

**Minutes of Board of Adjustment Meeting
Held Tuesday, April 6, 2010 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 Chairman Cory.

Roll Call

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

Purpose and Ex-Parte Statement

Mr. Cory 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.”

Exparte communications were disclosed by Keith Hall, Bobby Jolley, John Moreland, Scott Chesnut, and Josh Corey, who received a letter from Mr. Scott regarding case number 1000-37.

Mr. Moreland had discussion with Bill & Stacey Scott regarding case number 1000-37 & Sam Christian regarding case number 1000-38.

Mr. Chesnut had a conversation with Mr. Robert Ford and Ms. Janelle Wilson regarding case number 10-00025.

Mr. Joseph Loretta had none.

Approval of Minutes

It was moved by Mr. Loretta, seconded by Mr. Jolley, and passed, to approve the minutes of the meetings held March 2, 2010 and March 16, 2010, as submitted.

Correspondence

There was considerable correspondence regarding 3 cases and Mr. Moreland stated he would discuss the correspondence at the end of each case.

OLD BUSINESS:

Case Number: BOA 10-100025
Name of Applicant: Mr. Robert Ford
Name of Agent: Mr. Tim Franklin
Property Address: 29 20th Avenue South

Motion: It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve a request 34-338(e)(1)c.1, for a front yard of 5 feet in lieu of 20 feet required; 34-338(e)(1)e, for 53% lot coverage in lieu of 35% maximum; and 34-373(a)(1), for off street parking of 10 feet in length in lieu of 17 feet required to allow for improvements to a single family dwelling.

Applicant:

The agent for the applicant, Tim Franklin, 418 Seagate Avenue, Neptune Beach, stated that the applicant is applying again for a variance for approval of construction of a 9 foot by 20 foot lap pool which requires relief from: front yard of 20 feet to 5 feet; 53.25% lot coverage in lieu of 35% and 10 feet by 9 feet parking spaces in lieu of 17 feet by 9 feet.

Mr. Franklin stated the application is very similar to the last application and that a description of a patio required the parking regulations. He described the parking and that no one used the spaces and stated that the variance request is necessary to accommodate the lap pool.

Mr. Franklin requested permission to present a handout to the board members.

Discussion:

Mr. Moreland discussed the difference in the previous application and the current application.

Mr. Jolley commented on the length of time that other variances that have been approved for the property.

Mr. Franklin stated that the reason for this variance is driven by a very practical medical need.

Mr. Loretta discussed plans the homeowners have to build a new house on the property with the pool and that any new construction would require a two car garage.

Mr. Chesnut discussed the landscaping and fence height, expressing a safety concern for pedestrians and effectively protecting the pool area.

Public Hearing:

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

Ms. Eve Quan, 1908 South Ocean Drive, spoke in favor of the application.

Ms. Janelle Wilson, 2014 South Ocean Drive, spoke against the application.

Mr. Phillip Howell, 3935 Duval Drive, spoke against the application.

Mr. Corey asked Mr. Franklin to return to the podium for his rebuttal.

Mr. Corey brought the application to the Board for further discussion, which resulted in the amended motion.

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

Amended Motion: It was moved by Mr. Loretta, seconded by Mr. Hall, to approve a 5-foot front yard setback in lieu of 20 feet; off street parking to 10 feet in lieu of 17 feet required. The 10 foot parking would lapse when new substantial construction begins, and 53% lot coverage in lieu of 35% maximum to allow for a swimming pool addition to a single family dwelling, as shown and discussed.

Roll call vote on amended motion: Ayes – Hall, Jolley, Loretta, Moreland, and Corey; amended motion carried unanimously.

New Business:

Case Number: BOA 10-100034

Name of Applicant: Preston and Sherry Doub

Property Address: 44 Tallwood Road

Motion: It was moved by Mr. Corey, seconded by Mr. Jolley to approve a request 34-336(e)(1)e, for 45% lot coverage in lieu of 35% maximum to allow for a swimming pool addition to a single-family dwelling.

