

MINUTES
BOARD OF ADJUSTMENT

February 4, 2015

7:00 p.m.

Commission Chambers
22 South Beach Street
Ormond Beach, Florida

I. ROLL CALL

Members Present

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

Staff Present

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

II. APPROVAL OF THE MINUTES

A. January 7, 2015 Minutes

Mr. Hundredmark moved to approve the January 7, 2015 Minutes as submitted. Mr. Perricelli seconded the motion. Vote was called, and the motion was unanimously approved, with Mr. McNamara abstaining.

III. OLD BUSINESS

A. Case No. 15-034: 185A Cardinal Drive, side yard variance

Mr. Spraker, Senior Planner, stated that this is a side yard variance for 185A Cardinal Drive, which is part of a triplex with unit A in the front, unit B in the back, and unit C to the east side. The applicant would like to add a sunroom to the side of the property. At the last Board of Adjustments meeting, the neighbor, Mr. Ortona expressed his concerns regarding the impact to his property. His comments are in the minutes from the January meeting. Mr. Spraker has not had any correspondence with Mr. Ortona since the last meeting.

Mr. Spraker reviewed the location, orientation, and characteristics of the subject property and presented the staff report.

Mr. Steve Abel, 2212 Crescent Ridge Road, Daytona Beach, contractor for the property owner, stated that this addition is very similar to other projects in the area. This will be a 10' x 21' addition in the back. Mr. Abel knows that Mr. Ortona had voiced some objections of possible noise or disturbances, which shouldn't be an issue, since the owners have been there for two years, and there have been no problems.

Mr. Patrick Kelley, 777A Flamingo Dr, president of the Ocean Village Home Owners Association, stated that the applicant had submitted a letter to the HOA, and it was taken to the Architectural Review Committee. The three people on the committee went over the plans, walked the grounds, looked at other structures that Mr. Abel had put up, and thought this would be a fine addition to the property. The HOA approves of the addition, and feels that it will improve the value of the property.

Mr. McNamara asked if this building was a duplex or a triplex. Mr. Kelley answered that it is a small triplex, with each unit being about 425 sq. ft. The homeowner is very restricted and is just looking to add some more living space. Mr. Kelly feels that Mr. Ortona should not be bothered by the structure or the people living in it, because it simply isn't close enough, in an enclosed room, to make that much noise.

Mr. Kevin Corey, 18 Oak Bluff, Mr. Ortona's attorney, stated that Mr. Ortona has expressed his opposition to the aluminum structure being built on the adjoining property. Mr. Ortona feels that the variance being sought is an unreasonable request to encroach that far over the required setback. Mr. Ortona also has significant concerns over the aluminum structure being built right outside his bedroom window. Since this is a room where people will congregate and watch TV, Mr. Ortona is concerned about the neighbors having full view of his driveway and into his bedroom.

Mr. Corey continued that when Mr. Ortona received a variance for his property, he built a structure that was consistent with his existing structure – cinder block house, cinder block addition, and tile roof. If the neighbors were getting a variance for a similar structure, he would have no objection. He is concerned about the aluminum structure being built right outside his property.

Mr. McNamara asked if Mr. Ortona was in attendance at the meeting. Mr. Corey replied no, that he resides in Canada, but spends about 4-6 months out of the year in Ormond Beach. Mr. McNamara asked if Mr. Ortona's home is a single family home. Mr. Corey replied that it is a duplex, which he purchased with his brother.

Mr. Jenner asked Mr. Spraker how many triplexes are in the neighborhood. Mr. Spraker stated that he didn't know how many there were. Mr. Kelley stated that there are eight triplexes in the community. Mr. Jenner sees this as a way to expand the living area of the property, which is only about 420 sq. ft.

Mr. McNamara commented that there were only two exterior walls to the unit where the room could be placed – the front or the side. Mr. Spraker explained that they couldn't expand to the front, and the side yard is their only choice.

Mr. Perricelli asked how many screen enclosures are presently built in this area? Mr. Spraker replied that he does not have an exact number. Mr. Spraker observed several of these rooms in the immediate area, but he isn't sure of the total number.

