

**Minutes of Board of Adjustment Meeting
held Tuesday, May 15, 2018, at 7:00 P.M.,
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



CALL TO ORDER

Chairperson Sylvia Osewalt called the meeting to order.

ROLL CALL

Chairperson: Sylvia Osewalt
Vice-Chairman: Jeff Truhlar
Board Members: John Moreland (*absent*), Scott Cummings, Francis Reddington
Alternates: Lucas Snyder

Also in attendance was Bill Mann, Director, Planning and Development, George Knight, Building Official, and Cathy Martinich, Permit Specialist.

Ex-parte Communications: None

Approval of Minutes: None

CORRESPONDENCE:

The Board received one email from Mr. John Morrissey, regarding 815 North 2nd Avenue, requesting to withdraw his application.

OLD BUSINESS: None

NEW BUSINESS:

(A) **Case Number: BOA 18-100060**

Name of Applicant: William A. MacQueen

Property Address: 3906 Palm Way, Jacksonville Beach

City of Jacksonville Beach Land Development Code Section(s) 34-336(e)(1)e., for 42% lot coverage, in lieu of 35% maximum; to allow a paver patio addition to an existing single-family dwelling, for property legally described as *Lot 9, Block 14, Ocean Terrace*.

Mr. MacQueen said he has a substandard lot, and is requesting pavers around the pool. He said he wanted to be sure that the Board approved the pavers, before the installation began.

Public Hearing:

No one came forward to speak about the case.

Ms. Osewalt closed the public hearing.

Mr. Cummings questioned building permits with variance applications.

Motion: It was moved by Mr. Reddington and seconded by Mr. Cummings, to approve BOA#18-100060, as read and presented.

Roll Call Vote: Ayes – Sylvia Osewalt, Scott Cummings, Jeff Truhlar, Francis Reddington, and Lucas Snyder.

The motion was approved, unanimously.

(B) Case Number: BOA 18-100066

Name of Applicant: Tye and Catherine Wallace

Property Address: 709 North, Jacksonville Beach

City of Jacksonville Beach Land Development Code Section(s) 34-337(e)(1)d., for no garage or carport, in lieu of one garage or carport required; and 34-337(e)(1)e., for 47% lot coverage, in lieu of 35% maximum; to allow substantial improvements to an existing single-family dwelling, for property legally described as *the West 40 feet of Lot 8, and the East 20 feet of Lot 9, Block 58, Pablo Beach improvement Company Replat of Part of the Northern Portion of Pablo Beach.*

Mr. Wallace explained his hardship is that the lot is small, with a 60-foot frontage, a narrow, long lot. He explained his current lot coverage is 45%, and with the updates planned, it would be at the requested 47% lot coverage. Mr. Wallace said that he has spoken to his neighbors are in support of his plans. A discussion of lot coverage and setbacks continued.

Public Hearing:

No one came forward to speak about the case.

Ms. Osewalt closed the public hearing.

Bill Mann, Planning Director, explained to the Board that if they approved the application for 44%, the building department would make sure it stays at that percentage.

Motion: Mr. Truhlar, seconded by Mr. Reddington, to approve BOA # 18-100066, for no garage or carport, in lieu of one garage or carport.

Roll Call Vote: Ayes – Scott Cummings, Jeff Truhlar, Francis Reddington, Lucas Snyder
Nays – Sylvia Osewalt

The motion was approved, with a 4 to 1 vote.

(C) Case Number: BOA 18-100068

Name of Applicant: Thomas R. Bledsoe

Property Address: 4096 Ponte Vedra Boulevard, Jacksonville Beach, FL 32250

Agent: Bryan Green, 3810 Tropical Terrace, Jacksonville, FL 32250

City of Jacksonville Beach Land Development Code Section(s) 34-338(e)(1)c.1, for a front 34-337(f), for a gravel driveway, in lieu of paved, to make improvements to an existing single-family dwelling, for property legally described as *Lot 15, Block D10, Ponte Vedra Unit 2.*

Mr. Green explained that they are requesting a gravel driveway in lieu of the current concrete. He said the present lot coverage is 31%, and by using an alternate material, the lot coverage is decreased by 1621 square feet, bringing the lot coverage to 25%, total. Mr. Mann explained the request is only to ask relief of the paved access, and parking requirement, in front of the garage.

