

Meeting of the Board of Adjustment of the Town of Ocean Ridge, Florida held on Wednesday, July 8, 2015 at 8:30 AM in the Town Hall meeting chambers.

The meeting was called to order by Bruce Gimmy and roll call was answered by the following:

Betty Bingham	Jeff Lee
Bruce Gimmy	Donald MaGruder
Hans Kahlert	

Atty Spillias was present representing the Board.

III. APPROVAL OF MINUTES FROM NOVEMBER 13, 2013

Mrs. Bingham moved to adopt the minutes from November 13, 2013. Mrs. Bingham seconded the motion.

Motion carried – Yea (5).

IV. APPOINTMENT OF CHAIR AND VICE CHAIR

Mrs. Bingham moved to appoint Bruce Gimmy as the Chair, seconded by Mr. Magruder.

Motion carried – yea (5).

Mr. Gimmy moved to appoint Don Magruder as Vice Chair, seconded by Mrs. Bingham.

Motion carried – yea (5).

IV. VARIANCE REQUESTS

- A. An application submitted by Randall Stofft Architects, 42 N Swinton Ave., Delray Beach FL 33444, 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 (k); RSE development regulations (6) maximum floor area ratio (FAR) of all finished floors under roof shall be 36% of the total lot area to permit the construction of an elevator on the south side of the existing residence. This would expand on an existing grandfathered structure with a FAR of 37.9% to 38.4%. The property is located at 6009 Old Ocean Blvd. or legally described as Lots 11 & 12, Block 4, Boynton Sub Amended Subdivision (exact description available for review in the Clerk's Office)

Town Clerk Hancsak read the application by title and advised that all fees had been paid and that no additional correspondence had been received. She asked the board if any of the members had any communication with the applicants or representative to which all advised they had only reviewed the site. At this point all those planning on providing

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testimony were sworn in. Mr. Lee disclosed that he was utilizing the services of Randall Stofft Architects, however; it would not affect his decision regarding the variance request. Atty Spillias advised that if there was no monetary benefit it would not be necessary to recuse himself.

Chairman Gimmy and Town Clerk Hancsak read the justification of application and responses for the requested variance. Special circumstances exist which are peculiar to the land or building involved because the existing home is older, with a small footprint and was renovated years ago, by a prior owner, so that the floor area is already above the 36% maximum allowed. They also advised that the home does not have any area inside that would accommodate an elevator. Granting the variance would not confer any special privilege that is denied by the Zoning Ordinance because most of the neighboring homes already have elevators in them. Literal interpretation of the code would prevent the owner (who is physically limited and can no longer climb stairs easily) from being able to use almost half of their residence. The request for a 44 sq ft elevator is the minimum possible. The variance requests a minimal .5% additional FAR and will be in harmony with the general intent of the chapter. The variances would not be injurious to the area involved and would be tied in to the existing structure architecturally, so it should have no effect to the public welfare.

Town Clerk Hancsak read the administrative comments regarding the justification of application prepared by Manuel Palacios, Zoning Officer. He advised that there is a special circumstance in that the current footprint has no interior area that would allow for conversion to an elevator and this is not the result of any action taken by the applicant as the FAR reached the 36% maximum during prior ownership. Granting the variance would not confer a special privilege that is denied to others since the proposed elevator is believed to be a necessity and not a luxury accessory (all other zoning requirements are not affected). The literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district in that the owners could not have total enjoyment of the entire home. The proposed square footage for the elevator is the minimum as required to meet all manufacturer installation requirements and concur with the Florida Building Code. The minimum square footage proposed is in harmony with the general intent of the ordinance. The variance would not be injurious to the area involved and the architectural design matching the existing home makes it harmonious to the home and the rest of the neighborhood. Therefore, based on the information provided in the application, the request for the overall FAR of 38.4% meets the 7 criteria for relief and approval is recommended.

Randall Stofft, representing the owners (Lothar and Carlyn Mayer), advised that he had designed the renovations for the prior owner, when the first request to exceed the FAR was granted, however; they did not design an elevator at that time. He stated that, while the owners may have delayed the proposed improvement, if the variance is not granted the owners will not be able to stay in the residence. He stated that the proposed location was chosen because there are no structures to the south or east and it is the best area to tie in architecturally.

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Mrs. Bingham questioned if a chair lift could be installed on the stairwell to which she was advised that it was explored but the stairs are 4 way retrofitted. She also asked if this is the residence they reside in. Mr. Stofft advised that he believed that that this will be their primary residence.

Mr. Magruder asked if the stairwell could be remodeled to accommodate a chair lift. Mr. Stofft advised that he was a master at designing and the 2,600-2,700 sq ft home is brutally tight and there is no room within the existing footprint. Mr. Magruder asked if the elevator will still be built if the variance was denied and Mr. Stofft replied that it would not be built. Mr. Magruder commented that overall the FAR would be exceeded by 2.4% not .5%.

Chairman Gimmy questioned if the elevator could be constructed within the existing footprint in the southwest corner. Mr. Stofft advised that it would cut into the approximately 14x20 sq ft rectangular shaped family room and also into the 2nd floor master bedroom shared closet. Gary Stofft commented that the proposed elevator egresses into this closet.

Speaking from the audience, Terry Brown, Harbour Drive, stated that while sympathetic for an elevator in the home, he did not believe the request meets the legal criteria for a variance, handicap or otherwise. He added that he was on the board for the first variance and felt this addition looks like a pimple on the structure and will be noticed by many people traveling or walking on Old Ocean Blvd. He cautioned them on approving a variance that does not meet the criteria. Mr. Stofft disagreed and felt it met the architectural design for a variance.

Manuel Palacios, Zoning Officer, stated that based on the drawings he felt the applicants met the 7 criteria.

Mrs. Bingham felt granting the variance could set a precedence. Atty Spillias advised that each variance was considered on its own merit. He also stated that a variance is considered based on substantial evidence or knowledge on whether it meets the 7 criteria and not based on opinions. He added that a court would consider any appeal/s.

There being no further questions, the Board was declared into executive session and the variance request and the 7 criteria were discussed.

Mr. Lee commented that he felt the footprint of the home was small considering the lot size, since no beach credit is provided. He felt the elevator met the hardship to accommodate the residents and the addition would blend with the existing home.

Mr. Kahlert felt there was a legitimate health need and felt a chair on stairs can be dangerous. He agreed that the addition would blend with the existing structure and felt it met the hardship with competent substantial evidence.

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Chairman Gimmy asked the Town Attorney if the request was actually a hardship if it can be placed somewhere other than proposed. Atty Spillias cautioned again that the request needs to be considered on whether there was competent substantial evidence or knowledge in support of the request, adding that the Zoning Officer felt it met the criteria. Chairman Gimmy stated he felt there were other ways to accomplish the elevator or accommodation and added that he did not feel that the justification for A and C had been met.

Mrs. Bingham stated that she had concerns because the owners can use the downstairs bedroom or locate the elevator in the family room.

Mr. Magruder stated that after hearing the testimony he felt that the elevator can be placed within the existing footprint at the southwest corner.

Mr. Kahlert moved to approve the variance as submitted. Mr. Lee seconded the motion.

Motion – Yea (Kahlert, Lee)
Nay (Bingham, Magruder, Gimmy)

Town Clerk Hancsak advised that a letter would be forthcoming from the Town to confirm the denial.

V. Adjournment

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

ATTEST:

Town Clerk

Chairman Bruce Gimmy
Betty Bingham
Jeff Lee
Hans Kahlert
Donald Magruder