

MINUTES
BOARD OF ADJUSTMENT

December 3, 2014

7:00 p.m.

Commission Chambers
22 South Beach Street
Ormond Beach, Florida

I. ROLL CALL

Members Present

Ryck Hundredmark
Jean Jenner
Norman Lane
Brian Nave (alternate)
Dennis McNamara, Chair

Staff Present

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

II. APPROVAL OF THE MINUTES

A. November 5, 2014 Minutes

Mr. Hundredmark moved to approve the November 5, 2014 Minutes as submitted. Mr. Lane seconded the motion. Vote was called, and the motion was approved by members who attended the last meeting.

III. NEW BUSINESS

A. Case No. V2015-090: 759 South Atlantic Avenue, Georgian Inn Beach Club calculated rear yard variance, gazebo

Mr. Spraker, Senior Planner, City of Ormond Beach, stated this is an application for a calculated rear yard variance to build an open air gazebo at 759 South Atlantic Avenue. Mr. Spraker explained that along the oceanfront, the setbacks are determined by doing an average calculation of all of the buildings 800' feet to the north and south of the building, which came up with an average setback of 52.97 feet. One of the key points of the rear yard setback is to not block the view of adjoining property owners. To the north of the property is a vacant lot, and to the south is Andy Romano Park which has existing gazebos that are closer to the oceanfront than what is being requested. Mr. Spraker reviewed the location, orientation, and characteristics of the subject property and presented the staff report.

Mr. McNamara asked if the Board had any questions. Mr. Nave questioned that since it looks as if the gazebo is being built where there presently is parking, how is this not going to affect the parking? Mr. Spraker explained that they will submit a new site plan, with the new parking design. This variance shouldn't impact the parking, and does not grant the applicant any waiver to the parking

they have today. Tonight's discussion is solely for the gazebo, and the parking will stand on its own.

Mr. Lane questioned the setback line, and asked if the gazebos at Andy Romano Park were part of the determination for the setback. Mr. Spraker replied that only the main concession building was used for the calculation, since the gazebos are typically an accessory structure. Mr. Lane asked if this would also affect the calculated setback for the neighbors. Mr. Spraker stated that if it is a hard roof structure, and part of the principle building, if they were to ever go to re-development, they would work from that point. It might affect the vacant lot next door, but using the 800' average, it wouldn't impact it too much.

Mr. McNamara asked that if the variance is approved, is it just for the gazebo. Mr. Spraker stated that it is just for the gazebo. They would not be able to build an enclosed building expansion. They would have to come back to the Board.

Mr. Nave asked if there are any other buildings closer to the beach than this one. Mr. Spraker stated that it will be the closest to the beach if discussing principle structures. But, there are accessory structures, such as at the park that are closer than this, and this addition is more like an accessory structure.

Mr. Scott Waldroff, 1063 Red Maple Ct, New Smyrna Beach, architect for the project, stated that some of the sun deck will be deleted and that is where the extra parking will be added, so as not to lose any spaces. Since the structures at the park are not objectionable, it is felt that this project would be very similar to that. Mr. McNamara asked if this was a hotel or timeshare. Mr. Waldroff stated that it is a timeshare.

Mr. Lane inquired what the gazebo would be used for. Mr. Waldroff explained that the gazebo would be a shaded area with a bar/counter and seating, and a couple of grills for the guests to use. It would be a place for people to get out of the sun and sit. Mr. Lane asked if there was a restaurant on the property. Mr. Waldroff stated no, there was not.

Mr. McNamara asked if this would be a concession stand of some kind. Mr. Waldroff stated no, there are no plans to have any food catered or sold here.

Mr. Lane asked if this was part of a bigger improvement. Mr. Waldroff stated that this project is an improvement of the pool deck area.

Mr. Jenner stated that first, this is an improvement, and secondly, this will have a minor impact and it is great to see a property owner making some improvements. This is good for the city and has no impact on anyone and he is in favor of it.

Following discussion, Mr. Hundredmark moved to approve the rear yard variance, as submitted. Mr. Jenner seconded the motion. Vote was called, and the motion was unanimously approved.

B. Case No. V2015-010: 1 London Lane, rear and side yard variances, room addition

Mr. Spraker, Senior Planner, City of Ormond Beach, stated this is an application for rear and side yard variances to build an addition at 1 London Lane. Mr. Spraker explained that this is another example of a development in which the existing built environment does not match the Land Development Codes setback requirements. Mr. Spraker reviewed the location, orientation, and characteristics of the subject property and presented the staff report.

Mr. Gary Fessock, 3777 Fiermo Drive, Port Orange, friend of the applicant, attended the meeting. He stated that the room presently on the back of the home is not very deep and is useless and the owners want to be able to use the room.

