

Meeting of the Board of Adjustment of the Town of Ocean Ridge, Florida held on Wednesday, May 14, 2003 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	Barbara Souther
Mark Hanna	Stormet Norem
Chairman Barlage	

Chairman Barlage introduced new member Stormet Norem and Atty Jim Watts filling in for Charles Schoech while on vacation.

III. APPROVAL OF MINUTES

A. March 12, 2003

Mr. Hanna moved to adopt the March 12, 2003 minutes, seconded by Mr. Brown.

Motion carried – Yea (5)

IV. VARIANCE REQUESTS

- A. An application submitted by Joseph and Therese Pike, 315 Lake Eden Way, Delray Beach FL 33435, requesting a variance from the provisions of the Lake Development code, Chapter 64, Zoning; Article I; District Regulations, Section 64-1; RSF and RSE Single-Family Residential Districts, paragraph (i) RSF-Single Family Regulations; Sub-Paragraph (2)(a) minimum 25' front yard setbacks for lots considered as double frontage – to permit a 10' encroachment into the required 25' rear setback (considered double frontage) in order to build a new single family home (after existing home is demolished) 15' from the property line. The property is located at 62 Harbour Drive North or generally described as Lot 15, Ridge Harbour Estates (exact legal description located at Town Hall)

Town Clerk Hancsak read the variance application by title and advised for the record that all fees had been paid and no additional correspondence had been received.

Chairman Barlage questioned Atty Spillias whether this variance request could actually be heard because there were no definitive plans to review and also whether this request would set a precedent. Atty Spillias commented that normally specific plans are received, however, the staff believed that unique circumstances exist due to the lot having triple frontage because of two waterfront sides with one abutting an unimproved ROW and was not concerned with a precedence being set for any future requests. He reminded the board that all other land development requirements must be met and this request was for the one item only. He added that the proposed home would be more conforming than the existing home.

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Chairman Barlage and Town Clerk Hancsak read the justification of application and responses for the requested variance. The applicant provided a brief summary which stated that when the existing home was constructed the setbacks were less restrictive; therefore the side setbacks are currently 10' to the south and 12.5' to the northerly side setback. They stated that recent changes to the code implemented a new interpretation for double-frontage lots which would require that the northerly building setback line be increased from 15' to 25' and this would prohibit the construction of a reasonable structure given the Health Dept. criteria. Due to the state of disrepair of the existing home and the existing house elevation, which is some 15 inches lower than currently mandated for flood protection, it would be impractical to renovate. They added that they are in preliminary stages of reviewing floor plan schematics and options with an architect. Hardships include that enforcement of the 25' north setback precludes the construction of single story home even if it is well below the maximum coverage area allowed by the code, and even if the home is constructed in a 2 story configuration the same setback creates an overly restrictive building footprint thereby assuming a box-like configuration and the mass of the home would be forced closer to the street and neighboring homes. The applicant stated that this 25' setback requirement will effectively restrict the area on the lot where the home may be constructed in a manner which severely limits the architectural design and will result in a structure that will lack sufficient architectural variation to make it aesthetically appealing.

The applicant advised that special conditions exist which are peculiar and are not the result of applicant because of its irregular shape, water on two sides, and it is located on a cul-de-sac with just 45' of frontage. They added that these special circumstances, coupled with the 25' northerly setback and current Health Dept. septic system placement criteria create a hardship on the applicant to construction a single family home. They also stated that even with a 2 story home it is almost impossible to have all the amenities that any other neighbor enjoys and the street-side view would be primarily garage and the home would be limited to 35' wide at the front and 20' wide at the rear, making the floor plan undesirable. The applicant stated that granting the variance would not confer any special privilege denied by the Zoning Ordinance to other lands or structures in the same zoning district and would merely treat this lot consistent with other homes along the Thompson St. ROW. The applicant stated that literal interpretation of the provisions of the Ordinance would deprive the applicant of rights commonly enjoyed by similarly-situated properties in the same zoning district and would result in an undue hardship and they felt the 10' variance request is the minimum variance to allow flexibility to design a single family home and all the amenities. The applicant believed that the variance request would be in harmony with the general intent of the ordinance because other homes fronting along the Thompson St. ROW were held to a 15' setback and they felt the original intent of the ordinance was that a lot is to be considered a "double-frontage" lot only if it has access to two improved roadways and the granting would not be injurious to the area. They concluded by advising that granting the variance would not be injurious to the area and would in fact allow the home to be situated further away from the existing homes and further north on the property.

