

**Minutes of Board of Adjustment Meeting  
held Tuesday, June 3, 2014, at 7:05 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 Joseph Loretta.

**Roll Call**

Tom Buck - Chair - *Absent*  
Joseph Loretta  
John Moreland  
Sylvia Osewalt - Vice Chair - *Absent*  
Scott Cummings - *Absent*

Alternates: Jeff Truhlar  
Francis Reddington

**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

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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 an 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 said that he has spoken with Mr. Lowery regarding Case No. 14-100071, as he is the applicant that will be presenting.

There were no other ex-parte communications reported by the other Board members.

Mr. Loretta announced that case “B” BOA 14-1000071, would be moved to the last item on the agenda. He explained since there are board members not in attendance, anyone wishing to defer their case to the next meeting which is scheduled for June 17, 2014, they could do so.

**Approval of Minutes**

None

**Correspondence**

There was no correspondence.

**Old Business**

There was no old business.

**(A) Case Number: BOA 14-100067**

Applicant/Owner: JWB Real Estate Capital, LLC.

Agent: Eric Shiendling

Property Address: 1015 2<sup>nd</sup> Avenue South

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Truhlar, to approve a request for a front yard of 5 feet in lieu of 20 feet required; 34-338(e)(1)c.3, for a rear yard of 6 feet in lieu of 30 feet required; 34-338(e)(1)e, for 51% lot coverage in lieu of 35% maximum; and 34-373(f), for an engineered vehicle use area, such

**Minutes of Board of Adjustment Meeting  
held Tuesday, June 3, 2014**

as "Geoweb," in lieu of paving to allow for a new single family dwelling for property legally described as Pt Gov't Lot 7, Rec'd O/R 15128-1064.

**Applicant:**

Applicant Eric Shiendling, representing JWB Real Estate Capital, LLC, 7563 Phillips Highway, Suite 109, Jacksonville FL, asked to defer his request until the next meeting.

**(C) Case Number:        BOA 14-100072**

**Applicant/Owner:**        Jax Beach Cottages, LLC

**Agent:**                        Jason Sessions, 4385 Trade Winds Dr., Jacksonville FL 32250

**Property Address:**        1034 North 1<sup>st</sup> Street (aka 102, 110, 116 North 10<sup>th</sup> Avenue)

**Motion to Approve:**        It was moved by Mr. Moreland, seconded by Mr. Truhlar, to approve a request for front yards of 10 feet in lieu of 20 feet required; 34-340(e)(1)c.2, for side yards of 7 feet in lieu of 10 feet required; 34-340(e)(1)c.3, for a rear yard of 29 feet in lieu of 30 feet required; 34-340(e)(1)f, for 50% lot coverage in lieu of 35% maximum; and 34-373(a)(1), for an off-street parking space of 10 in lieu of 17 feet in depth minimum to allow for two new two-family dwellings on Lot 5 and part of Lot 4 for property legally described as Lot 5 and part of Lot 4, Block 102, Pablo Beach Improvement Company's Plat of Part of the Northern Portion of Pablo Beach.

**Applicant:**

Applicant Jason Sessions addressed the Board, stating that the original plan was to build six individual homes, but that the decision was made to change the three individual homes on 10<sup>th</sup> Avenue, to two duplex units, with a 1 ½ car garage. He said while the variances are similar to the initial variances that were given, by making this change it is increasing the corner yard, along the alleyway and on 1<sup>st</sup> Street. This will allow more green space for residents, including a 40ft front yard, with ample parking. Mr. Sessions reminded the board that this parcel was originally slated for a 40-unit high rise. Now that he has purchased the five lots, he believes that townhomes will be a better option for the neighborhood and the City. Mr. Sessions gave an aerial map of the location.

**Public Hearing:**

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

**Minutes of Board of Adjustment Meeting  
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Seeing no one wished to address the Board, Mr. Loretta closed the public hearing.

**Discussion:**

A short discussion took place about the variance request and the plans submitted.

Roll call vote: Ayes – Moreland, Truhlar, Reddington, and Loretta; motion carried unanimously.

**(D) Case Number: BOA 14-100073**

Applicant/Owner: Jay A. Newbern, Ponte Vedra Realty/Hany Mounib

Property Address: 4209 2<sup>nd</sup> Street South

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Truhlar, to approve a request For a front yard of 15 feet limited to open porches, 20 feet for enclosed portions of habitable space, and 25 feet for garage walls in lieu of 25 feet required; 34-336(e)(1)c.2, for side yards of 7.5 feet in lieu of 10 feet required; 34-336(e)(1)e, for 55% lot coverage in lieu of 35% maximum and conditioned that the above includes the Avalon Neighborhood Architectural Guidelines to allow for a new single family dwelling for property legally described as Lot 2, Block 1, Avalon Unit No. 3, Section A.

