

**MINUTES**  
**BOARD OF ADJUSTMENT**

**July 9, 2014**

**7:00 p.m.**

**City Hall Training Room**  
22 South Beach Street  
Ormond Beach, Florida

**I. ROLL CALL**

Members Present

Dennis McNamara  
Tony Perricelli  
Ryck Hundredmark  
Norman Lane  
Jean Jenner (absent)

Staff Present

Steven Spraker, Senior Planner  
Ann-Margret Emery, Deputy City Attorney  
Melanie Nagel, Minutes Technician

**II. APPROVAL OF THE MINUTES**

**A. June 4, 2014 Minutes**

**Mr. Perricelli moved to approve the June 4, 2014 Minutes as submitted. Mr. Hundredmark seconded the motion. Vote was called, and the motion was unanimously approved.**

**III. NEW BUSINESS**

**A. Case No. V2014-091: 11 Kingsbridge Crossing Drive, waterfront yard setback**

Mr. Spraker, Senior Planner, City of Ormond Beach stated this is an application for a waterfront yard setback variance for a hard roof screen enclosure at 11 Kingsbridge Crossing Drive. Mr. Spraker explained the location, orientation, and characteristics of the subject property and presented the staff report. Mr. Spraker stated staff is recommending denial.

Mr. Lane asked about the neighbors with screened porches, which are supposed to have a 10' setback, but they appear to be around 5'.

Mr. Kevin Kesselring, 835 Candlewood Circle, Ormond Beach, who is representing the homeowner, Mrs. Alosia, stated that he had measured the other enclosures and they all have about a 5' setback. Mr. Kesselring went on to say that he has been friends with the homeowners, and this is a project they have wanted to do for a long time. Mrs. Alosia cannot sit outside due to the sun and rain, and she has health issues which do not allow her to sit out in the sun. Mrs. Alosia asked Mr. Kesselring to construct the screen enclosure, and told him that she had all of the paperwork approving the construction.

After construction had been started, Chris Mason (Neighborhood Improvement) stopped by and told Mrs. Alosia that she needed to have a building permit. Mrs. Alosia thought that since she had paperwork from the Homeowners Association approving the project, she was permitted to do the project. All work was stopped and Mr. Kesselring explained to her that she needed a permit from the City.

Mr. Perricelli asked who built the enclosure. Mr. Kesselring stated that he had built it. Mr. Lane asked Mr. Kesselring if he was a general contractor. Mr. Kesselring answered that he is a specialty structure contractor, but hasn't kept his license active since he has been going to school. Mr. Lane stated that if Mrs. Alosia had tried to get a permit, she would have needed to bring the drawing plans to the City. Did she have drawings? Mr. Kesselring stated that he knows how to build this type of structure, so he constructed it.

Mr. Hundredmark asked if Mr. Kesselring had given the owner a set of drawings to obtain a permit, or did he take drawings and get a permit. Mr. Kesselring stated that he thought the homeowner had gotten the permit. Mr. Hundredmark asked if Mr. Kesselring had an active license, and Mr. Kesselring replied that it was not active at the present time. Mr. Hundredmark stated that as a construction company, Mr. Kesselring should have known to pull a permit.

Mr. McNamara stated that if he were a contractor and a homeowner said the permits were approved, he would ask them to see the plans in order to get material. Mr. McNamara asked Mr. Kesselring how he bought material for the project. Mr. Kesselring stated that he has done this type of construction for many years and a project like this was pretty simple. Mr. McNamara commented on item #8 on page 4 of the application, where the homeowner wants the same opportunity as the neighbor. Mr. Spraker explained that the homeowner is having difficulty distinguishing between a screen enclosure and a hard roof enclosure.

Mr. Lane asked if the homeowner could put some kind of fabric roof on the enclosure. Mr. Spraker stated that it would still be considered a hard roof. Mr. Perricelli asked if the homeowner gets rid of the hard roof, would the enclosure be acceptable. Mr. Spraker said that it would.

Mr. Hundredmark asked that if someone had come to get a permit, that they would not have been able to get a permit without a variance. Mr. Spraker stated that was correct. Mr. Hundredmark then asked Mr. Spraker if he thought that the applicant knew she had to get a permit. Mr. Spraker stated that in his opinion, the applicant was not cognoscente of the process.

Mr. Lane asked what would be involved to take the hard roof off, and change it to a screened roof. Mr. Kesselring stated that the enclosure would have to be re-engineered, and would involve different uprights and beams.

Mr. Hundredmark asked Mr. Spraker if the enclosure was constructed properly to this point. Mr. Spraker replied yes. Mr. Hundredmark then asked Mr. Spraker that if there had been a permit issued, and then an inspection done, in his opinion would it have passed inspection. Mr. Spraker replied yes.

Mr. McNamara stated that he has trouble with the fact that an elderly lady relied on a contractor who should have had a permit.

Mr. Spraker stated that if the structure hadn't been built yet, and the homeowner had the HOA and adjoining property owners supporting it, how would the board view the application based on the geography of the land and the distance they have. Mr. Perricelli stated that there is no hardship and the Board probably would not have approved it. Mr. Perricelli stated that the worse that could happen is that the roof would have to come off. The structure could stay, but the roof would have to be changed.

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

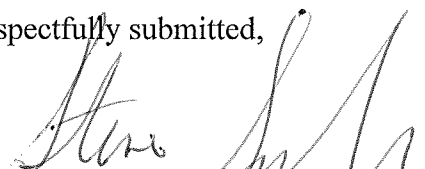
## V. OTHER BUSINESS

None.

## VI. ADJOURNMENT

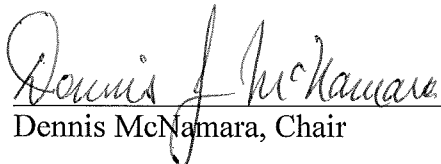
As there was no other business, the meeting was adjourned at 7:38 p.m.

Respectfully submitted,



Steven Spraker, 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.