

Meeting of the Board of Adjustment of the Town of Ocean Ridge, Florida held on Wednesday, February 9, 2005 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 Richard Lucibella
Barbara Souther Stormet Norem
Vice Chairman Mark Hanna

III. APPROVAL OF MINUTES

A. August 11, 2004

Mr. Norem moved to adopt the August 11, 2004 minutes, seconded by Mr. Brown.

Motion carried – Yea (5)

IV. VARIANCE REQUESTS

- A. An application submitted by Marjorie M. Miley, 6057 Old Ocean Blvd., Ocean Ridge FL 33435, requesting a variance from the provisions of the Land Development Code, Chapter 64, Zoning, Article III; Supplemental Regulations, Section 64-44; Fences, Walls and Hedges, Paragraph (c) Height of a Wall, Fence located in the front yard shall be measured on the street side and shall not exceed four feet in height – to permit the construction of a new site wall that varies to a maximum height of 8’ from the street side and approximately 4’ from the property side. The property is located on the east side of Old Ocean Blvd. and described as Lot 6, and the north ½ of Lot 7, Block 4, Boynton Sub Amended Subdivision (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.

At this time all five members disclosed that they reviewed the site but had no contact with the applicant.

Any individuals planning on providing testimony were sworn in.

Vice Chairman Hanna 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 properties along this section of Old Ocean Blvd. have a finished grade to the first floor of 3-4’ above Old Ocean Blvd. and have front retaining/privacy walls of 7-8’ measured on street side and these conditions were not the result from actions of the applicant. The applicant stated that granting the variance would not confer any special privileges because the variance opportunity exists to all properties where the topography of the site and existing wall structures necessitate mainly the same line of the structure. The applicant stated that literal interpretation of the ordinance would work unnecessary and undue hardship because the majority of adjacent properties enjoy privacy from existing walls and structures which are not allowed by current zoning,

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thereby creating an undue hardship on this applicant. They felt it was the minimum variance sought to grant the applicant privacy and make reasonable use of the land. The applicant stated that the request would be in harmony with the general intent and purpose of the ordinance in that it has not detrimental effect on any of the surrounding properties with similar walls. The applicant concluded by stating that the variance would not be injurious to the area and would in fact be in complete harmony with the surrounding properties.

Town Clerk Hancsak read the administrative comments prepared by the Zoning Official. The comments regarding the justification of application advised that special circumstances exist because the elevation of this property is such that a retaining wall is needed for the front yard to keep in fill and maintain its height. The comments advised that the conditions do not result from actions of the applicant. The Zoning Official advised that granting this variance would not be giving a special privilege because several properties on either side are already benefiting from a similar variance. He advised that the literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district because it would work an unnecessary and undue hardship on the applicant but would also be very unfair. The comments also stated that the request is the minimum variance to make possible the most reasonable use of this land and building. The comments relayed that granting this request would very much be in harmony with the general purpose of this ordinance and it would not have any detrimental effects on any of the surrounding properties and would not be injurious to the area involved. In conclusion, the Zoning Official recommended granting the variance stating the proposed wall not only serves as a retaining wall but also harmonizes with the other adjoining properties. He added that applicant also plans to place planters in front to break up the height of their proposed wall. Town Clerk Hancsak also distributed photographs taken by the Zoning Official of neighboring property walls.

Digby Bridges, architect representing the applicant, summarized the submitted drawings and advised that the wall would be built on top of a three foot retaining wall and would be in harmony with the neighboring properties.

Town Clerk Hancsak commented that she had received a telephone call from the neighbor to the south, Mr. Duffy, who verbally advised that he was opposed to the variance request. She stated that she advised him that he could either write a letter that could be read into the record or appear in person but she had not received any correspondence and he was not in attendance.

Mr. Brown questioned if the other walls on Old Ocean Blvd. had received variances to which he was advised that the walls are probably so old it was required in the zoning code then.

Vice Chair Hanna and Mr. Norem asked if the existing grade would be raised. Mr. Bridges advised that the only area that would be raised more than 2-3" would be the

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interior triangular area of the southwest portion of the wall to make the land inside the wall flat. He added that the wall would be consistent with the other neighboring walls.

Mr. Lucibella questioned if the variance could be approved with wording to the effect of allowing 8' on the exterior and 4' on the interior side of the wall because he did feel that the code encompasses surrounding area concerns.

Mr. Hanna mentioned that the wall would still be 8' high from the street side so the applicant would still have privacy. He added that he felt the applicant was using other property walls as the hardship for their variance and felt other areas would then be entitled to the same variance.

Mrs. Souther stated that she felt if the wall was lowered it would look unattractive and not blend with the other homes that were built in the 1920's. She also asked how much higher the proposed wall was compared to the existing wall. Mr. Bridges advised that the wall was approximately 1' higher but they could make it the same height if necessary.

Mr. Lucibella questioned what the hardship was to which Mr. Bridges stated that the topography was the hardship. Mr. Norem questioned what the applicant would do if the variance was not granted. Mr. Bridges advised that they would probably construct a 4' wall with hedges behind it. Mr. Lucibella commented that he felt there is an exception in this case based on the harmony of the other homes in the area; however he was concerned with how high the wall will actually be. Mr. Bridges advised that the wall would be lower than the existing wall to the south and approximately 6" lower than the wall to the north.

Manuel Palacios, Zoning Officer for the Town, stated that after he inspected the property he saw a group of homes from north to south that had similar walls and felt that this wall would harmonize with the others and everyone would benefit. He added that he felt the contour of the dune justified a variance request for this property.

There were no comments from members of the public and the board declared themselves in executive session.

Mr. Lucibella stated that he was inclined to either table the request until a time certain so that Mr. Bridges could return with actual figures on the heights of the neighboring walls or he was more likely in favor of granting a 7' maximum exterior and 3' interior height for the wall because he felt a hardship existed due to the other homes in the area.

Mr. Brown felt the variance should be approved as requested as long as the planter was part of the motion. Town Clerk Hancsak advised that the code required landscaping on the street side of the wall.

Mrs. Souther felt the area was unique and quaint and would be consistent with the neighbors.

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Mr. Norem stated that while he agreed with most of the comments he was more in favor of matching the applicants existing walls between the garages and felt this would still blend with the area.

Vice Chair Hanna stated that he felt a special privilege would be given to the applicant because of the natural terrain of the land and he did not agree with granting a variance on the basis that it would match the neighboring walls. He felt they were creating their own hardship by raising the property up to 3' in the triangular area.

Mr. Brown moved to grant the variance with a maximum height of 7' on the exterior street side, seconded by Mrs. Souther.

Motion failed: 2 Yea (Brown, Souther)
3 Nay (Lucibella, Norem, Hanna)

Mr. Lucibella moved to grant the variance for a 7' maximum height for the exterior street side and 4' maximum height for the interior wall, whichever is less, seconded by Mr. Brown.

Motion carried: 3 Yea (Lucibella, Brown, Souther)
2 Nay (Norem, Hanna)

Town Clerk Hancsak advised that a letter would be forthcoming.

A brief discussion followed regarding postponing the appointing a Chairman and Vice Chairman until after new appointments were made to the board.

VI. Adjournment

The meeting was adjourned at approximately 9:30 A.M.

ATTEST:

Town Clerk

Vice Chairman Hanna
Terry Brown
Stormet Norem
Richard Lucibella
Barbara Souther