

Meeting of the Board of Adjustment of the Town of Ocean Ridge, Florida held on Wednesday, December 10, 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                      Lothar Mayer  
Richard Lucibella              Stormet Norem  
   Chairman Barlage

### III. APPROVAL OF MINUTES

A. August 27, 2003

Mr. Norem moved to adopt the August 27, 2003 minutes, seconded by Mr. Mayer.

Motion carried – Yea (5)

### IV. VARIANCE REQUESTS

- A. An application submitted by Randall Stofft Architects, 42 N. Swinton Ave., Delray Beach FL, representing the property owner, Krishna Triporaneni, requesting a variance from the provisions of the Land Development Code, Chapter 64; Article III; Supplemental regulations, Section 66-44; Fences, Walls and Hedges; Paragraph (c) maximum height of 4' in required front yards as measured from the street side of the wall and a maximum height of 6' in the side yard as measured from the lowest grade elevation, Chapter 67; Article III; Technical codes and Other Construction Standards, Section 67-32; Floor Elevations; Paragraph (c ) maximum elevations and Chapter 63; Article XVII; Nonconforming and Grandfathered Structures; Sub-Paragraph (1); alteration, extension, enlargement or expansion, to permit replacing the existing structure with a finished floor elevation of 18.64' with a new finished floor elevation of 19', which exceeds DEP's minimum 17.95' +/- requirement, replacing the existing 6' high front wall with a 5'-6' high front wall, 9-6' columns (with decorative features that range from 2' to +/- 3' on top), and a 6' gate, and also a request to replace 58'6" of an existing 3'9" +/- high wall with a +/- 8'9" high wall from the lowest elevation (which is on the applicants' side) on the extreme northeast corner of the property which is located at 6393 North Ocean Blvd. or legally described as the south 125' of north 175' of unnumbered block lying east of Ocean blvd. in the Boynton Beach Park Subdivision (exact legal description is available in the Clerk's Office).

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.

At this time Chairman Barlage and Mr. Lucibella disclosed that they reviewed the site but had no contact with the applicant. Mr. Mayer commented that he has utilized the services of the same architect to which Atty Schoech advised that it was not a conflict.

Any individuals planning on providing testimony were sworn in.

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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 exist because the privacy walls in question are significantly lower than other walls in the community and provide no privacy or security as currently built and for the FFE the main portion of the lot is east of the CCCL and the lot has considerable grade differences from 6.45' at the west side to above 18' at the east side where the existing home and other neighboring homes are located. They added that they do not result from actions of the applicant because the walls exist at the site property lines and do not match other walls in height in the community and the average FFE for the existing home is at 18.5' NGVD. The applicant stated that granting the variance would not confer any special privileges because other property owners north and south of the subject house have been granted variances for the walls and FFE and would therefore comply with conditions of others in the area. The applicant stated that literal interpretation of the ordinance would deprive them of having the same privacy and security that others in the area enjoy. The applicant stated that without the variances, privacy and security issues would be impossible to maintain and regarding the FFE they stated that the area occupied by the pool and deck have an elevation similar to that of the existing rear yard -18' and they avoid affecting the area through fill or excavation which DEP discourages. They added that in order to have the house above an optimal floor elevation from the pool area they need to raise it 1' above the pool level which would be 6" above the existing home. The applicant stated that the request would be in harmony with the general intent and purpose of the ordinance because the intent of the ordinance is to bring a sense of community and by allowing the variance for the walls it would blend better with adjacent homes. With regard to the FFE the applicant stated that DEP discourages excavation for habitable construction and the first floor elevation must be approved by DEP. The applicant concluded by stating that the variance would not be injurious to the area and would provide security and privacy in a manner harmonious with the community and in no way affects the area in a negative way and with regards to the FFE would comply with DEP's guidelines.

Town Manager Dailey read the administrative comments, which included a brief summary of the request. Her comments regarding the justification of application advised that special circumstances could exist due to an existing grandfathered wall on the front and sides that has been there many years. The applicant is proposing a new front wall with decorative columns and a gate that is viewed as an architecturally correct and safer entrance. The expansion of the side NE wall is also considered architecturally correct and safer since it abuts a public park. The code provisions would require that the front wall be 4' and side wall be 6', which effectively, due to elevations would be a 1' wall on the public side of the property and building the codes according to code would be aesthetically unappealing. In addition, since the residence abuts a public park and a major roadway and has significantly high elevations, the need for privacy and security is justifiable. Regarding the FFE, the existing residence exists at 18.5' NGVD and is therefore peculiar to this land to justify a variance to the FFE for the new structure because DEP has minimal guidelines of 15.4' NGVD for the lowest structural beam to avoid excavation. Town Manager Dailey advised that the conditions do not result from

