

**Minutes of Board of Adjustment Meeting  
held Tuesday, April 19, 2016, at 7:00 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 Vice-Chairman John Moreland.

**Roll Call**

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

Alternates:

Jeff Truhlar  
Francis Reddington

**Ex-parte Communications**

Mr. Loretta stated that he had a conversation with John Tipton, who was in opposition to BOA #16-10045 and he received a package from Christa Murphy in opposition.. Others stated that they had also had conversations with Mr. Tipton.

**Approval of Minutes**

It was moved by Ms. Osewalt and seconded by Mr. Loretta, to approve the following minutes as presented:

- Board of Adjustment meeting held February 16, 2016

**Correspondence**

Mr. Moreland stated that they would hold the correspondence to the particular case. Mr. Moreland then moved that case with an attorney to the end of the agenda.

**OLD BUSINESS:**

**(A) 16-327 Case Number: BOA 16-100025**  
**Name of Applicant:** Jason Huntley

**Property Address:** 1801 Kings Road

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Loretta, to approve a request for 42% lot coverage in lieu of 35% minimum and for a parking area setback of 1.33 feet in lieu of 5 feet minimum to allow for a new single family dwelling.

**Applicant:** The applicant, Mr. Jason Huntley, 1811 Kings Road, stated that the lot was a very irregular shape, which started wider and narrowed farther back. In addition, a drainage easement runs along the side of the property. He added that garage needs to be a side entry and this design creates a safe access.

Mr. Moreland asked how many square feet the lot was. Mr. Huntley responded 7,402 square feet. Mr. Buck asked about the easement. Mr. Huntley explained the lengths of the easement. Mr. Huntley added that he had talked to Public Works about the plan. He said they would compensate in other areas for the driveway built on the easement.

Mr. Truhlar asked where the water ran. Mr. Huntley stated it doesn't really run anywhere and explained the plan to account for the drainage. Mr. Loretta asked if they would update the Water Management Permit. Mr. Huntley replied yes.

**Public Hearing:**

Mr. Moreland noted that they had speaker cards pertaining to this agenda item.

Ms. Zann Williams, 45 Oakwood Road, stated her opposition to this proposal. She noted that this was a recently developed subdivision with irregular lots. She stated that two variance requests were denied. She stated there is no hardship created by the size of the lot. She added that the size of the house that could be allowed should this be approved was not consistent with the character of the neighborhood. Ms. Williams stated that the driveway could be changed further south without need for the variance.

Mr. Clayton Short, 1803 Kings Road, stated his property was affected most by the proposed variance and that he favored the proposal. He stated that Mr. Huntley has made every effort to address the issues with this proposal.

Mr. Huntley stated that the house being built was not as large as the one that Ms. Williams stated could be built. He added that to address the proximity of the driveway they would put a landscape buffer or some sort of fence in. Mr. Loretta stated that they could put gravel in to avoid the driveway variance issue.

**Discussion:**

Ms. Osewalt asked if they could modify the entrance. Mr. Huntley stated that they could but the definitely needed less than five feet. Ms. Osewalt stated that 15 inches between the driveway and the property line was not sufficient.

**Amended Motion to Approve:** It was moved by Ms. Osewalt, seconded by Mr. Loretta, to approve a request for 42% lot coverage in lieu of 35% minimum to allow for a new single family dwelling.

**Roll Call Vote on Amended Motion:** Ayes – Loretta, Moreland, Osewalt, and Truhlar. Nays - Buck. The motion was approved 4-1.

## **NEW BUSINESS**

- (A) **16-359 Case Number: BOA 16-100040**  
**Name of Applicant:** Richard W. Withers

**Property Address:** 1198 Beach Boulevard

**Motion to Approve:** It was moved by Mr. Buck seconded by Mr. Loretta, to approve a request for 16 on-site parking spaces in lieu of 48 parking spaces required for a new shopping center mixed use building.

**Applicant:** The applicant, Richard Withers, 6426 Bowden Road, Suite 201, Jacksonville, stated that the Code prohibits the property owner from using his property as zoned. He stated that the parking as been there since 1959, but the code does not allow those to be counted. He stated that they are proposing no changes and want to use the spaces that are already used.

Mr. Loretta asked who owned the parking up front. Mr. Withers stated that it originally was owned by the shopping center. FDOT has designated them as future right-of-way, but have no intentions of using these spaces as right-of-way.

Mr. Withers stated that they have no one lined up so they don't know if it will be multi-tenant or not. Mr. Moreland asked how many spaces would be taken up by this development. Mr. Withers stated that no spaces would be displaced.

