

**Minutes of Board of Adjustment Meeting
held Tuesday, December 3, 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
Mike Gallimore

Alternates: Sylvia Osewalt - *Absent*
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

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Ex-parte communication refers to any meeting or discussion with a person or citizen who may have an interest in this decision, which occurred outside of public hearing process.”

Mr. Buck stated for the record that he had a conversation with two business owners regarding BOA Case No. 13-100212.

Approval of Minutes

It was moved by Mr. Moreland, seconded by Mr. Buck to approve the February 5, 2013, and October 15, 2013, meeting minutes, as presented.

Correspondence

There was no correspondence.

OLD BUSINESS:

- (A) **Case Number:** **BOA 13-100212**
Name of Applicant: Mission House, Inc.
Property Address: 800 Shetter Avenue

Motion to Approve: It was moved by Buck, seconded by Mr. Moreland, to approve a request for no additional parking spaces in lieu of three spaces required to allow for a 900 square foot addition to an existing non-conforming building.

Applicant:

The agent for the applicant, Tim Franklin, spoke briefly about the services provided by the Mission House and gave each member of the board a written brief including a parking permission letter from Beach Bowl allowing the Mission House to utilize 19 parking spaces.

Mr. Franklin stated that the heaviest days for parking are Tuesdays and Saturdays. With Beach Bowl offering 19 parking spaces, and utilizing eight parking spaces on 11th Avenue, this should alleviate any parking concerns that were brought forth at the last meeting in November.

Mr. Franklin introduced Laurie Anderson, Executive Director of the Mission House and informed the board that she would be available to answer any questions.

Mr. Loretta asked Ms. Anderson how she would have her staff and volunteers park at the Beach Bowl.

Ms. Anderson replied that she does employ a parking attendant to ensure that volunteers and staff park in the designated areas.

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Mr. Buck asked Ms. Anderson if she has addressed the parking problems with the volunteers and staff that are parking at the two business owners' property after hours and on weekends. Ms. Anderson replied that she will address that with her staff and volunteers and will be a good neighbor.

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:

- Christopher Brown, 820 Shetter Avenue, Jacksonville Beach.
- Alan Winter, 310 3rd Street, Neptune Beach.
- Fred Faire, 1060 Plantation Oaks Drive East, Jacksonville Beach.

Rebuttal:

Mr. Franklin addressed Mr. Winter's opposition to the Beach Bowl letter allowing Mission House to utilize 19 parking spaces and clarified that the property is owned by H & H Enterprises and is leased by Beach Bowl. There will be posted signs designating the parking area. Beach Bowl is committed to Tuesdays and Saturdays for parking. The specific times are being worked out for those days.

Mr. Franklin further stated that this variance is a reasonable request and is consistent with the Land Development Code. In regards to the concern about illegal dumping and trespassing on the businesses that operate next to the Mission House, the police or code enforcement should be contacted.

Mr. Loretta asked how much of the ground floor of the building will be closed during construction.

Ben Rimdale, building contractor for the project, stated that less than 50% of the downstairs will be closed during construction and it will take approximately a month to complete.

Mr. Gallimore asked Ms. Anderson to explain the procedures of the parking attendant.

Ms. Anderson replied that he arrives approximately a half hour before clinic hours start and directs traffic for the time that the clinic hours are operating, and stay until approximately one half hour after the clinic closes.

Mr. Gallimore asked Ms. Anderson if the parking attendant walks around the property during the time that he is there to ensure that staff and volunteers are parking in the designated areas.

Ms. Anderson replied that he walks the premises and directs people to park at the Beach Bowl.

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Ms. Anderson informed the board that the reason for the staff and volunteers that have parked in Mr. Brown's lot is because his business is closed on Saturdays.

Mr. Buck asked Ms. Anderson if she understood that Mr. Brown could have those cars that are parked illegally on his property towed.

Ms. Anderson replied in the affirmative.

Mr. Moreland asked Ms. Anderson if there would be any new offices that would be created to expand the number of staff that she has currently.

Ms. Anderson responded that there would be no additional offices created.

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

Discussion:

There was a discussion about the need for a regular parking attendant during the clinic hours. Mr. Moreland stated that they clearly have a parking issue and it is reasonable for the board to require some guarantee for parking. However, as stated by Ms. Anderson, the increase in building size will not create additional services or parking needs.

Amended Motion: It was moved by Mr. Moreland, seconded by Mr. Buck to approve a request for no additional parking spaces in lieu of three spaces required, to allow for a 900 square foot addition to an existing non-conforming building, as discussed in tonight's hearing. Mission House will provide a parking attendant one half hour before the clinic is open on clinic days and the attendant will remain for one half hour after clinic hours are completed.

