

**Minutes of Board of Adjustment Meeting
Held Tuesday, May 19, 2009 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 Loretta.

Roll Call

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

Purpose and Ex-Parte Statement

Mr. Loretta 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.”

Minutes of Board of Adjustment
held on Tuesday, May 19, 2009

“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 exparte communications disclosed by any of the board members.

Approval of Minutes

There were no minutes to approve.

Correspondence

There was no correspondence

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

Case Number: BOA 09-100064

Name of Applicant: Jennifer Ford

Property Address: 1701 Harden Way

Motion: It was moved by Mr. Corey, seconded by Mr. Jolley, to approve a request for 43% lot coverage in lieu of 35% maximum to ratify an existing non-conformity (39%), and to allow for addition of a swimming pool to a single-family dwelling.

Applicant:

Agent for the applicant, Bob Hamil, advised that he would like to postpone the request until the June 16, 2009, meeting, due to there being only three board members to hear the variance request.

The postponement was granted.

Case Number: BOA 09-100065

Name of Applicant: Harry’s Seafood Bar & Grille

Property Address: 1018 North 3rd Street

Motion: It was moved by Mr. Corey, seconded by Mr. Jolley, to approve a request for no additional parking spaces in lieu of six required, to allow for an 800 square foot outdoor restaurant seating area.

Applicant:

Greg Saig, Agent for the applicant, advised that *Harry's Seafood* was approved for an outside seating area of 800 square feet at the May 11, 2009, Planning Commission meeting. He explained that the landlord of the property has added 11 additional parking spaces for the future sight of the restaurant *Mellow Mushroom*. However, those particular spaces cannot be counted towards the six parking spaces that are required for *Harry's*. Mr. Saig added that the landlord plans to add extra spaces upon approval from the Public Works department.

Public Hearing:

Mr. Loretta 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 favor of the application:

Randy McNeal, 117 Old Ponte Vedra Drive, Ponte Vedra Beach, Florida.

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

Discussion:

A brief discussion ensued about the landlord providing extra spaces and that the request before the Board is minimal and valid.

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

Adjournment

There being no further business coming before the Board, Mr. Loretta adjourned the meeting at 7:20 P.M.

Submitted by: Amber Maria Lehman

Approval:

/s/Joseph Loretta

Chairperson

Date: June 16, 2009