

MINUTES
BOARD OF ADJUSTMENT

June 4, 2014

7:00 p.m.

Commission Chambers
22 South Beach Street
Ormond Beach, Florida

I. ROLL CALL

Members Present

Dennis McNamara
Tony Perricelli
Ryck Hundredmark
Jean Jenner
Norman Lane

Staff Present

Laureen Kornel, Senior Planner
Ann-Margret Emery, Deputy City Attorney
Melanie Nagel, Minutes Technician

II. APPROVAL OF THE MINUTES

A. April 2, 2014 Minutes

Mr. Jenner moved to approve the April 2, 2014 Minutes as submitted. Mr. Hundredmark seconded the motion. Vote was called: Mr. Perricelli for; Mr. Hundredmark for; Mr. Jenner for; Mr. Lane abstained; Mr. McNamara for. The motion carried.

III. NEW BUSINESS

A. Case No. 14-084: 707 S. Atlantic Avenue, front and side yard setback variances

Ms. Kornel, Senior Planner, City of Ormond Beach stated this is an application for front and side yard variances at 707 S. Atlantic Avenue. The variances are related to the construction of already built second floor wood balconies. This case is based on a Stop Work Order that the Building Department issued on January 28, 2014. The Stop Work Order was issued for completing unpermitted work including mechanical, electrical, structural windows and doors. The applicant is requesting to allow four wooden balconies to remain in place allowing ocean views to guests. Ms. Kornel explained the location, orientation, and characteristics of the subject property and presented the staff report.

The Driftwood Beach Motel, located directly adjacent to this property on the north side, has provided written notice that they support the application. The Coral Beach Lodge has provided written notice, without reason, that they object to the application. Ms. Kornel contacted the owner of the Coral Beach Lodge to ascertain what issues they might have. The owner stated that he didn't care for the way the balconies looked. Ms. Kornel stated staff is recommending approval.

Mr. Perricelli asked what size are the balconies. Ms. Kinsey Polychrones, with Polychrones Design Company, stated that she has been retained by Mr. Alex Barbara, owner of the Makai Lodge, after he received the Stop Work Order. Mr. Barbara stated this was a situation where they jumped the gun, and he apologized for that. He has had a lot of work done to the property, most of which was done with permits, such as the pool, roofing, and electrical work. Mr. Barbara stated that the decks were 12' x 16'. Ms. Polychrones stated they were closer to 8' or 9' by 16'. Mr. Perricelli asked if there was a different rule for something built in the air versus something on the ground. Ms. Kornel stated that she was not aware of anything.

Mr. Lane asked if the balconies, as constructed, would meet the code. Ms. Polychrones stated that there is additional work to be done, and they will make sure foundations are big enough, and structurally the balconies are supported properly. Ms. Kornel stated if the variances are granted, everything will be inspected.

Mr. Hundredmark asked Mr. Barbara if this was the second time he had done work without a permit. Mr. Barbara stated that he had purchased the facility in January of 2011, and there were a lot of doors that were sticking, and race week was coming up that February. In order to get the problem rectified quickly, they replaced a lot of the doors on the property, and he did not think about getting permits; he just wanted to get the job done in time for race week.

Mr. Hundredmark then asked if the doors leading out to the balconies in question were already there. Mr. Barbara stated no, that the large windows were in a pretty rough way, so they took them out and replaced them with new hurricane-proof windows and doors. Mr. Hundredmark asked if that work was also done without a permit. Mr. Barbara stated yes, that was correct, and was an oversight.

Mr. Hundredmark asked if the contractor was a licensed contractor. Mr. Barbara stated that he uses his own maintenance personnel to do the work. Mr. Hundredmark then asked if the end balcony, once constructed, would hang out over the property line fence. Mr. Barbara explained that the end balcony was a different design, which would be angled and would not hang over the fence.

Mr. McNamara asked who designed the balconies. Mr. Barbara explained that his maintenance workers used to be general contractors, and they designed the balconies. Mr. McNamara stated that when he visited the property he noticed red iron was holding down the columns. Mr. Barbara stated that everything was supposed to be stainless steel, due to the corrosion. Mr. McNamara stated that he didn't see any stainless, but it appeared to be galvanized.

