

Minutes of Board of Adjustment Meeting  
held Tuesday, May 21, 2013, 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 Loretta.

### **Roll Call**

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

Alternates:

Sylvia Osewalt  
Mike Gallimore

### **Purpose and Ex-Parte Statement**

Mr. Loretta 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. Gallimore stated that he had a conversation with the applicant Rick Johnston regarding BOA #13-100081.

**Approval of Minutes**

There were no minutes to approve.

**Correspondence**

There was no correspondence.

**OLD BUSINESS:**

There was no old business.

**NEW BUSINESS:**

**(F) Case Number: BOA 13-100085**

**Name of Applicant:** H & H Seaside Development

**Property Address:** 1125 1<sup>st</sup> Street North

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for front yards of 12 feet in lieu of 20 feet required; for 5 foot southerly unit and 6 foot northerly unit side yards in lieu of 10 feet required; and for 5 foot northerly unit rear yard in lieu of 30 feet required to allow for a 3 unit townhouse development.

**Applicant:**

The applicant, Lynn Hielmann, 22 Hopson Road, requested to withdraw the application.

**(A) Case Number: BOA 13-100079**

**Name of Applicant:** Erik Bjornson

**Property Address:** 3015 1<sup>st</sup> Street South

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a front yard of 8.17 feet in lieu of 25 feet required to allow for improvements to a single family dwelling.

**Applicant:**

The applicant, Erik Bjornson, stated that he would like to construct a front porch. The porch will be 16' X 16'.

Mr. Buck asked the applicant if he will be removing some of the existing concrete. Mr. Bjornson replied yes.

Mr. Loretta asked the applicant if additional improvements will be made to the home. Mr. Bjornson replied yes, for the interior of the home only.

**Public Hearing:**

Mr. Loretta 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. Loretta closed the public hearing.

**Discussion:**

A brief discussion ensued about the applicant having a hardship due to the odd shape of the lot, however, Mr. Loretta did request that the motion be amended to include "as shown and submitted".

**Amended Motion:** An amended motion was made by Mr. Moreland, seconded by Mr. Jolley, to approve a request for a front yard of 8.17 feet in lieu of 25 feet required to allow for improvements to a single family dwelling for an open-air front porch, as shown and submitted.

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

**(B) Case Number: BOA 13-100081**

**Name of Applicant:** Salt Marsh, LLC

**Property Address:** 2100 Beach Boulevard and 117 S. Marsh Area

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a lot width of 55 feet in lieu of 90 feet at the building line; for side yards of 7.5 feet in lieu of 10 feet required; and for 39% lot coverage in lieu of 35% maximum to allow for the plotting of 4 new building lots.

**Applicant:**

The agent for the applicant, Richard Johnston, 6384 Philips Highway, stated that the lot is a unique shape, therefore creating difficulty in developing these 4 lots. Mr. Johnston reported that if the variance would be granted, development will not adversely affect the surrounding neighborhood.

Mr. Loretta asked the applicant if there will be a drainage easement on the west side of the property. Mr. Johnston replied yes, and further explained that an underground storm water treatment will be installed to handle runoff.

Mr. Loretta asked if a permit will be required by the district. Mr. Johnston replied yes.

Mr. Loretta asked Mr. Johnston if he was flexible with his request in the event there may be objections to the request as presented. Mr. Johnston replied yes, he was flexible on shifting the lots.

Mr. Buck stated that these lots are in excess of the minimum lot size and asked why the request for 39% lot coverage. Mr. Johnston replied that the reason for the lot coverage request is to have enough lot coverage for pools so that another variance request will not be needed at a later time.

Mr. Moreland asked the applicant if the schematic that he provided to the Board as an alternative plan allows for 60 foot widths and 10 foot setbacks for the 4<sup>th</sup> property. Mr. Johnston replied yes.

