

**Minutes of Board of Adjustment Meeting  
held Tuesday, December 18, 2012 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 Buck.

**Roll Call**

Tom Buck, Chairman  
Josh Corey *Absent*  
Bobby Jolley  
Joseph Loretta, Vice-Chairman  
John Moreland

Alternates:

Mike Gallimore  
Sylvia Osewalt *Absent*

**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.”

“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**

There were no minutes to approve.

### **Correspondence**

There was correspondence submitted for Case No. 12-100179, and would be addressed at the hearing of said case.

### **OLD BUSINESS:**

#### **(A) Case Number: BOA 12-100164**

Name of Applicant: Taffy Cook

Property Address: 3825 Tropical Terrace

Motion to Approve: It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for 47% lot coverage in lieu of 35% maximum for a swimming pool addition to a single-family dwelling.

#### **Applicant:**

The agent for the applicant, David Willis, stated that Mr. and Mrs. Cook were not aware of the variance needed to construct a pool with pavers. The construction has already been completed.

Mr. Jolley asked Mr. Willis if the pool is above ground or below ground.

Mr. Willis replied that it was half and half, and further explained that the applicants were not aware that the pavers are impervious and count against the lot coverage.

#### **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.

A brief discussion ensued about the property having a hardship due the substandard lot size.

**Roll call vote:** Ayes – Moreland, Jolley, Gallimore, and Buck  
Nays – Loretta

Motion passed with a 4 to 1 vote.

**NEW BUSINESS:**

**(B) Case Number: BOA 12-100170**

Name of Applicant: New Atlantic Builders, LLC

Property Address: 4231 2<sup>nd</sup> Street South

**Motion to Approve:** It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a front yard of 7.5 feet in lieu of 25 feet required, and for a side yard of 7.5 feet in lieu of 10 feet required, and for 50% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

**Applicant:**

The agent for the applicant, Stephen Williams, 3731 Duval Drive, Jacksonville Beach, stated that this lot is located in the Avalon Subdivision which was granted many variances for lot coverage and side yard setbacks. This lot is non-conforming due the lot size.

**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.

There was a brief discussion about the substandard lot size, resulting in an amended motion to add “as shown and submitted”.

**Amended Motion:**

An amended motion was made by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a front yard of 7.5 feet in lieu of 25 feet required, and for side yard of 7.5 feet in lieu of 10 feet required, and for 50% lot coverage in lieu of 35% maximum to allow for a new single family dwelling, as shown and submitted.

**Roll call vote:** Ayes – Loretta, Jolley, Gallimore, and Buck  
Nays – Moreland

Amended motion passed with a 4 to 1 vote.

**(C) Case Number: BOA 12-100173**

Name of Applicant: New Atlantic Builders, LLC

Property Address: 4229 2<sup>nd</sup> Street South

**Motion to Approve:** It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for side yards of 7.5 feet in lieu of 10 feet required and for 47% lot coverage in lieu of 35% maximum to all for a new single family dwelling.

**Applicant:**

The agent for the applicant, Stephen Williams, 3731 Duval Drive, Jacksonville Beach, stated that the lot is 8400 square feet, which is non-conforming. This variance request is consistent with the other Avalon properties that have received similar variances.

Mr. Loretta asked Mr. Williams if this was the minimum that the applicant could construct with.

Mr. Williams replied that this was the absolute minimum needed to allow construction of a single-family home.

**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.

A brief discussion ensued about the lot size being substandard, resulting in an amended motion to reduce the lot coverage to 42%.

**Amended Motion:**

An amended motion was made by Mr. Loretta, seconded by Mr. Moreland, to approve a request for side yards of 7.5 feet in lieu of 10 feet required, and for 42% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling.

**Roll call vote:** Ayes –Buck, and Jolley  
Nays – Moreland, Loretta, and Gallimore

Amended motion failed with a 2 to 3 vote.

**Roll call vote on original motion:** Ayes –Moreland, Loretta, and Gallimore  
Nays – Buck, and Jolley

Motion passed with a 3 to 2 vote.

**(D) Case Number: BOA 12-100179**

Name of Applicant: Sam H. Hall

Property Address: 51 36<sup>th</sup> Avenue South

**Motion to Approve:** It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a southerly side yard of 4 feet, in lieu of 10 feet required, and for 48% lot coverage in lieu of 42% maximum to allow for a new single family dwelling.

**Applicant:**

The applicant, Sam Hall, introduced his agent, Thom Mnich, 3618 1<sup>st</sup> Street South, Jacksonville Beach. Mr. Mnich stated that the lot is undersized for the zoning use. Also, the lot is only 48.6 feet wide and the total square footage of the lot is 6804. The variance request for 48% lot coverage, which is comparable to what has been approved previously in the neighborhood. The home will be a two-story home.

Mr. Moreland asked Mr. Mnich if the concrete along 36<sup>th</sup> Street will be removed.

Mr. Mnich 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.

The following people spoke in favor of the application:

Dr. Daniel Broderick , 3618 1<sup>st</sup> Street South, Jacksonville Beach  
Scott Lewis, 3525 Ocean Drive South, Jacksonville Beach

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

Discussion ensued and the board members noted that the neighboring property owners were in favor of the variance request. However, additional discussion resulted in an amended motion.

**Amended Motion:**

An amended motion was made by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a southerly side yard of 4 feet in lieu of 10 feet required, and for 48% lot coverage

in lieu of 42% maximum to allow for a new two story dwelling, as shown and discussed.

**Roll call vote:** Ayes – Moreland, Jolley, and Gallimore  
Nays – Buck and Loretta

Amended motion passed with a 3 to 2 vote.

**(E) Case Number: BOA 12-100181**

Name of Applicant: Kenneth Steven Parrish, Jr.

Property Address: 1265 18<sup>th</sup> Street North

**Motion to Approve:** It was moved by Mr. Loretta, seconded by Mr. Jolley, to approve a request for a rear yard of 18 feet in lieu of 30 feet required to allow for improvements to a single-family dwelling.

**Applicant:**

The applicant, Steven Parrish, 1265 18<sup>th</sup> Street North, Jacksonville Beach stated that he would like to construct a back porch onto the rear of his home.

Mr. Loretta asked if the porch will be open air.

Mr. Parrish 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.

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

There was a very brief discussion noting that this request will not hinder the surrounding properties in the neighborhood. However, the discussion resulted in an amended motion.

**Amended Motion:**

An amended motion was made by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a rear yard of 18 feet in lieu of 30 feet required to allow for improvements to a single family dwelling, as shown and submitted.

**Roll call vote:** Ayes – Moreland, Jolley, Buck, Loretta, and Gallimore; amended motion passed unanimously.

**Building Department Report:** The next scheduled meeting is Wednesday, January 2, 2013.  
There are currently scheduled six (6) scheduled cases.

Board of Adjustment Meeting  
held December 18, 2012

**Adjournment**

There being no further business coming before the Board, Mr. Buck adjourned the meeting at 7:55 P.M.

Submitted by: Amber Maria Lehman  
Senior Secretary

Approval:

/s/ Joseph Loretta  
Chairman

Date: January 15, 2013