**Applicant:**

Applicant Jay Newbern, 91 San Juan Drive, Ponte Vedra Beach, FL 32082, representing Mr. Mounib, addressed the Board, and requested the same variances that the reset of the Avalon neighborhood was granted years ago. The owner is interested in selling the lot now. He discusses the orientation of Ponce de Leon Blvd., designates the position of the front of the house, but the variance request is the same as other Avalon lots.

**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 wished to address the Board, Mr. Loretta closed the public hearing.

**Discussion:**

A brief discussion ensued about the lot percentages to be granted and how setbacks might be affected by the decision.

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Motion to Amend: It was moved by Mr. Moreland, seconded by Mr. Truhlar to grant the applicant 48% lot coverage.

Roll call vote: Ayes – Truhlar, Reddington, Loretta, and Moreland; motion carried unanimously.

**(B) Case Number: BOA 14-100071**

Applicant/Owner: Joe Loretta/Jan Bergstrom

Property Address: 1529 3<sup>rd</sup> Street South

Motion to Approve: It was moved by Mr. Truhlar, seconded by Mr. Reddington, City of Jacksonville Beach Land Development Code Section(s): 34-377, for 17 parking spaces in lieu of 23 parking spaces required to allow for a new 7000 square foot business office for property legally described as Lots 5 and 6, Block 153, Pablo Beach South.

**Applicant:**

Applicant Joe Loretta, 9822 Tapestry Park Circle, Suite 201 Jacksonville, FL addressed the Board, and said he represents Jax Refrigeration, a HVAC Mechanical Company, located in south Jacksonville Beach. He explained the hardship of the location of the property, access issue, no correct drainage on the back portion of the property. It has been negotiated with the Florida Department of Transportation (FDOT), the City of Jacksonville Beach Public Works Department, and the St. Johns River Water Management District, as well as approval to have access to A1A, by the FDOT. The 17 parking spaces on site are required by code, but additional parking in the right-of-way to gain the 23 spaces required criteria, and located on 15<sup>th</sup> Avenue South. The facility will be for office space, kitchen, game area, workout area, showers, for the company employees to utilize. On occasion, they will conduct client meetings at the new location also. Mr. Loretta said that company trucks will be at the other building owned by the company and never parked at the 1529 3<sup>rd</sup> Street location.

**Public Hearing:**

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

No one spoke in favor of the application.

Those speaking in opposition of the application:

Mr. Claude Slater, 4572 Ortega Drive, Jacksonville, FL 32210 and owner of 252 South 15<sup>th</sup> Street South

**Minutes of Board of Adjustment Meeting  
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Mr. Craig Summers, 370 South 15<sup>th</sup> Avenue

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

Mr. Loretta answered questions from the board and at this time he asked to defer his case to the next meeting, scheduled for June 17, 2014.

**BUILDING DEPARTMENT REPORT:** The next scheduled meeting is **Tuesday, June 17, 2014.**

There are six (6) scheduled cases.

**Adjournment**

There being no further business coming before the Board, Mr. Loretta adjourned the meeting at 7:45 P.M.

Submitted by: Catherine Martinich  
City Clerk's Office

Approval:

A handwritten signature in blue ink, appearing to read "Howard Berk", is written over a horizontal line.

Chair

Date: June 17, 2014

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Loretta, Joseph, Paul	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Board of Adjustments
MAILING ADDRESS 1887 Green Heron Ct	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY      COUNTY Jacksonville Beach, FL 32250 - Duval	NAME OF POLITICAL SUBDIVISION: not applicable
DATE ON WHICH VOTE OCCURRED 6/3	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Joe Loretta, hereby disclose that on 6/3, 20 14.

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss; design work with Genesis and property owner
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

6.24.2014

Date Filed

Signature 

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

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CITY COUNTY Jacksonville Beach, FL 32250 - Duval	NAME OF POLITICAL SUBDIVISION: not applicable
DATE ON WHICH VOTE OCCURRED 6/3/14	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

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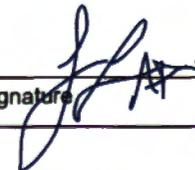
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