Mr. Nave asked if the pictures in the presentation were of the actual house, and wondered if the air conditioning unit would have to be moved. Mr. Spraker stated no, that it belonged to the neighboring unit. Mr. Spraker pointed out where the new addition would be.

Following discussion, Mr. Lane moved to approve the rear and side yard variances, as submitted. Mr. Hundredmark seconded the motion. Vote was called, and the motion was unanimously approved.

IV. OTHER BUSINESS

- 1) Pool screen enclosures – Mr. Spraker explained that the last time this item was discussed, the final understanding of what was directed was to keep the screen enclosure at 10', but to allow screen enclosures over existing pools. Once Staff went to write the ordinance, if a person is allowed to put in a pool at the 5' setback, and you're allowed to cover existing pools, it automatically goes down to 5'. So, that is not going to work.

Mr. Lane stated that the intent was only for pools built before the date of the amendment. Mr. Spraker stated that he wanted to confirm what the Board is requesting. Basically, there are four options: 1) go down to 5' for everything; 2) if you have an existing non-conforming pool screen enclosure you can replace it; 3) combine options 1 & 2; or 4) do nothing.

Mr. Lane understood that if there is an existing pool at 5', that was built before a certain date, then they would get an automatic variance. Those are the cases that have come to the Board – someone has a pool deck that was built some time ago, and now they want to add a screen enclosure. Could they be grandfathered in? Mr. Spraker responded that he would not recommend it. Basically, you are taking away the ability of the adjoining property owner to object. Most of the variances have been approved because the applicant has gone to the neighbors and talked to them, and they have no objection to it. Originally Staff was of the mindset that it should be 5' and have one standard for everything, but you are then taking away a right that an adjoining property owner should have.

Mr. Spraker continued that the Board may approve it, but the applicant still has to go through the process of talking to the neighbors and making sure there is no impact, or there has to be some special condition. Language could be put in that if someone has an existing screen enclosure and it gets destroyed or they want to replace it, then that would be allowed. But Staff would not recommend ones that are 5' to automatically be allowed.

- 2) Variance advertising requirements – Mr. Spraker discussed the three current advertising requirements for variances – 1) legal newspaper ads; 2) posting a 2' x 3' sign at the property; and 3) mailing notices to abutting property owners, which includes physically touching it, or across the street. If there is a desire by the Board to change the requirements, Staff needs to know what the goal is.

Mr. McNamara asked about abutting property owners, versus within 300' of the property. Mr. Spraker stated that at least since 2005 it has always been abutting property owners.

Mr. Lane feels that it would be a good idea to go to a larger radius for notification, because other people are affected. Mr. Lane also thinks that some improvement to the signage, such as double-sided signs that can be seen when driving past the property, and signs at the next intersection, would reduce the number of people who feel like they were surprised by what was going on. Mr. Spraker stated that the sign is designed to advertise the property with the variance. If a sign is put at a corner, it could cause more confusion, because people wouldn't know what it was for.

Mr. Hundredmark commented that this discussion is taking place as a reaction to one individual who complained, and he isn't sure that should be a reason to make a change. Mr. Spraker stated it is a Board decision and Staff can do what the Board indicates. There has been discussion about the size of the signs, but the City Commission several years ago stated that a larger sign was fine for commercial sites, but didn't feel a large sign should be used in a residential area.

After discussion from Board members about who sees the signs, what size they should be, what information should be on them, what direction the signs should face, Mr. McNamara commented that the signs are doing what they are intended to do, which is to notify adjoining property owners. They're not meant to notify the whole city, but just the residents in the immediate area who might have a concern. Mr. Spraker commented that the Board can revisit this at any time, and can take some time to think about it and let Staff know what to do.

Mr. Jenner commented about the applicant or a representative of the applicant being present at a meeting for a variance, but yet tonight a friend of the applicant came to the meeting. Mr. Spraker stated that the applicant came to the office and knew they would be out-of-town, and authorized the friend to represent them. Mr. Jenner was concerned that if there were an appeal, or something went wrong, would this be an issue. Ms. Ann-Margaret Emery,

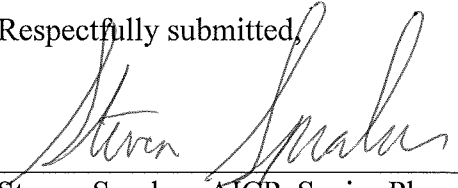
Deputy City Attorney, stated that the applicant runs the risk that if the Board has questions, and their representative can't answer them, then they may run the risk that they wouldn't have an adequate appeal, because they don't have information on record.

Mr. Hundredmark moved that the Board do nothing to change the way variances are advertised unless it becomes an issue in the future. Mr. Jenner agreed, and Mr. McNamara was in favor of keeping everything the same. Mr. Lane stated he could go along with the Board's decision.

V. ADJOURNMENT

As there was no other business, the meeting was adjourned at 7:37 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.