Mr. Loretta asked Mr. Withers to clarify the request. Mr. Hays clarified the status of the parking. Mr. Loretta stated that there should have been information on the overall parking on the entire site.

### **Public Hearing:**

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

### **Discussion:**

Ms. Osewalt stated that they had a situation that was very similar in the recent past. Mr. Loretta noted that the entire area would have to be refigured if FDOT built an

improvement. He added that the goal in his mind would be if the entire shopping center has adequate parking.

Mr. Buck stated that he had never seen the parking lot full in 13 years. Mr. Reddington noted that there are empty parking spaces because the shopping area is not doing well.

**Roll Call Vote:** Ayes - Moreland, Truhlar, Buck, and Loretta. Nays – Osewalt. The motion was approved 4-1.

**(B) 16-360 Case Number: BOA 16-100044**

**Name of Applicant:** Matthew Lantzy

**Property Address:** 3148 Isabella Boulevard

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Loretta, to approve a request for 49% lot coverage in lieu of 35% maximum to allow for a swimming pool addition to a single family dwelling.

**Applicant:** The applicant, Kerri Lantzy, 3148 Isabella Boulevard stated that their lot was substandard and they wished to install a pool like others in the area have.

Mr. Buck asked what was behind the house. Ms. Lantzy responded there was a drainage ditch, with a drainage swale to the north that drained to the canal.

**Public Hearing:**

Mr. Kenny D'Angelo, 3162 Isabella Boulevard., stated he was the only property sharing a border with the property and has no problem with the variance.

**Roll Call Vote:** Ayes – Osewalt, Truhlar, Buck, Loretta, and Moreland. Motion approved unanimously.

**(C) 16-361 Case Number: BOA 16-100045**

**Name of Applicant:** Jeffrey Cale Jurin

**Property Address:** 2250 2<sup>nd</sup> Street South

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Loretta, to approve a request for a northerly side yard of 1 foot in lieu of 10 feet required; for a rear yard of 1.5 feet in lieu of 30 feet required; and for 76% lot coverage in lieu of 35% maximum to allow for improvement to a new single family dwelling.

Mr. Loretta noted that this was the case that he had ex-parte communication on.

**Applicant:** Ms. Holly Emerson, 16 Lakeside Drive, Palm Coast, read an e-mail

from Mr. Jurin. The e-mail stated that the improvements are to bring the existing deck up to Code. She stated that others have extended their decks further out and up. Mr. Moreland asked if there were variances for the other decks. Ms. Emerson stated that she did not know. She added that he had talked to his neighbors and had no issues.

Mr. Loretta wondered why they were pushing the setbacks to the limit. He didn't see the reason behind having to have a foot on all sides.

Mr. Osewalt asked also about the percentage of coverage and why it was so expansive. Mr. Buck noted that they already were allowed 65% so it was misleading to say they were going from 35%. Mr. Reddington wondered why it said 35% lot coverage maximum. Mr. Hays stated that it was built prior to the current code and townhomes were allowed 65%.

Mr. Loretta noted that below the deck should be pervious gravel to allow for water to percolate.

**Public Hearing:**

Mr. John Tipton, 503 6<sup>th</sup> Street North, stated that they did not have to give away things to permit development. He expressed concerns about a lot coverage of this magnitude.

**Discussion:**

Mr. Loretta stated that he would like to see adjustments to the requested setbacks and thought the lot coverage could be reduced.

Ms. Osewalt stated that she would have issues with anything over 50%. Mr. Hays stated that the existing coverage was already over 50%.

**Amended Motion to Approve:** It was moved by Mr. Loretta, seconded by Mr. Truhlar, to approve a request for a northerly side yard of 5 foot in lieu of 10 feet required; for a rear yard of 5 feet in lieu of 30 feet required; and for 70% lot coverage in lieu of 35% maximum to allow for improvement to a single family dwelling.

Mr. Moreland stated that the motion was for the improvement only.

**Roll Call Vote on Amended Motion:** Ayes - Truhlar, Buck, and Loretta. Nays – Osewalt and Moreland. The amended motion was approved 3-2.

**(D) Case Number: BOA 16-100046**

**Name of Applicant:** Homepoint 520, LLC

**Property Address:** 520 4<sup>th</sup> Avenue North

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Loretta, to approve a request for a front yard of 18.4 feet in lieu of 20 feet required; for an easterly side yard of 0.2 feet and a westerly side yard of 3 feet in lieu of 10 feet required; for a rear yard of 5.8 feet in lieu of 30 feet required; and for 0 on-site parking spaces in lieu of 4 parking spaces require, all to allow for a substantial improvement to and change from accessory building to a multi-family dwelling.

