

Meeting of the Board of Adjustment of the Town of Ocean Ridge, Florida held on Wednesday, January 12, 2000 at 8:30 AM in the Town Hall meeting chambers.

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

Terry Brown
Dr. Vinas

Barbara Souther
Chairman Barlage

- I. An application submitted by Kenneth and Rema Kaleel, 86 Island Drive South, 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 (6) maximum floor area and also 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 the construction of a 1,979 square foot 1st and new 2nd floor addition consisting of an expanded kitchen and family/living room, new dining room, and new office room that would exceed the maximum 36% floor area by 2.4% and alter an existing grandfathered structure located at the above described address of legally described as Lot 86 McCormick Mile Add No. 1 Subdivision.

Town Clerk Hancsak read the variance application by title only.

Town Clerk Hancsak noted for the record that all fees had been paid and no additional correspondence had been received regarding this variance.

Town Manager Dunham and Ken Kaleel were sworn in.

Chairman Barlage and Town Clerk Hancsak read the justification of application and responses for the requested variance. The applicant stated that special conditions and circumstances are not the result of the applicant because the home was originally built with 10' required setbacks in mind and also the pie shape of the lot cuts some of the square footage. The applicant stated that granting the variance would not confer any special privileges to the homeowner in that but for the setback and lot shape, the change would be minimal and keeping with the intent of the Zoning Ordinance. The applicant stated that the literal interpretation of the provisions of the Ordinance would deny him the ability to make changes without demolishing the home and building within the current setbacks. The applicant stated that the variance granted is the minimal variance to make use of the existing footprint utilizing the screen area thereby squaring off the home and keeping within the general intent and purpose of the ordinance. The applicant stated that the improvements would not be detrimental because they are merely maximizing the FAR with a small increase.

MEETING OF THE BOARD OF ADJUSTMENT HELD ON DECEMBER 8, 1999

Town Manager Dunham read his administrative comments which advised that the lot is grandfathered because of non-conforming side setbacks located near the front of the pie shaped lot. He added that the proposed expansion is only available at the proposed location because of the geometry of the lot and the house on it. He commented that special circumstances exist because the house was constructed prior to their ownership. Town Manager Dunham stated that other property owners have the ability to build similar structures and he does not believe that the applicant will be enjoying a special privilege, given the shape of the lot and desiring to bring the house up to dimensions typical in the neighborhood. He also stated that he believed the intent of the code would allow general expansion of a house provided it did not increase its non-conformity. In conclusion, Town Manager Dunham commented that he felt the request was the minimum variance because the increase in the FAR was de-minimus and would not have an a discernable impact on the neighborhood especially with the addition being located on the water side of the lot. Therefore, he recommended approval of the request.

Ken Kaleel addressed the board and stated that he felt the application spoke for itself as to the request and justification. He distributed a revised site plan stating that the 1st and 2nd floor are now flip-flopped thereby making it a more traditional home by relocating the family room to the first floor and the master bedroom to the second floor. He added that because the home is grandfathered he would have to seek a variance regardless of the size of the request. In preparing the drawings he and the architect felt that removing the existing pool and building in that area would provide the least impact and cost by tying into the existing tie beam and footprint. He also stated that he felt the 2.4% increase in the FAR was de-minimus and added that if for not the odd shape of the lot the FAR would have conformed.

Regarding being a current Commissioner, he commented that he and his family are residents first and stressed that he was not lobbying for anything special and that the board should review this variance request like any other resident. He advised that prior to submitting his application he only spoke to the Town Clerk regarding the actual application process.

Mr. Brown clarified that the actual increase in FAR was 301 sq ft. Ken Kaleel commented that the new footprint is actually smaller than the screen enclosure.

Mrs. Souther questioned why the plan was flip-flopped. Ken Kaleel stated that they decided that the bedroom on the 2nd floor would be more traditional and also the first floor family room would alleviate the children running up and down the stairs constantly. He added that the other room off the family room would be utilized as a library/toy storage area.

Chairman Barlage commented that the flip-flop increased the FAR by 45 sq ft due to the location of the stairs. Town Clerk Hancsak stated that the increase in the FAR creates a percentage increase from 2.4% to 2.7% and added that without a re-advertisement the board could not approve any more than requested in the original ad. Ken Kaleel

MEETING OF THE BOARD OF ADJUSTMENT HELD ON DECEMBER 8, 1999

apologized and stated that he was not aware that any increase had occurred and he was sure that it could be reduced to meet the 2.4%.

Chairman Barlage opened the meeting to the public.

George Bierlin, 26 Hudson Ave., stated that he was not concerned with the merits of the request but more regarding the potential for the appearance of granting an improper variance and the potential for liability, such as had occurred with a prior Commissioners' building permit. He suggested that possibly the request be considered next month after the election.

Dr. Vinas questioned why the election would possibly change a decision that could be made today. Mr. Bierlin stated that Ken Kaleel could then possibly be an ordinary non-official.

Chairman Barlage advised Mr. Bierlin that each case is based on an individual basis and the board has had other variances with greater requests and the board bases its decision on the hardship presented. He added that the Board of Adjustment did not rule on the case involving a previous Commissioner. He then reminded the other members that they should focus on why they were appointed and not who was applying for a variance, adding that no letters of objection were received. He also stated that there have been changes to code since the lawsuit involving a previous Commissioner.

Ken Kaleel commented that he felt he had to respond to the allegation presented by Mr. Bierlin. He stated that this was a political ploy by someone and felt it was totally unfair and uncalled for. For the record he stated that unlike a previous Commissioner he did apply for a variance and added there was no correlation between the two cases. Ken Kaleel then suggested that if the board was uncomfortable in hearing this case it could be dropped or postponed but added that he felt he was hindered in any event. He added that he felt trying to combine politics into the rendering of a decision was very upsetting to him.

In rebuttal Mr. Bierlin stated that he was not using this meeting as a political ploy and added that he was not making any allegations. Ken Kaleel stated that his apology was accepted.

Mrs. Souther commented that in defense of the staff and Commissioner Kaleel no one had approached her and the application proceeded in the normal manner.

Chairman Barlage stated that the board needed to keep in mind that Ken Kaleel was and is still a citizen of the town and the decision should be based on the Justification of Application presented.

Dr. Vinas stated that a few months ago the board was also accused of favoritism and he resented it. He added that the board was merely doing their job based on the requests as presented and that Ken Kaleel should be looked as a citizen.

MEETING OF THE BOARD OF ADJUSTMENT HELD ON DECEMBER 8, 1999

Mr. Brown offered that there was an appeal process if someone was unhappy with the board's decision. He added that real estate difficulties such as lot shape are relevant factors to consider as a hardship.

Town Manager Dunham stated that he wanted to state for the record that he had not seen the change presented today, however, he was informed of the flip-flop via telephone. He added that even with the 45 additional square feet the staff comment recommendation would not change.

Mr. Brown moved to approve the application with the original total square feet of 4,857 or 38.4% total FAR citing that he felt the applicant did prove a hardship, seconded by Mrs. Souther.

Motion carried – Yea (5).

Town Clerk advised Ken Kaleel that a letter of approval would be forthcoming.

Town Clerk Hancsak also advised that Mr. Cunningham had recently moved and resigned from the board and that the new appointments would occur in March.

II. Adjournment

The meeting was adjourned at approximately 9:15 AM.

ATTEST:

Town Clerk

Chairman Barlage
Terry Brown
Barbara Souther
Dr. Vinas