

SPECIAL MEETING HELD BY THE BOARD OF ADJUSTMENT OF THE TOWN OF OCEAN RIDGE, FLORIDA, TO BE HELD IN THE TOWN HALL ON TUESDAY, MAY 13, 1997, AT 10:00 AM.

The meeting was called to order by Vice Chairperson Frick and roll call was answered by the following:

Phil Barlage	Bob Cunningham
Earl Jones	Vice Chairperson Frick

It was noted that Dr. Vinas was running late.

- III. REORGANIZATION
1. Appointment of Chairperson
 2. Appointment of Vice Chairperson

Vice Chairperson Frick nominated Phil Barlage as Chairperson, Earl Jones as Vice Chairperson, and Town Clerk Hancsak as Secretary to the Board of Adjustment, seconded by Bob Cunningham.

Motion Carried - Yea 4.

- IV. APPROVAL OF MINUTES OF JANUARY 7, 1997

Bob Cunningham moved to approve the minutes as submitted, seconded by Pat Frick.

Motion Carried - Yea 3 (Jones abstain)

- V. REQUEST FOR ANOTHER 6 MONTH EXTENSION RE: TIME RESTRICTION ON APPLYING FOR BUILDING PERMIT CONCERNING RANDEL RESIDENCE, 15 HERSEY DRIVE

Town Clerk Hancsak read the correspondence submitted by Sandra Randel to the Board which requested a second extension citing that she was currently trying to reduce the costs after the bids returned so high.

Luis Vinas arrived at the meeting at 10:10 AM.

Bob Cunningham moved to grant the 6 month extension, seconded by Earl Jones.

Motion Carried - Yea 5.

- VI. VARIANCE APPLICATIONS

Town Clerk Hancsak suggested that items A & C be exchanged.

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A. Classic Properties Inc., 6073 Old Ocean Blvd., Ocean Ridge, FL 33435, requesting a variance from the provisions of the Land Development Code, Article II; DISTRICT REGULATIONS, Section 26-10; RSE-Residential Estate District, Paragraph (c); Property Development Regulations, Sub Paragraph (5), maximum lot coverage, Sub Paragraph (6), maximum floor area ratio (FAR) and Article XIV; NONCONFORMING AND GRANDFATHERED USES, Section 26-221; Grandfathered Uses, Lots and Structures, Paragraph (e), grandfathered structures; Sub Paragraph (1), alteration, extension, enlargement or expansion to permit an addition of a 64 sq. ft bathroom that would enlarge a grandfathered structure thus increasing the 32% permitted maximum lot coverage and FAR to 39% at the above described address or legally described as the So 1/2 of Lot 3 and all of Lot 4, Block 4, Boynton Sub Amended Subdivision.

Town Clerk Hancsak advised that there was no additional correspondence and all fees had been paid. She also read the administrative comments from the Town Manager which stated his recommendation for approval as it was already enclosed on three sides and there would be no additional encroachment into the setback.

Chairman Barlage read the conditions and Town Clerk Hancsak read the replies from Exhibit B as follows:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district.

Response: The house on the property was erected in the early 1950's and renovated approximately 10 years ago. The home at present consists of 3 bedrooms and 2 bathrooms one of which forms part of the master suite and is inaccessible from the rest of the house. The remaining bathroom, which consists of a shower, toilet and hand basin is very small and has to serve 2 bedrooms and act as a guest bathroom. Naturally the occupants find this very inconvenient. The property is situated in an expensive up-market area but is not in keeping with the surrounding residences in that it has 2 bathrooms only.

2. That special conditions and circumstances do not result from the actions of the Applicant.

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Response: These special conditions have existed since the building was constructed.

3. That granting the variance requested will not confer on the Applicant any special privilege that is denied by the Zoning Ordinance to other lands, buildings, or structures in the same zoning district.

Response: The granting of this variance will not confer on the applicant any special privilege.

4. That the literal interpretation of the provisions of the Ordinance would deprive the applicant of rights commonly enjoyed by the other properties in the same zoning district under the terms of the Ordinance and would work unnecessary and undue hardship on the applicant.