Roll call vote: Ayes – Loretta, Moreland, and Gallimore; Nays – Buck and Cummings.
The motion carried by a vote of 3 to 2.

NEW BUSINESS:

(A) **Case Number:** BOA 13-100215
Name of Applicant: Cesar Aguirre
Property Address: 1515 Seabreeze Avenue

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for a westerly side yard of 5.6 feet in lieu of 10 feet required to allow for addition to a single-family dwelling.

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Applicant:

Applicant, Cesar Aguirre, 1515 Seabreeze Avenue, stated that he would like to construct a new garage on the west side of his home. Mr. Aguirre informed the board that he has an existing carport, which would be enclosed and made into a bedroom for additional living space.

Mr. Moreland asked the applicant how big the garage space would be once it is converted.

Mr. Aguirre stated that it would be 12 ft. x 40 ft.

Mr. Moreland asked if the new living space would line up to the foot print of the existing garages.

Mr. Aguirre 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 else who wished to address the board, Mr. Loretta closed the public hearing.

Discussion:

A brief discussion regarding the request being minimal and seeing that there was no one in opposition, the Board members concurred that they would be in favor of the request.

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

- (B) **Case Number:** BOA 13-100219
Name of Applicant: Ossi Development
Property Address: 4205 2nd Street 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 5 feet in lieu of 30 feet required and for 46% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling.

Applicant:

Applicant, Sean Mann, stated that the lot is shaped like a triangle, which results in difficulties to stay within the setback requirements, as outlined by the Land Development Code.

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Mr. Loretta suggested that the applicant have the house orientated directly to the west, there might not be a need for numerous variances.

Mr. Mann advised that he has tried to place the house several ways on the lot and this layout is the best fit for 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:

There was a brief discussion about the lot shape; therefore creating a hardship for the applicant and concurred that the request was reasonable.

Roll call vote: Ayes – Buck, Moreland, Gallimore, and Cummings. Nays - Loretta
Motion carried by a vote of 4 to 1.

(C) **Case Number:** BOA 13-100221
Name of Applicant: Erika Kinsey
Property Address: 2007 Eastern Drive

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for a northerly side yard of 7.5 feet in lieu of 10 feet required and for 47% lot coverage in lieu of 43% maximum to allow for improvements to a single-family dwelling.

Applicant:

Applicant, Mitch Kinsey, stated that he would like to add on to his existing home due to his growing family and the need for additional space. Mr. Kinsey added that he would be enclosing his existing back porch and will be adding additional square footage to the house.

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.

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Discussion:

A discussion ensued about the lot having a hardship due to it being undersized. However, Mr. Moreland wished to amend the motion to include the verbiage “as shown and submitted”.

Amended Motion: It was moved by Mr. Moreland, seconded by Mr. Buck to approve a request for a northerly side yard of 7.5 feet in lieu of 10 feet required and for 47% lot coverage in lieu of 43% maximum to allow for improvements to a single-family dwelling as shown and submitted.

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

- (D) **Case Number:** BOA 13-100222
Name of Applicant: Christine Sapienza and Jasmine Bragg
Property Address: 1733 North 9th Street

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Moreland, to approve a request for a rear yard of 22 feet in lieu of 30 feet required to allow for improvements to a single-family dwelling.

Applicant:

Sara Johanns, Agent for the applicant, stated that the applicant wishes to expand the bathroom by making it walker/wheelchair accessible. The addition will be 8 feet x 12 feet with a closet and sitting area that will be in the rear of the home. In order to remain within the 35% lot coverage, the wooden deck that currently exists will be removed.

Mr. Loretta asked if the space would be heated and cooled.

Ms. Johanns replied it would.

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 request being minimal. However, Mr. Buck wished to amend the motion to include the verbiage “as shown and submitted”.

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Amended Motion: It was moved by Mr. Buck, seconded by Mr. Moreland to approve a request for a rear yard of 22 feet in lieu of 30 feet required to allow for improvements to a single family dwelling as shown and submitted.

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

Building Department Report: The next scheduled meeting is Tuesday, December 17, 2013.
There are currently scheduled two (2) scheduled cases.

Adjournment

There being no further business coming before the Board, Mr. Buck adjourned the meeting at 8:35 P.M.

Submitted by: Amber Maria Lehman
Senior Secretary

Approval:

/s/Thomas Buck

Chair

Date: January 7, 2014