

BOARD OF ADJUSTMENT
MINUTES OF
REGULAR MEETING
January 20, 2022

The regular meeting of the City of Daytona Beach Board of Adjustment was held on Thursday, January 20, 2022 at 1:00 p.m. in City Commission Chambers, Daytona Beach City Hall, 301 S. Ridgewood Avenue, Daytona Beach, Florida.

Board members present were as follows:

Mr. Trey Harshaw, Chair
Ms. Sharlene Barhoo
Ms. Maja Sander Bowler
Mr. Patrick Connors

Board members not in attendance:

Mr. Edward Gentle
Mr. John George

Staff members present were as follows:

Ms. Melissa Phillips, Development Review Technician
Mr. Ben Gross, Deputy City Attorney
Ms. Becky Groom, Board Secretary

1. Call to Order

Mr. Harshaw called the January 20, 2022 Board of Adjustment Meeting to order at 1:00 p.m.

2. Roll Call

Ms. Groom called the roll and noted members present as indicated above.

3. Introduction of City Staff

Mr. Harshaw introduced staff members in attendance, as listed above.

4. Approval of Minutes: December 16, 2021

Board Action:

A motion was made by Ms. Barhoo, seconded by Ms. Bowler, to approve the minutes of the December 16, 2021 minutes as presented. The motion carried (4-0).

5. **New Cases:**

Case A – BOA2022-001 – Variances from Article 4, Section 4.2.B.3

A request by Thomas Huger, TAH2, LLC, (Contractor) on behalf of Jeriene P. Stiggons (property owner), for an after-the-fact variance from Article 4 (Development Standards), Section 4.2.B.3 of the Land Development Code (LDC) to reduce minimum required front yard setback of 30 feet to 20.3 feet. The property is located at 1124 Lakewood Park Drive, Parcel ID 5211-17-00-0060. The zoning on the property is single family residential (SFR-5), and the Future Land Use (FLU) on the property is Level 1 Residential (LI-R).

Application Presentation:

Thomas Huger, 928 Sycamore, Daytona Beach, Florida spoke on behalf of the property owner. Mr. Huger stated he has been working with the property owner since September 2020 as a result of a Code Enforcement case. Mr. Huger stated the property owner was being fined and Code Enforcement wanted the house demolished. Mr. Huger stated the house was demolished and the property owner was permitted to keep the slab for the structure that was in place. Mr. Huger stated an error was made related to the placement of the garage which encroaches on the front setback.

Ms. Bowler stated her understanding is that the new house was built on the existing slab.

Mr. Huger stated that is correct but there was a slight reconfiguration of the footprint.

Ms. Barhoo stated the previous house burned down and the new house looks much better for the neighborhood.

Ms. Bowler stated the fire creates a different situation for the property and Mr. Huger has an excellent track record.

Mr. Huger provided photos of the property, and Ms. Phillips stated aerial photos of the old house as well as the new house are included in the Board packet.

Mr. Huger stated the house is completed and the Certificate of Occupancy was issued the first of the month; however, he has not provided the keys to the owner since he is waiting the resolution of this variance issue.

Mr. Connors asked what the City would do if the Board denies this variance request.

Mr. Gross stated the case could be processed through Code Enforcement where a fine could be accrued until the violation is corrected. Mr. Gross stated the issue could also be referred to the courts and there could be foreclosure action.

Public Comments:

There were no public comments.

Board Action:

A motion was made by Ms. Bowler, seconded by Ms. Barhoo, to approve BOA2202-001 – Variances from Article 4, Section 4.2.B.3, as presented. The motion carried (4-0).

Case B – BOA2022-002 – Variances from Article 4, Section 4.2.C

A request by Sharon Hawkins-Holden (property owner), for a variance from Article 4 (Development Standards), Section 4.2.C of the Land Development Code (LDC) to reduce required minimum Lot Area of 6,000sf to 5,000sf and to reduce the required living area per dwelling unit, minimum of 900sf each unit to 675sf each unit. The property is located at 700 Tennessee Street, Parcel ID 5238-38-00-2150. The zoning on the property is Multifamily Residential-12 (IVIFR-12), and the Future Land Use (FLU) on the property is Level 1 Residential (LI-R).

Applicant Presentation:

Sharon Hawkins-Holden, property owner, stated she is trying to put a duplex on the property. Ms. Hawkins-Holden stated she talked with the former Development Review Technician, Angela Doyle, in 2019 to make sure the property was zoned for duplex and Ms. Doyle advised that the property is zoned for duplex. Ms. Hawkins-Holden stated Ms. Doyle advised her of the setbacks and the proposed structure meets those setbacks. Ms. Hawkins-Holden stated she proceeded with plans for a duplex based on Ms. Doyle's statement that a duplex would be permitted. Ms. Hawkins-Holden stated there is a duplex on three other adjacent

parcels. Ms. Hawkins-Holden stated when she provided the plans to Ms. Phillips, Ms. Phillips indicated a duplex would not be permitted. Ms. Hawkins-Holden stated the lot size is 50' x 100'. Ms. Hawkins-Holden stated the previous Land Development Code permitted a 675 s.f. duplex but the Code has been changed. Ms. Hawkins-Holden stated housing is needed in the city; but if she constructed a single-family home, most people will not be able to afford it. Ms. Hawkins-Holden stated she would not have proceeded with the plans if Ms. Doyle had not told her what she proposes is permitted.

Ms. Phillips stated the uses permit a duplex on the site; however, the lot is not wide enough for a duplex. Ms. Phillips stated the lot size can be waived for a single-family residence; but all of the setbacks must be met in order to construct a duplex; and in this case the property does not meet the lot width requirements.

