

Meeting of the Board of Adjustment of the Town of Ocean Ridge, Florida held on Wednesday, Feb. 8, 2006 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 Bernd Schulte
Stormet Norem Gail Adams Aaskov
 Chairman Hanna

Atty Schoech was also present representing the board, as was Kristen Bennett, representing the Town.

III. APPROVAL OF MINUTES

A. Oct. 12, 2005

Mr. Norem moved to adopt the Oct. 12, 2005 minutes, seconded by Mr. Brown.

Motion carried – Yea (5)

IV. VARIANCE REQUESTS

- A. An application submitted by Richard Bajakian, 37 Harbour Drive No., Ocean Ridge FL 33435, requesting a variance from the provisions of the Land Development Code, Chapter 64, Zoning, Article III; Supplemental Regulations, Section 64-50; Location of exterior residential equipment and accessories, (a) no part of any outside equipment such as pool maintenance units, a/c units or the like shall be exposed or visible from the front of the primary building structure or be placed any closer than ten feet of the side or rear lot line of any lot to permit the installation of a 45000 KW generator to be placed on a 4'x9' concrete pad that would be placed 8" from the side setback. The property is located at 37 Harbour Drive No. or legally described as Lot 18, Ridge Harbour Estates 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 other than the letter from the neighbor stating no objection already included in the original packet.

Members disclosed that they reviewed the site but had no contact with the applicant or several added that they had the pictures supplied by the applicant for review.

Any individuals planning on providing testimony were sworn in.

Since there was no public, the reading of the Applicant's Justification of Application and Administrative Comments recommending denial of the variance was waived by both parties, but has been attached as part of the record. Dr. Bajakian noted that he had just received the administrative comments prior to the meeting.

Dr. Bajakian, 37 Harbour Drive No., stated that due to the last few hurricanes he would like to purchase this particular generator to adequately service his home and he was

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surprised by the administrative comments recommended by staff because he felt Manuel had agreed that there was no other place for the generator but a variance would have to be sought. He added that his neighbor to the east had no objection to the proposed site of the generator.

Manuel Palacios, employed by Hy-Byrd Inspections, Inc. and Zoning Official for the Town, stated that he had walked the site with the applicant and his comment to the applicant was that the area proposed was the most economically feasible, however, the generator could be placed in other areas. He stated that a gas line permit depicting a generator being located just east of the garage was recently applied for and approved, which according to the Building Official can be permitted because the window that would be obstructed does not lead to a habitable area and the electrical box can be moved if necessary. He added that the applicant was advised of this when the permit was submitted. He also stated that in interpreting the zoning code financial reasons do not justify a hardship.

Mr. Brown asked if there was another location to the north side of the property that the generator could be placed to which he was advised that the applicant would have to cut into the walkway.

Town Clerk Hancsak explained that the current code now requires that any outside equipment must be placed 10' from the property line (except the front which is 25') and the old code did not have any setback requirements.

Mr. Norem asked if the walkway could be shifted so that the generator could be placed against the garage. Mr. Palacios commented that the gas line permit was applied for after the variance submittal and he advised the applicant that the generator could be placed by the garage and still meet the code.

Dr. Bajakian commented that the intent of the code may have changed, however his neighbor was not objecting to it and due to the size of the generator it was not meant to be put by the garage and it would be situated between trees in the proposed location.

Mr. Schulte questioned if there was a required distance from buildings to which he was advised that it depends if the placement is by any windows or doors that lead to habitable areas.

At this time the board was declared in executive session.

Mr. Schulte stated that the amended code prohibits this proposed location, adding that future neighbors may object to this location, and he believed that this request was more financial in nature and was therefore not in favor of the variance.

Mr. Brown agreed adding that he did not feel a hardship was met because it can be placed against the building.

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Mr. Norem stated that he felt the generator could be placed closer to the house and finances do not constitute a hardship. He also clarified that the applicant can withdraw the request and resubmit. As a point of information Atty Schoech advised that if a variance is denied the applicant could wait one year and reapply for the same variance or there would be no time delays if a different variance is requested.

Mrs. Aaskov and Chairman Hanna agreed with the other members' comments.

Mr. Norem moved to deny the variance, seconded by Mr. Brown.

Motion carried – Yea (5).

A brief recess was called from 9:00 AM to approximately 9:10 AM.

