

Special Meeting held by the Board of Adjustment of the Town of Ocean Ridge, Florida, to be held in the Town Hall on Wednesday, April 8, 1998, at 8:30 AM.

The meeting was called to order by Chairman Barlage and roll call was answered by the following:

Earl Jones	Victor Martel
Barbara Souther	Chairman Barlage

III. Approval of Minutes of February 11, 1998

Chairman Barlage advised that there was an unfinished sentence in the top paragraph of page 3. Town Clerk Hancsak advised that the sentence would be reviewed and the missing word inserted.

Earl Jones moved to approve the minutes as amended, seconded by Barbara Souther.

Motion carried – yea 4.

IV. Variance Applications

- A. An application submitted by Wenford Hood, 1355 W. Palmetto Park Road, #263, Boca Raton FL 33486, representing Ocean Harbour Estates at Ocean Ridge, LTD., c/o E. Popkin, Esq., 2499 Glades Road, Boca Raton, FL 33431 for the Waterways at Ocean Ridge, Inc., 5840 N Ocean Blvd., Ocean Ridge, FL 33435, requesting a variance from the provisions of the Land Development Code, Article III; Supplemental Regulations, Section 26-33; Fences, Walls, and Hedges, Paragraph (a); the height of walls may not exceed 4' in the front or corner sideyard setbacks and 6' in the rear and side yards to permit construction of 6' high wall with an additional 1' for column cap height along SR A1A and up to 8'5" high on the side and rear yards with same column description elsewhere on the site located at the above described address or legally described as the NO 120' of the SO 860' of GOV Lot 3, Section 27, Township 45 SO, Range 43 East, lying West of SR A1A and the NO 432.51' of GOV Lot 3, lying West of SR A1A, Section 27, Township 45 SO, Range 43 East and the NO 65.5' of SO 205' of Muck Lots 54 and 55, and the NO 110.5' of Muck Lots 54 and 55, lying East of the ROW for the ICWW, Plat of Boynton Subdivision, recorded in Plat Book 1, at Page 29 of Public Records of Palm Beach County (5840 N Ocean Blvd)

Town Clerk Hancsak read the variance request by title.

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It was noted for the record that additional correspondence dated April 7, 1998 was received from Terry Brown stating his objection to the wall which would be 42% above the maximum allowed by the code. The entire letter was read into the record by Town Clerk Hancsak. A letter from Joe Pike of Envirodesigns, Inc. dated April 3, 1998 submitting additional drawings of the proposed wall for review by the Board members was also received.

It was also noted for the record that all fees had been paid.

Town Clerk Hancsak and Chairman Barlage read the justification of application. The justification of application stated that the varying grades along the perimeter wall necessitate the wall being of various heights. It advised that the height is necessary to adequately screen the development from off-site views and provide adequate screening and security to both the neighbors and the applicant. It explained that a 4' wall along A1A would place the wall only 6" above the finished floor elevation of the proposed homes. It concluded that the variance would not be injurious to anyone in the area, but rather would be aesthetically pleasing to the neighboring homeowners.

Town Clerk Hancsak read the administrative comments from Town Manager Lanker which outlines the intent of the developer to install a 6' wall along A1A and up to 8.5' along the sides and rear. He comments that the proposed wall would be similar to the wall at Pelican Cove which is in the same zoning district and would not be injurious to the area or detrimental to the public welfare. He still did not recommend approval of the variance.

Wenford Hood, Real Estate Services, Inc. representing Ocean Harbour Estates, advised that the condition of the property is unique due to the requirements of the SFWMD. He advised that the elevation of the development is higher than that of the adjacent homeowners. He stated that they had an open house the previous evening for the neighboring homeowners to give their opinions and suggestions. He commented that there was concern over the corner of Hibiscus and Midlane where the wall would reach a height of 8 ½' and be close to the street. He advised that they were considering placing a raised curb 8' from the wall. He stated that another concern of the neighbors had been that a small area was not included in their original dredging plans and, as a result, if it can reasonably be included with the current dredging permit, it will be added. He advised that he is aware that these two concerns are not related to the variance request, but explained that it shows their willingness to compromise with the neighbors.

Joe Pike, Envirodesigns, Inc., advised that the condition is a result of placing a flat project on uneven property. He cited that due to lot fifteen's higher finished floor elevation, it would need a higher wall to provide adequate screening and privacy.

