

Meeting of the Board of Adjustment of the Town of Ocean Ridge, Florida held on Wednesday, December 12, 2001 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 Earl Jones
Geoff Pugh Barbara Souther
 Chairman Barlage

III. APPROVAL OF MINUTES

A. November 7, 2001

Mr. Jones moved to approve the November 7, 2001 minutes, seconded by Mr. Pugh.

Regarding these minutes Mr. Jones clarified that Green Machine Development Corp. would be submitting a total new package.

Motion carried – Yea (5)

IV. VARIANCE REQUESTS

- A. An application submitted by Myrtle, Lee and Leonard Volpe and Laraine Wetcher, 5615 North Ocean Blvd., Ocean Ridge, FL 33435, requesting a variance from the provisions of the Land Development code, Article II; District Regulations, Section 26-12; RMM Medium Density Multi-Family Residential Districts; Paragraph (d) Property Development Regulations; Sub-Paragraph (2)(c) Minimum 25' Building Setback for Side Corner, 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 8.7' x 19.24' addition to the first floor of a grandfathered multi-family structure that would encroach a maximum of 5.76' into the required 25' side yard setback. The applicant is also requesting to add a second floor over the existing and new proposed first floor residence and efficiency footprint. These additions would alter an existing grandfathered structure located at the above-described address or legally described as Lots 17, 18, and 19 of Ocean Shore Estates 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 was received.

Chairman Barlage and Town Clerk Hancsak read the justification of application and responses for the requested variance. The applicant stated that special conditions and

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circumstances exist because the property has been owned and maintained by the Volpe family for over 30 years and is currently managed daily by Lee Scott Volpe and his wife. The applicant stated that for this purpose they live on the property on a full-time basis with their 3-year old daughter. The applicant stated that granting the variance would not confer any special privileges to other land or buildings and would be the minimum needed because the one story residence was constructed in 1950 and the portion that the Volpe's occupy is only 800 square feet. They added that it is simply too small for a family of three and the proposed improvements involve adding a second story to the structure in order to make it a more suitable home for the Volpe family. They added that the awkward shape of the building requires the recessed area, which is now part of the setback, to be used for a stairwell that will access to the second story. The applicant stated that granting this request would not bestow upon the applicant any special privilege and they are merely requesting to create ample living space in order to make e the best use of the property for the Volpe's and the family business and community. They added that the grandfathered structure was constructed decades before the road requiring the setback was built and they would be prejudiced if they could not make the best use of their property. The applicant concluded by stating that the variance would not be injurious to the area because the expansion has been designed by a reputable state licensed architect and would be approved by the PBC authorities under a valid permit. They added that the applicant owns the neighboring properties and therefore no adjoining property owners would be effected. They concluded by stating that the variance falls squarely within the legislative purpose and intent of the Code and the Pink Dolphin Apts. have been a valuable part of the landscape of Ocean Ridge for over 30 years, which has always been maintained by the Volpes. They advised that the legislative intent of the Land Development Code is balancing the interest of the general public and that of individual property owners and denying this request would directly contradict the purpose of the laws that govern the town.

At this point Chairman Barlage ascertained that all the members visited or drove by the site but did not have any conversations with the applicants and anyone wishing to speak was sworn in.

Town Manager Dunham read his administrative comments, which included a brief summary of the request. He mentioned that the structure was built in 1950 and is a grandfathered structure because it does not meet the required 25' side yard setback.

Town Manager Dunham's comments regarding the justification of application advised that special circumstances do not exist for the additions proposed at this location. Town Manager Dunham advised that the applicant is not the original builder and is not responsible for any existing non-conformities. Town Manager Dunham stated that other property owners have the ability to build similar structures provided they meet the code or the variance process is used to approve similar requests. He stated that it is the staff's opinion that the applicant will be enjoying a special privilege, given the fact that granting the variance in this case would be adding to the very reason that this structure is a non-conforming structure. He advised that literal interpretation of the provisions of this chapter would not work unnecessary and undue hardship. In conclusion, Town Manager

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Dunham commented that he felt the request was not the minimum that would allow the most reasonable use of the land because the possibility exists that the applicant could design the expansion such that it would not increase the existing non-conformities. Town Manager Dunham stated that he felt that granting the variance would not be in harmony with the general intent of the ordinance because the applicant has a structure that is already nonconforming and the granting of the variance will increase the existing non-conformity and its impacts on the neighbors. He added that the variance would be injurious to the area as they are increasing nonconforming land development issues that have a direct impact on their neighbors. Therefore, his recommendation was to deny the request for the setback encroachment because it does not meet the criteria set forth in the Land Development Regulations and other opportunities exist to add onto the structure without increasing existing non-conformities.