Mr. Gross stated the lot is a non-conforming lot of record, and the Land Development Code permits reduction in setbacks for a single family dwelling but not a reduction in the minimum dwelling size. Mr. Gross stated there are also additional waivers for affordable housing and there are limits on the rent that can be charged.

Ms. Hawkins-Holden stated there is a triplex on the same street and is on the same size lot as well as other duplexes.

Ms. Bowler stated the area does have other duplexes and the lots do not seem to be larger than the subject property. Ms. Bowler stated she noticed the single family lots in the area seem to be better maintained. Ms. Bowler stated there would be an injustice if someone told Ms. Hawkins-Holden that she could proceed and then was told later it was not permitted. Ms. Bowler stated perhaps Ms. Doyle stated the zoning does permit a duplex but the specific lot was not reviewed and asked if there is anything in writing from Ms. Doyle.

Mr. Gross stated a duplex is a permitted use on the lot.

Ms. Phillips stated typically when someone comes into the Department and asks questions, information on the permitted uses would be provided as well as the zoning standards that must be met.

Ms. Barhoo asked if the size of the units could be reduced.

Mr. Gross stated the size could not be reduced because the Code requires a 900 s.f. unit and Ms. Hawkins-Holden is requesting a 675 s.f. unit.

Mr. Connors stated a second story could be constructed in order to meet the square footage requirement.

Ms. Phillips stated the lot width requirement would not be met for either a one-story or two-story structure.

Mr. Harshaw stated he is concerned about inadequate parking for a duplex.

Ms. Hawkins-Holden stated she discussed parking with Ms. Phillips and additional parking has been added.

Ms. Phillips stated information regarding the parking spaces is included in the Board packet, and two cars can be placed in each driveway without being in the right of way.

Mr. Harshaw stated he does not see a hardship since a single-family home can be built on the lot.

Ms. Bowler stated that is also her hesitation and noted if there was something in writing from Ms. Doyle, that would have placed a hardship on the development.

Ms. Hawkins-Holden stated the hardship is money and noted she has put money into design and trusses. Ms. Hawkins-Holden stated she has nothing in writing from Ms. Doyle. Ms. Hawkins-Holden stated her letter which is included with part of the packet discusses reimbursement for her expenses. Ms. Hawkins-Holden stated she was told by Ms. Doyle that a duplex would be permitted prior to her purchasing the property.

Ms. Phillips asked Ms. Hawkins-Holden if she provided a survey of the property to Ms. Doyle when she spoke with her that would indicate the dimensions of the property.

Ms. Hawkins-Holden stated no.

Irvin White, 340 Dodge Street, Daytona Beach, Florida, stated the previous owner fell into hardship and had to sell the lot and Ms. Hawkins-Holden agreed to buy the lot. Mr. White stated he showed Ms. Hawkins-Holden a lot next to the lot for sale and stated a duplex could be placed on the lot. Mr. White stated he and Ms. Hawkins-Holden spoke with Angela Doyle who stated a duplex could be placed on the lot; and that's when Ms. Hawkins-Holden proceeded with getting the plans done.

Mr. Harshaw stated he is concerned there is no paper trail and he does not see a hardship.

Mr. White stated the hardship would be that Ms. Hawkins-Holden has spent a lot of money to have plans prepared.

Mr. Harshaw stated economics are not a hardship and there has to be something, such as an irregular shaped lot, in order to be considered a hardship. Mr. Harshaw stated to the north is a property that has vehicles that cut across the subject property for access; and as sure as building starts on the lot, where will those vehicles park? Mr. Harshaw stated they will have to park on the street. Mr. Harshaw stated the existing tri-plex in the neighborhood is very unattractive and is the eyesore of the neighborhood.

Ms. Bowler stated we have to think about the other people in the neighborhood who have already made an investment and the standard that has been set. Ms. Bowler stated the poor condition of the existing duplex homes works against the applicant.

Mr. Gross stated he wanted to make a correction to a statement he made earlier. Mr. Gross stated the setback reduction for single family homes would only apply to affordable housing.

Board Action:

A motion was made by Mr. Connors, seconded by Mr. Harshaw, to approve BOA2022-002, Variances from Article 4, Section 4.2.C, in accordance with the staff report as presented. The motion was denied (0-4 with Ms. Bowler, Ms. Barhoo, Mr. Connors, and Chair Harshaw voting nay).

6. **Review of Cases**

Case A – BOA2202-001	Approved (4-0)
Case B – BOA2022-002	Denied (0-4)

7. **New Business**

Election of Chair and Vice Chair

Mr. Gross stated the minutes reflect that Mr. Harshaw was Chair for two consecutive terms and has termed out as Chair. Mr. Gross stated after one year, Mr. Harshaw could be elected Chair again.

A motion was made by Mr. Harshaw, seconded by Ms. Barhoo, to elect Ms. Bowler as Chair. The motion carried (4-0).

A motion was made by Ms. Barhoo, seconded by Mr. Harshaw, to elect Mr. Connors as Vice Chair. The motion carried (4-0).

The Board discussed the vacancies on the Board and if Mr. Gentle had resigned. Ms. Phillips stated nothing has been submitted in writing from Mr. Gentle.

Mr. Harshaw stated Mr. Gentle indicated his intention to resign at the last meeting he attended.

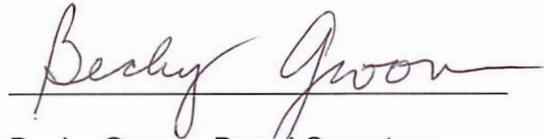
Ms. Phillips stated Betty Goodman has placed information on the city's website about the need for members to serve on the Board of Adjustment. Ms. Phillips stated Ms. Goodman also notifies the City Commissioners about the vacancies on the Board.

8. **Adjournment**

There being no further business, the meeting was adjourned.



Trey Harshaw, Chair



Becky Groom, Board Secretary