Mr. Kelley stated that the HOA has a set of rules that governs noise, and people can be cited and fined for being a nuisance. So, the problem of noise is

moderated, because the owners understand the HOA rules. Mr. Kelly further mentioned that 175A (other side of duplex to 175B) and the house next to it to the west, has the same situation now as what will exist between 175B and 185A. There are no complaints or problems with the tin roof that is closer to 175A, than what this new screen room will be to 175B.

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

IV. NEW BUSINESS

A. Case No. 15-043: 711 South Atlantic Avenue, front yard variance

Mr. Spaker explained that a variance had previously come to the board in July of 2013, to construct the canopy at the front entrance of the hotel, to protect guests from rain or sun while checking in. The project was approved through the variance process, went through construction, and upon completion it was discovered that the columns were placed out further than planned. Originally the variance was for 20', with a 10' setback.

There is an existing storm water inlet that prevented where the columns could be placed, so they made a logical shift into the landscape island to avoid the inlet, which would have been very costly to move. They moved the columns into the landscape buffer, and it passed inspection. As the property went through financing, it was discovered that the setbacks don't match the variance. The applicant is seeking a variance to allow what was built. It would be a 6.73' setback, requiring a variance of 3.27'. The addition has been very well received, is an asset to the transient lodging facility, and the staff is recommending approval.

Mr. Jeff Brock, attorney for the owner of the property, stated that this is an enhancement of the overall restoration of the hotel. It wasn't until a recent survey was done for some refinancing, that it was realized the structure was 3' off from what the variance allowed. The lender has required the owner to come back for another variance for the additional 3'. The lender is holding a significant portion of the owner's money in escrow pending the approval of this variance.

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

B. Case No. 15-044: 417 Cherrywood Drive, pool screen enclosure variance

Mr. Spaker stated the home owner has an existing screen enclosure, and a tree came down on the screen enclosure, doing a lot of damage. The home owner would like to replace the existing screen enclosure with one exactly the same size, but it would require a variance of 5'. The existing screen enclosure has been in place since 1984, at which time it was permitted. Mr. Spraker looked to see if

there had been a variance done at that time, but couldn't find anything. Staff is recommending approval of the variance.

Ms. Sandy Stewart explained that her pool screen had been damaged when a tree fell on it. She doesn't want to expand it, but just wants it replaced, and her insurance has covered it to get a whole new enclosure.

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

Mr. Jenner asked if the Board couldn't agree that people in a situation such as this shouldn't have to pay for a survey, or a variance, to fix something that has just been broken and needs to be repaired. Mr. Spraker explained that there is a pending Land Development Code amendment that specifically addresses this type of situation. The applicant did not want to wait, since there is no guarantee that the City Commission is going to approve the amendment.

The Land Development Code presently discourages the replacement of non-conforming items. A home owner can maintain it and repair it, but once it gets destroyed more than 50%, the code wants it to come into conformance, or obtain a variance. Mr. Spraker explained that the amendment will take care of problems such as this going forward. It will go to the Planning Board on February 12, 2015 and if approved, will move forward to City Commission in April.

Mr. Jenner asked again about Case 15-043, and wondered when this was discovered that the columns were in the wrong location. Mr. Spraker stated that a survey was done for the financial institution and that is when it was discovered. Mr. Perricelli stated that it is hard to believe that a general contractor, who goes by a set of plans, wasn't aware of this. The general contractor didn't follow the plans and the inspectors didn't catch it. When the general contractor poured the footers, he knew he was wrong, and it is hard to believe that they just caught it.

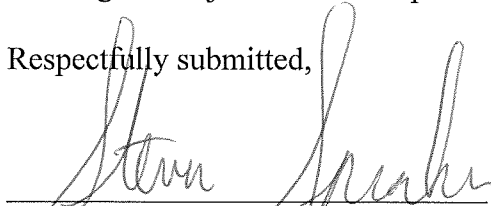
V. OTHER BUSINESS

None.

VI. ADJOURNMENT

As there was no other business, the meeting was adjourned at 7:32 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.