Public Hearing:

No one came forward to speak about the case.

Ms. Osewalt closed the public hearing.

Mr. Cummings discussed with Mr. Green why the owner wanted gravel in lieu of the concrete.

Motion: It was moved by Mr. Reddington and seconded by Mr. Snyder, to approve BOA#18-100068, as read and submitted.

Roll Call Vote: Ayes – Jeff Truhlar, Francis Reddington, Lucas Snyder, Scott Cummings
Nays – Sylvia Osewalt
The motion was approved, with a 4 to 1 vote.

(D) Case Number: BOA 18-100069

Name of Applicant: Jason Hanna

Property Address: 3256 Horn Court, Jacksonville Beach

City of Jacksonville Beach Land Development Code Section(s) 34-337(e)(1)e., for 44% lot coverage, in lieu of 35% maximum, to allow for construction of a new single-family dwelling for property legally described as *Lot 9, Block 13, Jacksonville Beach Heights*.

Mr. Hanna said his lot is nonconforming, and he wants to build a house as the others in the surrounding area. Mr. Hanna stated he has no interest in a pool, now or in the future.

Public Hearing:

No one came forward to speak about the case.

Ms. Osewalt closed the public hearing.

Motion: It was moved by Mr. Snyder and seconded by Mr. Cummings, to approve BOA# 18-100069.

Roll Call Vote: Ayes – Frances Reddington, Lucas Snyder, Sylvia Osewalt, Scott Cummings, and Jeff Truhlar.
The motion was approved, unanimously.

(E) Case Number: BOA 18-100070

Name of Applicant: SH Design, LLC, 803 South 3rd Street, Jacksonville Beach

Property Address: 3502 Isabella Boulevard, Jacksonville Beach

Agent: Stephen Williams, 3731 Duval Drive, Jacksonville Beach

City of Jacksonville Beach Land Development Code Section(s) 34-337(e)(1)(e), for 42% lot coverage, in lieu of 35% maximum; to allow for construction of a new single-family dwelling for property located at 3502 Isabella Boulevard, legally described as *Lot 22, Block 9, Ocean View Highlands*.

Mr. Williams said the hardship is the lot size is inadequate for the zoning, and that the only request is for lot coverage and no setbacks.

Public Hearing:

No one came forward to speak about the case.

Ms. Osewalt closed the public hearing.

Motion: It was moved by Mr. Cummings, seconded by Mr. Reddington, to approve BOA# 18-100070, as written and discussed.

Roll Call Vote: Ayes – Lucas Snyder, Sylvia Osewalt, Scott Cummings, Jeff Truhlar, and Francis Reddington.
The motion was approved, unanimously.

(F) Case Number: BOA 18-100071

Name of Applicant: James and Agelina Winter

Property Address: 2909 Madrid Street, Jacksonville Beach, FL 32250

Agent: Gary Carlee, SurfSide Pools, 313 Beach Boulevard, Jacksonville Beach, FL 32250
(not present)

City of Jacksonville Beach Land Development Code Section(s) 34-336(e)(1)e., for 50% lot coverage, in lieu of 35% maximum; and 34-336(e)(1)g., for an accessory structure setback of 3.5 feet, in lieu of 5 feet required; to allow for a pool and paver patio addition to an existing single-family dwelling, for property legally described as *the North 60 feet of Lots 24 and 25, Block 24, Replat, Unit No. 1, Atlantic Shores.*

Mr. Winter said the lot is small and he has spoken to the neighbors, who are all in favor of the application. Lot coverage and setbacks were discussed. Mr. Winter explained that the pool is currently under construction. Mr. Knight said the pool is permitted at five foot from the property line, and for coping only. A discussion of the setbacks and lot coverage continued.

Public Hearing:

No one came forward to speak about the case.

Ms. Osewalt closed the public hearing.

Motion: Mr. Cummings, seconded by Mr. Reddington moved that BOA# 18-100071 be approved, for 49.5% lot coverage, as discussed.

Roll Call Vote: Ayes – Sylvia Osewalt, Scott Cummings, Jeff Truhlar, Francis Reddington, and Lucas Snyder.

