

**Minutes of Board of Adjustment Meeting
Held Tuesday, September 21, 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
Bobby Jolley
Joseph Loretta
John Moreland
Tom Buck
Scott Chestnut
Sylvia Osewalt

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

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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. Jolley stated that he had a conversation with Ms. Bailey in regards to Case BOA 10-100121. There were no other exparte communications disclosed by the board members.

Approval of Minutes

There were no minutes to approve.

Correspondence

There was no correspondence.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

Case Number: BOA 10-100117

Name of Applicant: Mary Helen Abbott

Property Address: 119 37th Avenue South

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a westerly side yard of 7 feet in lieu of 10 feet required, and for a rear yard of 15.1 feet in lieu of 30 feet required, for 58% lot coverage in lieu of 35% maximum, and for a 1 foot parking area setback in lieu of 5 feet minimum, to ratify existing conditions and allow for a substantial improvement to a single-family dwelling.

Applicant:

Applicant, Mary Ellen Abbott, 420 Laurel Chase Court, Atlanta, GA 30327, stated that she and her husband purchased the 50's bungalow. With her family growing with grandchildren, there is a need to expand the house to include two additional bedrooms and two more bathrooms. Ms. Abbott further explained that the modifications that would be done on her home would only be done vertically; the footprint of the home will remain the same.

Mr. Loretta stated that the Board has not seen any architectural plans for the modifications. Ms. Abbot had the plans to submit for the record.

Ms. Osewalt asked the applicant why there is a need to modify the parking area.

Ms. Abbott responded that the request is to approve what is already there since it is a non-conforming issue.

Public Hearing:

Mr. Corey opened a Public Hearing and asked if anyone wished to speak in favor of or in opposition to the application.

There was no one present to speak for or against the application, however there were two letters in opposition entered into the record.

- Daniel Broderick, 3618 1st Street South, Jacksonville Beach, opposed
- Dean & Cathy Hilf, 3627 First Street South, Jacksonville Beach, opposed

Mr. Corey closed the Public Hearing.

Discussion:

Mr. Jolley stated that the applicant was not asking for anything that was not already in place and that the request seems extreme only because there are non-conforming issues. Mr. Moreland stated that the lot is grossly undersized, therefore creating a hardship for the applicant. However, Mr. Moreland wished to amend the motion to include “as per the plans submitted and discussed”.

Amended Motion: An amended motion was made by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a westerly side yard of 7 feet in lieu of 10 feet required, and for a rear yard of 15.1 feet in lieu of 30 feet required, for 58% lot coverage in lieu of 35% maximum, and for a 1 foot parking area set back in lieu of 5 feet minimum, to ratify existing conditions and allow for a substantial improvement to a single-family dwelling, as per the plans submitted and discussed.

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

Case Number: BOA 10-100119

Name of Applicant: Ben Chrisman and Stacey Troehler

Property Address: 115 1st Street

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for 5 feet total for both side yards in lieu of 15 feet required, and for a southerly side yard of 0 feet in lieu of 5 feet minimum, and for 1 a foot rear yard in lieu of 30 feet required to allow for improvements to a single-family dwelling.

Applicant:

Applicant, Stacey Troehler, 115 1st Street South, stated that she and her fiancé would like to construct an overhead deck on the rear of her home. There is currently a shed that will be removed. Ms. Troehler further explained that there is limited amount of space within her lot.

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Mr. Buck asked the applicant to explain the green elements that will be added to the property.

Ms. Troehler explained that she and her fiancé would be adding solar panels as well as a rainwater container.

Mr. Buck asked if the rainwater collection tank would be metal or plastic.

Ms. Troehler replied that she was not sure.

Mr. Moreland asked the applicant if the deck would be screened.

Ms. Troehler replied yes.

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 property creating a hardship due to the undersized lot.

Roll call vote: Ayes – Corey, Jolley, Moreland, and Buck
Nays – Loretta
Motion carried 4 to 1.

Case Number: BOA 10-100120

Name of Applicant: Richard Crozier

Property Address: 2016 10th Street North

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a southerly side yard of 7.5 feet in lieu of 10 feet required to allow for improvements to a single-family dwelling.

Applicant:

Agent for the applicant, Pat Mulligan, 533 10th Avenue North, Jacksonville Beach stated that his applicant would like to put an addition on the south side of the home. The addition will intrude on the setback by 2.5 feet.

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:

The board spoke briefly about the application not having an impact to the surrounding neighbors. Mr. Loretta stated that he wished to add the language “as shown and submitted” to the motion.

Amended Motion: An amended motion was made by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a southerly side yard of 7.5 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, Jolley, Loretta, Moreland and Buck
Amended motion carried unanimously.

