

**Minutes of Board of Adjustment Meeting
Held Tuesday, October 20, 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
Keith Hall
Bobby Jolley
Joseph Loretta (*Chairperson*)
John Moreland (*Vice Chairperson*)
Tom Buck *Absent*
Scott Chestnut

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.”

“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.”

Mr. Loretta stated that he spoke with Sandy Golding about BOA 09-1000149

Mr. Corey stated that Sandy Golding sent an email and a voice mail about BOA 09-100149.

Mr. Chestnut stated that he spoke with Keith Doherty about BOA 09-100149.

Approval of Minutes

There were no minutes to approve.

Correspondence

There was no correspondence

OLD BUSINESS:

Case Number: BOA 09-100145

Name of Applicant: C. Nandra Talton

Property Address: 803 17th Avenue North

Motion: It was moved by Mr. Corey, seconded by Mr. Jolley, to approve a request for a rear yard of 14.65 feet in lieu of 30 feet required; and for 38% lot coverage in lieu of 35% maximum, to allow for improvements to a single family dwelling.

The agent for the applicant, Delores Douglas, stated that she co-owned the property with Ms. Talton. Ms. Douglas stated that the reason for the request was due to Ms. Talton having stage 4 liver cancer. The request is to build a screened porch to accommodate Ms. Talton having fresh air but not having to be exposed to the sun which can further her cancer.

Mr. Moreland asked the applicant if the porch will be in the rear of the home. Ms. Douglas responded yes.

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.

Discussion:

Mr. Moreland stated that the LDC does not allow the granting of a variance due to medical conditions, however, the lot size is substandard and therefore does permit a variance.

Mr. Jolley stated that the porch will have less impact since the lot is a corner lot. He would like to amend the motion by adding “as shown and submitted”.

Amended Motion: It was moved by Mr. Corey, seconded by Mr. Jolley, to approve a request for a rear yard of 14.65 feet in lieu of 30 feet required; and for 38% lot coverage in lieu of 35% maximum to allow for improvements to a single family dwelling as shown and submitted.

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

Case Number: BOA 09-100149

Name of Applicant: Evan Rajta

Property Address: 131 1st Avenue North

Motion: It was moved by Mr. Corey, seconded by Mr. Jolley, to approve a request for no additional parking in lieu of 18 spaces required to convert 3,570 square feet of retail commercial space into restaurant space.

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 people spoke in opposition to the application:

Darryl Shields, 315 18th Street North, Jacksonville Beach.

Jim Overby, 21 Burling Way, Jacksonville Beach.

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

Discussion:

Mr. Hall stated that since the applicant is not in attendance and clearly has not stated why a variance is needed or why there may or may not be a hardship – he is not comfortable approving such a request. The rest of the Board was in agreement.

Roll call vote: Nays –Corey, Jolley, Hall, Loretta, and Moreland.
Motion denied unanimously.

NEW BUSINESS:

Case Number: BOA 09-100155

Name of Applicant: Sheila Heard

Property Address: 1100 2nd Avenue South

Motion: It was moved by Mr. Corey, seconded by Mr. Jolley to approve a request for a rear yard of 8.5 feet in lieu of 30 feet required and for 36% lot coverage in lieu o 35% maximum to allow for improvement to a single family dwelling.

Applicant:

The applicant, Sheila Heard, stated that she has a much older home that was built on a non-

conforming lot and would like to build a garage to eliminate off-street parking. Ms. Heard explained that her lot is only 65 feet in depth therefore creating a hardship.

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.

Discussion:

Mr. Jolley stated that the lot is extremely narrow with the rear yard being the smallest. Mr. Corey stated that this was a text book example of what is classified as a hardship.

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

Case Number: BOA 09-100156

Name of Applicant: Bryan McAlister

Property Address: 621 4th Street

Motion: It was moved by Mr. Corey, seconded by Mr. Jolley to approve a request for 6 parking spaces in lieu of 7 spaces required and for no on-site turning and maneuvering space associated with 7 parking spaces to allow for non-specifically listed commercial use(dog grooming, 1/200).

The applicant, Bryan McAlister, 1103 8th Street North stated that his wife would like to operate a dog grooming shop at this location. However, the property is not big enough to accommodate the 7 parking spaces that are required. Mr. McAlister believes that he will be able to have 6 parking spaces on the property with patrons having to utilize the alley way for backing out. Mr. McAlister stated that Public Works is requesting him to concrete a small portion of the alley way.

Mr. Jolley asked if the applicant had a problem with Public Works request.

Mr. McAlister replied no.

Mr. Moreland stated that after he reviewed the site plan it looks as though there is only room for 5 parking spaces.

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.

Discussion:

Mr. Hall asked the applicant if he could come to the next meeting to readdress the parking issue

with a better site plan.

Amended Motion: It was moved by Mr. Hall, seconded by Mr. Corey to table the request until the next meeting to allow the applicant to reappear with an improved site plan.

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

Case Number: BOA 09-100157

Name of Applicant: Mary C. Baldauff

Property Address: 55 28th Avenue South

Motion: It was moved by Mr. Corey, seconded by Mr. Jolley to approve a request for a front yard of 12.58 feet in lieu of 18.5 feet required to allow for to a single family dwelling.

The applicant, Regis Baldauff, stated that he currently has old stairs that lead to the main entrance of his home. He would like to tear them down and rebuild with a more aesthetically pleasing design. He also stated that his and his wife’s parents are getting older and would like to accommodate their mobility by reshaping the stairs.

Mr. Moreland asked the applicant if he will be removing the shrubs next to the staircase that currently exist. Mr. Baldauff replied yes.

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:

Dean Davis, 1301 Penman Road, Jacksonville Beach.

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

Discussion:

Mr. Corey stated that the applicant did a very good job of planning and presenting the application however would like to add “as submitted and shown” the motion.

Amended Motion: It was moved by Mr. Hall, seconded by Mr. Moreland to approve a request for a front yard of 12.58 feet in lieu of 18.5 feet required to allow for to a single family dwelling as submitted and shown.

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

Adjournment

There being no further business coming before the Board, Mr. Loretta adjourned the meeting at 7:45 P.M.

Submitted by: Amber Maria Lehman

Approval:

/s/Joseph Loretta
Chairman

Date: November 17, 2009