

**Minutes of Board of Adjustment Meeting
held Tuesday, May 17, 2016, 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 Scott Cummings.

Roll Call

Tom Buck
Joseph Loretta
John Moreland (Vice-Chairman)
Sylvia Osewalt
Scott Cummings (Chairman)

Alternates:

Jeff Truhlar
Francis Reddington

Ex-parte Communications

Mr. Truhlar stated that he spoke to the neighbor of case 16-100052.

Approval of Minutes

It was moved by Mr. Loretta, seconded by Mr. Moreland, and passed unanimously, to approve the following minutes as presented:

- Board of Adjustment meeting held on April 5, 2016
- Board of Adjustment meeting held on April 19, 2016

Correspondence

Mr. Mann stated that they had a letter from Mr. Michael Harvey in opposition to Case 16-100055.

NEW BUSINESS:

(A) Case Number: BOA 16-100047

Name of Applicant: DSM Renovations, LLC

Property Address: 613 12th Avenue North

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a side yard of 5 feet in lieu of 10 feet required; for a rear yard of 14.5 feet in lieu of 30 feet required; and for 45% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

Applicant: Mr. Denise McPherson, 1433 Ponte Vedra Blvd., introduced Ben Broadfoot, 422 South 3rd Street, who handed out information on the request. He stated that the existing conditions were nonconforming. The homeowner has already taken down a large garage and needed the request to accommodate construction. He stated that they are trying to maintain the character of the neighborhood with this reconstruction of a one-story dwelling unit.

Ms. Osewalt asked which side they were requesting five feet on. Mr. Broadfoot noted that it would be the side on the easterly side. Mr. Loretta noted that the other would be called a corner side yard.

Mr. Loretta asked about the lot coverage request. Mr. Broadfoot stated that they really only needed 42% coverage. He added that the house is only eight feet in the setback in the backyard. Ms. Osewalt clarified that the backyard request was 22 feet.

Public Hearing:

Mr. Cummings stated that he had a card from someone who wanted to address this request.

Ms. Robin Matthews, 530 11th Avenue North, stated that no hardship was proven here. The goal was to maximize profits. She stated that this request was not consistent with the character of the area.

Mr. Broadfoot stated that the two-story house that would be allowed would be more intrusive than the request.

Discussion:

Mr. Loretta asked Mr. Mann about the trellis area in the back and whether it counted against the setback. Mr. Mann responded that it would be part of the building. Mr. Mann added that this was an undersized lot.

Amended Motion: It was moved by Mr. Moreland, seconded by Mr. Osewalt, to approve a request for a side yard of 5 feet in lieu of 10 feet required; for a rear yard of 14.5 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 as shown and discussed at tonight's meeting.

Roll Call Vote on Amended Motion: Ayes – Buck, Cummings, Loretta, Moreland, Osewalt. The motion was approved unanimously.

(B) Case Number: BOA 16-100052

Name of Applicant: Peter Herbst et al.

Property Address: 1642 5th Avenue North

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a rear yard of 16 feet in lieu of 30 feet required; for a westerly side yard of nine feet in lieu of ten feet required; and for 43% lot coverage in lieu of 35% maximum to allow for improvements to a single-family dwelling.

Applicant: The applicant, Lisa McCormick, 1642 5th Avenue North, stated that they wanted to make a screened enclosure in the back of the house. They have an empty lot on the east and west side, and the other neighboring parcel have expressed no concerns.

Mr. Loretta asked why there is a request for a rear yard of 16 feet and it looks tighter than that. Ms. McCormick stated that the builder had provided that information.

Public Hearing:

Mr. Curt Vander Honing, 1710 6th Avenue North, stated that they are in favor of the proposal to build a porch in back of the house.

Discussion:

Mr. Buck agreed that it looks like 16 feet is not sufficient. Mr. Mann stated that there was a ten-foot easement shown on the survey that could be used as a scale reference and that he thought that 16 feet was accurate.

