

MINUTES
BOARD OF ADJUSTMENT

April 7, 2010

7:00 p.m.

City Commission Chambers
22 South Beach Street
Ormond Beach, Florida

I. ROLL CALL

Members Present

Jean Jenner
Norman Lane
Dennis McNamara
Tony Perricelli
Ron Walker

Staff Present

Steven Spraker, AICP, Senior Planner
Ann Margret Emery, Deputy City Attorney
Chris Jarrell, Minutes Technician

II. APPROVAL OF MINUTES

The Board members, with the exception of Mr. Walker, voted to approve the minutes of the March 3, 2010 meeting. Mr. Walker abstained from voting since he had been absent at the March 3rd meeting.

III. OLD BUSINESS

There was no old business to be discussed.

IV. NEW BUSINESS

A. Case No. 10V-72: 494 Riverside Drive

Mr. Spraker stated that the request was for a rear yard, waterfront variance to allow for a room addition. He explained that the property is located along the Halifax River and that based on the averaging of the waterfront setbacks to the north and south, the setback was determined to be 47.5 feet. He said that the request for a 15.2-foot waterfront variance would result in a rear setback of 32.3 feet.

Mr. Spraker pointed out that in reviewing the application, staff noted that rear property line is somewhat irregular, resulting in a greater lot depth on the north side of the lot than on the south side and therefore further reducing the land area

outside the setback on the south side. He said that the proposed room addition would in line with the existing covered porch. He showed photographs of the subject and the adjoining property at 482 Riverside Drive, indicating that the subject property was set back approximately 40 feet from that two-story house. He illustrated the 148° wide viewing angle and referenced the survey which showed that the viewing angle would be only slightly decreased, with no real impact to the adjacent property owner.

Mr. Spraker pointed out that the photos also showed that the property at 510 Riverside Drive had no real viewing angle because of the curvature of the river. He said that the applicants submitted documentation that neither adjoining property owner had any objection and added that Staff had not heard any objection from either of those adjoining owners.

The applicants had applied for building permits, Mr. Spraker said, and noted that the room addition would be of similar materials and construction to the existing residence. He stated that Staff was recommending approval of the request.

Mr. Lane questioned the city's goal of utilizing the rear setback regulations in order to preserve the river view.

Mr. Spraker said that it had been based on the knowledge of how the setback was established and that the only purpose it served was to prevent one house from blocking the view of the water of another. He said that there were similar requirements on Beach Street, along the oceanfront, and along other waterfront locations in the city. He confirmed that staff had doubts as to whether or not the current regulation requiring the averaging of setbacks was the best way to preserve the river views, but said that staff had not yet come up with another way to do so while ensuring that there would be no unintended consequences. He added that the number of recent and similar variances demonstrated that there was indeed an issue.

Mr. Spraker agreed with Mr. Lane that the view corridors were very important to preserve and reiterated that staff was hesitant to propose any alternative regulations because of the unintended consequences that might then become apparent. He said that staff would continue to work on a solution, but that in the interim, such cases would be handled on an individual basis.

Applicants Tom and Jane Breslin, 494 Riverside Drive, stated that Mr. Spraker had accurately summarized their request. They said that the small addition would square off the back of the house and provide additional opportunities for the river view.

Mr. Jenner made a motion to approve the variance, as requested.

Mr. Lane seconded the motion, which was approved by unanimous vote.

Chair McNamara advised the applicants that they had one year in which to build the addition, or the variance approval would expire.

B. Case No. 10V-75: 116 Wildwood Avenue

Mr. Spraker stated that the subject property was a beachside home, located just north of Neptune Drive, in an area of older-style homes built in the 1950's and 1960's. He said that the application was for a rear yard variance of 7.3 feet, which would result in a setback of 17.7 feet. He said that a patio addition was also planned, but that it met setbacks and was not a part of the application.

Mr. Spraker said that the house, built in 1959, was unique in that it was situated 30 feet from front lot line (also the setback), with a slightly skewed orientation, and with a lot depth of 105 feet. He said that the depths of more recently established lots are typically 110-115 feet and pointed out that the lots on Neptune Drive had lot depths of about 200 feet. He also noted that [because of the small lot depths], many of the houses along Wildwood have encroachments, which have occurred over time. He also pointed out that the property abutted two other lots.