**Public Hearing:**

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

The following person spoke in favor of the application:

Ty Gordon, 2 Hopson Road, Jacksonville Beach

The following person spoke neither for nor against the application:

Lynn Hielmann, 22 Hopson Road, Jacksonville Beach

Seeing no one else who wished to address the Board, Mr. Loretta closed the public hearing.

**Discussion:**

There was a discussion about the applicant not having a clear hardship. However, Mr. Moreland offered an amended motion.

**Amended Motion:** An amended motion was made by Mr. Moreland, seconded by Ms. Osewalt, to approve a request for a lot width of 60 feet in lieu of 90 feet at the building line.

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

**(C) Case Number: BOA 13-100082**

**Name of Applicant:** John Denneen, Double D Construction

**Property Address:** 828 10<sup>th</sup> Avenue South (Lot 6)

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a side yard and corner side yard of 7.5 feet in lieu of 10 feet required; and for 45% lot coverage in lieu of 35% maximum to allow for a new two-family dwelling.

**Applicant:**

The agent for the applicant, Stephen Williams, 3731 Duval Drive, Ponte Vedra Beach, stated that he is requesting the variance so that he can construct a duplex on the lot. The reason that he is requesting the variance is due to the lot width of 50 feet and RS-3 requires 60 feet width.

Mr. Moreland stated that he understood the hardship due to the width of the lot, however, the lot itself is in excess of the minimum size requirement.

Mr. Williams replied that if there was more width at the building line there would be more lot coverage to accommodate the building.

**Public Hearing:**

Mr. Loretta 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. Loretta closed the public hearing.

**Discussion:**

There was a discussion about the applicant having a hardship due to the lot width being substandard. It was noted that this proposed building is identical to what has been previously approved directly across the street from this address.

**Roll call vote:** Ayes – Buck, Moreland, Jolley, Loretta; Nays - Osewalt.  
Motion passed 4 to 1.

**(D) Case Number: BOA 13-100083**

**Name of Applicant:** John Denneen, Double D Construction

**Property Address:** 828 10<sup>th</sup> Avenue South (Lot 5)

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a side yard and corner side yard of 7.5 feet in lieu of 10 feet required; and for 45% lot coverage in lieu of 35% maximum to allow for a new two-family dwelling.

**Applicant:**

The agent for the applicant, Stephen Williams, 3731 Duval Drive, Ponte Vedra Beach, stated that this is exactly like the previous request. (BOA 13-100082)

**Public Hearing:**

Mr. Loretta 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. Loretta closed the public hearing.

**Discussion:**

There was a discussion about the applicant having a hardship due to the lot width being substandard, however, Mr. Moreland wished to add the verbiage “as shown and submitted”.

**Amended Motion:** An amended motion was made by Mr. Moreland, seconded by Mr. Jolley, to approve a request for a side yard and corner side yard of 7.5 feet in lieu of 10 feet required; and for 45% lot coverage in lieu of 35% maximum to allow for a new two-family dwelling, as shown and submitted.

**Roll call vote:** Ayes – Buck, Moreland, Jolley, Loretta. Nays - Osewalt.  
Amended motion passed 4 to 1.

**(E) Case Number: BOA 13-100084**

**Name of Applicant:** Brian Waldrep

**Property Address:** 1511 Marsh Inlet Court

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for 39% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

**Applicant:**

The applicant, Brian Waldrep, 1511 Marsh Inlet Court, stated that he is requesting a variance due to the need for extra driveway space to accommodate 4 vehicles, one being a police car.

**Public Hearing:**

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

The following person spoke in favor of the application:

Josh Autry, 1304 8<sup>th</sup> Street North, Jacksonville Beach.

Seeing no one else wished to address the Board, Mr. Loretta closed the public hearing.

**Discussion:**

There was a brief discussion about the request being minimal.

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

**(G) Case Number: BOA 13-100086**

**Name of Applicant:** John P. Heilmann

**Property Address:** 1857 Kings Road

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a front yard of 21 feet in lieu of 25 feet required; and for 41% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

**Applicant:**

The applicant, John Heilmann, 1203 Kernan Forest Blvd., Jacksonville, stated that he can't build a two-story house due to his wife having knee problems. He stated that the house he wants to construct is a one story home and requires the additional lot coverage.