Mr. Moreland questioned whether there was a hardship in this case. Mr. Loretta added that this is brand new construction and the driveway results in a lot of lot coverage.

Ms. Osewalt confirmed that this was a conforming lot.

Mr. Buck called the question.

Roll Call Vote: Ayes – Loretta, Buck, and Cummings.
Nays – Moreland and Osewalt.
The motion was approved 3-2.

(C) Case Number: BOA 16-100053

Name of Applicant: Salt Air Homes, Inc.

Property Address: 209 10th Avenue South

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a front yard of 17 feet in lieu of 20 feet required; for side yards of 7.5 feet in lieu of 10 feet required and for 47% lot coverage in lieu of 35% maximum to allow for a new two-family dwelling.

Applicant: The applicant, Oliver Kraut, 226 Tallwood Road, stated that the adjacent land uses are multifamily with commercial to the west. He stated that a new two-family dwelling would be consistent with the surrounding land use. He stated that the lot was substandard in size, and depriving the variance would not be consistent with past variances.

Mr. Moreland asked where this project would be. Mr. Kraut reviewed the area and the plans for the parcel. He added that he could build three units on the parcel with 65% lot coverage.

Mr. Buck noted that the request would put this dwelling three feet out from the other units. Mr. Kraut stated that he did agree that there was room to do the building farther back, noting that three feet of the deck would go out but it could be pulled back. Mr. Buck stated that they could remove the request for the front yard setback.

Ms. Osewalt noted that a one-car garage may be a problem with multiple people living there. Mr. Kraut noted that there was room in the driveway for two additional cars. Mr. Cummings noted that there are parking issues in this area of the City.

Public Hearing:

There was no one present to speak in favor of or against this application.

Amended Motion to Approve: It was moved by Mr. Loretta, seconded by Mr. Moreland, to approve a request for side yards of 7.5 feet in lieu of 10 feet required and for 47% lot coverage in lieu of 35% maximum to allow for a new two-family dwelling.

Roll Call Vote: Ayes – Loretta, Moreland, Osewalt, and Buck.

Nays – Cummings.

The motion was approved 4-1.

(D) Case Number: BOA 16-100055

Name of Applicant: New Atlantic Builders, Inc.

Property Address: 817 10th Avenue South

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for side yards of 7.5 feet in lieu of 10 feet required; for 47% lot coverage in lieu of 35% maximum; and for an accessory structure (paver walkways) 2.5 feet from a property line in lieu of 5 feet minimum to allow for a new two-family dwelling.

Applicant: The applicant, Steve Williams, 3731 Duval Drive, asked what the lot coverage for RS-3 zoning. Mr. Mann stated 6,000 square feet. Mr. Williams stated that the request was consistent with other requests for duplexes in this neighborhood. He stated that this was a nonconforming lot that created a hardship.

Mr. Moreland pointed out that the lot was oversized. Mr. Williams responded that this was consistent with other requests for lots of this size. Mr. Williams stated that the variance was 45% and not 47% as requested. He added that the lot width is not conforming. Ms. Osewalt asked about the request for the pavers. Mr. Mann agreed with Mr. Williams that stepping stones would not required a permit.

Mr. Loretta asked about the parking. Mr. Williams stated that this design was to address a concern from a neighbor.

Public Hearing:

Mr. Keith Wilson, 823 10th Avenue South, stated that there were numerous duplexes on this block and that parking is a major issue here. He stated that he had issues with leaving his house as well as getting his mail. He stated his concern with the 2.5 feet request for the pavers. Mr. Cummings asked if a front entrance would help. Mr. Wilson agreed. Mr. Moreland stated that if there was a front entrance it could make the parking worse.

Mr. Williams stated that he understood the concerns and designed the unit to help address the issues. He stated that they would install a fence in the side yard to address the noise concern.

Discussion:

Ms. Osewalt stated that she still had a problem with the 2.5 feet on the side. Mr. Loretta stated that they could do stones and not need the variance.

