

**Minutes of Board of Adjustment Meeting  
Held Tuesday, June 7, 2011 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 Moreland.

**Roll Call**

Josh Corey *Absent*

Bobby Jolley

Joseph Loretta

John Moreland *Chairman*

Tom Buck *Vice Chairman*

Scott Chesnut

Sylvia Osewalt

**Purpose and Ex-Parte Statement**

Mr. Moreland 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 Bill Mann and John Moy regarding BOA Case #'s 11-100059 and 11-100092.

Mr. Chesnut stated that he spoke with Bill Mann regarding BOA Case #'s 11-100059 and 11-100092.

There were no other ex-parte statements disclosed by the board members.

### **Approval of Minutes**

It was moved by Mr. Jolley, seconded by Mr. Loretta, to approve the minutes for April 19, 2011 and May 3, 2011 as presented. Motion carried unanimously.

### **Correspondence**

There was no correspondence.

### **OLD BUSINESS:**

There was no old business.

### **NEW BUSINESS:**

**Case Number:**        **BOA 11-100053**

**Name of Applicant:**    Matt & Nancy Lany

**Property Address:**    2546 Horn Street

**Motion:**            It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for 45% lot coverage in lieu of 42% maximum to allow for a new single family dwelling.

### **Amended**

**Motion:**            An amended motion was made by Mr. Buck, seconded by Mr. Jolley, to table the application until the next meeting due to the applicant requesting a continuance.

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

**Case Number:** BOA 11-100054

**Name of Applicant:** Luciano Scremin

**Property Address:** 1007 Seabreeze Avenue

**Motion:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a corner side yard of 7.12 feet in lieu of 10 feet required to allow improvements to a single family dwelling.

**Amended**

**Motion:** An amended motion was made by Mr. Buck, seconded by Mr. Jolley, to table the application until next meeting due to the applicant requesting a continuance.

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

**Case Number:** BOA 11-100055

**Name of Applicant:** Satyaprakash (Kash) Krishnarao

**Property Address:** 3110 Ocean Drive South

**Motion:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a southerly side yard of 6.75 feet in lieu of 10 feet required; and for 47% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

**Applicant:**

The agent for the applicant, Erik Kasper, stated that Mr. Krishnarao would like to tear down the existing structure and build a brand new home in its place. Mr. Krishnarao is not asking for any additional variances that are already not in place.

Mr. Loretta asked Mr. Kasper if the lot coverage is the least amount requested.

Mr. Kasper replied that this home will be the primary residence and the home that will be built is the least amount requested.

**Public Hearing:**

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

The following spoke in opposition to the application:

Norma Bendowski, 3201 Ocean Drive, Jacksonville Beach

Ralph Bendowski, 3201 Ocean Drive, Jacksonville Beach  
Mark Bendowski, 3201 Ocean Drive, Jacksonville Beach

The following spoke neither for nor against the application:

Louis Brinkerhoff, 3108 Ocean Drive, Jacksonville Beach

Mr. Kasper responded to the Bendowski's comments regarding the lot coverage and stated that the proposed structure is actually less than what is already there.

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

**Discussion:**

Mr. Jolley stated that he believes that the lot coverage request is too excessive for the property and proposed the idea of amending the motion for a reduced lot coverage amount.

**Amended**

**Motion:** An amended motion was made by Mr. Jolley, seconded by Mr. Chesnut, to approve a request for a southerly side yard of 6.75 feet in lieu of 10 feet required; and for 40% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

**Roll call vote:** Ayes – Jolley  
Nays – Buck, Loretta, Moreland and Chesnut  
Amended motion denied 4 to 1.

**Substitute**

**Amended Motion:**

A substitute amended motion was made by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a southerly side yard of 6.75 feet in lieu of 10 feet required; for 42% lot coverage in lieu of 35% maximum to allow for a new single family dwelling

**Roll call vote:** Ayes – Jolley, Buck, Loretta and Moreland  
Nays - Chesnut  
Substitute amended motion approved 4 to 1.

**Case Number:** BOA 11-100055 – BOA 11-100078

**Name of Applicant:** List of Property Owners Attached

**Property Address:** List of Property Address Attached

**Motion:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a 10 foot front yard limited to open porches, 15 feet for enclosed portions of habitable space, and 18 feet for garage walls in lieu of 25 feet required, 34-336(e)(1)c.2: for 15 feet in total for both side yards provided that no side yard is less than 5feet, in

lieu of 10 feet required, except when the lot is a corner lot. For a corner lot the side yard on the corner shall be 10 feet in lieu of 20 percent of the lot width or 10 feet, whichever is greater, 34-336(e)(1)c.3: for 20 foot rear yards in lieu of 30 feet required, and 34-363(e)(1)e: for 55% lot coverage in lieu of 35% maximum; all to allow for a new single family home.

**Applicant:**

The agent for the applicant, Terry Simmons, 1510 2<sup>nd</sup> Street South, stated that he is requesting a variance for 20 lots in the Avalon Community. Mr. Simmons further explained that most of the homeowner/lot owners have formed a Homeowner's Association and have adopted several Codes, Covenants and Restrictions. These particular lots in the community are the smallest of the lot sizes in the community. They are 60 X 85 feet, comparable to lot sizes in an RS-1 district. The community will be built as a traditional community that will allow for a pedestrian friendly neighborhood with the homes having open air front porches.

Mr. Moreland stated that he did not feel as though this particular application and the subsequent applications should be decided by the Board of Adjustment. He further stated that he considers these applications a PUD.