**Applicant:** The agent for the applicant, Ben Broadfoot, 422 South 3<sup>rd</sup> Street, stated that the hardship is that they are trying to make improvement to existing buildings. There will be no increases to existing lot coverage or setbacks.

Mr. Hays stated that he did not have authorization for Mr. Broadfoot. Mr. Howard Fleming, the owner, stated that he put him on the application. Mr. Hays concurred.

Mr. Moreland stated that basically they were not asking for more than what exists and won't do anything more than what exists. Mr. Broadfoot stated that was correct and they are just renovating a dilapidated but sound structure. They were eliminating a duplex and using an existing out-building as a single family structure.

Mr. Buck asked about the parking. Mr. Broadfoot stated that they will be parking where they park now and they would not park in the alley. Mr. Fleming stated that they are going to renovate this parking area.

Ms. Osewalt asked if this was already under construction. Mr. Fleming stated that originally they were going to do work that they thought would be in compliance with the Code. Mr. Loretta noted that because the parking is in the right-of-way, the site plan does not show the concrete patio, so no one knows there is a space there. Mr. Loretta asked why they needed the covered patio.

Mr. Loretta asked why lot coverage wasn't an issue. Mr. Hays stated because they were allowed 65%

Mr. Buck stated he still didn't understand where people would park. Mr. Fleming stated that they would park in the front like they do now.

**Public Hearing:**

Mr. James Overby, 21 Burling Way, expressed concern about 0 parking spaces. He stated that every time a variance is passed to reduce parking spaces, it always causes problems. He added that the property as it exists now does not have the parking spaces because a garage was walled off.

Mr. John Tipton, 503 6<sup>th</sup> Street North, stated that the City has helped develop the

Codes that maintain the standard of life on the beach. He stated that variance of the Codes should only be approved if there is a definite hardship. He stated that this lot is standard and the home will be the largest one in the neighborhood. He expressed his opposition to this proposed variance.

Ms. Rena Mitchell, 508 6<sup>th</sup> Street North, stated that she was not allowed to close off her garage for her house. She stated that this applicant should be required to adhere to the Code as well.

Mr. Buck stated that they had correspondence from Mr. Darrell Shields, 315 18<sup>th</sup> Street North, stating that the request is not reasonable and should not be granted. There was also a letter from Don Simi, 602 4<sup>th</sup> Ave. North, requested the variance be denied, expressing concern about parking and intrusiveness. Ms. Jody McDaniel also issued a letter opposing the request.

Mr. Fleming stated that this was going to be his house. He stated that there is ample parking for this unit. He stated that he is just trying to take what is there and renovating it to something better than currently exists. Mr. Fleming stated that the steps that are there are going away. Mr. Loretta noted that if there were changes to the plan there would only be one variance request. Mr. Buck asked if they could do away with the parking out front. Mr. Fleming replied that they did not need it, but it was already existing when they bought the property. Mr. Broadfoot stated that you could not use the other garage area due to the alleyway.

Mr. Tony Davenport, 336 14<sup>th</sup> Ave. North, opposed the proposal to allow 0 on-site parking.

Ms. Lori Watson, 514 4<sup>th</sup> Avenue North, stated that the covered part was existing. Mr. Loretta asked if she was okay with the covered parking. Ms. Watson said it was already there so had no problem with it.

Ms. Jan Tipton, 503 6<sup>th</sup> Street North, commented on the importance of the sidewalk and it is blocked by parked cars.

**Discussion:**

Mr. Loretta noted that they can get rid of one of the side yard requests, and offered an alternate motion.

**Amended Motion to Approve:** It was moved by Mr. Loretta, seconded by Mr. Buck, to approve a request for a front yard of 18.4 feet in lieu of 20 feet required; for an easterly side yard of 0.2 feet in lieu of 10 feet required; for a rear yard of 5.8 feet in lieu of 30 feet required; all to allow for a substantial improvement to and change from accessory building to a multi-family dwelling as shown as submitted and discussed.

Mr. Buck asked how they can sure there were not 3 units. Mr. Hays stated the City would have to enforce that.

