

BOARD OF ADJUSTMENT
MINUTES OF
REGULAR MEETING
February 17, 2022

The regular meeting of the City of Daytona Beach Board of Adjustment was held on Thursday, February 17, 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:

Ms. Maja Sander Bowler, Chair
Ms. Sharlene Barhoo
Mr. John George
Mr. Trey Harshaw

Board members not in attendance:

Mr. Patrick Connors

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

Ms. Bowler called the February 17, 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

Ms. Bowler introduced staff members in attendance, as listed above.

4. Approval of Minutes: January 20, 2022

Ms. Bowler asked that Page 6, Paragraph 3, be corrected to read that her comment was that "existing duplexes works against the applicant" should be stated instead of existing homes.

Board Action:

A motion was made by Ms. Barhoo, seconded by Mr. Harshaw, to approve the minutes of the January 20, 2022 minutes as corrected. The motion carried (4-0).

5. **New Cases:**

Case A – Removed from Agenda

Case B – BOA2022-004 – Variances from Article 4, Section 4.2.B.3

A request by Andrea O'Rourke (property owner) for a 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 25 feet. This will allow for the expansion of the existing garage and the addition of a bedroom suite above the garage.

The property is located at 1209 Waverly Drive, Parcel ID 4236-06-03-0130. The zoning on the property is Single-Family Residential (SFR-5), and the Future Land Use (FLU) on the property is Level 1 Residential (L1-R).

Applicant Presentation:

Paul and Andrea O'Rourke, 1209 Waverly Drive, Daytona Beach, Florida, stated they own the subject property. Mr. O'Rourke stated the home is a small block home with one garage and they would like to add a garage onto the front lawn. Mr. O'Rourke stated the addition will not impact the neighbors on either side and the property owners are in attendance to indicate their support of the request.

Mr. O'Rourke stated the only place the garage will fit is on the front lawn and it will be "L"-shaped. Mr. O'Rourke stated a standard two-garage will not fit on the property. Mr. O'Rourke stated a larger garage will help with security of his vehicles and personal items, noting a bicycle has already been stolen from his property. Mr. O'Rourke stated an additional 3 foot variance is permitted and he is requesting an additional 2 feet.

Ms. Andrea O'Rourke stated she is disabled and stated the garage would be beneficial for her for safety reasons.

Mr. O'Rourke provided a letter from a neighbor, Ms. Serena Baldacchino, who lives at 1216 Waverly Drive, which indicates support of this request.

Mr. Gross stated the applicant is entitled to a 3 foot administrative adjustment but the applicant needs 5 feet.

Mr. Harshaw asked if the driveway will be made wider.

Mr. O'Rourke stated only the area going into the garage.

Mr. Harshaw asked if an addition of a second story is planned and asked if there will be a living space above the garage.

Ms. O'Rourke stated yes but the back will remain one story.

Mr. O'Rourke stated the second floor will be over the garage.

Ms. Bowler stated the easement in the back appears to make the property shorter. Ms. Bowler asked if the O'Rourke's use the easement area.

Mr. O'Rourke stated he maintains the easement but he cannot use the property.

Ms. Bowler stated all of the other homes in the area have two-car garages and what is being requested seems to be in the spirit of the neighborhood.

Mr. O'Rourke stated the second story is not required if that would become an issue for the Board.

Public Comments:

Norman Preston, 317 Golf Blvd., Daytona Beach Florida, stated he is in favor of this variance request and feels the improvement would enhance the neighborhood.

Richard Poslusny, 1205 Waverly Drive, Daytona Beach, Florida stated he has no objections to the proposed garage. Ms. Claudia Poslynsny was also in attendance.

Paul Coax, Palm Coast, Florida stated he is a friend of the O'Rourke's and is in favor of their request.

Joan and David Burns, 1212 Waverly Drive, Daytona Beach, Florida stated they are both in favor of the improvements to the O'Rourke property.

Board Action:

A motion was made by Mr. Harshaw, seconded by Ms. Barhoo, to approve BOA2022-004 – Variances from Article 4, Section 4.2.B.3, as presented. The motion carried (4-0).