Mr. McNamara asked how the doors got on that side of the building. Mr. Barbara explained that the rooms had long, old windows, which they removed and replaced with a hurricane-proof window and door in each room.

Mr. McNamara asked Ms. Emery if they had to do two separate votes, since there were two separate issues. Ms. Emery replied the two variances should be done separately.

Mr. Lane stated that the entire Board has questions about the permitting or lack thereof, and the construction, but that is a separate issue that the city has to deal with. What the Board is here for are the variances.

Mr. Jenner questioned how someone can get a permit for the doors and windows, but not for the balconies. Mr. McNamara stated that they didn't get permits for any of the work.

Mr. Perricelli stated that he is glad Mr. Barbara is fixing the place up. It is an old hotel and does take a lot of work. But Mr. Perricelli wishes Mr. Barbara weren't here after the fact, which is the problem.

Mr. McNamara questioned if the variance is not granted, would the doors have to be removed on the rooms with no balconies. Ms. Kornel stated that the doors would have to be removed, because you couldn't have doors leading out to nowhere. That would not be allowed under the Building Codes. Ms. Kornel stated that if the owners had come for the variances before the work was done, it's likely that staff would have recommended approval for the variances.

Mr. Hundredmark stated it was confusing that the board is not involved in the building department issues, yet they will approve whether the decks stay or come down. Had anyone checked when they took the windows out, if the doors were put in correctly with headers over them, and were they sealed. Ms. Kornel stated that this group is not approving the construction, but are only approving the variances. The Building Department will be responsible for the inspections, and the building code questions cannot be answered at this time because nothing has been inspected. A Stop Work Order was placed, and no further action has commenced.

Ms. Kornel stated if the variances are approved, and the balconies are allowed to stay, everything will be inspected for proper headers, insulation, electrical, and anything else involved. Mr. Lane stated that the Board could approve the variances, but then the Building Department could say no to them doing the construction. Ms. Kornel stated that is correct. Ms. Kornel also stated that the applicant wants to bring everything up to code, get the required permits, and correct the wrong that was done.

Following discussion, Mr. Lane moved to approve the variance for the front yard setback, as submitted. Mr. Jenner seconded the motion. Vote was called: Mr. Lane for; Mr. Perricelli for; Mr. Hundredmark against; Mr. Jenner for; Mr. McNamara for. The motion carried.

Next Mr. Lane moved to approve the variance for the side yard setback, as submitted. Mr. Jenner seconded the motion. Vote was called: Mr. Jenner for; Mr. Lane for; Mr. Perricelli for; Mr. Hundredmark against; Mr. McNamara for. The motion carried.

V. OTHER BUSINESS

Ms. Kornel stated that there would be at least one item for the agenda next month, possibly a couple of other items. Staff would like to change the meeting from July 2 to July 9, 2014. Board members were in agreement with this, and there are alternate board members if someone can't make it.

VI. ADJOURNMENT

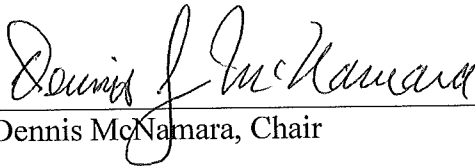
As there was no other business, the meeting was adjourned at 7:35 p.m.

Respectfully submitted,



S. Laureen Kornel, AICP, Senior Planner

ATTEST:



Dennis McNamara, Chair

Minutes prepared by Melanie Nagel.

Pursuant to section 286-0105, Florida Statutes, if any person decides to appeal any decision made by the board of adjustment with respect to any matter considered at this public meeting, such person will need a record of the proceedings and for such purpose, such person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

All persons appealing to the board of adjustment must be present, or represented at the public hearing scheduled for the consideration of his request. Failure to be present or to be represented, results in the automatic refusal by this board to grant permission for any variance. In order to allow the meeting to proceed in an orderly fashion, the board, by motion, may limit the time allowed for remarks concerning a specific agenda item to a maximum of thirty (30) minutes for city staff, the designated representative of the applicant and the designated representative of any organized group and to five (5) minutes for members of organizations and other individual speakers. Additional time shall be allowed to respond to questions from the board.

Persons with a disability, such as a vision, hearing or speech impairment, or persons needing other types of assistance and who wish to attend city commission meetings or any other board of committee meeting may contact the city clerk in writing, or may call 677-0311 for information regarding available aids and services.