Mr. Loretta stated that the garage is pretty large. Mr. Heilmann replied that he needs to accommodate his family's vehicles.

Mr. Moreland stated that the LDC prohibits the approval of variance requests due to medical hardships.

Mr. Loretta asked the applicant if anything could be scaled back on his home so that there would not be so much lot coverage. Mr. Heilmann replied that he definitely needed a one-story home.

**Public Hearing:**

Mr. Loretta 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. Loretta closed the public hearing.

**Discussion:**

A discussion ensued about the application not having a hardship due to the excessive size of the lot, however, Mr. Moreland wanted to amend the motion.

**Amended Motion:** An amended motion was made by Mr. Moreland, , seconded by Ms. Osewalt, to approve a request for a front yard of 21 feet in lieu of 25 feet required, to allow for a new single family dwelling.

**Roll call vote:** Nays – Buck, Moreland, Jolley, Loretta and Osewalt.  
Amended motion denied unanimously.

\*Due to the amended motion being denied, the original motion is to be voted on.

**Motion:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a front yard of 21 feet in lieu of 25 feet required; and for 41% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

**Roll call vote:** Nays –Moreland, Jolley, Loretta and Osewalt; Ayes - Buck  
Motion denied 4 to 1.

**(H) Case Number: BOA 13-10088**

**Name of Applicant:** Jason Huntley

**Property Address:** 200 41<sup>st</sup> Avenue

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a front yard of 14.36 feet in lieu of 25 feet required; for a westerly side yard of 7.5 feet in lieu of 10 feet required; for a rear yard of 15.84 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.

**Applicant:**

The applicant, Jason Huntley, 1592 Queen Side Drive, Atlantic Beach, stated that this lot is located in the Avalon Community and the hardship is due the lot being extremely odd shaped, rendering the lot unusable. Mr. Huntley also stated that he worked extremely hard to stay in line with the surrounding homes in the neighborhood.

Mr. Loretta stated that this lot is in excess of the minimum requirements for this particular zoning. Mr. Huntley replied that if the lot was square, he would not need a variance request.

Mr. Moreland stated that the lot is an irregular shape and asked the applicant if there was any way that the lot coverage could be reduced.

**Public Hearing:**

Mr. Loretta 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. Loretta closed the public hearing.

**Discussion:**

A discussion ensued about the applicant having a hardship due the irregular lot shape, and that the lot is in excess of the minimum lot size. Mr. Moreland stated that he wanted to offer an alternative motion for the setbacks only.

**Amended Motion:** An amended motion was made by Mr. Moreland, seconded by Ms. Osewalt, to approve a request for a front yard of 14.36 feet in lieu of 25 feet required; for a westerly side yard of 7.5 feet in lieu of 10 feet required; for a rear yard of 15.84 feet in lieu of 30 feet required to allow for a new single family dwelling.

**Roll call vote:** Nays –Moreland, Jolley, Loretta and Osewalt; Ayes - Osewalt  
Amended motion denied 4 to 1

\*Due to the amended motion being denied, the original motion is to be voted on.

**Motion:** It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a front yard of 14.36 feet in lieu of 25 feet required; for a westerly side yard of 7.5 feet in lieu of 10 feet required; for a rear yard of 15.84 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.

**Roll call vote:** Ayes –Moreland, Jolley, Loretta and Buck; Nays – Loretta.  
Motion approved 4 to 1.

**Building Department Report:** The next scheduled meeting is Tuesday, June 4, 2013.  
There are currently three (3) scheduled cases.

**Adjournment**

There being no further business coming before the Board, Mr. Loretta adjourned the meeting at 8:20 P.M.

Submitted by: Amber Maria Lehman  
Senior Secretary

Approval:

/s/Joseph Loretta

Chairperson

Date: 7/2/2013