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actions of the applicant. Town Manager Dailey stated that other neighboring property owners have requested similar height variances that included extending existing walls, adding entrance gates and adding columns with decorative features and also to build homes at higher elevations and she does not believe that the applicant will be enjoying a special privilege. She advised that literal interpretation of the provisions of this chapter would work unnecessary and undue hardship because the code would deny the aesthetic features, privacy and security that others in the area enjoy, particularly since the property abuts a major roadway and a public park. She stated that the added element of the DEP requirement that new residences east of the CCCL be elevated higher in cases where the existing grade is higher than the minimum +15.4 NGVD elevation to avoid excavation further places a hardship on the applicant to conform to State standards. In conclusion, Town Manager Dailey commented that she felt the requests were the minimum variances and would be harmony because it allows the most reasonable security walls around the property and the wall and gate design is similar to neighboring landowners and the FFE is also reasonable in that it is similar to nearby properties and is also desired by DEP. Town Manager Dailey stated that in the opinion of staff this variance would improve the aesthetic design of the existing wall through the extensions and modifications and they conform to the architecture of the area and are in harmony with other neighboring properties with both the wall height and FFE. Staff recommendation includes approval of all three requests as submitted.

Percy Mejia, architect with Randall Stofft Architects, summarized the request and explained the site plan. He also showed a photograph of trash that falls into the applicant's yard from the public park.

Mr. Brown questioned whether the code had different provisions for wall heights in the residential estate districts to which he was advised that the code did not differentiate between districts for walls and the height is based on the lowest grade for the side walls. He was advised that the code was amended to allow for a higher elevation in certain scenarios provided the extra height is of an open lattice type barrier. Mr. Brown asked if the board could grant more than what is requested to which Atty Schoech advised that they could not and the request should be the minimum request.

Chairman Barlage clarified that the 58'6" was starting from the column and the wood fence would remain. Mr. Mejia agreed.

Mr. Lucibella commented that he walked the site and he could concur with the request for the side wall from a privacy standpoint, however, he did not agree with the security standpoint because it would be just as available for someone to intrude from either a 4' or 6' wall. He added that he no problem with the northeast wall at 6' from the Boynton Public Beach side.

Mr. Randall Stofft arrived and was sworn in.

Mr. Brown questioned whether this northeast wall request would affect the Town's 50' right-of-way which is immediately north of the wall to which he was advised that it would not.

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There was no public comment regarding the northeast wall.

Mr. Norem moved to approve the variance for the northeast wall as requested, seconded by Mr. Lucibella.

Motion carried – Yea (5).

There was no public comment regarding the front wall.

Mr. Norem moved to approve the variance for the front wall as requested, seconded by Mr. Mayer.

Mr. Lucibella stated that both 6373 and 6307 had tastefully done 4' high walls and he had a problem with this request. He stated that a 4' wall protects just as well as a 6' security wall and additional security could be accomplished through landscaping. He stated that the wall starts at 5' and the 9 – 6' columns with 2 – 3' ornaments on top was not in conformity with the other homes.

Chairman Barlage commented that other homes further south requested and were granted similar variances to which Mr. Lucibella stated he was adamantly opposed to individuals using that reason against the board and each case is to be considered on an individual basis.

Mr. Stofft stated that he respectfully disagreed and mentioned that there were other areas where 8' requests were requested and granted. He added that they were proposing to rebuild the wall lower in sections. Mr. Lucibella reminded Mr. Stofft that they were proposing to remove the old wall and rebuild a new wall in a different location and they should be bound by the requirements of the Town code or have some kind of special hardship to grant a variance and he did not feel one was proven.

Chairman Barlage commented that by rebuilding the wall it would aesthetically improve the wall and would also provide an easier ingress/egress to the property. Mr. Stofft commented that they could actually leave the grandfathered wall with just repairs but they were proposing to bring the entrance further east and there were benefits to proper design.

In response to the comment from Chairman Barlage, Mr. Lucibella stated that while the look may be improved the code does not provide for aesthetics alone.

Mr. Brown moved to call the question, seconded by Mr. Mayer.

Motion carried – Yea (5)

Motion carried on the front wall height – Yea (Brown, Mayer, Norem, Barlage)  
Nay (Lucibella)

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There was no comment regarding the 19' FFE request.

Mr. Lucibella moved to approve the request for a maximum 19' finished floor elevation as requested, seconded by Mr. Norem.

Motion carried – Yea (5)

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

VI. Adjournment

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

ATTEST:

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Town Clerk

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Chairman Barlage  
Terry Brown  
Stormet Norem  
Richard Lucibella  
Lothar Mayer