

**Minutes of Board of Adjustment Meeting
held Tuesday, October 15, 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
Joseph Loretta, Chairman
John Moreland
Sylvia Osewalt

Alternates:

1st - Michael Gallimore
2nd - 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

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. Loretta stated for the record that he had a conversation with the applicant, Tim Millard regarding BOA 13-100187.

Approval of Minutes

It was moved by Mr. Buck, seconded by Mr. Osewalt, and passed, to approve the minutes of the hearing held on September 17, 2013 minutes, as presented.

Correspondence

There was no correspondence.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

(A) & (B) Case Number: BOA 13-100184 & BOA 13-100185

Name of Applicant: JWB Real Estate Capital, LLC

Property Address: 1020 Penman Road & 1126 Penman Road

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for a front yard of 18 feet in lieu of 20 feet required, for a rear yard of 10 feet in lieu of 30 feet required, and for 49 % lot coverage in lieu of 35% maximum to allow for a new single-family dwelling.

Applicant:

The agent for the applicant, Eric Shiendling, stated that he is actually requesting less than the advertised notice. The new proposed plan will be 24.3 feet in lieu of 30 feet for the rear yard setback and for 42% lot coverage in lieu of 35%. Mr. Shiendling reported that this property has a hardship due to the lot being undersized.

Mr. Loretta asked the applicant how big the proposed home would be.

Mr. Shiendling replied that it would be a 2,072 sq. ft. two 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.

The following people spoke in opposition to the application:

- Elizabeth Sisselman, 1107 16th Street North, Jacksonville Beach
- Carol Jensen, 1106 16th Street North, Jacksonville Beach

Rebuttal:

Mr. Shiendling stated that the home would be in line with the surrounding properties as the footprint of the home will only be 1231 square feet. Regarding the water runoff, there will be a drainage plan that will be implemented and will comply with regulations.

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

Discussion:

Discussion ensued about the request and the Board concurred that this was a good use of the property and is concurrent with previous variance approvals for this area. However, due to the applicant's revised request, the motion was amended.

Amended Motion: An amended motion was made by Mr. Buck, seconded by Mr. Moreland, to approve a request for a rear yard of 24.3 feet in lieu of 30 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, Loretta, Moreland, Osewalt, Gallimore; amended motion carried unanimously.

(C) **Case Number:** BOA 13-100186
Name of Applicant: Bryan Keith Blankenship
Property Address: 115 9th Avenue North

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for a corner side yard of 0 feet in lieu of 10 feet required to allow for a new single-family dwelling.

Applicant:

The applicant, Brian Blankenship, stated that a variance was approved for his neighbors' property, which made their building footprint very close to where he initially wanted to build. He would like to have a variance to allow his home to be further away from his neighbor. The request would allow the home to be built 10 feet further to the south, closer to 9th Avenue.

Mr. Moreland asked the applicant if approved would the neighbor to the west still have the line of site down 9th Avenue.

Mr. Blankenship replied that he was not sure.

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:

- Juanita DeLoach, 121 9th Avenue North, Jacksonville Beach

Rebuttal:

Mr. Blankenship stated that the fence along his property would not be a privacy fence; it will only be a couple feet in height. As for the requested variance, Mr. Blankenship reported that he is willing to reduce to 5 feet setback in lieu of the 0-foot setback, as previously requested.

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

Discussion:

The Board briefly discussed the request as being too excessive. The Board concurred that a 7.5 setback would be more consistent with what has been previously approved for in this area. Mr. Moreland stated that he wanted to amend the motion for 7.5 corner side yard setback, including the verbiage 'as shown and submitted'.

Amended Motion: An amended motion was made by Mr. Moreland, seconded by Mr. Buck, to approve a request for a corner side yard of 7.5 feet in lieu of 10 feet required, to allow for a new single-family dwelling as shown and submitted.

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

(D) **Case Number:** BOA 13-100187
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 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 northerly unit rear yard of 5 feet in lieu of 30 feet required, and for 41% lot coverage in lieu of 35% maximum to allow for a new two family dwelling.

Applicant:

The agent for the applicant, Tim Millard, 230 15th Street South, Jacksonville Beach, stated that previously a variance was requested for a three-unit dwelling, which was denied in August 2013. Since the denial, Mr. Millard reported that he reduced the dwelling size from a three-unit to a two-unit family dwelling.

Mr. Buck asked the applicant what type of property is located to the east. Mr. Millard replied that it is a parking 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.

