

MINUTES
BOARD OF ADJUSTMENT

November 5, 2014

7:00 p.m.

HR Training Room
22 South Beach Street
Ormond Beach, Florida

I. ROLL CALL

Members Present

Tony Perricelli
Ryck Hundredmark
Norman Lane
Dennis McNamara, Chair

Staff Present

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

II. APPROVAL OF THE MINUTES

A. October 1, 2014 Minutes

Mr. Hundredmark moved to approve the October 1, 2014 Minutes as submitted. Mr. Perricelli seconded the motion. Vote was called, and the motion was approved.

III. NEW BUSINESS

A. Case No. V2015-003: 62 Chippingwood Lane rear and side yard setback room addition variance

Ms. Kornel, Senior Planner, City of Ormond Beach, stated this is a variance application for rear and side yard setbacks to construct a room addition at 62 Chippingwood Lane. Ms. Kornel explained the location, orientation, and characteristics of the subject property and presented the staff report.

Ms. Kornel continued by explaining that on Friday, October 31, 2014, one individual who did not provide her last name or address, identifying herself as living in the Gardens of New Britain subdivision, contacted the city expressing a number of concerns that were documented in an email to the Planning Director. The citizen felt the size of the addition proposed was excessive, the location of the sign posting was inadequate due to the location of the property being at the end of Chippingwood Lane, the adjacent property owner may not have been noticed and finally there were concerns voiced about previous additions being constructed without permits. It was explained that the property and abutting home owners had been noticed in accordance with the city's Land Development Code and that in fact staff's recommendation was a scaled down version of the request from a 15' x 15' addition to a 10' x 15' addition. Staff also advised that it is not uncommon

for people to complete work without permits and that the adjacent property owners had provided their signatures in support of the application.

Finally, Ms. Kornel provided three possible board actions and discussed each one as follows:

1. Grant the applicant's request as follows:
 - a. Allow a 5' setback on the rear yard, granting a 15' variance, and
 - b. Allow a 1.67' setback on the side yard, granting an 18.33' variance.

Staff has concerns with Option 1 that the requested addition would extend further out from the existing structure than what has been approved for variances in the same subdivision in the past. However, it could be argued that the requested rear yard variance for a room addition does not impact the property any more than if the applicant were to ask for a variance with a final rear yard setback less than 5'. In addition, since the property to the north is green space and the property to the east are tennis courts, only one property owner directly to the west will be impacted and that property owner has provided written support of the requested 15' x 15' room addition.

2. Grant a modification of the setbacks recommended by staff as follows:
 - a. Allow a 10' setback on the rear yard, granting a 10' variance; and
 - b. Allow a 1.67 setback on the side yard, granting an 18.33' variance.

Option 2 allows alternative setbacks that would enable the BOAA to make a decision consistent with approved variances in the same subdivision in the past.

3. Deny the request as presented and not allow the construction of the addition.

Ms. Kornel stated staff is recommending Option 2.

Mr. McNamara questioned why there was such a small side yard for the home. Ms. Kornel stated that it is the result of being a non-conforming property, and staff has not been able to determine from records how it was developed and what the setbacks were when it was originally developed.

Greg Reynolds, Greg Reynolds Construction, contractor for the applicant, stated staff's recommendation for approval is to take the size of the addition down from the proposed 15' x 15' to 10' x 15', but this room is going to be used for an elderly in-law to live at a later date, and Mr. Reynolds believes the 10' x 15' room recommendation by staff will be a restriction if the person would happen to be in a wheelchair.

Mr. McNamara asked what type of construction the addition would be. Mr. Reynolds stated it would be wood frame, with siding to match the upper story. It will be used as a bedroom/sitting area and be an actual living space.

Mr. Perricelli asked if the addition would stick out further than the screened porch that was shown at 56 Chippingwood. Mr. Reynolds stated that he doesn't know

for certain, but he believes that it would. Mr. Lane stated that he didn't think the addition at 56 Chippingwood was any greater than 10'.

