

**Minutes of Board of Adjustment Meeting  
Held Wednesday, December 1, 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 Chairman Loretta.

**Roll Call**

Josh Corey  
Keith Hall *Absent*  
Bobby Jolley  
Joseph Loretta  
John Moreland  
Tom Buck  
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.”

There were no exparte communications disclosed by any of the board members.

## **Approval of Minutes**

It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve November 17, 2009 meeting minutes as corrected. Motion carried unanimously.

## **Correspondence**

There was no correspondence.

## **OLD BUSINESS:**

There was no old business.

## **NEW BUSINESS:**

**Case Number:** BOA 09-100174

**Name of Applicant:** Brian and Samantha Price

**Property Address:** 956 Seabreeze Avenue

**Motion:** It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve a request for 41% lot coverage in lieu of 35% maximum to allow for improvements to a single family dwelling.

### **Applicant:**

The applicant, Brian Price, 956 Seabreeze Avenue, stated that he purchased his home [new] with 38% lot coverage. The contractor did not obtain a variance. With that stated, Mr. Price would like to construct a patio onto the rear of his home. There is currently a 6X6 concrete pad already there.

Mr. Moreland asked Mr. Price if the patio will be enclosed. Mr. Price replied that it would be enclosed, but not heated or cooled.

Mr. Jolley asked Mr. Price how big the patio will be. Mr. Price stated that it will be 18 X 10.

### **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 to the application:

John Tipton, 503 6<sup>th</sup> Street North, Jacksonville Beach.

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

### **Discussion:**

There was a brief discussion about the lot being substandard for the current zoning. However, Mr. Corey stated that he would like to include "screened enclosure" to the motion.

**Amended Motion:** An amended motion was made by Mr. Corey, seconded by Mr. Jolley, to approve a request for 41% lot coverage in lieu of 35% maximum to allow for improvements to a single family dwelling to be limited to a screened enclosure as presented and submitted.

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

**Case Number:**        **BOA 09-100176**

**Name of Applicant:**    Gates of Time Square, LLC

**Property Address:**    940 3<sup>rd</sup> Street North

**Motion:** It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve a request for 96% lot coverage in lieu of 85% maximum allowed, for 8X16 dimensions for 16 parking spaces in lieu of the 9X17 requirement; for two-way parking aisles of 21 feet in width in lieu of 23 feet required; for no parking setback along the easterly property line, in lieu of 5 feet required; and for no right-of-way adjacent landscaping along the easterly property line, in lieu of a required 2 foot hedge and five (5) perimeter trees, to allow for additions to an existing commercial parking lot.

**Applicant:**

The agent for the applicant, Randy McNeal, Coast Contracting of North Florida, stated that the applicant would like to add an additional 16 compact parking spaces to the shopping center. In order to do this a few variances will need to be approved.

Mr. Moreland asked Mr. McNeal if angled parking had been considered. Mr. McNeal replied that angled parking had been considered but was not a feasible option.

Mr. Jolley asked Mr. McNeal how the parking spaces will be controlled if a much larger car tries to park in the compact parking. Mr. McNeal stated that the parking spaces will be clearly marked.

Mr. Corey asked Mr. McNeal if it was considered to reduced the parking spaces by two (compact spaces), so there could be 14 larger spaces. Mr. McNeal replied that they had not considered that option.

Mr. Loretta stated that he was not in support of the application as presented. The 21 feet wide aisle is too minimal to have vehicular maneuvering.

**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:

Greg Saig, Jacksonville Beach.

The following person spoke in opposition of the application:

John Tipton 503 6<sup>th</sup> Street North, Jacksonville Beach.

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

**Discussion:**

There was a lengthy discussion about the application having too much of a negative impact to the surrounding areas. Clearly there is a need for parking in this particular area, however, this application does not support the efforts of the LDC.

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

**Adjournment**

There being no further business coming before the Board, Mr. Moreland adjourned the meeting at 7:50 P.M.

Submitted by: Amber Maria Lehman

Approval:

/s/Joseph Loretta  
Chairman

Date: January 5, 2010