

Meeting of the Board of Adjustment of the Town of Ocean Ridge, Florida held on Wednesday, September 14, 2005 at 8:30 AM in the Town Hall meeting chambers.

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

Terry Brown	Richard Lucibella
Stormet Norem	Vice Chairman Mark Hanna

III. APPROVAL OF MINUTES

A. April 13, 2005

Mr. Norem moved to adopt the April 13, 2005 minutes, seconded by Mr. Brown.

Motion carried – Yea (4)

IV. VARIANCE REQUESTS

- A. An application submitted by O’Dette Worrell, 6195 North Ocean Blvd., Ocean Ridge FL 33435, requesting a variance from the provisions of the Land Development Code, Chapter 63, General and Administrative Provisions, Article VII; Nonconforming and Grandfathered Uses, Section 63-117; Grandfathered uses, lots and structures, (d) grandfathered structures, (1) alteration, extension, enlargement or expansion and Chapter 64; Zoning, Article I; District Regulations, Section 64-1; RSF and RSE Single-Family Residential District, Paragraph (j); RSE development regulations (2)(b) minimum 15’ side yard setback requirements and (2)(c) minimum 20’ side corner setback – to permit the construction of a combined new 1,813 sq ft three car garage with a library above that would encroach 5’ into the required 20’ side corner setback and also the construction of a combined 1st and 2nd story 662 sq ft addition that includes converting existing covered balcony areas into living areas, adding living area to the second floor, and extending a balcony. The second story new addition located on the western side of the existing residence that would encroach 5’ into the 20’ north side corner setback and the balcony extension would extend 14.5’ into the north 20’ side corner setback, and enclosing the existing covered areas on the south side of the residence already encroaches 6’3” into the south 15’ side setback. This would expand on an existing grandfathered structure on a grandfathered lot. The property is located at 6195 North Ocean Blvd. and described as Lots 1, Blk 3 and Lots 1, Blk 10 of 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.

All members disclosed that they reviewed the site but had no contact with the applicant.

Any individuals planning on providing testimony were sworn in.

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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 property has an existing width of 52.6' and they are proposing to build-out some of the living area under existing covered building areas, add additional balcony space on the east side of residence and new living area on the top floor. They added that the pool will be eliminated on the east side of the existing structure and relocated on the west side thereby converting the existing sub-level garage into basement area. They also stated that the new garage setback relief is sought in order to get the depth to park a car and noted that the ROW is only used by this property and the north property for vehicular traffic. The applicant stated that special conditions and circumstances do not result from the actions of the applicant because they are requesting to modify as little as possible of a grandfathered structure. The applicant stated that granting the variance would not confer any special privileges because the existing grandfathered single family structure encroaches into the north setback by 15'1" and on the south side by 6'5". The applicant stated that literal interpretation of the ordinance would work unnecessary and undue hardship because both properties to the north and south received variances for side setback relief. They felt it was the minimum variance sought to grant the applicant because this request is to mostly infill existing covered areas and to meet the needs of the applicant's growing family and basic living areas. The applicant stated that the request would be in harmony with the general intent and purpose of the ordinance in that the building would be improved visually and by the infilling of oversized overhangs which cause the existing structure to have an "unbalanced" feel. The applicant concluded by stating that the variance would not be injurious to the area because the board will better insure public safety and potentially reduce property damage by reducing the existing oversized overhang conditions which are at greater risk of uplift from high winds.

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 existing grandfathered lot is very narrow but long creating a bowling alley dimension. The comments advised that the very narrow lot 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 the applicant is attempting to enclose space of an already existing roofed area of the structure and the proposed accessory structure is at minimum width. 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 the applicant has such a narrow lot and they are attempting to utilize already encroaching areas for the main structure and seek relief for constructing a garage/library with average width. The comments also stated that the request is the minimum variance to make possible the most reasonable use of this land. The comments relayed that granting this request would 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 citing the difficulty in enlarging the structure width-wise because of setback restraints are an architectural nightmare and although this was an existing condition when purchased,

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the applicant is trying to enclose areas within an already roof area in the setbacks thereby creating a hardship. The comments also stated that because the proposed accessory structure has two different side setback requirements it makes it equally difficult and creates a hardship. A recommendation was to grant the variance as submitted for a grandfathered structure and lot.

George Brewer, architect representing the applicant, advised that this site was definitely a challenge after considering the setbacks. He stated that his client would like to create a compound area and summarized the requests.

Mr. Brown asked if the total square footage met the code requirements to which he was advised that proposed improvements would bring the floor area ratio just under 36%.

Questions were raised whether the library was an independent living structure. Mr. Brewer advised that the room contains bath facilities and a wet bar and is intended to be utilized as a library. Mr. Lucibella stated that it could still be termed as a guesthouse to which Manny Palacios, Zoning Official, stated that nothing in the code prohibits a mother-in-law structure. Mr. Palacios also stated that the staff met with the architect and felt that a hardship existed.

Chairman Hanna questioned if any other proposed new area of the main structure was going to extend further into the setback to he was advised that only the balcony on the east side of the residence will encroach slightly further in the north setback.

