

**Minutes of Board of Adjustment Meeting  
Held Tuesday, July 7, 2009 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 Loretta.

**Roll Call**

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

Alternates: Tom Buck  
Scott Chestnut

**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

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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.”

**Ex-Parte Disclosure**

Mr. Moreland stated that he spoke with Sam Christina in reference to BOA Case No 09-100078.

There were no other exparte communications disclosed by 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 09-100078**

**Name of Applicant:** M.G. and Donna Orender

**Property Address:** 3909 Duval Drive

**Motion:** It was moved by Mr. Corey, seconded by Mr. Jolley, to approve a request for a northerly side yard of 4.58 feet and a southerly side yard of 7 feet in lieu of 10 feet required to allow for improvements to a single-family dwelling.

**Applicant:**

Glen Amerson of the Flagstone Group, agent for the applicant, as well as architect for the project, Nicholas Renard of Cote Renard Architecture, advised, due the Orender’s absence, they would be speaking on their behalf. Mr. Amerson explained that the request is for a second floor

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addition with no additions made to the first floor. He stated that the variance request is simply due to an overhang of the proposed second floor addition.

Mr. Moreland asked Mr. Amerson if the addition on the northerly side of the home would extend beyond the roofline and if it will run the full length of the current structure.

Mr. Amerson advised that the proposed addition would not extend beyond the roofline, and that it would only be 10 feet in length.

**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 opposition of the application:

Phillip Howe, 3935 Duval Drive, Jacksonville Beach.

Mr. Amerson addressed Mr. Howe's concerns and explained there are privacy fences between the properties and that this addition should not affect Mr. Rowe or the other neighbors. Mr. Amerson continued, that the existing overhang runs the full length of the house, and with the proposed changes, the overhang will be will only run 10 feet in length.

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

**Discussion:**

A brief discussion ensued concerning the lack of a hardship on the property or for the homeowners'.

**Amended Motion:** It was moved by Mr. Moreland, to approve a request for a northerly side yard of 4.58 feet and a southerly side yard of 7 feet in lieu of 10 feet required, to allow for improvements to a single family dwelling as presented and discussed.

Motion died due to lack of a second.

**Roll call vote on Original Motion:** Ayes – Loretta and Moreland; Nays – Corey, Jolley, and Hall; motion denied by a vote of 3 to 2.

**Case Number:** BOA 09-100083  
**Name of Applicant:** Sally Ray  
**Property Address:** 1225 11<sup>th</sup> Street North

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**Motion:** It was moved by Mr. Corey, seconded by Mr. Jolley to approve a request for a parking area setback of 2 feet in lieu of 3.9 feet minimum, to rectify an application processing error, and to ratify an existing non-conformity due to the error.

**Applicant:**

Applicant, Sally Ray, 5180 Greenland Road, Jacksonville, advised she had previously applied for a variance to remove and replace a driveway. Ms. Ray continued, at the time she understood that the variance was for 2.9 feet; however, the variance that was granted was for 3.9 feet.

Mr. Hays stated that this was an error made by staff and since this exceeded the allowable 10% administration fix, hence the variance request is required.

**Public Hearing**

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

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

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

**Adjournment**

There being no further business coming before the Board, Mr. Loretta adjourned the meeting at 7:30 P.M.

Submitted by: Amber Maria Lehman  
Recording Secretary

Approval:

Thomas Buck  
Chairperson

Date: April 17, 2012