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

(D) **16-363 Case Number: BOA 16-100048**  
**Name of Applicant:** Kenneth Tejatanaalert

**Property Address:** 432 14<sup>th</sup> Avenue North

**Motion to Approve:** It was moved by Mr. Buck, seconded by Mr. Loretta, for a Request to Appeal the Planning and Development Director’s Interpretation of Article IV, Definitions, Section 34-4, “Frontage, building” and “Building line” as it applies to the approval of a development plan permit (Site Plan #15-7) and its corresponding permit applications. (16-200, 16-202, 16-203, and 16-204)

**Applicant:** The applicant, Kenneth Tejatanaalert, 424 14<sup>th</sup> Avenue North, stated that he would prove that frontage of the subject parcel was on 5<sup>th</sup> Street North. He cited the Code and Planning Staff to support his contention. He noted that the BOA has previously denied a variance request for the project. He stated that the site plan calls 14<sup>th</sup> Avenue North as the frontage. He stated that this will set a bad precedent. He stated that there could be 15 condominiums constructed that is not consistent with the neighborhood. Mr. Tejatanaalert then stated his concerns with the method for appealing the Director’s interpretation.

Mr. Buck asked Mr. Tejatanaalert about the neighborhood. He noted that there are similar type buildings to what is proposed.

Ms. Bee Tejatanaalert, 424 14<sup>th</sup> Avenue North, reviewed a presentation. She repeated her husband’s interpretation of the Code. She stated that this building will not be consistent with the neighborhood. She then went on to cite other Codes and their definition of building restriction line. She then showed a photo to show how this building will be situated on the parcel.

**Public Hearing:**

Mr. Tom Borchert, 614 14<sup>th</sup> Avenue North, stated that the neighbors were opposed to the proposed building. He expressed concerns about the increase in traffic.

Ms. Nan Jester, 429 14<sup>th</sup> Avenue North, expressed concern about the character of the neighborhood being affected. She said that ¾ of the building faces 5<sup>th</sup> Avenue North and that should be their front yard.

Ms. Charlotte Wilson, 431 14<sup>th</sup> Avenue North, supported the other speakers but did not wish to speak.

Mr. Clark Stuck, 410 14<sup>th</sup> Avenue North, noted that the building to his east built within the building line. He stated that they wanted to avoid the setback requirements by stating they faced 14<sup>th</sup> Avenue, North. He expressed concern about traffic and safety issues.

Mr. Tony Davenport, 336 14<sup>th</sup> Avenue North, stated that he is seeing more and more lot coverage. He stated that the developer is trying to maximize profit at the sake of the neighborhood. He expressed concern about the number of cars, and that other people will sell and there will be more 4-plexes built.

Mr. Moreland noted that this is not a variance request.

The City Attorney, Susan Erdelyi, stated that they are not charged to turn down the project but rather to interpret and enforce the Land Development Code. She noted that there is an appeal of the Code but not an opportunity to shelve the project. She stated that their role is to determine whether the Planning Director had misinterpreted the Code.

Bill Mann, Planning and Development Director, noted the appeal is the building frontage and building line. He stated that building frontage is on two streets, therefore this building has two frontages. He stated there is no correlation between building frontage and garage, etc. It has nothing to do with setbacks. Mr. Mann reviewed the site plan and the setbacks required. He noted that this interpretation is consistent the City's interpretation for decades. Mr. Mann stated that the variance that was referred to had nothing to do with this request and explained why. He noted this was a single building on a single piece of property, not fee simple townhomes as was proposed before.

Mr. Loretta asked if they could transition this to a fee simple townhome. Mr. Mann stated they would have to operate as the big condos. He noted that they would have to come back to the Board again and get a variance any setbacks not consistent with the Code.

Mr. Reddington asked the City Attorney if she agreed with Mr. Mann. Ms. Erdelyi stated she was there to answer procedural questions but not to interpret the Code.

Mr. Buck stated that he could understand the concern with the interpretation due to the orientation of the building.

Mr. Tejatana alert stated that his concerns with this proposal, and stated that the maximum width referred to is clear in the Code. Mr. Loretta asked Mr. Tejatana alert stated that they could build these units with the zoning and a different orientation.

**Discussion:**

Mr. Loretta asked Mr. Hays if they get around the parking requirements by this design. He asked if 8 spaces in a row would have been approved. Mr. Mann read the parking requirements from the Code for multi-family units and they were allowed to do this parking plan.

Ms. Osewalt stated that she understood Mr. Tejatanalet's interpretation but thought the Planning Director was correct.

**Amended Motion:** It was moved by Ms. Osewalt and seconded by Mr. Loretta to add that a yes vote accepts Mr. Tejatanalet's appeal and a no vote accepts the Planning Director's interpretation.

**Roll Call Vote Amended Motion:** Nays – Buck, Loretta, Moreland, Osewalt, and Truhlar. The motion was denied unanimously.

**Adjournment**

There being no further business coming before the Board, Mr. Buck adjourned the meeting at 9:53 P.M.

Submitted by: Amber Maria Lehman  
Senior Secretary

Approval:   
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Chairman  
Date: 7/5/16