Speaking from the public, John Shibles, 6201 North Ocean Blvd., and immediate neighbor north of the Edith St. ROW, stated that while he welcomed some renovation next door he had several concerns. He clarified that structural drawings were not required at this level and that the applicant would still have to appear before the Town Commission due to construction occurring east of the Coastal Construction Control Line (CCCL).

Mr. Shibles stated that he was concerned that the property was being overbuilt and distributed a 2 page document outlining his variance concerns and environmental and septic tank concerns, and the need for additional variances for the proposed fence and driveway. He summarized the document and stated that he felt the applicant was building a new house using the grandfathered issue to use the existing setbacks. He added that he was concerned that the garage/library could be rented out and the amount of green space was being reduced by overbuilding. Mr. Shibles questioned if this board could wait on their decision until all items were addressed.

Atty Schoech, representing the board, advised that the applicant may be penalized if it is determined that variances are not required for the issues raised such as the fence or driveway, but added that the meeting could be postponed should the board decide to do so. Atty Schoech commented that the additional issues raised should be addressed by the Town but they have not been brought before this board as a variance request.

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Mr. Brewer stated that the owner owns Sunday House and is totally concerned with environmental impacts. He added that he did not feel he was asking for anything more than Mr. Shibles has already received through a variance.

Mr. Hanna asked if the total roof was being replaced to which he was advised that the material would be changing but the structure would be retained except where the proposed closet area is new and the shell would be remain intact.

Mr. Brown reminded the board that the septic and CCCL were not issues for them. Mr. Hanna agreed and also stated that the other issues raised by Mr. Shibles such as the fence and driveway were not issues brought before this board today.

At this point the board was declared in Executive Session.

Mr. Lucibella questioned the attorney if the board could take into account that their decision could actually make it easier for more problems to arise when deciding on these types of variance requests. Atty Schoech stated that the board is not required to grant a variance in a vacuum and may look at all issues involved. However, he added that this board was reviewing setback issues not the misuse of a building which would be a code enforcement issue. He added that good issues were raised by Mr. Shibles but it can be considered differently between a new building vs. an existing building.

Mr. Brown stated that he was inclined to approve the request because of the uniqueness and size of the lot. He commented that the driveway and septic may become an issue at a later date but the structures still meet the 36% FAR and he felt the variances should be approved.

Mr. Norem had no comment at this point other than the motion could be voted on individually.

Chairman Hanna stated that if the variances were granted it is not allowing them to build (without structural approval) but granting relief to the setback areas and grandfathering. He commented that the south end contains many smaller lots and an overlay has been granted to a specific area. He stated though that he had a concern with granting the extension of the balcony.

Mr. Lucibella stated that he was torn on this issue and felt the applicant was asking too much in variance requests considering the existing encroachments. He added that he understood the lot was narrow but the applicant knew that when it was purchased. He stated that he was inclined to deny the requests.

Mr. Brown moved to approve the variance requests as submitted. There was no second to the motion.

Mr. Lucibella moved to deny both requests and suggested that the architect work with staff and possibly the neighbors, seconded by Mr. Norem. Mr. Norem commented that if

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this motion fails and is denied the applicant must wait a year to reapply. Atty Schoech stated that the applicant may come back with modified requests. The motion was then withdrawn by both Mr. Lucibella and Mr. Norem.

Mr. Brewer stated that he felt it was not fair considering that neighboring properties were granted variances. Chairman Hanna reminded Mr. Brewer that the board was not bound by other prior variances granted.

John Szerdi, architect and friend of the owner for over 12 years, stated that the majority of the request was related to safety issues because the overhang on the east side of the residence is dangerous and could be uplifted in a hurricane and by enclosing the overhang necessitates relocating the pool, which then creates problems with the existing garage and thus the need for a new garage.

Mr. Hanna questioned Mr. Brewer and Mr. Szerdi if the applicant could build within the code requirements and they replied that the applicant probably would not.

Mr. Lucibella asked Mr. Brewer if he was aware that if the applicant does not withdraw they may have to wait a year before they could reapply. Atty Schoech agreed and stated that the applicant would be well advised to ask for a withdrawal than the possibility of being denied.

Mr. Szerdi stated that he felt some of the additional disclosures made by Mr. Shibles may be affecting their decision. Mr. Hanna advised that in determining the approval of the request all surrounding factors are taken into consideration.

Mr. Shibles again stated that he felt the applicant was creating part of his own hardship, citing that there is an existing garage that he is proposing to change. He also questioned if the FAR was correct stating that only usable space is considered. Mr. Palacios advised that according to the architects it met the FAR and it would be closely examined when building plans are submitted.

Mr. Brewer requested a short recess so that he could contact his client. The meeting was recessed at 10:10 AM and reconvened at 10:20 AM.

Chairman Hanna commented that this meeting could be postponed, the requests withdrawn, or a vote taken today. Atty Schoech stated that a postponement allows the most flexibility for the applicant.

Mr. Norem moved to postpone this meeting until Oct. 12, 2005 at 8:30 AM, seconded by Mr. Brown.

Motion carried – Yea (4).

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VI. Adjournment

The meeting was adjourned at approximately 10:30 A.M.

ATTEST:

Town Clerk

Chairman Hanna
Terry Brown
Stormet Norem
Richard Lucibella