The hardship suffered by the applicants, Mr. Spraker reported, was based on the skewed configuration and the lack of lot depth. He said that in reviewing the application, staff questioned the actual depth and whether or not 17.7 feet was appropriate; he said that staff felt a 20-foot setback was more appropriate and would be consistent with the setbacks of the lots in the newer subdivisions. He reported that both abutting neighbors had provided letters of no objection to the variance request. He pointed out that the photographs give the appearance of a larger lot because the neighbor's fence is actually set back an additional five feet from the property line. He said that the property line was actually even with the chain link fencing shown in the photograph.

Mr. Spraker said that the minimum side setback for the lot is a minimum of eight feet (8'), with a total of 20 feet; therefore, the applicants could pick up a little more square footage without a variance if they extended the addition all the way to the side setback. He said that **staff was recommending approval of a 20-foot rear yard setback.**

Mr. James Beck, 116 Wildwood Avenue, introduced his wife, Meredith. Mr. Randy Manley, 918 North Halifax Drive, stated that he was the father-in-law.

Mr. Beck said that their growing family needed the additional space and that they also wanted to keep their property up to par with the other houses in the neighborhood. He thanked Mr. Spraker for his help throughout the process to attempt to reduce the setback to 20 feet.

Mr. Manley confirmed that he would be the builder and reported that they had considered many different plans, since they understood the significance of seeking a variance. He said that they had attempted to compress the footprint as much as possible, and pointed out that although the master bedroom would be only 12' 8" deep, it would be functional.

Mr. Perricelli made a motion to approve the variance.

Mr. Jenner seconded the motion.

Mr. Lane questioned why the lot would be considered unique, since all the lots along Wildwood Avenue had the same 105-foot depth.

Mr. Jenner agreed, but pointed out that the way the property was skewed is what made it unique.

Mr. Manley explained that it was a two- bedroom, two-bath house and that the need now was for a three-bedroom, with 2-3 baths. He stated that the only solution that would not affect the integrity of the floor plan of the house was to locate the new bedroom behind the garage.

Mr. Spraker said that the R-2.5 was not the original zoning; rather, it was adopted as a solution to bring nonconforming lots closer to compliance; the original zoning was R-2. He summarized that the subject property was an older one with less than conforming lot depth, and a 1959 structure that was skewed on the lot, and that the city wanted to encourage people to redevelop, modernize and improve their properties.

Mrs. Jarrell called the vote. The motion passed by unanimous vote of the Board.

Chair McNamara advised the applicants that they had one year in which to build the addition.

C. Case No. 10V-83: 16 Rio Pinar Trail

Mr. Spraker said that the applicant had recently bought the property and that one of the proposed improvements was a circular driveway along the Rio Pinar Trail frontage. [The city's Site Plan Review Committee had recently approved a setback from the intersection of two local roads to a minimum of 40 feet; the applicant was requesting a distance of 22 feet].

Mr. Spraker said that the existing driveway was accessed from Crooked Tree Trail and would continue to be the primary entrance/exit (to the garage). The issue, he said was that visitors had no room to park along the rights-of-way because of the road medians. He referenced the survey and informed the Board

that the survey indicated a couple more trees than actually existed at the date of the meeting. He said that the proposed location and configuration of the driveway would accommodate both a 20" oak tree and a 12" oak tree, thus preserving them. He noted that there were many other circular driveways in that area that encroached into the required intersection setback, and pointed out that staff was not sure whether or not there had been a different setback standard when those driveways were constructed.

Staff considered the safety aspect when reviewing the request, Mr. Spraker explained, and determined that 95% of the trips out of the circular driveway would occur in a forward motion, allowing the driver to see oncoming traffic. He said they concluded that safety would not be an issue. He said another concern was that staff did not want the variance, if granted, to create the opportunity for later reduction of the median island along Rio Pinar Trail and wanted any approval conditioned to preclude any request to do so based on the presence of that driveway. He added that it would not preclude such a reduction if The Trails HOA deemed it necessary or if there was some overriding need for public safety by the City.

