

**Minutes of Board of Adjustment Meeting  
Held Tuesday, February 16, 2010 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 Acting Chairman Moreland.

**Roll Call**

Josh Corey *Absent*  
Keith Hall  
Bobby Jolley  
Joseph Loretta  
John Moreland  
Tom Buck *Absent*  
Scott Chestnut

**Purpose and Ex-Parte Statement**

Mr. Moreland 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 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 be approved.

### **Correspondence**

There was no correspondence.

### **OLD BUSINESS:**

There was no old business.

### **NEW BUSINESS:**

**Case Number:**        **BOA 10-10005**

**Name of Applicant:** Josh and Aubree Rickerson

**Property Address:** 3081 Pullian Court

**Motion:** It was moved by Mr. Loretta, seconded by Mr. Jolley to approve a request for 44% lot coverage in lieu of 35% maximum to allow for a new single-family home.

### **Applicant:**

The applicant, Mr. & Mrs. Rickerson, 98 Jardin De Mer Place, Jacksonville Beach, stated that they would like to build on the lot that they purchased. However, with the lot only being 6000 square feet it is considerably undersized, hence the variance request.

Mr. Moreland asked the applicant how big the house will be.

Mr. Rickerson replied that the home will be 1900 square feet with 3 bedrooms and 2 bathrooms, and a 2 car garage.

### **Public Hearing:**

Mr. Moreland 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. Moreland closed the public hearing.

**Discussion:**

A brief discussion ensued regarding the hardship - the undersized lot. However, Mr. Loretta advised that he would like to amend the motion to include “as shown and submitted”.

**Amended Motion:** It was moved by Mr. Loretta to amend the motion to approve a request for 44% lot coverage in lieu of 35% maximum to allow for a new single-family home, as shown and submitted.

The amended motion died due to lack of a second.

**Roll call vote:** Ayes –Moreland, Jolley, Hall, and Chestnut  
Nays – Loretta.  
Motion carried 4 to 1.

**Case Number:** BOA 10-100006

**Name of Applicant:** S. Mark and Mary L. Lyon

**Property Address:** 1210 Palm Circle

**Motion:** It was moved by Mr. Loretta, seconded by Mr. Jolley to approve a request for a rear yard of 22 feet in lieu of 30 feet required, to allow for improvements to a single family residence.

**Applicant:**

The applicant, Mark Lyon, 1210 Palm Circle, Jacksonville Beach stated that his mother is elderly and is very ill. Mr. Lyon further explained that the reason for the variance request is to expand his home in the rear of the property to allow for an extra room for his mother who will be living with them full time. The additional room will be 20 X 20.

Mr. Moreland asked the applicant if the room will be single story.

Mr. Lyon replied in the affirmative.

Mr. Moreland explained that the LDC is very specific to exclude “physical disability” as reason for a hardship.

Mr. Moreland asked the applicant if there is another hardship associated with the property.

Mr. Lyon replied that the lot is small in regards to the minimum lot size that is required.

**Public Hearing:**

Mr. Moreland 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. Moreland closed the public hearing.

**Discussion:**

A brief discussion ensued regarding the lot size creating a hardship for the applicant.

**Roll call vote:** Ayes –Moreland, Jolley, Hall, Loretta and Chestnut.  
Motion carried unanimously.

**Case Number:** BOA 10-10009

**Name of Applicant:** Eliane Sant'Anna

**Property Address:** 142 South 32<sup>nd</sup> Avenue

**Motion:** It was moved by Mr. Loretta, seconded by Mr. Jolley to approve a request for 45% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling.

**Applicant:**

The agent for the applicant, George Bull, 1800 Sevilla Blvd, Suite 3, Atlantic Beach, FL stated that his applicant purchased this parcel not too long ago with plans of constructing a single-family home. When the home is constructed it will be compliant with all setback requirements, however the home will not comply with the 35% maximum lot coverage requirement.

Mr. Loretta asked Mr. Bull if the 45 foot driveway was a necessity.

Mr. Bull replied that the home will have a 3 car garage.

Mr. Moreland asked Mr. Bull if the gravel drive will remain.

Mr. Bull replied that the gravel drive will not be remaining after construction is finished.

**Public Hearing:**

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

The following person spoke neither in favor nor against the application:

Michael Dufrane, speaking for the homeowners of 149 South 33<sup>rd</sup> Avenue, Jacksonville Beach stated that he had questions about the fence that the homeowner will be installing to reduce the sight line from the second story.

Mr. Bull responded that the home will be less than 35 feet in height (as per the standards of the LDC) and there will be 6 foot fence that separates the properties. The construction will meet all drainage requirements (as per public works) and there will be no run-off onto other properties.

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

**Discussion:**

There was a discussion about the construction meeting all requirements except the lot coverage. However, many of the board members felt that the request of 44% lot coverage was too excessive. Therefore, Mr. Loretta wished to amend the motion from “44% lot coverage to 38%”.

**Amended Motion:** It was moved by Mr. Loretta, seconded by Mr. Chestnut to amend the motion to approve a request for 38% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling.

**Roll call vote:** Ayes –Moreland, Jolley, Hall, Loretta and Chestnut.  
Amended motion carried unanimously.

**Adjournment**

There being no further business coming before the Board, Mr. Moreland adjourned the meeting at 7:40 P.M.

Submitted by: Amber Maria Lehman

Approval:

/s/John Moreland  
Chairman

Date: March 16, 2010