Response: Generally homes in this zoning district have more than 2 bathrooms. As one of the existing bathrooms is only accessible from the master bedroom the remaining small bathroom serves the occupants of 2 bedrooms and simultaneously as a guest bathroom. This is not in keeping with other residences in this up market neighborhood in which the property taxes are high. The lack of a third bathroom certainly creates an unnecessary hardship for the Applicant.

5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Response: As can be seen from the proposed plan Applicant intends to use a space already surrounded by three walls of the building. The space is within the required setbacks and will not be detrimental to the properties on either side. The area which will be used is no more than 64 square feet in extent.

6. That the granting of the variance will be in harmony with the general intent and purpose of the Ordinance.

Response: The granting of the variance will not be detrimental to any property owner in the area, nor will it be detrimental to public welfare or the environment as the proposed bathroom is to be erected in an area already closed on three sides. Whilst the granting of the variance will result in the FAR being exceeded the house is a single story residence and the addition will not deprive any neighbor of any rights he may have, e.g. it will not affect the view at all. The variance will be in harmony with the general intent and purpose of the Ordinance.

7. That such variance will not be injurious to the area involved or otherwise detrimental to public welfare.

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Response: The variance will not be injurious to the area involved or detrimental to public welfare. The bathroom will be erected in an area already enclosed on three sides. The roof will be below the pitch of the existing roof and will accordingly not affect the area in any way at all. The dwelling is a single story building and the variance does not involve increasing the height thereof. Most of the homes along the Ocean are at present two story dwellings.

John Cawood, 11 Inlet Cay Dr., spoke on behalf of the Applicant, a Florida Company owned by a Foreign Shareholder who is his mother-in-law. Mr. Cawood advised that the increase would only be 1.21% of the area of the existing home. He added that the proposed land development code revisions if passed would increase the FAR to 36% making their request only 3% above what would be allowed.

Mr. Cawood explained that the addition would enclose an area already surrounded by three walls and not increase the height of the house.

Earl Jones asked if an additional entrance was planned with this addition to which Mr. Cawood replied that there was not. Mr. Jones also questioned the increase in the FAR to which Mr. Cawood replied it is only a minor increase of approximately 1.21%.

Chairman Barlage asked if there was any comment from the public and there was none.

The Board went into executive session and all concurred that they had no objections to the variance request as submitted.

Luis Vinas moved to approve the variance request as submitted, seconded by Pat Frick.

Motion Carried - Yea 5.

B. James/Margaret Leider, 6083 Old Ocean Blvd, Ocean Ridge, FL 33435, requesting a variance from the provisions of the Land Development Code, Article II,

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DISTRICT REGULATIONS, Section 26-10; RSE-Residential Estate District, Paragraph (c); Property Development Regulations, Sub Paragraph (2)(b&c), minimum side yard setbacks and also Sub Paragraph (6), maximum floor area ratio (FAR) and Article XIV; NONCONFORMING AND GRANDFATHERED USES, Section 26-221; Grandfathered Uses, Lots and Structures, Paragraph (e), grandfathered structures; Sub Paragraph (1), alteration, extension, enlargement or expansion to permit construction of a permanent steel/wood structure patio at the eastern residence that would encroach 12.4' into the required side yard setback also exceeding the maximum permitted 32% FAR by 3.44%. Applicant also requests to replace a flat roof to the western cottage with a mansard roof thus altering a grandfathered structure located at the above described address or legally described as Lot 1, Block 4 and Block 9, Boynton Sub Amended.

Town Clerk Hancsak read the variance. She noted for the record that there has been no additional correspondence on this issue and that all fees have been paid.

Town Clerk Hancsak read the administrative comments stating Town Manager Lanker's support of approval of this variance as the encroachment of the awning would not increase and the flat roof of the cottage is just being covered by an architectural feature (the mansard roof).

Chairman Barlage and Town Clerk Hancsak read the justification of application as before with the same conditions. The responses were as follows:

Residence East of Old Ocean Blvd.

