

**Minutes of Board of Adjustment Meeting
held Tuesday, December 17, 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 *Absent*
Joseph Loretta, Chairman
John Moreland
Sylvia Osewalt

Alternates:

Mike Gallimore *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

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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.

Approval of Minutes

It was moved by Mr. Moreland, seconded by Ms. Osewalt, and passed, to approve the November 5, 2013 and November 19, 2013 meeting minutes as presented.

Correspondence

There was no correspondence.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

- (A) **Case Number:** BOA 13-100229
Name of Applicant: Atlee Development Group, Inc.
Property Address: 138 11th Avenue South

Motion to Approve: It was moved by Mr. Moreland, seconded by Ms. Osewalt, to approve a request for an easterly side yard of 5 feet and a westerly corner side yard of 7.5 feet in lieu of 10 feet required; for a rear yard of 22 feet in lieu of 30 feet required to allow for a new multi-family dwelling.

Applicant:

The applicant, Ken Atlee, 2851 Timuquana Road, Jacksonville, stated that he owns a lot on the corner of 11th Avenue South and would like to construct a tri-plex on the lot, and consistent with previous requests for that area. Mr. Atlee further explained that the garages would be facing 11th Avenue South and the alleyway.

Mr. Moreland asked Mr. Atlee what hardship exists.

Mr. Atlee replied that the current setbacks limit the width of the structure to 30 feet wide, creating an undesirable width for the units.

Mr. Loretta asked Mr. Atlee if he had considered having the units face 2nd street.

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Mr. Atlee responded that he did not feel that the structure would be aesthetically pleasing if it faced 2nd Street.

Mr. Loretta asked if the units would have a two-car garage.

Mr. Atlee 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 people spoke in opposition:

- Dan Winkleman, 132 11th Avenue South, Jacksonville Beach
- Bob Welton, 1032 First Street South, #2, Jacksonville Beach
- William Black, 1122 ½ 1st Street South, Jacksonville Beach
- Evie McCoy, 137 12th Avenue South, Jacksonville Beach
- Correspondence was received in opposition from John Purvis, 134 11th Avenue South, Jacksonville Beach, and entered into the record.

Rebuttal:

Mr. Atlee stated that he had not received any phone calls or correspondence in opposition to the project and appreciates the folks that have come forth and spoke. Mr. Atlee informed them that he is willing to work with them and has a vested interest in the area. Regarding the application, Mr. Atlee reported that he would be willing to shift the building to the west, therefore reducing the easterly side yard to 7.5 feet.

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 willing to reduce the application to 7.5 for both the easterly and westerly side yard setbacks.

Ms. Osewalt stated that she has an issue with the drainage on the south end of Jacksonville Beach, and that neighbors have come out in opposition. She suggested that maybe the applicant should reapply and to table this application.

Amended Motion #1: An amended motion was made by Mr. Moreland to approve a request for an easterly side yard of 7.5 feet and a westerly corner side yard of 7.5 feet in lieu of 10 feet required, and for a rear yard of 22 feet in lieu of 30 feet required to allow for a new multi-family dwelling as presented and discussed.

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The motion died due to the lack of a second.

Amended Motion #2: An amended motion was made by Mr. Cummings, seconded by Ms. Osewalt, to table the application until the applicant is able to meet with his surrounding neighbors.

Roll call vote: Ayes – Osewalt, Cummings; Nays – Loretta, Moreland; motion denied by a vote of 2 to 2.

Mr. Moreland spoke briefly about removing the easterly side yard variance and reducing the rear yard setback to 25 feet.

Although the public hearing was closed, Mr. Atlee stated that he would be in agreement to the further reduction.

Mr. Winkleman stated that that he was in favor of the application since the applicant has agreed to decrease the variance request significantly by eliminating the easterly side yard, decreasing the westerly and rear yard setback.

Amended Motion #3: An amended motion was made by Mr. Moreland, seconded by Mr. Cummings, to approve a request for an easterly side yard of 10 feet and a westerly corner side yard of 7.5 feet in lieu of 10 feet required and for a rear yard of 25 feet in lieu of 30 feet required to allow for a new multi-family dwelling as presented and discussed.

Roll call vote: Ayes – Moreland, Osewalt, Cummings, and Loretta; amended motion #3 carried unanimously.

(B) Case Number: BOA 13-100233
Name of Applicant: BellaCoop Fund, LLC
Property Address: 208 12th Avenue South

Motion to Approve: It was moved by Mr. Moreland, seconded by Ms. Osewalt, to approve a request for side yards of 5 feet in lieu of 10 feet required, for a rear yard of 27 feet in lieu of 30 feet required, and for 48% lot coverage in lieu of 35% maximum to allow for a new two-family dwelling.

Applicant:

The applicant, Bret Crofott, 2406 University Blvd. West, stated that his lot is undersized, therefore creating a hardship.

Mr. Loretta asked Mr. Crofott if the frame shed would be removed.

Mr. Crofott replied yes.

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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 undersize lot creating a hardship for the applicant and concurred that the request was reasonable.

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

Chair and Vice Chair Nominations

It was moved by Mr. Moreland, seconded by Mr. Cummings, to nominate Thomas Buck as Chair and Sylvia Osewalt as Vice-Chair for Board of Adjustment.

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

Building Department Report: The next scheduled meeting is Tuesday, January 7, 2014.
There are currently three (3) scheduled cases.

Adjournment

There being no further business coming before the Board, Mr. Loretta adjourned the meeting at 7:46 P.M.

Submitted by: Amber Maria Lehman
City Clerk's Office

Approval:

/s/Joseph Loretta

Chair

Date: February 4, 2014