Mr. Spraker stated that staff was recommending approval of the request. He noted that authorized agent Dorian Burt was unable to attend, but that the property owner and builder were present to answer any questions.

Mr. Lane asked if it was feasible to construct another single driveway around the corner, pointing out that scenario would also result in saving the trees.

Mr. Spraker said that they could, but that it would result in more cars backing out into traffic rather than leaving the site in a forward motion. He said that the Board was free to recommend that as an alternative if they so desired.

Ms. Fran Meckler, 16 Rio Pinar Trail, stated that she recently purchased the home to be near relatives and that when visiting, her guests had nowhere to park. She expressed her concern with any disruption to her neighbors because of the problem.

Mr. Doug Piatt, 4163 Senora Lane, said he was the project contractor. He explained to the Board that they could construct the circular drive without asking for a variance, but that it would require removing the 20" oak tree that they were trying to preserve.

Ms. Meckler commented that she had purchased in The Trails because of the trees; therefore, taking down the tree for a driveway did not make sense. She said that the median was not an issue and that there were trees in the median, as well.

Chair McNamara confirmed with Ms. Meckler that the circular drive would be one-way and that because of the median, the cars exiting the property could only travel in one direction. He said he had no problem with the request.

Mr. Lane asked Mr. Spraker if the recent discussion regarding a change of rules for parking in residential yards had any bearing on the case before the Board. He thought that there was a limitation on the amount of hard surface that could be added in a side yard.

Mr. Spraker replied that they would cited if they allowed cars to park in their front yard without an improved surface, and agreed that there was a limitation in the Land Development Code concerning the amount of impervious surface allowed on a residential lot (75% in that zoning district). He said the subject property had a substantial yard and this regulation was not a problem for the applicant.

Deputy City Attorney Emery said that the recent ordinance proposed regarding front yard parking dealt with unimproved parking areas, so that people would not park their cars on the grass. She said that in the matter before the Board, the driveway surface would be improved; therefore, it was not applicable to the subject as long as it met the other Code regulations.

Mr. Jenner remarked that he drove by the house in question daily and that many of the properties on that street had circular driveways. He thought it made sense, rather than have cars backing up into traffic, particular because of the narrow width of the street in front of the subject property. He said he favored the request.

Mr. Walker made a motion to approve the variance as submitted.

Mr. Perricelli seconded the motion, which passed by unanimous approval.

Chair McNamara advised Mrs. Meckler that she had one year in which to utilize the variance approval.

IV. DISCUSSION

Mr. Perricelli asked staff when the City began requiring permits for pavers. He recalled that he had been told by the building department staff that pavers were considered temporary.

Mr. Spraker said that it depended upon the construction of the driveway, whether or not a concrete base would be utilized, as well as other factors. He said that a permit was not required for a patio made of pavers.

Mr. Perricelli pointed out that the City did not inspect the pavers for a driveway, only for concrete driveways.

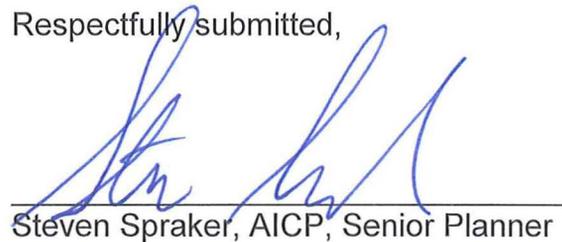
Mr. Spraker offered to check the permitting regulations and report back to the Board. He noted that it also depended upon whether it was considered a pervious or impervious surface.

Mr. Jenner complimented Mr. Spraker on the quality of the packets, which he said were getting better and better.

ADJOURNMENT

As there was no other business, the meeting was adjourned at 7:30 p.m.

Respectfully submitted,



Steven Spraker, AICP, Senior Planner

ATTEST:



Dennis McNamara, Chair

Minutes prepared by Betty Ruger.

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.