

**Minutes of Board of Adjustment Meeting
held Tuesday, August 20, 2013, 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 Loretta.

Roll Call

Tom Buck, Vice-Chairman
Josh Corey *Absent*
Joseph Loretta, Chairman
John Moreland
Sylvia Osewalt

Alternates:

Mike Gallimore
Scott Cummings

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

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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. Buck, Mr. Moreland, Mr. Loretta and Ms. Osewalt stated that they had ex-parte communications with various residents regarding BOA #13-100145.

Approval of Minutes

It was moved by Mr. Buck, seconded by Mr. Moreland, and passed, to approve the July 16, 2013 minutes as presented.

Correspondence

There was no correspondence.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

(A) Case Number: BOA 13-100124

Name of Applicant: Bottom Line Ventures, Inc.

Property Address: 234 9th Avenue South

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for side yards of 5 feet in lieu of 10 feet required, and for 52% lot coverage in lieu of 35% maximum to allow for a new two-family dwelling.

Applicant:

The applicant, Tim Millard, 230 15th Street South, Jacksonville Beach, stated that he is requesting a variance to construct a two-family dwelling. Mr. Millard stated that he will be demolishing the two current structures that exist on the property.

Mr. Moreland asked the applicant if he could reduce the lot coverage to 50% or less.

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Mr. Millard replied that he could do that, however, he would have to rework the site plan and would have to go vertical so that he could achieve a desired dwelling.

Ms. Osewalt asked about the current lot coverage percentage that exists. Mr. Millard replied that he was not sure about the current lot coverage.

Mr. Millard also stated that he was advised by Mr. Mann that he would be able to construct a three-unit multi-family structure but he would like to only build a two-family dwelling.

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:

Discussion ensued, noting that there wasn't any opposition to the request and this site plan would be less invasive to the surrounding neighbors.

Roll call vote: Ayes - Osewalt, Moreland, Loretta, Gallimore
Nays - Buck
Motion carried with a vote of 4 to 1.

(B) Case Number: BOA 13-100129

Name of Applicant: Bottom Line Ventures, Inc.

Property Address: 520 & 522 South 1st Street

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for a front yard of 17 feet in lieu of 20 feet required, for side yards of 5 feet in lieu of 10 feet required, for a rear yard of 18 feet in lieu of 30 feet required, for 61% lot coverage in lieu of 35%, to allow for a new two-family dwelling.

Applicant:

The applicant, Tim Millard, 230 15th Street South, Jacksonville Beach, stated that there is currently an approved variance to construct a three unit multi-family structure. Mr. Millard stated three units requires a Home Owners Association (HOA) and he doesn't want to have to provide an HOA.

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Mr. Moreland asked if there is an existing structure on the property. Mr. Millard replied yes, and that it will be demolished.

Mr. Loretta asked if there is an alley way that exists. Mr. Millard replied yes, to the north of the property.

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 opposition to the application:

- John Keiser, 590 1st Street South, Jacksonville Beach.

Rebuttal:

Mr. Millard stated that regarding the sewer pipe on the property, Public Works may provide a TAP.

Mr. Moreland asked Mr. Hays if Public Works would provide a TAP for the sewer line. Mr. Hays replied that he cannot address that issue.

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

Discussion:

There was a discussion about this request being less than what has been previously approved. However, due to the applicant's own admission, Mr. Moreland stated that he wished to amend the motion to remove the front yard setback request, reduce the rear yard setback request, as well as reduce the lot coverage request.

Amended Motion: An amended motion was made by Mr. Moreland, seconded by Mr. Buck, to approve a request for side yards of 5 feet in lieu of 10 feet required, for a rear yard of 25 feet in lieu of 30 feet required, for 56% lot coverage in lieu of 35%, to allow for a new two-family dwelling, as shown and discussed.

Roll call vote: Ayes - Buck, Moreland, Loretta, Gallimore
Nays - Osewalt
Amended motion carried with a vote of 4 to 1.

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(C) Case Number: BOA 13-100130

Name of Applicant: Castle Corp of Jacksonville

Property Address: 1125 North 1st Street

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for front yards of 12 feet in lieu of 20 feet required, for a 5 foot southerly unit side yard and 6 foot northerly unit side yard in lieu of 10 feet required, and for a rear yard of 5 feet for the northerly unit and 0 feet for the southerly two units in lieu of 30 feet required to allow for a three (3) unit townhouse development.

Applicant:

The agent for the applicant, Tim Millard, 230 15th Street South, stated that due to the size of the lot, the proposed units will be 3 stories in height. The lots will not have a lot of yard space, so to provide landscaping, palm trees will be used.

