

**Minutes of Board of Adjustment Meeting
held Tuesday, October 4, 2011 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 Moreland.

Roll Call

Josh Corey
Bobby Jolley
Joseph Loretta
John Moreland *Chairman*
Tom Buck *Vice Chairman Absent*
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.”

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“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. Corey and Mr. Loretta stated that they both had telephone conversations with Ms. Smith regarding Case # BOA 11-100138.

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 11-100138**
Name of Applicant: Toni Smith
Property Address: 571 34th Avenue South

Motion: It was moved by Mr. Corey, seconded by Mr. Jolley, to approve a request for a rear yard of 28.9 feet in lieu of 30 feet required, and for 41% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling and pool.

Applicant, Toni Smith, 571 34th Avenue South, Jacksonville Beach, stated that she purchased this home for her and her sister. The house is currently two levels and she would like to demolish it and construct a single story home. There is currently a pool existing (pre-purchase) and designing a home on the lot was difficult due to its odd shape.

Mr. Loretta asked if the change will include a one-car or a two-car garage.

Ms. Smith replied that the house will only have a one-car garage.

Public Hearing

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

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The following person spoke in favor of the application:

Barbara Delvin, Jacksonville Beach.

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

Discussion

A brief discussion ensued about the lot having 600 more square feet than the minimal standard size lot. Mr. Jolley stated that there were not any neighbors in opposition and the request is minimal. Mr. Corey stated that he did not feel that this was a minimum request and the applicant could have decreased her lot coverage request.

Roll call vote: Ayes - Corey, Jolley, Loretta
Nays -Moreland, Chesnut
Motion carried with a vote of 3 to 2.

Case Number: BOA 11-100139
Name of Applicant: Anthony Murphy, Jr.
Property Address: 3273 Pullian Court

Motion: It was moved by Mr. Corey, seconded by Mr. Jolley, to approve a request for 43% lot coverage in lieu of 35% maximum to allow for improvements to a single-family dwelling.

Applicant, Anthony Murphy, Jr., 3273 Pullian Court, Jacksonville Beach, stated that he cares for his quadriplegic grandfather and in order to give quality of life, he needs to install pavers around the pool area so that he can enjoy the outside more. As it is now, he can only sit in his wheel chair on the small concrete pad.

Mr. Chesnut asked the applicant if he could make the area where the pavers would be smaller.

Mr. Murphy replied that he did not think that would be feasible and would like to have a wide enough area so that his grandfather's wheelchair will be easy to maneuver.

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.

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Discussion:

There was a minor discussion about the lot coverage request being too excessive and Mr. Loretta stated that he would like to amend the motion to reduce the lot coverage and to include wording to limit lot coverage to surface decking.

Amended Motion: An amended motion was made by Mr. Loretta, seconded by Mr. Jolley, to approve a request for 40% lot coverage in lieu of 35% required to allow for improvements to a single family dwelling, as discussed and submitted, and limiting the 5% additional lot coverage to surface decking only.

Roll call vote: Ayes – Corey, Jolley, Loretta
Nays – Moreland, Chesnut
Motion carried with a vote of 3 to 2.

Adjournment

There being no further business coming before the Board, Mr. Moreland adjourned the meeting at 7:40 P.M.

Submitted by: Amber Maria Lehman
Senior Secretary

Approval:

/s/John Moreland
Chairman

Date: November 15, 2011