Applicant:

Mr. Preston Daub, 44 Tallwood Road stated that they were under contract with Surfside Pools and were looking forward to their new pool and thanked the board for their consideration.

Discussion:

Discussion ensued about the pool, lot coverage and the patio.

Public Hearing:

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

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

Discussion took place regarding the pool area and storm water drainage.

Amended Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve 40% lot coverage in lieu of 35% maximum, to allow for a swimming pool addition to a single-family dwelling.

Roll call vote on amended motion: Ayes – Hall, Jolley, Loretta, and Corey; nays Moreland amended motion carried, 4 to 1.

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Case Number: BOA 10-100036
Name of Applicant: Karen Giannini
Property Address: 433 Pablo Avenue

Motion: It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve 34-377, to convert 1000 square feet of 1/200 square feet parking requirement to 1/100 to allow for a restaurant (*numerically 0 in lieu of 5 spaces*).

Applicant:

Karen Giannini, 160 Seaside Circle, Ponte Vedra Beach, Fl. 32082

Karen Giannini explained the need for more parking spaces for her pizza business on Pablo Avenue.

Discussion:

Discussion took place regarding the parking standards.

Public Hearing:

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

Carol Messerly, 201 Twelve Oaks Lane, Ponte Vedra, Fl. 32082 spoke against the application.

Dave Messerly, 201 Twelve Oaks Lane, Ponte Vedra, Fl. 32082 spoke against the application.

Mr. Corey asked Ms. Giannini to return to the podium for her rebuttal.

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

Discussion:

Discussion ensued among Board members about use of the parking spaces during the day, at night and special events.

Roll call vote: Nays – Hall, Jolley, Loretta, and Corey;
Ayes; Moreland. Motion failed by a vote of 4 to 1.

Case Number: BOA 10-100037
Name of Applicant: Ronald and Misti Stephens
Property Address: 2609 Madrid Street

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Motion: It was moved by Mr. Moreland and seconded by Mr. Jolley to approve 34-336(e)(1)c.2, for side yards of 8 feet in lieu of 10 feet required; and 34-336(e)(1)e, for 45% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling and pool.

Applicant:

Ron Stephens, 246 Cayman Court, Jacksonville Beach, Fl 32250. Mr. Stephens explained his concerns about drainage problems in the neighborhood. He presented new drawings showing a new drainage plans and changes to the original documents submitted to the board.

Discussion:

A brief discussion took place regarding the proposed changes to the application by Mr. Stephens.

Public Hearing:

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

Mr. Randy DeLoach, 59 34th Avenue South, Jacksonville Beach, Fl 32250 and also the current owner of the property Mr. and Mrs. Stephens would like to develop. Mr. DeLoach spoke in favor of the project and addressed the drainage concerns of neighbors.

Mr. Bill Scott, 2605 Madrid Street, Jacksonville Beach, Fl 32250 spoke against the application and discussed the drainage and flooding problems in the neighborhood.

Ms. Georgia O'Daniel, 2753 Madrid Street, Jacksonville Beach, Fl 32250, spoke against the application, due to drainage problems on the street.

Mr. Corey asked Mr. Stephens to return to the podium for his rebuttal.

Mr. Corey brought the application to the Board for further discussion, which resulted in the amended motion.

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

Amended Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve an 8-foot side yard in lieu of 10 feet required and 42% lot coverage in lieu of 35% required.

Roll call vote on amended motion: Ayes – Hall, Jolley, Loretta, and Corey;
Nays Moreland. Amended motion carried by a vote of 4 to 1.

Case Number: BOA 10-10038

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Name of Applicant: Mark McCumber
Name of Agent: Batey McGraw
Property Address: 3717 Duval Drive

Motion: It was moved by Mr. Moreland and seconded by Mr. Jolley to approve 34-336(e)(1)e, for 50% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling.