Case Number: BOA 10-100121

Name of Applicant: Jan Bailey

Property Address: 25 29th Avenue South

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a front yard of 11.92 feet in lieu of 16 feet minimum, for an easterly side yard of 1.33 feet in lieu of 8 feet minimum, and a westerly side yard of 4.67 feet in lieu of 6 feet minimum, for a rear yard of 6 feet in lieu of 8 feet minimum, and for 64% lot coverage in lieu of 43% maximum to allow for a new single-family dwelling.

Applicant:

Agent for the applicant, Tim Franklin, 418 Seagate Avenue, Neptune Beach, stated that he has additional findings that he has submitted as backup for the application. He further explained to the Board that the original request was submitted prematurely and there are some changes to the actual request that are decreasing in size. The first being the front yard request will be 12.92 in lieu of 16 feet required, the second being the easterly side yard of 2.33 in lieu of 8 feet and for the third and final change, 59% lot coverage in lieu of 43% maximum. Mr. Franklin also stated that the lot clearly is an undersized lot, therefore creating a hardship for the applicant.

Mr. Moreland asked Mr. Franklin about the decks/balconies.

Mr. Franklin replied that the balconies would remain open-air balconies.

Mr. Loretta asked the applicant why the need for so many balconies.

Ms. Bailey replied that she wanted to take full advantage of the sunlight.

Ms. Osewalt asked if the pavers were included in the lot coverage request.

Mr. Franklin replied yes.

Public Hearing:

Mr. Corey opened a Public Hearing and asked if anyone wished to speak in favor of or in opposition to the application.

The following people spoke in opposition of the application:

- Steven Ussach, 31 29th Avenue South, Jacksonville Beach.
- Charles Stevens, 112 30th Avenue South, Jacksonville Beach
- Diane Stevens, 112 30th Avenue South, Jacksonville Beach

Seeing no one else who wished to address the board, Mr. Corey closed the Public Hearing.

Discussion:

There was discussion about the lot having a hardship due to the size, shape and topographic layout. Mr. Jolley stated that there have been similar requests that have been granted a variance in the surrounding neighborhood. Mr. Moreland stated that he would like to amend the motion to include language about “the balconies remaining open air and that nothing on the ground level will impair vision as well, as submitted and discussed”.

Amended Motion: An amended motion was made by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a front yard of 12.92 feet in lieu of 16 feet minimum, for an easterly side yard of 2.33 feet in lieu of 8 feet minimum, and a westerly side yard of 4.67 feet in lieu of 6 feet minimum, for a rear yard of 6 feet in lieu of 8 feet minimum, and for 59% lot coverage in lieu of 43% maximum to allow for a new single-family dwelling with the balconies remaining open air and that nothing constructed on the ground level will impair vision, as submitted and discussed.

Roll call vote: Ayes – Corey, Jolley, Moreland, and Buck
Nays – Loretta
Amended motion carried 4 to1.

Case Number: BOA 10-100122
Name of Applicant: S & G Investments II, LLC
Property Address: 221 7th Avenue South

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a front yard of 11.6 feet in lieu of 20 feet required, and for an easterly side yard of 8.1 feet and a westerly side yard of 5.8 feet in lieu of 10 feet required ,to allow for improvements to a multiple family dwelling.

Applicant:

Agent for the applicant, Trevor Shea, One Independent Drive, Suite 1600, Jacksonville, FL 32202 stated that his company has recently began purchasing foreclosed properties in Jacksonville Beach and remodeling them. The multi-family dwelling that the variance is being requested has been remodeled and currently has both units rented. Mr. Shea further explained that his request, if granted, would allow his tenants to have proper exit and entryways to the property as well as a deck on the front of the home.

Public Hearing:

Mr. Corey opened 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 lack of a hardship associated with this property.

Roll call vote: Nays – Corey, Jolley, Moreland, and Loretta
Ayes – Buck
Motion denied 4 to 1.

Case Number: BOA 10-100122

Name of Applicant: Brannon Shea and Heather Booth

Property Address: 1302 2nd Avenue South

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a westerly side yard of 5.1 feet in lieu of 10 feet required, for a rear yard of 20.8 feet in lieu of 30 feet required, and for 45% lot coverage in lieu of 42% maximum to allow for improvements to a single-family dwelling.

Applicant:

Applicant, Brannon Shea, 1302 2nd Avenue South, stated that he purchased this home in 2002 and with his growing family would like to add an additional bathroom, master suite, and utility room to the home. Mr. Shea also stated that he has spoken to his surrounding neighbors and none of them has voiced any opposition to the proposed improvements.

Public Hearing:

Mr. Corey opened a 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.

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Discussion:

Mr. Jolley stated that this lot is severely undersized and clearly has a hardship.

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

Adjournment

There being no further business coming before the Board, Mr. Corey adjourned the meeting at 8:45 P.M.

Submitted by: Amber Maria Lehman
Recording Secretary

Approval:

/s/Josh Corey

Chairperson

Date: October 5, 2010