Mr. Pugh questioned whether the building used to be conforming and because of zoning changes has now become non-conforming to which Town Manager Dunham believed this to be the case. He also questioned the Town Manager's comment regarding the impact on the neighbors and asked which neighbors complained. He was advised that it was not an individual but a setback encroachment that impacts the town and its codes.

Mr. Brown asked whether not meeting the criteria means not meeting hardship. Town Manager Dunham stated that he did not believe that each of the seven criteria has been met. Mr. Brown also questioned whether the staff felt that the addition could be redesigned. Town Manager Dunham stated that although he was not an architect it appears that the addition could be redesigned.

Mrs. Souther clarified that the primary concern for the Town was the setbacks not a second story addition. Mr. Dunham stated that it appears the addition would meet all other code requirements with the exception of the setback. She also asked whether the addition would effect parking to which she was advised that the applicant would have to respond to that question.

Atty Spillias stated that he would like to clarify the Town Manager's comments stating that the code provides that a grandfathered structure can not be altered increasing a non-conformity and any request to do so would have to demonstrate a hardship in a variance request.

Kathy Volpe, 5615 North Ocean Blvd., stated that part of the building was already there and they had reviewed the plans with the architect and felt this was the only viable option. She added that the addition would not effect the parking.

Mr. Jones stated that he understood their request for additional space and suggested as an alternative. He suggested decreasing the addition so that it continues on a straight plane from the northwest corner of the building, which has a current setback of 20.2' to the southeast corner and remove the existing portion of the home at the extreme southeast corner thereby creating a straight-line building. He added it appears that the stairs could be relocated and they would only lose about 2' of the family room area. He felt that this

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modification would minimize the request but still provides additional space for the applicant. Mrs. Volpe questioned whether they would have to reapply to which she was advised that she would not provided she prepared her building plans in accordance to the variance as eventually approved.

Mr. Jones commented that at the time the Town Commission voted to eliminate businesses in Town they did not contemplate the possible hardships that property owners would have to face with the money they invested or the maintenance problems the Town may face. He applauded residents that properly maintain their property and that also want to upgrade the property and felt the Town should compromise with them.

The board concurred that Mr. Jones' suggestion was a good compromise and Mr. and Mrs. Volpe stated that they felt this could be accomplished.

Chairman Barlage asked Town Manager Dunham if he would change his recommendation if a variance were granted based on Mr. Jones' suggested modification. Mr. Dunham stated that the modification would be much better than was presented and it would be less non-conforming than originally proposed.

Atty Schoech advised that board that the staff in their recommendation must apply the seven criteria and it is up to the board to take all of the information and apply the letter of the law or the spirit of the law and make their decision.

There being no public present the board went into executive session.

Chairman Barlage stated that he believed that all the members were not favorable to the variance as originally proposed.

Mrs. Souther stated that it was important to maintain the integrity of the town and was pleased that the applicant agreed to compromise and modify the request.

Mr. Jones moved to deny the variance as originally submitted and grant a new minimized variance for the addition to follow the plane of the existing wall that encroaches 20.2' and eliminate the existing pantry located on the southeast corner of the building and build a second story on top. Mr. Pugh seconded the motion. Atty Spillias suggested that the members outline this on a drawing for the staff, which was completed.

Motion carried – Yea (5).

Town Clerk Hancsak advised the applicant that they would be receiving a letter in the mail and the six-month date for commencement of construction would begin with this date.

Town Manager advised that he would be unavailable for the January 9, 2002 meeting and suggested that it be moved to January 16, 2002. The board agreed to move the date to January 16, 2002 if necessary.

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After a brief discussion it was decided that Atty Schoech would mark his calendar each month and the Town Clerk would advise him approximately one week prior to the meeting whether his presence was necessary.

V. Adjournment

The meeting was adjourned at approximately 9:25 A.M.

ATTEST:

Town Clerk

Chairman Barlage
Geoff Pugh
Earl Jones
Barbara Souther
Terry Brown