Applicant:

The agent for the applicant, Mr. Batey McGraw, 1717 Horn Street, Jacksonville Beach, FL 32250, presented drawings and described plans for demolition of the existing structure and construction of a new single-family home, designed to fit on the irregularly shaped lot.

Mr. Loretta asked Mr. McGraw to discuss the parking requirements for Duval Drive and Mr. McCumber's plans for parking according to the application.

The sale of the property is contingent on the approval of the application.

Public Hearing:

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

Mr. Richard Skinner, 2245 St. Johns Avenue, Jacksonville, FL 32204, is the architect of the design and spoke in favor of the application.

Mr. Mark McCumber, 53 Ponte Vedra Boulevard, Ponte Vedra Beach, FL 32082, explained his desire to live on Duval Drive, to remain in the neighborhood and that he has been very sensitive to the concerns and opinions of the residents of the neighborhood.

Mr. Joseph Brown, 4223 Duval Drive, Jacksonville Beach, FL 32250 spoke in favor of the application.

Judge and Mrs. Robert Smith, 3725 Duval Drive, Jacksonville Beach, FL 32250 spoke against the application.

Mr. Dave Dahl, 4112 Duval Drive, Jacksonville Beach, FL 32250, member of the City of Jacksonville Beach Planning Commission, spoke against the application. Mr. Dahl addressed COJB Code 34-286 and 34-287 supplemental standards for variance and flood hazard areas. He also spoke on behalf of Mr. Lee Ligo, 3938 Duval Drive, Jacksonville Beach, who is against the application and submitted documents through Mr. Dahl.

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Mr. Phillip Howell, 3935 Duval Drive, Jacksonville Beach, Fl 32250 spoke against the application, agreeing with Judge Smith and expressed his concerns of saltwater intrusion.

Mr. James McCallister, 3714 Duval Drive, Jacksonville Beach, Fl 32250, spoke against the application.

Mr. Jerry Williamson, 3804 Duval Drive, Jacksonville Beach, Fl 32250, spoke against the application and is concerned about the drainage and flooding problems on the street.

Mr. Steve Williams, 3731 Duval Drive, Jacksonville Beach, Fl 32250, complimented Mr. McCumber and Mr. Skinner on the design but is opposed to the application and stated the 35% lot coverage should be enforced. He discussed the drains that the City has installed and that flooding still occurs even with the efforts to control the drainage problem.

Ms. Ann Meadows, 4134 Duval Drive, Jacksonville Beach, Fl 32250, is opposed to the application because of the flooding and loss of property she has experienced at her home.

Mr. Corey asked Mr. McGraw to return to the podium for his rebuttal.

Discussion:

Discussion and comments ensued regarding the concerns of the citizens that were presented to the board.

The Planning and Development Department received the following letters and emails in opposition to the application:

- Holley Boyett 4115
- Carol and Dave Lambardo 4039
- Karen Brott 4003
- Dennis Gates 3732
- Robert Smith 3725
- Dave Dahl 4112
- Pam and Tim Fitch 4009
- Jerry Williamson 3804
- Allison Stratford 4103
- Leeane and John Meadows 4134
- Arthur and Jennifer Cahoon 3919
- Lee Ligo 3938

The Planning and Development Department received the following letters and emails in support of the application:

- Jette Brown 4223

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- Charles Hoskins 4241
- MG & Donna Orenger
- William Lanham 3903
- Joe Hixon 4349
- Denny and Robin Doyle 3829

It was noted there was one resident that was undecided.

Discussion continued regarding the application.

Amended Motion: It was moved by Mr. Loretta to approve 39% lot coverage regarding the application – motion failed due to lack of a second motion.

Roll call vote on original motion: Nays – Hall, Jolley, Loretta, Moreland and Corey, motion failed unanimously.

Adjournment

There being no further business coming before the Board, Mr. Corey adjourned the meeting at 9:47 P.M.

Submitted by: Cathy M. Martinich
Senior Secretary

Approval:

/s/Josh Corey
Chairperson

Date: July 6, 2010