Mr. Loretta asked Mr. Simmons if the applicants would be willing to compromise with 50% lot coverage instead of the 55% requested.

Mr. Simmons replied that was feasible.

**Public Hearing:**

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

The following spoke in favor of the application:

John Doster, 219 39th Avenue South, Jacksonville Beach  
Wendy Griffis, 263 30<sup>th</sup> Avenue South, Jacksonville Beach  
Jan Cranford, 207 38th Avenue South, Jacksonville Beach  
Robert Mathis, 2709 Madrid Street, Jacksonville Beach  
Jay Newburn, Jacksonville Beach

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

**Discussion:**

Mr. Jolley stated that he thinks this is a good project and a good use for the area. Mr. Loretta concurred with Mr. Jolley and added that he would like to amend the motion to include the Avalon Neighborhood ARC guidelines, as submitted, as well as reducing the lot coverage to 50%.

**Amended**

**Motion:** An amended motion was made by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a 10 foot front yard limited to open porches, 15 feet for enclosed portions of habitable space, and 18 feet for garage walls in lieu of 25 of 25 feet required, 34-336(e)(1)c.2: for 15 feet in total for both side yards provided that no side yard is less than 5 feet, in lieu of 10 feet required, except when the lot is a corner lot. For a corner lot the side yard on the corner shall be 10 feet in lieu of 20 percent of the lot width or 10 feet whichever is greater, 34-336(e)(1)c.3: for 20 foot rear yards in lieu of 30 feet required, and 34-363(e)(1)e: for 50% lot coverage in lieu of 35% maximum; all to allow for a new single family home and to include the Avalon Neighborhood ARC Guidelines as shown and submitted.

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

**Case Number:** BOA 11-100079 – BOA 11-100090

**Name of Applicant:** List of Property Owners Attached

**Property Address:** List of Property Address Attached

**Motion:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a 10 foot front yard limited to open porches, 15 feet for enclosed portions of habitable space, and 18 feet for garage walls in lieu of 25 feet required, 34-336(e)(1)c.2: for 7.5 feet side in lieu of 10 feet required, except when the lot is a corner lot. For a corner lot the side yard on the corner shall be 10 feet in lieu of 20 percent of the lot width or 10 feet whichever is greater, 34-336(e)(1)c.3: for 25 foot rear yards in lieu of 30 feet required, and 34-363(e)(1)e: for 50% lot coverage in lieu of 35% maximum; all to allow for a new single family home.

**Applicant:**

The agent for the applicant, Terry Simmons, 1510 2<sup>nd</sup> Street South, stated that he is requesting a variance for 12 lots in the Avalon Community. Mr. Simmons referenced the previous application noting that the difference between them is that these lots are deeper.

**Public Hearing:**

Mr. Moreland 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. Moreland closed the public hearing.

**Discussion:**

Mr. Loretta stated that he wanted to amend the motion to include the Avalon Neighborhood ARC guidelines, as submitted, as well as reducing the lot coverage to 47%.

**Amended**

**Motion:** An amended motion was made by Mr. Buck, seconded by Mr. Jolley, to approve a request for a 10 foot front yard limited to open porches, 15 feet for enclosed portions of habitable space, and 18 feet for garage walls in lieu of 25 feet required, 34-336(e)(1)c.2: for 7.5 feet side in lieu of 10 feet required, except when the lot is a corner lot. For a corner lot the side yard on the corner shall be 10 feet in lieu of 20 percent of the lot width or 10 feet whichever is greater, 34-336(e)(1)c.3: for 25 foot rear yards in lieu of 30 feet required, and 34-363(e)(1)e: for 47% lot coverage in lieu of 35% maximum; all to allow for a new single family home and to include the Avalon Neighborhood ARC Guidelines as shown and submitted.

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

**Case Number:** BOA 11-100091 – BOA 11-100092

**Name of Applicant:** List of Property Owners Attached

**Property Address:** List of Property Address Attached

**Motion:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a 15 foot front yard limited to open porches, 20 feet for enclosed portions of habitable space, and 25 feet for garage walls in lieu of 25 feet required, 34-336(e)(1)c.2: for 7.5 feet side in lieu of 10 feet required, for 40% lot coverage in lieu of 35% maximum; all to allow for a new single family home.

**Applicant:**

The agent for the applicant, Terry Simmons, 1510 2<sup>nd</sup> Street South, stated that he is requesting a variance for 12 lots in the Avalon Community. Mr. Simmons referenced the previous applications noting that difference between them is that these lots are deeper.

**Public Hearing:**

Mr. Moreland 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. Moreland closed the public hearing.

**Discussion:**

Mr. Loretta stated that he wanted to amend the motion to include the Avalon Neighborhood ARC guidelines as submitted

**Amended**

**Motion:** An amended motion was made by Mr. Buck, seconded by Mr. Jolley, to approve a request for a 15 foot front yard limited to open porches, 20 feet for enclosed portions of habitable space, and 25 feet for garage walls in lieu of 25 feet required, 34-336(e)(1)c.2: for 7.5 feet side in lieu of 10 feet required, for 40% lot coverage in lieu of 35% maximum; all to allow for a new single family home and to include the Avalon Neighborhood ARC Guidelines as shown and submitted.

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

**Adjournment**

There being no further business coming before the Board, Mr. Moreland adjourned the meeting at 8:30 P.M.

Submitted by: Amber Maria Lehman

Approval:

/s/John Moreland

Chairman

Date: July 19, 2011