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Town Clerk Hancsak read the administrative comments prepared by staff. The comments regarding the justification of application reflected that special circumstances exist which are peculiar to the land or building involved because this irregular triple frontage lot makes it difficult to re-build a reasonable and attractive structure with as little nonconformity as possible. She added that the existing structure setbacks are nonconforming. The applicant did not create the special condition and the Town also recently changed its code, resulting in the north property line increasing from a 15' to 25' setback since it abuts a ROW (which is submerged). Granting the variance requested would not confer any special privilege that is denied to others because the applicant is requesting to build a single family structure that would actually make the setbacks more conforming and other homes in the area have the same requested setback and the process is available for any structure in the same zoning district which requires such process due to the unique elevations and lot sizes in the area. A strict interpretation of the elevation requirements would not allow the property owner to build an average-sized home, with desired architectural features, which is favorable to the Town. It is the staff's opinion that it is difficult to conclude if the variance requested is the minimum variance that will allow the most reasonable use of the land since definitive house plans have not been submitted. However, the variance is in the setback least obtrusive to the neighbors and has little impact since there is water and overgrown brush abutting this setback. The proposal is a practical petition as it would be more conforming than the current residence on an extremely irregular shaped lot. In the opinion of staff, granting the variance would be in harmony with the general intent of the chapter because the applicant would be reducing an existing nonconformity and the variance aids in the process of creating a desirable and attractive single family use of this property. It was also stated that the variance would not be injurious to the area involved because they lessen the current nonconformity of the structure and the requested variance is enjoyed by other homes on the street. Therefore, based on the information provided in the application, it is the opinion of staff that a hardship meeting all the criteria has been met for the variances requested and recommend approval of variance as requested by the applicant.

Chairman Barlage ascertained that all members visited the site but did not have contact with the property owners.

All individuals intending on speaking were sworn in. Chairman Barlage complimented the applicants on the quality of the package submittal.

Joe Pike introduced himself and his wife, Therese, and stated that he appreciated the contents of the staff report and concurred with the recommendation. At this point he conducted a brief Power Point presentation that explained most of the package contents and showed that most of the ROW has been washed out and is actually on a slope. He stated that he would like to eventually work with the Town to prevent further erosion. He commented that Health Dept. requirements for a septic system require that it be located at least 50' away from a waters edge thereby limiting the buildable area and providing a configuration problem. He summarized the calculation for actual buildable area. He concluded by stating that he hoped the board would consider their request favorably.

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Mrs. Souther commented that the presentation was excellent; however, she was concerned with a precedence being set by approving homes without any plans. She was reminded that all other development requirements would still have to be met.

Mr. Hanna stated that he could understand the problems with the expense for an architect. Atty Spillias commented that if the property was renovated as a grandfathered structure the architect would work within the existing footprint and by constructing a new home the applicant is subject to all new provisions.

Mr. Brown questioned whether decreasing the setback would affect the drainage flow or containment to which Atty Spillias advised that the applicant would be required to meet the drainage requirements that would be reviewed by the Town Engineer.

Speaking from the public, Thea Iglehart, 58 Harbour Dr. No., stated that she lived directly east of the subject property. She stated that she respectfully disagrees with Atty Spillias' comment and feels the granting of this variance would set precedence. She also requested clarification regarding the comment by Mr. Pike that the Thompson St. ROW would never be developed. Atty Spillias stated that it would most likely never be developed as a road. Mr. Pike stated that his comment was based on his feeling that no one would ever reside on the property to the north because it is wetland area and a road would never be developed.