Case C – BOA2022-005 – Variance from Article 4, Section 4.7.U.3

A request by Leon McCray of MLK OZ, LLC (property owner) for a variance from Article 4 (Development Standards), Section 4.7.U.3 of the Land Development Code (LOG) to reduce required minimum Lot Area for Mixed-Use and Nonresidential from 6,000sf to 5,185sf. This will allow the existing lot and structure to be used for "Other Accommodations" also known as Short Term Rentals (less than 6 months).

The property is located at 141 South Martin Luther King Boulevard, Parcel ID 5339-23-01-0012. The current zoning on the property is Redevelopment Midtown - Midtown Center Mixed Use (RDM-1), and the Future Land Use (FLU) on the property is Mixed Use Medium Intensity (MU-M). This parcel is also part of the Southwest Daytona Black Heritage National Historic District.

Applicant Presentation:

Leon McCray, property owner of 141 S. Martin Luther King Blvd., Daytona Beach, Florida stated the property is already zoned for short-term rental. Mr. McCray stated for his planned use, which is the only use permitted, there is a requirement that the property be 6,000 s.f. and the existing property is 5,183 s.f. Mr. McCray stated the front setback is 7.3 feet and the requirement is 10 feet. Mr. McCray stated the interior side yard is a zero lot line and the requirement is 5 feet. Mr. McCray stated the building is an existing concrete structure and is single story. Mr. McCray stated the property was formerly used for short-term rental by Bethune-Cookman University. Mr. McCray stated without this variance, the property cannot be used. Mr. McCray stated the property was an eyesore when he purchased it and he has totally rehabbed the property. Mr. McCray stated if the variance is approved, there would be no adverse effects on the neighborhood and would be an improvement to the Midtown community. Mr. McCray stated the request is consistent with the Comprehensive Plan, the Redevelopment Plan and the objectives of the Midtown community.

Mr. Harshaw asked what the actual use will be.

Mr. McCray stated it will be used for short-term rental.

Mr. Harshaw asked if the structure will be used by students.

Mr. McCray stated he wants to do primarily Airbnb. Mr. McCray stated when Bethune-Cookman owned the property, it was used as short-term rental by the students.

Mr. Gross stated other uses are allowed for this property, such as clubs, lodges, and civic organizations but those would take up more space. Mr. Gross stated the minimum lot size for any use is 6,000 s.f. so, a variance would be needed for any use of the property.

Mr. Gross stated the historical use of the property was not short-term rental. Mr. Gross stated the property was used as dormitory living for Bethune-Cookman University and was not a residential use.

Public Comments:

Kenneth Hunt, 250 S Palmetto, Daytona Beach, Florida stated his property is a vacation rental and he is doing very well with the property. Mr. Hunt stated he is here to support Mr. McCray and what he is doing to revitalize the community.

Irvin White, 330 Dodge, Daytona Beach, Florida stated he is a property owner within 150 feet of the subject property. Mr. White stated what Mr. McCray has done to improve the property is amazing.

Board Action:

A motion was made by Mr. Barhoo, seconded by Mr. George, to approve BOA2022-005 – Variance from Article 4, Section 4.7.U.3, as presented. The motion carried (4-0).

6. Review Cases

Case B	-	BOA 2022-004	approved 4-0
Case C	-	BOA 2022-005	approved 4-0

7. New Business

Mr. Harshaw stated additional Board members are needed to fill the vacancies on the Board.

Ms. Phillips stated she will speak with Betty Goodman to see the status of filling the vacancies for Zone 2 and Zone 6.

Mr. Gross stated members are appointed by the City Commission and the At Large Member is nominated by the Mayor.

Mr. Harshaw stated he feels the Chair should attend the City Commission meeting to remind the members of the Commission of the vacancies and the need for filling those vacancies.

8. **Adjournment**

There being no further business, the meeting was adjourned.



Maja Sander Bowler, Chair



Becky Groom, Board Secretary