

**Minutes of Board of Adjustment Meeting
Held Tuesday, July 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 Corey.

Roll Call

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

Purpose and Ex-Parte Statement

Mr. Corey 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.”

Joe Loretta stated that he spoke with Rick Knight, Terry DeLoach, Bill Mann and Steve Lindorff about case #BOA 10-100071.

Scott Chesnut stated that he spoke with Steve Hartkemeyer and Rick Knight about case # BOA 10-100071.

Approval of Minutes

It was moved by Mr. Loretta, seconded by Mr. Jolley, and passed, to approve the April 6, 2010, May 4, 2010 and June 1, 2010 meeting minutes as presented.

Correspondence

There was no correspondence.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

Case Number: BOA 10-100071

Name of Applicant: Richard Trendel

Property Address: 412 Boardwalk

Motion: It was moved by Mr. Moreland, seconded by Mr. Jolley to approve a request for no additional parking in lieu of 73 spaces required to permit conversion of an 8,800 square feet professional office use into an 8,800 square foot restaurant with 1,170 square feet of outdoor seating.

Applicant:

Richard Trendel, 2275 Atlantic Blvd, Neptune Beach, FL and Ben Porter, 127 Pratt Street, Belmont, NC both speaking for the application.

Mr. Porter stated that the hardship that is associated with this property is the lack of additional space for extra parking that would be required as per the LDC. Mr. Porter further explained that there are currently 14 spaces with one handicap parking space. Mr. Porter referenced a memorandum from September 23, 2002 regarding Variances from the Provision of Article VIII, Division 1 – Parking and Loading Standards. He quoted the paragraph “Change of Use of an Existing Building” for the record.

Mr. Trendel informed the board that a variance was granted for the location 412 Boardwalk on April 15, 1997 for 9 off-street parking spaces in lieu of 70 spaces required.

Mr. Jolley asked Mr. Trendel what type of establishment received the variance granted in April 1997? Mr. Trendel replied that it was for retail, offices/businesses.

Mr. Moreland stated that he had read the same memo and interpreted it to be for additions to existing buildings. Mr. Porter replied that he was not adding additional space.

Mr. Jolley asked if Mr. Porter was purchasing or leasing the property. Mr. Porter replied that he was leasing the space.

Mr. Jolley stated that the corporation that owns the property at 412 Boardwalk also owns the property directly next door. Mr. Jolley asked if there has been any thought to providing parking on that piece of property. Mr. Trendel replied that, although it is owned by the same people, it will be developed at some point and will not be used for additional parking.

Mr. Corey asked how many spaces are there currently. Mr. Trendel stated that there are 16 spaces but will be losing two, due to the need for the trash compactor, which will leave 13 spaces plus 1 for handicap parking.

Mr. Moreland asked where the outdoor seating will be placed. Mr. Porter replied that it will be on the 1st floor.

Mr. Moreland asked if there will be any outdoor seating on the second floor. Mr. Porter replied no.

Mr. Moreland asked if the outdoor seating is included in the 8,800 square feet. Mr. Porter replied yes.

Mr. Moreland asked if that would be considered a substantial modification to an existing building.

John Zona, architect for the site, stated that there is no construction that accompanies the outdoor seating, merely tables and chairs placed within the property 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.

The following people spoke in opposition to the application:

Sandy Golding, 1203 18th Avenue North, Jacksonville Beach.

Jim Overby, 21 Burling Way, Jacksonville Beach.

John Sharp, 401 1st Street North, Jacksonville Beach.

David Smith, P.O. Box 50768, Jacksonville Beach.

Mr. Moreland also entered one letter into the record in favor of the application.

Mr. Porter addressed concerns about the possibility of valet parking that was brought up during the public hearing. He stated that if the restaurant would choose to valet park – the parking areas would be out of range of the restaurant.

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

Discussion:

Mr. Loretta spoke briefly about his contention with the parking problem in the CBD district. Mr. Moreland stated that with the 1100 square feet for outdoor seating that the applicant should at least provide the additional parking spaces to cover the outdoor seating.

Amended Motion: An amended motion was made by Mr. Moreland to approve a request for no additional parking spaces in lieu of 22 spaces required to permit conversion of an 8,800 square feet professional office use into an 8,800 square foot restaurant with 1,170 square feet of outdoor seating.

Amended motion died due to lack of a second.

Original Motion:

Roll call vote: Nays –Corey, Hall, Jolley and Moreland.
Ayes - Loretta
Motion denied 4 to1.

Case Number: BOA 10-100085

Name of Applicant: George A. Hornbeck

Property Address: 1016 9th Street North

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

Applicant:

George Hornbeck, 1016 9th Street North, Jacksonville Beach, stated that he currently has a parking pad that he would like to have covered. Mr. Hornbeck further explained that he is not adding any additional lot coverage, only covering what is already there.

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 who wished to address the board, Mr. Corey closed the public hearing.

Discussion:

A brief discussion ensued about the request not having an adverse affect on the neighborhood.

Amended Motion: An amended motion was made by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a northerly side yard of 7 feet in lieu of 10 feet required to allow for improvements to a single family dwelling, as shown and submitted.

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

Case Number: BOA 10-100087

Name of Applicant: David & Jennifer Klarner

Property Address: 2666 Madrid Street

Motion: It was moved by Mr. Moreland, seconded by Mr. Jolley, to approve a request for 47% lot coverage in lieu of 35% maximum to allow for improvements to a single family dwelling.

Applicant:

The agent for the applicant, Tim Franklin, 418 Seagate Avenue, Neptune Beach, stated that Mr. & Mrs. Klarner would like to have a larger driveway put in to decrease the use of off-street parking. Mr. Franklin further explained that the hardship is the lot size is below the minimum lot size in the RS-1 district.

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 who wished to address the board, Mr. Corey closed the public hearing.

Amended Motion: An amended motion was made by Mr. Loretta, seconded by Mr. Jolley, to approve a request for 47% 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, Hall, Jolley, Loretta and Moreland.
Amended motion carried unanimously.

Adjournment

There being no further business coming before the Board, Mr. Corey adjourned the meeting at 8:15 P.M.

Submitted by: Amber Maria Lehman

Approval:

/s/Josh Corey
Chairman

Date: July 20, 2010