1. The existing building's current side yard setback is 2.6' on the north with a 20' wide access easement to the beach running parallel with the northern boundary. To the south there is an existing setback of 7.6'. To the west there is an existing setback from the coastal construction line of 18.1' to the building. The existing piping and canvas awning is 0.37' and 1.84' over the coastal construction line.

2. These special conditions have existed since the building has been constructed and remodeled some years previously.

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3. The granting of this variance will not confer on the applicant any special privilege.
4. As this is a very special area of the town and in that the ambiance of this area is unique with these type of setbacks, it would be a hardship on the applicant not to grant such a variance.
5. As there is an existing awning with metal column supports in the exact same position that the applicant wishes to construct a permanent covered patio this is a minimum request. The current awning may not hold up to strong winds and become a hazard in a storm.
6. The granting of this variance is in harmony and within the general intent and purpose of this ordinance.
7. In no manner what so ever will this granting of this variance be injurious to the area involved and in fact will enhance the area and will not be detrimental to the public welfare.

Residence West of Old Ocean Blvd.

1. Here exists a small unattractive structure with a flat roof standing on a very long narrow site. With the placement of the buildings all towards the east end of the lot (sic). The roof would add to the beautification of the neighborhood and would be coordinated in color, style and materials with the house east of Old Ocean Blvd. Currently we must view this very unattractive building every day. The cottage is very difficult to cool with the flat roof which is also prone to leaking. The new roof would make the cottage more energy efficient.
2. These conditions have existed ever since the building was constructed.
3. The granting of the variance will not confer in the applicant any special privilege that is denied by the Zoning Ordinance to other buildings in the same zoning district.
4. The literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant and surrounding properties due to the presence of the flat roofed structure.
5. As this is the addition only of a sloped mansard roof in place of the flat roof and small portico over the entrance door it is the

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minimum variance possible to grant.

6. The granting of the variance will be in harmony not only with the general intent and purpose of the Ordinance, but with other codes of the town.

7. Granting of such a variance will enhance the area of the town involved and will not be detrimental to the public welfare.

Granting these variances from the town codes will only upgrade the area architecturally and be more in keeping and harmonious to this very attractive part of the town.

Owner has removed many large overgrown Australian Pines from the property and relandscaped the property out to A1A and wishes to continue to improve the appearance and functionality of the property.

The Board wanted to discuss the eastern property before the western cottage.

Mark Marsh, architect representing Mr. and Mrs. Leider and also a resident at 14 Hudson Ave., explained the uniqueness of the Leider's lot as it is divided by a right of way and only 50' wide. He stated that the intent is to replace an existing awning structure with something more durable creating a balcony element on the second floor which would not be enclosed in the future. He added that the FAR would increase to 35.44% which would be less than the 36% which is included in the proposed land development code revisions.

Mrs. Frick questioned if the balcony element would be useful as a sundeck to which Mr. Marsh replied that it would be.

Mr. Jones questioned if this construction would count as additional square footage to the home. Town Manager Lanker stated that under the current code it would count, but under the proposed revisions it would not.

Mr. Jones asked if the encroachment into the CCCL would be eliminated to which Mr. Marsh replied that it would.

Regarding the cottage on the western side, Mr. Marsh explained that they would be adding to a non-conformity in regards to setbacks. He stated that the eastern house has a 8' mansard roof and they wanted

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the west cottage to have a complementary 6' mansard roof which would control the leaking and keep the cottage cooler. He added that the owners have removed Australian Pines in their dedication to the beautification of the area.

Mr. Jones asked how much encroachment the addition to the structure would create to which Mr. Marsh replied that it would be 5'.

Dr. Vinas asked where the roof pitch falls in regards to the code. Town Manager Lanker advised that the mansard roof would be treated as an architectural feature and not as a roof. Mr. Marsh explained that it would be identical to the roof on the house.

Mr. Jones asked if the height of the structure was grandfathered to which Town Manager Lanker stated that it was.

Mr. Marsh summarized that the owners wanted to reduce the flat roof, improve it aesthetically, and have it complement the house across the street.