Mr. Loretta informed the applicant that better plan graphics should have been provided to give the Board and the surrounding neighbors a better understanding of what is proposed.

Mr. Loretta asked Mr. Millard why the previous application had been withdrawn in May. Mr. Millard replied that he was unable to attend the meeting.

Mr. Moreland asked Mr. Millard if he would be able to live with a front yard of 17 feet in lieu of 20 feet to accommodate a larger garage on the first floor. Mr. Millard replied yes, as long as the second and third story could cantilever out.

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 people spoke in opposition to the application:

- Robert Burke, 1126 Unit 202, 1st Street North, Jacksonville Beach
- Hans Rozestraten, 1126 Unit 205, 1st Street North, Jacksonville Beach
- Valerie Rozenstraten, 1126 Unit 205, 1st Street North, Jacksonville Beach
- Louise Scammell, 1126 Unit 405, 1st Street North, Jacksonville Beach

Mr. Buck read the following letters in opposition to the application:

- Richard Bell-Irving, 1126 Unit 403, 1st Street North, Jacksonville Beach
- Lyn Rhode, 1126 Unit 503, 1st Street North, Jacksonville Beach

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- Brian McCaffrey, 6960 Bonneval Road, Jacksonville
- Michelle Smith, 250 A1A North, Suite 500, Ponte Vedra Beach
- Dominick Sorrentino, 1126 Unit 804, 1st Street North, Jacksonville Beach
- Rosemary Radzievich, 1126 Unit 203, 1st Street North, Jacksonville Beach
- Karin Bean, 1126 Unit 501, 1st Street North, Jacksonville Beach

Rebuttal:

Mr. Millard stated that the proposed project will be an attractive complex and is currently approved for four units, but he only wants to construct a three unit complex. Mr. Millard also stated that he will have gutters installed to handle water runoff and all the units will not be more than 35 feet in height.

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

Discussion:

There was a brief discussion about the request being less than what has been previously approved.

Roll call vote: Nays - Moreland, Loretta, Osewalt, Buck
Ayes - Gallimore
Motion denied with a vote of 4 to 1.

(D) Case Number: BOA 13-100143

Name of Applicant: Ryan Wetherhold

Property Address: 1224 and 1236 1st Avenue North

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for a rear yard of 20 feet in lieu of 30 feet required, to allow for a six unit townhouse development.

Applicant:

The agent for the applicant, Brian Green, 3801 Tropical Terrace, Jacksonville Beach, stated that the property creates a hardship due to the substandard size of the lot.

Public Hearing:

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

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

Discussion:

A discussion ensued about the applicant clearly having a hardship, warranting the variance; however, Mr. Moreland wished to amend the motion to include the verbiage “as shown and discussed”.

Amended Motion: An amended motion was made by Mr. Moreland, seconded by Ms. Osewalt, to approve a request for a rear yard of 20 feet in lieu of 30 feet required to allow for a six unit townhouse development, as shown and discussed.

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

(E) Case Number: BOA 13-100145

Name of Applicant: Theresa Bass

Property Address: 512 1st Street South

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for side yards of 7.5 feet in lieu of 10 feet required to allow for a two-family dwelling.

Applicant:

The applicant, Teresa Bass, 269 Holly Lane, Jacksonville, stated that she has owned this property for 40 years. Ms. Bass stated that she has a previously approved variance for a front yard of 18 feet in lieu of 20 feet, for a rear yard of 15.5 feet in lieu of 30 feet required and for 44% lot coverage in lieu of 35% maximum for a two-family dwelling. Ms. Bass further explained that she only wants to make the building wider on each side to accommodate fire walls and stairs.

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:

- Kathy Stearns, 983 and 985 2nd Street South, Jacksonville Beach

The following people spoke in opposition of the application:

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- Zach Miller, 112 5th Avenue South, Jacksonville Beach
- Jim Burgener, 112 5th Avenue South, Unit 902, Jacksonville Beach

Rebuttal:

Ms. Bass stated that the property has already been approved for a two-family dwelling in 2004, and she is currently requesting an extension on the side yard setbacks.

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

Discussion:

There was a brief discussion about the applicant having a hardship that warrants approval due the substandard size of the lot.

Roll call vote: Ayes - Loretta, Moreland, Gallimore, Buck
Nays - Osewalt
Amended motion carried with a vote of 4 to 1.

Building Department Report: The next scheduled meeting is Wednesday, September 4, 2013.
There are currently nine (9) scheduled cases.

Adjournment

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

Submitted by: Amber Maria Lehman
Senior Secretary

Approval:

/s/Joseph Loretta _____
Chairman

Date: September 4, 2013