

**Minutes of Board of Adjustment Meeting
held Tuesday, April 17, 2012 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 Buck.

Roll Call

Josh Corey *Absent*
Bobby Jolley
Joseph Loretta *Vice-Chairman*
John Moreland *Absent*
Tom Buck *Chairman*
Sylvia Osewalt
Michael Gallimore

Purpose and Ex-Parte Statement

Mr. Buck 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.”

There were no ex-parte communications disclosed by the Board members.

Approval of Minutes

It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve the meeting minutes for July 7, 2009, August 3, 2012, February 7, 2012 and March 6, 2012, as presented. Motion carried unanimously.

Correspondence

There was no correspondence.

OLD BUSINESS:

There was no old business.

NEW BUSINESS

Case Number: BOA 12-100030

Name of Applicant: Michael L. Fogg

Property Address: 1265 18th Street North

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for 42% lot coverage in lieu of 35% maximum to allow for a new single- family dwelling.

Applicant:

Applicant, Michael Fogg, 366 Plaza Street, Atlantic Beach, stated that he is requesting a variance due to the substandard lot size, with the lot only being 5,000 square feet. The proposed new construction will be approximately 1,698 square feet, 3 bedroom and 2.5 bathroom house with a two-car garage.

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Public Hearing:

Mr. Buck 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. Buck closed the Public Hearing.

Discussion:

A brief discussion ensued amongst the Board members about the lot size creating a hardship for the applicant.

Roll call vote: Ayes – Buck, Jolley, Loretta, Osewalt, and Gallimore; motion carried unanimously.

Case Number: **BOA 12-100031**

Name of Applicant: Packer Property

Property Address: 814 & 820 1st Street North

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a front yard of 0 feet in lieu of 20 feet, and for lot coverage of 80% in lieu of 65% maximum to allow for construction of an eighteen unit multi-family structure with accessory commercial use.

Applicant:

Agent for the applicant, Scott King, stated that his firm purchased the site of 1st Street Grill a while back and has received a Conditional Use from the Planning Commission for the property to be used as both residential and commercial. The request for the front yard variance of 0 feet is so that the proposed building will be commensurate with the other downtown buildings.

Mr. King introduced John Zona, 1845 Belfort Road, Jacksonville, as the architect for the project.

Mr. Loretta asked the Mr. Zona if the project is to have more landscaping than required. Mr. Zona replied yes.

Public Hearing:

Mr. Buck 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 people spoke in opposition to the application:

- Kathy Nemay, 2999 1st Street South, Jacksonville Beach.
- Mike Riley, 1119 7th Avenue North , Jacksonville Beach
- Rick Danser, 828 1st Street North, Jacksonville Beach
- Eli Danser, 828 1st Street North, Jacksonville Beach
- Robert Dahm, 117 7th Avenue North, Jacksonville Beach

In response to the opposition, Mr. Zona addressed the issue of parking and stated that the parking will be controlled and there are two parking spaces for every unit. He advised that on-street parking should not be a problem. Mr. Zona added that the structure will be built with a 'Key West style' theme.

Seeing no one further who wished to address the Board, Mr. Buck closed the public hearing.

Discussion:

There was extensive dialogue among the Board members about the project being consistent with the City of Jacksonville Beach visioning for the future. Mr. Jolley stated that with the project being mixed-use, it will be a considerable asset to the downtown area.

In consideration of the request and resident's concerns, Mr. Loretta wished to amend the motion to include additional conditions on the approval.

Amended Motion:

An amended motion was made by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a front yard of 0 feet in lieu of 20 feet, and for lot coverage of 80% in lieu of 65% maximum to allow for construction of an eighteen unit multi-family structure with accessory commercial use with the following conditions:

1. To limit access to one entry on 7th Avenue North
2. To include a 6 foot barrier on the western and northern boundary lines
3. To limit commercial operations to 10:00pm

Roll call vote: Ayes – Buck, Jolley, Loretta, and Gallimore
Nays – Osewalt.

The motion carried by a vote of 4 to 1.

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Case Number: BOA 12-100032

Name of Applicant: Roger M. O'Steen, Jr.

Property Address: 2514 Horn Street

Motion: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for 46% lot coverage in lieu of 35% maximum to allow for a new single- family dwelling.

Applicant:

Agent for the applicant, Richard Osteen, stated that he is requesting a lot coverage variance due to the substandard size of the lot.

Public Hearing:

Mr. Buck 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. Buck closed the Public Hearing.

Discussion:

A brief discussion ensued regarding the substandard size of the lot creating a hardship for the owner.

Roll call vote: Ayes - Buck, Jolley, Loretta, Osewalt, and Gallimore; motion carried unanimously.

Adjournment

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

Submitted by: Amber Maria Lehman
Office of the City Clerk

Approval:

/s/Tom Buck

Chairman

Date: May 15, 2012