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Mr. Jones stated that many residents use landscaping to screen different properties and questioned where this development would be different. Mr. Pike explained that there are certain grade specifications that they must follow in order to have a flat project. Mr. Jones stated that he was unable to find a hardship in the application adding that he felt a 6' wall should be able to properly screen the homes. Mr. Pike explained that the 6' outside wall allowed by code would in fact be only a 2 ½' wall from inside the development due to the varying grade.

Mr. Pike displayed illustrations of the columns which would be only on the wall along A1A and the corner of Hibiscus and Midlane where they are proposing to add more cement to provide a greater radius for turning.

Grant Thornbrough, Landscape Architect, advised that the design of the project is to provide a constant landscape buffer around the project with minimum 16' trees and additional landscaping. Mrs. Souther asked why such a high wall would be needed if such high landscaping is installed. Mr. Thornbrough explained that if the wall is 4' high along A1A, the top of the wall will only be approximately 1' from the finished floor elevation and landscaping is not as good a buffer from noise as a wall.

Chairman Barlage questioned the design of the wall. Mr. Thornbrough explained that it is their intent to paint the inside of the wall a dark green to blend with the landscaping. Chairman Barlage asked if there would be any other features to the wall. Mr. Thornbrough advised that the wall was not meant to be a feature, but to blend with the landscaping. Mr. Jones asked if only the interior of the side walls would be landscaped to which Mr. Thornbrough replied that it would. Mr. Jones commented that the adjacent homeowners would then be looking at a blank wall. Mr. Pike advised that at the open house the day before, he had spoken to the neighbors regarding the landscaping. He advised that they would be able to install landscaping on their side of the wall, but the development would not be responsible to maintain the painting in that area. Mr. Jones commented that it would be unacceptable to have the wall not maintained in certain areas. He added that he still did not see the hardship for the wall.

Chairman Barlage questioned if the height of the wall at the turn at Midlane would be 8 ½' to which Mr. Pike advised that it would be. He added that the wall along A1A is measured from the crown of the road, whereas the others are the actual measure of the wall.

Chairman Barlage asked if there was any public comment.

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Bud Aaskov, 27 Hibiscus Way, advised that he had met with the engineer for the project day before and looked at the site. He also read the sections of the code regarding fences and walls. He stated that an emphasis has been placed on security as a reason for the wall. He commented that Pelican Cove has a similar wall and still has security problems. He added that the wall at Pelican Cove is 12' from A1A as opposed to the 2' which this variance is requesting which would make the wall at Pelican Cove less obtrusive to those seeing the wall. He requested that the maintenance of the exterior wall be included in the homeowner's documents.

Mr. Aaskov advised that the site plan approved by the Town includes a 6' wall at the intersection of Hibiscus and Midlane which should be only 4' according to code. Town Manager Lanker advised that anything on the site plan which does not conform to code would still need a variance. He added that their variance request includes the increase of the wall height in that corner from 4' to 6'. Mr. Aaskov disagreed commenting that he believes that they are under the impression that a 6' wall is acceptable at that location.

Mr. Aaskov advised that the residents on Hibiscus Way will be forced to look at the wall every day and that he was requesting that the developer submit the true measurements of the wall, composition of the wall, features of the wall, irrigation plan for the landscaping, and a true rendering of the wall. He concluded that the height of the grade should not be an issue in regards to the height of the wall as it should be a manufacturer's problem, in his opinion.

Terry Brown advised that he found the open house given by the developers beneficial, but no one was able to tell them exactly what the wall will resemble. He advised that his living room is 6 ½' above sea level and that the proposed wall would be higher than his wood fence and consequently will block out light and air from his property.

Donna Bello, 10 Ridge, advised that she is concerned that the wall will be too low and she will see over it and lose some of the privacy in her back yard.

Mr. Hood advised that the developer is not creating the hardship relating to the grade of lot 15 and anyone else who would want to develop the area would have the same problem. He advised that the proposed wall is consistent with others on A1A such as Pelican Cove. He explained that the landscaping will not be within 2' of the wall, but rather 8.8'. He advised that the maintenance of the wall would be included in the Homeowner's Association documents. He commented that they were not able to come to a simpler or more appropriate solution than this. He explained that they would be happy to fill the adjacent properties to the same level as the development, but that he believed it would cause drainage and landscape problems. He stated that they are trying to satisfy the request of the Town Commission for a buffer and privacy to adjacent homeowners. He concluded that during their open house, many of the residents had expressed approval similar to Mrs. Bello regarding the wall.

The Board then went into executive session.

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Mr. Jones advised that in their variance regarding the dredging of the yacht basin, very specific legal requirements were given for the hardship. He advised that he does not see any hardship given for this variance.