Mr. Moreland stated that they were trying to maximize parking potential but understood the concern with parking.

Amended Motion to Approve: It was moved by Mr. Loretta, seconded by Mr. Moreland, to approve a request for side yards of 7.5 feet in lieu of 10 feet required

and for 47% lot coverage in lieu of 35% maximum as shown and discussed including a two-car garage to allow for a new two-family dwelling.

Roll Call Vote on Amended Motion: Ayes – Loretta and Moreland.
Nays –Buck, Cummings, and Osewalt.
The motion was denied 3-2.

Roll Call Vote on Original Motion: Ayes – Loretta and Moreland.
Nays –Buck, Cummings, and Osewalt.
The motion was denied 3-2.

(E) Case Number: BOA 16-100056

Name of Applicant: Joseph A. and Robin P. Schaad

Property Address: 4001 Palm Way

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a corner side yard of 8 feet and a side yard of 7 feet in lieu of 11 feet and 10 feet required respectively and for 42% lot coverage in lieu of 35% maximum to allow for a new single-family dwelling.

Applicant: The applicant, Joe Schaad, 170 San Juan Drive, Ponte Vedra, stated that there were no home designs that fit their needs. They need a bedroom downstairs. He stated that the lot was nonconforming in size. He added that there is an alley in back of the property that appears abandoned.

Public Hearing:

There was no one present to speak in favor of or in opposition to the request.

Discussion:

Ms. Osewalt stated that she thought it was not an unreasonable request. Mr. Moreland agreed that the size of the lot was nonconforming.

Roll Call Vote: Ayes – Cummings, Loretta, Moreland, Osewalt, and Buck. The motion was approved unanimously.

(F) Case Number: BOA 16-100057

Name of Applicant: Kevin and Sharon Phillips

Property Address: 1066 Ruth Avenue

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for 48% lot coverage in lieu of 35% maximum to allow for a swimming pool.

Applicant: The applicant, Kevin and Sharon Phillips, 1066 Ruth Avenue, stated that they had a pool designed and that the pool company stated that what they were asking for was consistent with past requests. He added that the lot was substandard according to the code. Mr. Loretta added that it was a corner property as well.

Public Hearing:

There was no one present to speak in favor of or opposed to the application.

Discussion:

Mr. Loretta noted that the pool deck was 10% of the request.

Roll Call Vote: Ayes – Loretta, Moreland, Osewalt, Buck, and Cummings. The motion approved unanimously.

(G) Case Number: BOA 16-100059

Name of Applicant: New Atlantic Builders, Inc.

Property Address: 582 8th Avenue North

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for 43% lot coverage in lieu of 40% maximum to allow for a swimming pool addition.

Applicant: The applicant, Steve Williams, 3731 Duval Drive, stated that the lot was nonconforming in size.

Mr. Moreland stated that there was minimal skirting around the pool.

Ms. Osewalt asked about a previous variance. Mr. Loretta stated that it was granted in June, 2015.

Public Hearing:

There was no one present to speak in favor of or opposed to the application.

Discussion:

Mr. Loretta stated that this was less of a request than the last case.

Roll Call Vote: Ayes - Moreland, Osewalt, Buck, Cummings, and Loretta. The motion was approved unanimously.

Case Number BOA 16-00060 was deferred to later in the meeting.

(H) Case Number: BOA 16-100070

Name of Applicant: H & H Seaside Development, LLC

Property Address: 1728 1st Street North

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta, to approve a request for a front yard of 10 feet in lieu of 20 feet required to allow for a new four-unit townhouse development

Applicant: The applicant, John Atkins, 731 Holly Drive, stated that this was a variance that was previously granted for everything except the front yard setback. He noted that there was a discrepancy on the depth of the lot, which is 69 feet deep. The building is the same as what was granted a variance on. They are not encroaching any more in the front than the structure that was already there.

Ms. Osewalt asked about the 10 feet in the front. Mr. Atkins stated that 10 feet of that was the right-of-way, with 14 feet from the right-of-way to the street. Mr. Mann noted that this was 80 feet right-of-way instead of the normal 50 feet of right-of-way.