The motion was approved, unanimously.

(G) Case Number: BOA 18-100081

Appeal of the Planning and Development Director's Interpretation of Land Development Code Section(s) 34-373 and 34-392 as it applies generally to properties located in the City, and as it applies to the proposed development of a residential town house project on the **properties located** at 1224 and 1236 North 1st Avenue.

Susan Erdelyi explained the process to be followed for the appeal procedure to the Board Members.

Zach Miller, 501 Riverside Avenue, Jacksonville, FL 32207, attorney representing the Applicant/Owner for the appeal, gave a power point presentation supporting his case. A discussion continued about parking areas, sidewalks and driveways. Mr. Miller featured several photographs of townhomes that show the sidewalks and driveways, against the property line.

Mr. Michael Herzbergm AICP, 12483 Aladdin Road, Jacksonville, FL spoke as an expert witness detailing his interpretation of our zoning code and the City of Jacksonville's code.

Mr. Hertzbergm gave his credentials per the request of the Board, prior to giving his expert testimony. He explained parking rights, that they are necessary and with curbs and wheel stops. He discussed yards - parking spaces, carports and garages. He stated driveways are not defined term in our code, and not intended as a parking space. The Board Members asked about driveway parking and the designated parking spaces in a garage.

Mr. Miller added if these items in our projects were apartments or condominiums, there would be no internal property line and could be built without a variance. Ms. Osewalt pointed out that previously they were assured that two cars would fit in the garage with two more fitting easily in the driveway and were referred to as driveway parking spaces. She said this is conflicting information from what was presented.

Bill Mann, Director, Planning and Development, for the City of Jacksonville Beach, 11 North 3rd Street, Jacksonville Beach, FL 32250

Mr. Mann read his formal interpretation for the audience, to inform them of the previously given interpretation. (*On file*) He then explained in detail the fact that a one car garage counts as one parking space and the driveway area is the second parking space that meet the parking requirements. He said parking requirements are not specified in the code, which is why he is required to interpret the code. Parking stops or wheel stops that were shown are for landscaping only, as encroachment protection. Mr. Mann explained he would have to research the addresses given tonight as he was not reviewing the applications at that time.

Mr. Miller spoke in response to Mr. Mann's statements. He ended his comments by asking for consistency and to uphold their appeal.

Public Hearing:

The following people spoke in opposition of the appeal:

- James Sorrell, 1410 Penman Road, Jacksonville Beach
- Anna Marie Burke, 1235 North 1st Street, Jacksonville Beach
- Tony Komarek, 533 South 11th Avenue, Jacksonville Beach

Mrs. Erdelyi explained to the Board that they are to consider the interpretation, to realize the statements given by Mr. Michael Herzbergm AICP, are from the City of Jacksonville's Code, different than Jacksonville Beaches' and the decision is to be made on the photographs shown today, as evidence, are based on competent and substantial evidence. She cited into the record: "the agency is afforded wide discretion in its construction of the code, Florida Department of Education; V. Cooper, 858 Southern 2nd, 394, 1st DCA Case, and Republic Media Vs Department of Transportation (FDOT), State of Florida, 714 Southern 2nd 2103, 1989, 5th DCA Case, and an agency is afforded wide discretion in its construction of a statute that will not be turned over on appeal." Before modifying or rejecting the Planning Director's interpretation, make sure that decisions are based on competent and substantial evidence. She said the City is currently in litigation with BCEL5 and JWB and Federal Court.

A discussion between Board Members continued about the property line and a great deal of ambiguity.

Motion: It was moved by Mr. Cummings and seconded by Mr. Reddington, to approve the Planning Directors interpretation of the Land Development Code.

Roll Call Vote: Ayes – Scott Cummings, Jeff Truhlar, Francis Reddington, Lucas Snyder and Sylvia Osewalt.

The motion was approved, unanimously.

ADJOURNMENT

There being no further business coming before the Board, Ms. Osewalt adjourned the meeting at 8:45 P.M.

Submitted by: Cathy Martinich
Permit Specialist

Approval:

Sylvia Osewalt
Chairperson

7/17/2018
Date