Dr. Vinas asked if the sundeck on the east house would count as square footage. Town Manager Lanker stated that it would not count in the FAR in either the current or proposed code.

Chairman Barlage asked if there were any comments from the public of which there were none. The Board then went into executive session.

Mr. Cunningham stated that he had no opposition to the variance as he sees it all as an improvement.

Mr. Jones stated that he was familiar with the property and his only concern would have been over the railing on the sundeck which Mr. Marsh had assured him was at the request of the owner below the height allowed.

Mrs. Frick stated that she believes changing the flat roof to a mansard roof would be a definite improvement.

Dr. Vinas commented that his only concern was if the sundeck was included in the FAR to which the Town Manager advised it was not.

Mr. Jones moved to approve the variances for the east and west properties provided that the sundeck on the eastern residence is not enclosed in the future and the mansard roof addition on the western

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cottage creates only additional attic space and not living space, seconded by Mrs. Frick.

Motion Carried - Yea 5.

C. John/Deborah Smith, 125 Marlin Dr, Ocean Ridge, FL 33435, requesting variance from the provisions of the Land Development Code, Article II; DISTRICT REGULATIONS, Section 26-11; RSF-Single-Family Residential District, Paragraph (c); Property Development Regulations, Sub Paragraph (2) (b&d), minimum side and rear setback requirements and also Sub Paragraph (5), maximum lot coverage and Sub Paragraph (6), maximum floor area ratio (FAR) to permit construction of a bathroom that would encroach 3'5" into the required 15' side yard setback, and a family room addition that would encroach 13'10" into the required 25' rear setback thereby exceeding the 35% maximum lot coverage by 2.1% and the FAR by 1.1% located at the above described address or legally described as Lot 125, McCormick Mile Add No 1 Subdivision.

Town Clerk Hancsak read the variance and noted that all fees had been paid. She stated that she was in receipt of 16 letters in support of the variance from neighbors on the same island as the Smith family.

Town Clerk Hancsak read the administrative comments from Town Manager Lanker which stated that although he was very sympathetic to the applicants, he did not recommend approval of the variance as he felt approval could raise future questions regarding setback codes.

Town Clerk Hancsak read the letter submitted by the Smith's for their justification of application which stated that as the Smith family has been living in Ocean Ridge the size of their family has increased.

The letter indicates that they had to convert their family room into another bedroom and their dining room into a family room. The Smiths explain that meal time is very important to them as a family and the breakfast nook which is the only area available to them is inadequate.

The Smiths explain in the letter that rather than move to a larger house, they would prefer to modify and stay in their current home.

They cite their request to enclose an existing patio which would allow for the enlargement of the kitchen eating area and to create a new family room. They also request that a bathroom be permitted to be added to what was previously the family room. They concluded

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that their request would not have a negative impact on the neighborhood as it can not be seen from the road and it does not interfere with the neighbor's view of the waterway.

Mrs. Smith present in the audience stated that due to the growth in their family, they have very few options which would allow them to stay in the house. She advised that this would not interfere with the neighbors' view of the waterway. She explained that since the original house was built as close to the canal as possible, enlarging the eating area would require encroaching into the setback. She added that they also wished to extend the sundeck on the second floor which would necessitate the addition having a flat roof.

Mr. Jones asked if she had looked at enclosing the current patio as opposed to remodeling and encroaching into the setback. Mrs. Smith explained that the patio currently has sliding glass doors and hurricane shutters that they would prefer to keep as is. She also stated that they would like to situate the family room away from the great room so that when entertaining, the children can be separated from the adults.

Mr. Jones questioned why the bathroom could not be remodeled so that it would not encroach and what the roof line would be over the proposed bathroom. He suggested that the bathroom be rearranged so that, although it will not be square, it will not need additional space. Mrs. Smith explained that her neighbor is very supportive of the addition with the bathroom and that the roof line would just continue although she did not see a problem with putting a flat roof there.

Mr. Jones commented that he was concerned that the 16 letters of support that she brought in may be from 16 people who will also want to encroach into their setbacks in the future. Mrs. Smith replied that the letters were written by her neighbors who are aware of the situation that she is in.