The following people spoke in opposition to the application:

- Louise Scammell, 1126 North 1st Street North, Jacksonville Beach
- Han Rozenstraten, 1126 North 1st Street North, Jacksonville Beach
- Kathy Malloy, 229 1st Street North, Jacksonville Beach

Rebuttal:

Mr. Millard responded to the statement made about not being the property owner. He reported that he had a signed notarized letter from Jacksonville Bank authorizing him to apply for the variance.

Mr. Millard also stated that the breezeways are an approved method for connecting units together and meets the standards of the LDC.

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Regarding the lot coverage, Mr. Millard stated that the residents of the North Shore Condominiums, who oppose his lot coverage request, have received a variance for 64% lot coverage for their property.

Mr. Buck reported that there were letters of opposition submitted for the record, as follows:

- Merlin Ohmer, 1126 North 1st Street, Jacksonville Beach
- Michelle Smith, 1126 North 1st Street, Jacksonville Beach
- Richard & Danielle Bell-Irving, 1126 North 1st Street, Jacksonville Beach

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

Discussion:

A brief discussion ensued about the request being much less than what was presented in August 2013. However, Mr. Moreland stated that he wished to amend the motion to include the verbiage 'as shown and submitted'.

Amended Motion: An amended motion was made by Mr. Moreland, seconded by Mr. Buck, 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 northerly unit rear yard of 5 feet in lieu of 30 feet required, and for 41% lot coverage in lieu of 35% maximum to allow for a new two family dwelling, as shown and submitted.

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

(E) **Case Number:** BOA 13-100188
Name of Applicant: Bottom Line Ventures
Property Address: 305 South 33rd Avenue

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for an easterly side yard of 8.9 feet in lieu of 10 feet and a westerly side yard of 6 feet in lieu of 10 feet required to allow for a new single-family dwelling.

Applicant:

The agent for the applicant, Tim Millard, 230 15th Street South, Jacksonville Beach, stated that this property is unique due to the lot sitting perpendicular to the road. The widths of the lot range from 53 feet in the front to 48 feet in the rear 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.

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

Discussion:

A brief discussion ensued about the non-conformity of the lot creating a hardship.

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

(F) Case Number: BOA 13-100189
Name of Applicant: South Beach Village West LLC
Property Address: 3830 South 3rd Street

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 30 feet required for Lot 1; for a rear yard of 10 feet in lieu of 20 feet required for Lot 2; for lot coverage of 56%, 57% and 47% for Lots 3, 4 and 5 respectively, and for a 0 foot driveway setback from side and rear property lines for Lots 3, 4, and 5 in lieu of 5 feet required, all to allow for development of a five lot, zero-lot line single-family residential development.

Applicant:

The agent for the applicant, Richard Toomey, 3517 Snowy Egret Way, Jacksonville Beach, stated that the property is composed of 5.5 - plotted lots from the Atlantic Shores subdivision and he would like to reconfigure it to five single-family home lots. A common driveway is along A1A, which will eliminate the need to place three separate driveways for Lots 3, 4, and 5. This will be very similar to South Beach Village.

Mr. Loretta asked about the storm water runoff.

Mr. Toomey replied that there would be compliance with the SJWMD requirements.

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 favor of the application:

- Chris Smalley, 360 St. Augustine Blvd., Jacksonville Beach
- Pat Taylor, 403 St. Augustine Blvd., Jacksonville Beach

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

Discussion:

The Board concurred that this was an overall good development and consistent with South Beach Village.

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

- (G) **Case Number:** BOA 13-100190
Name of Applicant: Jacksonville Finest Homes, LLC.
Property Address: 260 40th Avenue South

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for a front yard of 10 feet in lieu of 25 feet required, for side yards of 5 feet in lieu of 10 feet required, for a rear yard of 15 feet in lieu of 30 feet required, and for 49% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling.

Applicant:

The agent for the applicant, Anthony Sifakis, stated that he is requesting a variance due the irregular lot shape.

Mr. Moreland asked the applicant if the home would be built in accordance to the Codes, Covenants, and Restriction of the Avalon Community. Mr. Sifakis 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.

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

Discussion:

A brief discussion ensued about the odd shape of the lot. Mr. Moreland stated that he wished to amend the motion to include the verbiage ‘as shown and submitted’.

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

Building Department Report: The next scheduled meeting is Tuesday, November 5, 2013.
There are currently two (2) 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

Chair

Date: December 3, 2013