Mr. Atkins noted that this was in line with the existing condominiums.

Public Hearing:

Mr. Cummings noted that he had two cards that were opposed to the variance request.

Ms. Liz Yerington, 5290 Big Island Drive, Jacksonville, expressed her support for the proposal, stating that the building will be a credit to the neighborhood.

Mr. Robert Grovenstein, 3007 Ocean Drive South, stated that he questioned why they applied now. Mr. Loretta stated that this would be in addition to the prior variance. Mr. Mann stated that the error was noted after the first variance was granted.

Mr. Lynn Hileman, 22 Hopson Road, stated that he was part owner with Mr. Atkins, and explained how the deed read when they purchased the property. He explained how this does not change the composition of what was proposed before.

Mr. Randy Osborn, 1309 Forest Avenue, Neptune Beach, stated he owned the

adjacent property to the west. He stated that he was in favor of the proposed project, and that this was a huge improvement over the existing structure that was located there. He then read a letter from a neighbor in support of the proposed project.

Mr. Atkins stated that there is no way they would have done the investments knowing that there was an error in the title.

Amended Motion to Approve: It was moved by Mr. Loretta, seconded by Mr. Moreland to approve a request for a front yard of 10 feet in lieu of 20 feet required to allow for a new four-unit townhouse development as discussed at this meeting.

Discussion:

Ms. Osewalt and Mr. Moreland both agreed that this was a unique hardship created by human error.

Roll Call Vote: Ayes –Osewalt, Buck, Cummings, Loretta, and Moreland. The motion was approved unanimously.

(H) Case Number: BOA 16-100060

Name of Applicant: Khalil Farah

Property Address: 604 South 9th Avenue

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta to approve a request for a rear yard of 28 feet in lieu of 30 feet required and for 43% lot coverage in lieu of 35% maximum to allow for a new single family dwelling.

Applicant: The applicant, Khalil Farah, 4409 Kathy’s Club Lane, Jacksonville, stated that the lot was 50% under the minimum. He stated that 35% gives you very little to construct on. He stated that this was an empty lot. He added that the neighbors are okay with his plans, with some concern about parking but overall no objections.

Public Hearing:

There was no one present to speak in favor of or opposed to the application.

Discussion:

Mr. Moreland agreed that this lot was undersized and this was a very reasonable request. Ms. Osewalt commended the applicant for the clarity of his request in the application.

Roll Call Vote: Ayes – Buck, Cummings, Loretta, Moreland, and Osewalt. The motion was approved unanimously.

(I) Case Number: BOA 16-100075

Name of Applicant: Ramp Realty of Florida, Inc.

Property Address: 215 and 281 8th Avenue North; 214 and 220 9th Avenue North

Motion to Approve: It was moved by Mr. Moreland, seconded by Mr. Loretta to approve a request to appeal the Planning and Development Director's Interpretation of 34-158, 34-233, 34-286, 34-339(a), 34-340(e)(3)a, 34-342(d)(15) and 34-501 as it applies generally to properties located in the City and as it applies to the approval of variance application (BOA #15-100229).

Applicant: The agent for the applicant, Jeb Branham, 3500 3rd Street South, representing Ramp Realty, provided the Board with materials concerning this request. He stated that the Code allows the Board to appeal the Director's interpretation of the Code. He stated that the issue is what is the density that applies to multifamily units in the C-1 Zoning district. He noted that the property is in Community Commercial Land use. He noted the applicable portions of the Comprehensive Plan. He stated that the only place you can have 40 units per acre on Beach Boulevard or 3rd Street. He stated that the subject variance is 35 units per acre and that is inconsistent with the Comprehensive Plan. Mr. Branham noted that all development shall be consistent with the Comprehensive Plan. He stated that the Land Development Code is not consistent with the Comprehensive Plan and State Law.