Mr. Andrew Shudlick, 66 Harbour Dr. No., neighbor immediately to the south, clarified that the proposed code changes were already discussed and adopted prior to the purchase of the property. He stated that he felt complete architectural plans should be presented for everyone to see before approval is granted. He added that the fact the lot is an irregular shape should have no bearing because any lot on a cul-de-sac is irregular. He questioned whether the applicant intends on residing on the property once the home is built. His last concern was whether the applicant planned on building further west. Mr. Hanna and Mr. Norem commented that any other request would be a new variance request and the applicant could actually build to a 25' west setback regardless of a variance obtained or not provided other codes are in compliance.

Responding to Mr. Shudlicks' comments, Mr. Pike stated that he did feel that his lot was more of an irregular shape because it had 3 – 25' setbacks. He stated that they intended to make this property their home. He commented that they approached the Commission a couple of months ago requesting an abandonment of the ROW, however, it was denied and several of them suggested he seek a variance. Mr. Pike stated that they did purchase the property taking a risk but he felt his request was reasonable. He concluded by stating that he felt they should be entitled to build to 35% lot coverage like other properties, whether it be a single family or two-story home.

Mr. Hanna questioned whether this variance, if granted, would go with the property should it sell. Atty Spillias stated that it would carry to a new owner, however, the construction must commence within a certain time period or it would lapse and become null and void.

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There being no further public comment the board was declared in executive session.

Mr. Hanna commented that this variance was dealing strictly with the footprint and not any aesthetics features. He added that while they purchased the property knowing the code requirements the board must consider the hardship presented and consider how the law applies now. He stated that it appears that the septic system encroaches into the buildable area because of the Health Dept. requirements. He concluded by stating that he felt the criteria has been met and he concurred with the staff recommendation.

Mrs. Souther stated that she felt the applicants were aware of the change in regulations and felt the granting of this variance would set precedence for future requests. She stated that while she realized the cost for architectural plans is expensive, she felt it was a minor expense in relation to the total project and felt plans should be reviewed and then a decision rendered.

Mr. Brown asked Atty Watts if a variance could be granted without plans to which he advised that it could be done but the decision was solely left up to the board and a condition could be added that it be subject to seeing the plans.

Mr. Brown advised that he understood some of the neighbors concerns however he felt the request was reasonable due to the unique circumstances and the applicant met the requirements for a hardship. He therefore recommended approval and concurred with the staff recommendation.

Mr. Norem stated that he had no further comments at this time.

Chairman Barlage stated that he felt the hardships had been met due to the configuration of the lot and added that the applicant was not asking for anything special that other adjacent homeowners had along the ROW. He did state though that he did not feel that they met the criteria for the minimum request and added that even the staff had difficulty agreeing to this hardship. He stated that he was concerned with precedence being set.

Mr. Hanna suggested deferring the ruling to a date certain until plans are submitted. Atty Spillias stated that if the variance were turned down then the applicant could apply for a new variance or the board could table the request until a date certain and request additional information.

Mr. Pike stated that he believed they met the letter of the code demonstrating a hardship and preparing plans would become a subjective issue. Mr. Hanna agreed.

Mr. Hanna moved to table the ruling for 180 days pending submission of plans and then grant an extension if necessary. There was no second to the motion.

Chairman Barlage questioned the applicant on whether they could present plans at another meeting and defer the ruling. Mr. Pike commented that there was another

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variance request that was granted without any plans at Ocean Harbour Estates and did not feel it was necessary.

Mr. Hanna moved to approve the variance request as submitted. Mr. Norem seconded the motion. Chairman Barlage stated that he still did not feel the Town was convinced all the criteria had been met.

Motion carried – Yea (Norem, Brown, Hanna)
Nay (Souther, Barlage)

Town Clerk Hancsak advised the applicant that a letter would be forthcoming.

VI. Adjournment

The meeting was adjourned at approximately 10:00 A.M.

ATTEST:

Town Clerk

Chairman Barlage
Terry Brown
Stormet Norem
Mark Hanna
Barbara Souther