and Corey; motion unanimously approved.

**Adjournment**

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

Submitted by: Amber Maria Lehman  
Recording Secretary

Approval:

/s/Keith Hall  
Chairperson

Date: December 2, 2008