Mr. Lane stated that he went and looked at the property and surrounding area, and most of the additions are screen rooms, whereas this addition would be a lot bigger and more substantial than the other additions that have been put on neighboring units.

Mr. Perricelli asked if any of the other additions in the neighborhood are rooms, as opposed to screen enclosures. Ms. Kornel stated that she couldn't say for certain because she hasn't looked at every unit within the subdivision, but she can vouch that the majority of the additions are screen rooms. Ms. Kornel stated that the key determining factor for staff, from the standpoint of the Land Development Code, is whether an addition is proposed with a hard roof or not.

Mr. McNamara stated to Mr. Reynolds that the Board believes the proposed addition at 15' x 15' is a little aggressive compared to other additions in the area. Mr. Reynolds stated that 15' is what the home owner wants, but maybe if it was made 12' then it would roughly be 5' to the fence. Ms. Kornel stated that 12' might be a compromise down from the requested 15'.

Ms. Kornel stated that if the room were 12' deep, then an 8' setback would be required, with a 12' variance for the rear yard, and the side yard would remain at an 18.33' variance. Mr. Hundredmark stated that the side yard is not the problem.

Following discussion, Mr. McNamara asked if there were any more questions. There were none.

Mr. Perricelli moved to approve staff's recommendation, allowing a 10' setback on the rear yard, granting a 10' variance, and allowing a 1.67' setback on the side yard, granting an 18.33' variance. Mr. Hundredmark seconded the motion. Vote was called, and the motion was unanimously approved.

IV. OTHER BUSINESS

Mr. Lane commented that it seems there have been a number of meetings lately where people have commented that they didn't know what was going on in their neighborhoods. It didn't make any difference that the signage and the legal notices were done correctly. In some cases, maybe the sign posting is inadequate. Mr. Lane asked how many neighbors are notified. Ms. Kornel stated all the adjacent owners are notified as required by the Code. Mr. Lane commented that is a pretty small circle, and the sign right in front of the house facing the street often is not seen, especially at the end of a cul-de-sac.

Mr. Lane asked who could make an adjustment to the Code and broaden the scope of the notices, and possibly put a sign at the address and the next intersection. Ms. Kornel stated that it would be the Planning Department, and they would have to amend the Land Development Code (LDC).

Mr. Perricelli stated that if a person was building on the ocean or river a notice would have to go to anyone within 300' to each side of the property owner.

Ms. Kornel advised that new construction of an entire building or development is generally more substantial than a variance request, hence a wider swath of notice to abutters is required.

Mr. Hundredmark wondered if most of the complaints were from postings on dead-end streets. Mr. Lane stated that the sign that was put out for the October variance was facing straight out to the street, and he never saw it. If it had been a double sided sign facing north and south, more people would have seen it as they drove past.

Mr. Hundredmark asked if there were a lot of complaints that came in. He questioned if there was only one complaining, and they refused to give their name or address, are they really serious about the complaint.

Ms. Kornel advised that she was not aware of complaints with respect to abutter notification other than this one case, which did seem unusual in that the property was located at the end of a dead end street. Ms. Kornel went on to advise she did not know the procedural history of notification to abutters for variances, but that she would be willing to check with Mr. Steven Spraker to see if he had that knowledge. She suggested that perhaps after staff has a chance to research the procedural history of notification to abutters for variances, the matter could be placed on the agenda for further discussion in the future.

Mr. Perricelli stated that all the people who came to last month's meeting and were all upset, don't understand what the Board is there for, and the Board cannot tell someone that they can't build. Mr. Lane added that the Board should have asked Mr. Spraker to read the part of the Land Development Code that explains everything. Ms. Kornel stated that sometimes no matter what explanation or interpretation of the Code is provided, people still don't understand the Land Development Code requirements. Further, the general public makes the assumption that amending the LDC is a simple procedure when in fact it is a costly process requiring three public hearings and advertisement. Ms. Kornel stated that next month staff could review the notification requirement for variances, if the Board wanted. Mr. Lane stated that he would like that.

V. ADJOURNMENT

As there was no other business, the meeting was adjourned at 7:34 p.m.

Respectfully submitted,



Lauren 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.