Mr. Branham noted that multifamily units are allowed as a conditional use. He then read from the Code the applicable portions that addressed lot size. He stated that the language that stated gross densities can go up to 40 units/acre by this provision; his contention is that it refers to minimum lot size.

Mr. Mike Bittner, 1200 Riverplace Boulevard, Jacksonville, stated that he was here representing the City. He explained how the appeal process worked. He then highlighted the section that explained the Board's duty is. He stated that the City believes that Mr. Mann's interpretation is consistent with the Code. He added that the Board should reject the interpretation only if it is erroneous.

Mr. Loretta asked Mr. Branham to explain his concerns with Mr. Mann's responses to his questions. Mr. Branham stated that it was for questions 16, 17 and 18.

Mr. Reddington asked if Mr. Mann had his response reviewed by the City Attorney. Mr. Mann responded that he did.

Mr. Moreland asked Mr. Branham about his reference to the Plan. Mr. Mann explained that Mr. Branham had left out another policy that allows for increases in densities if the project is one block from a designated transit route.

Mr. Mann stated LU.1.4.15 is the policy referred to as the one that applied. He then read LU.1.4.15, which allowed units up to 40 units per acres in commercial areas within one block of designated transit routes along Beach Boulevard and 3rd Street. He then cited some examples of developments that met this policy.

Ms. Osewalt asked if the Code and Plan do match. Mr. Mann stated that they specifically matched Policy 1.4.15 and in general matched the others. Mr. Loretta asked if they reviewed this policy with the applicant. Mr. Mann responded that he had no discussions.

Mr. Branham asked if the policy stated that you had to be on Beach Boulevard or 3rd Street. He stated that the specific policies about the commercial land use that stated the highest density would be 20 units per acre. He stated that it was clear that they were limited to 20 units per acre unless they were on Beach Boulevard or 3rd Street.

Ms. Osewalt asked what the statement meant that you were one block from Beach Boulevard or 3rd Street. Mr. Branham responded that the more specific policy would overrule the less specific policy.

Public Hearing:

Mr. Steve Roberts, 132 8th Avenue North, expressed his concern with the parking in this area. He explained the parking issues in that particular area of the City, especially where the restaurant has taken much of the parking.

Mr. Tim Franklin, 60 Ocean Boulevard, Atlantic Beach, stated that the guiding principle is what was intended by the Comprehensive Plan. He stated that no interpretation should render something meaningless. He noted that the transit routes are on Beach Boulevard and 3rd Street, and there would be no reason to state within one block if they only intended for these intensities to be on those two arterials. He agreed with Mr. Mann's interpretation of the policies. He stated that many local governments do not allow variances on lot size because of the issues with density. He then provided materials to the Board.

Mr. Reddington asked why they were there if Mr. Mann's interpretation is the Bible. Mr. Franklin stated that there may be cases where the interpretation of the Director is unreasonable and erroneous. Ms. Osewalt asked on how they should determine the reasonableness of the recommendation. Mr. Franklin stated that they should defer to the Director unless they thought he was incorrect.

Discussion:

Mr. Moreland stated that the intent of the policies was to allow for the density to

go a block off of the roads. Ms. Osewalt agreed that the intent was supported by the policy to be within one block.

Mr. Loretta stated that Mr. Mann's interpretation is consistent with what he had always be told. He then expressed concern about the sign being in the right of way.

Mr. Buck stated that a no vote was agreeing with Mr. Mann.

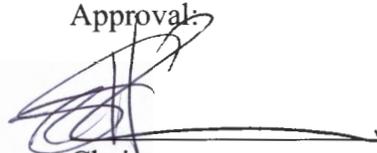
Roll Call Vote: Nays – Buck, Cummings, Loretta, Moreland, and Osewalt. The motion was denied unanimously.

Adjournment

There being no further business coming before the Board, Mr. Buck adjourned the meeting at 9:15 P.M.

Submitted by: Amber Maria Lehman
Recording Secretary

Approval:



Chairman

Date:

7/5/15