Mrs. Souther advised that she felt landscaping could provide privacy and screening.

Dr. Martel advised that he does not have an accurate view of what the wall will resemble and he feels they should be able to create an adequate buffer with the landscaping.

Chairman Barlage advised that he did not believe proper screening could be obtained simply by adding 2' to the height of the wall. He added that he, too, did not have a clear picture of what the wall will look like. He stated that the 6' wall at Midlane would be very high and the additional height will only be an advantage of the developers when trying to sell the unit near it.

Mr. Jones moved to deny the variance application, seconded by Mrs. Souther.

Motion carried – yea 4.

The Board of Adjustment took a short break at 10:05 a.m. and reconvened at 10:10 a.m..

- B. An application submitted by David and Janet Cullen, 63 Spanish River Dr., Ocean Ridge, FL 33435, requesting a variance from the provisions of the Land Development Code, Article II, DISTRICT REGULATIONS, Section 26-10; Single-Family Residential Districts, Paragraph (e); RSF-Single Family Residential Property Development Regulations, Sub Paragraph (2) (b), minimum side yard setbacks and Article XIV, NONCONFORMING AND GRANDFATHERED USES, Section 26-221; Grandfathered Uses, lots and structures; Sub Paragraph (e), Grandfathered structures, Sub Paragraph (1), Alteration, extension, enlargement or expansion to permit construction of a total renovation and an addition to residence that would encroach a maximum of 1.51' into the required 15' side yard setback. This request also affects a grandfathered structure located at the above described address or legally described as Lot 63, Inlet Cay Subdivision.

Town Clerk Hancsak read the variance request by title.

It was noted for the record that there was no additional correspondence and that all fees had been paid.

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Town Clerk Hancsak read the justification of application. The justification of application describes the condition of the corner of the home, which violates current setbacks, as being a corner of the original home. It advised that the setback requirement at the time the home was originally built was only 12' as opposed to the 15' that it is now. It concluded that the variance would not be injurious or infer any special privilege on the applicant as all the neighboring properties are built to the previous setback requirements.

Town Clerk Hancsak then read the administrative comments from Town Manager Lanker. He advised that the setback requirement was 10' when the home was originally built (not the 12' as noted in the applicant's justification of application). He advised that work on a grandfathered structure such as this which does not increase the nonconformity have commonly been done without a variance in the past. He recommended approval of the variance which he stated would not have any detrimental effects to the surrounding properties, as it has been part of a house for the past 20+ years.

There was no one present at the meeting to represent the applicants.

Mr. Jones asked if the expansion meets all other building requirements such as the FAR to which Town Manager Lanker replied that it did.

Town Manager Lanker explained that the applicant is under a time deadline due to Special Master requirements. He stated that it has taken the applicant 2 ½ years to get the financing in place and suggested not postponing the decision because the applicant is not present.

Mr. Jones asked if the roofline of the new home would be the same as the old to which Town Manager Lanker explained that it would either be the same or very close.

Chairman Barlage asked if there was any comment from the public.

Craig Arndt, 64 Spanish River Dr., advised that he could understand the hardship of the applicant. He stated that the property has been an eyesore for the past 2 ½ years and although he will be effected by the addition of a second story, he has no objection, as it will meet the code. He concluded that since the setback was 10' when the home was originally built, he had no objection to the wall being at 13.49'.

There being no other comments from the public, the Board went into executive session.

Mr. Jones stated that the variance seemed very minor as it will only encroach 1 ½' into the setback for only a portion of the wall.

Mrs. Souther stated that she, too, believed the property to be an eyesore and advised that she would like to see the renovations begin as soon as possible.

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Chairman Barlage asked if an ordinance regarding the interpretation of the code was presented on the last Regular Town Commission agenda to prevent variances such as this one coming to the Board of Adjustment as opposed to being approved by the Town Manager. Town Manager Lanker advised that it was scheduled to be on the last agenda, but the Town Atty was not comfortable with it. He stated that it should be presented at the May Commission meeting.

Dr. Martel moved to approve the variance request as submitted, seconded by Mrs. Souther.

Motion carried – yea 4.

Chairman Barlage asked the Town staff to relay to the Town Commission the Board's desire to move forward with the above mentioned ordinance to resolve the issue of what should be presented to the Board of Adjustment.

V. Adjournment

The meeting was adjourned at 10:30 a.m..

Chairman Barlage

Earl Jones

Victor Martel

Attest By:

Town Clerk

Barbara Souther