Mr. Jones stated that the bathroom would not encroach as far if it was rearranged as he suggested earlier. Mrs. Smith advised that it had previously been drawn up that way and found to be problematic.

Mr. Cunningham advised that the older homes on the Island originally had only 10' setbacks and added that the Smith's residence would not be the only home with less than a 15' setback. Mrs. Frick stated her concern over the neighbor's view.

Mr. Jones stated that there would still be an encroachment even if

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there was a 15' setback adding that he would like to see alternatives.

Mrs. Smith advised that if the patio were enclosed, the back bedroom, which has sliding glass doors in the back, would totally lose the view. Dr. Vinas stated that he would also like to see other options.

Mrs. Smith stated that there is no alternative but the addition to increase the eating area.

The Board was concerned that the granting of this variance may invite an influx of requests to which Town Clerk Hancsak advised that the variance procedure is on a case by case basis proving a hardship and there are no precedents set.

Mr. Jones asked Atty Nicoletti if family size is considered a hardship.

Atty Nicoletti explained that family size is probably low in the order, but it all depends on the variance being sought. He added that each case must be considered on its own merits.

Mr. Jones stated that the architect originally used angles in the design of the house for maximum use of the view. He advised that he still has a problem with being asked to encroach 55.3% into the setback and would like to see other options including adding to the other side where there is room available within the setback. Mrs. Smith replied that the Board needed to look at what will look good aesthetically. She stated that if they add to the other side it will end up looking like an addition and not part of the house.

Mr. Jones reiterated his concern over the 55% encroachment and suggested that the Architect draw up alternate plans that would illustrate the bathroom remodeled according to his suggestion including the roof line.

Mrs. Smith asked his opinion on an encroachment only to a 15' rear setback as opposed to an 11' 2" as proposed.

Atty Nicoletti questioned if the view of the neighbor would be blocked if a particular hedge was removed. Mrs. Smith explained that the view of the neighbor would be not be blocked in any way. She added that included was a letter from her neighbor supporting her variance request. Town Clerk Hancsak read the letter from Leanne Innet, 126 Marlin Dr., which advised of her support for the variance citing that any of the proposed changes will have minimal if any effect on the view from her property. The letter also states that in the event that the landscaping would be removed from the rear of the property, the addition to the Smith home would still not be offensive.

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Mr. Cunningham stated that the only person who may have had a problem would be the neighbor and with that aspect eliminated, he felt that the Board should approve the variance as submitted for aesthetic reasons.

Atty Nicoletti advised that the Board needs to concentrate on the seven items in the justification of application to evaluate if the criteria, including hardship, is met.

Chairman Barlage commented that as most of the neighborhood has only a 15' setback, he could see no problem with allowing the Smith's encroachment to a 15' setback which would be less than the variance that they are applying for.

Dr. Vinas mentioned that he agreed with allowing a 15' setback and questioned the applicability of the bay windows. Town Clerk Hancsak advised that bay windows are exempted in the Code provided they do not exceed 25 sq. ft..

There was no public comment on this variance request.

The Board went into executive session where Chairman Barlage asked if Mrs. Smith would still proceed with the remodel if the variance was limited to a 15' setback. Mrs. Smith stated that it would still solve the problem and that she would continue with a reduction of the setback.

Chairman Barlage commented that he believed the hardship to be more in line with the reduction of the encroachment. All the Board members agreed that they were more comfortable with allowing a 15' setback.

Mr. Jones moved to approve the bathroom portion of the variance as requested with minimal roof overhang to conform with the roof line and that the addition at the north end be reduced to 10' with the northern wall to have same angles as proposed, seconded by Mr. Cunningham.

Motion Carried - Yea 5.

Town Clerk Hancsak polled the Board to determine if an earlier meeting time would be preferable. The Board members concurred that 8:30 AM would be a better time.

VII. ADJOURNMENT

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The meeting was adjourned at 12:10 PM.

Chairman Barlage

Robert Cunningham

Patricia Frick

Attest By:

Earl Jones

Town Clerk

Luis Vinas