- B. An application submitted by 6393 North Ocean Blvd., LLC, 11-15 n. 2nd Street, Philadelphia, PA 19106, requesting a variance from the provisions of the Land Development Code, Chapter 64; Zoning, 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 64; Zoning; Article I; District Regulations; Section 64-1; RSF and RSE Single-Family Residential Districts; Sub-Paragraph (e) roof pitch, elevation and covering providing a maximum flat roof area (less than 4:12 pitch) is 15% of total horizontal ground surface area covered by the roof which may increased to 20% if at least five percent is used a deck, porch or usable outdoor space to permit the construction of a single family residence, detached garage, caretaker quarters and guest bedroom with a total flat roof that would have a finished floor elevation of 19'6" which exceeds DEP's minimum 17.95' +/- requirement, replacing the existing 125.02' of 6' high front wall with a maximum 86' of 6' high front wall, maximum 6' gate (remainder will be 4' high) and also 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 northeast property line 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 available in 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.

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

Any individuals planning on providing testimony were sworn in.

Since there was no public, the reading of the Applicant's Justification of Application and Administrative Comments recommending denial of the variance was waived by both parties, but has been attached as part of the record.

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Marissa Sand, architect from San Francisco and also representing the owners, stated that they have been working with Randall Stofft Architects and she believed the proposed residence would be aesthetically pleasing to the neighborhood. She distributed several color renderings along with other drawings and a revised Justification of Application for the flat roof. Chairman Hanna reminded Ms. Sand that aesthetics are not considered a hardship.

Mr. Schulte moved to accept the additional renderings and correspondence as part of the record, seconded by Mr. Brown. The board took several minutes to read the revised flat roof hardship criteria.

Motion carried – Yea (5)

Ms. Sand stated that the residence was proposed to appear like a tropical retreat and not be very visible to the park located to the north. She added that it would be heavily landscaped with a series of courtyards. She stated that a pitched roof would break down the design, add height, cost, and volume metric. She added that flat roofs were allowed in the past. She concluded by stating that the proposed residence would not be a massive block and will have varied architecture.

Mr. Palacios commented that the request for the 100% flat roof was totally contrary to the existing code which currently permits 15% flat roof area (increased to 20% for certain circumstances). He also stated that the staff recommended approval of requests for the elevation and walls, adding that similar variances for this exact property were granted in 2003.

Atty Bennett advised that the applicant presented the design and cost for the flat roof as a hardship which in fact was not a hardship because this is a choice made by the applicant. She added that homes with total flat roofs were permitted prior to the code changes which now only permit a certain percentage of flat roof area.

Chairman Hanna questioned if the proposed residence was a “spec” house to which he was advised that the property is owned by two partners (one in Philadelphia and one in Miami) and one of the partners intended to spend time there.

At this point the board was declared in executive session.

Mr. Schulte stated that the code was changed due to newer homes with total flat roofs and he felt this board could not make a judgment call to approve the flat roof variance. He added that he was in favor of the finished floor elevation and wall heights.

Mr. Brown agreed with the FFE and wall heights but stated that while he personally had no objection to the flat roof design he could not approve this request based on the code.

Mr. Norem and Mrs. Aaskov concurred with Mr. Schulte and Mr. Brown.

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Mr. Hanna stated that the code regarding flat roofs was clear. He added that the FFE and walls warrants granting approval, however, the board should be reminded that it cannot solely rely on the fact that these variances were granted to this property in the past.

Mr. Norem moved to approve the finished floor elevation of 19'6" as requested. Mr. Brown seconded the motion.

Motion carried – Yea (5)

Mr. Norem moved to approve wall heights as requested, seconded by Mrs. Aaskov.

Motion carried – Yea (5)

Mr. Norem moved to deny the request for the flat roof, seconded by Mrs. Aaskov.

Motion carried – Yea (5)

Mr. Hanna commented that aesthetics were not considered a hardship and the code would have to be changed to permit it.

Town Clerk Hancsak advised that a letter would be forthcoming.

At this point Dr. Bajakian requested to address the board again to which he was advised by Chairman Hanna that the matter was closed. Dr. Bajakian commented anyway that he was stunned that Mr. Palacios had a 180 degree turn and requested that the board go and review the site. Chairman Hanna stated that while the board understood his frustration the code provides for a 10' setback for such equipment.

VI. Adjournment

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

ATTEST:

Town Clerk

Chairman Hanna
Terry Brown
Stormet Norem
Bernd Schulte
Gail Adams Aaskov