

BOARD OF ADJUSTMENT
MINUTES OF
REGULAR MEETING
April 21, 2022

The regular meeting of the City of Daytona Beach Board of Adjustment was held on Thursday, April 21, 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. Patrick Connors
Mr. John George
Mr. Trey Harshaw

Staff members present were as follows:

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

1. Call to Order

Ms. Bowler called the April 21, 2022, Board of Adjustment Meeting to order at 1:07 p.m.

Mr. Gross asked if it has been the policy of the Board to require sign-in sheets for the public.

Mr. Harshaw stated sign-in sheets have not been required since he has served on the Board.

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:** February 17, 2022

Board Action:

A motion was made by Mr. Harshaw, seconded by Ms. Barhoo, to approve the minutes of the February 17, 2022, minutes as presented. The motion carried (5-0).

5. **New Cases:**

Case A – BOA2022-007 – Variances from Article 4, Section 4.2.B.3

A request by David Higham (property owner) for a variance from Article 4 (Zoning Districts), Section 4.2.B.3 of the Land Development Code (LDC) to reduce the minimum required street side setback from 15 feet to 5.10 feet on the northeast side and 11.82 feet on the southeast side; and to reduce the required rear yard setback from 25 feet to 13.56 feet. This will allow for the construction of a 720sf garage.

The property is located at 920 South Grandview Avenue, Parcel ID 5309-17-00-0140. The zoning on the property is Single-family Residential-5 (SFR-5), and the Future Land Use (FLU) on the property is Level 1 Residential (L1-R). This property is also part of the South Atlantic National Historic District.

Applicant Presentation:

David Higham, 920 S. Grandview Avenue, stated he would like to install a garage due to the number of damages and thefts of vehicles in his neighborhood since he has lived there.

Mr. George stated he sees there is already a garage on the property and asked if a smaller unit could be built within the setbacks.

Mr. Higham stated the car is a one-car garage and he does not believe the car would fit in it and his pickup truck is too long for the existing garage. Mr. Higham stated the laundry units are in the garage and there is no other place for the units to be inside the house. Mr. Higham stated what he proposes is a steel garage and the front would be facing Francis Terrace, as is the front of the house.

Mr. Connors asked how Mr. Higham feels the steel garage will affect the beauty of his property.

Mr. Higham stated he feels it will improve his property, noting his property received the 2017 Beautification Award from the City. Mr. Higham stated

he would do nothing to harm the beauty of his property. Mr. Higham stated the steel garage is pre-painted and will match the house.

Mr. Harshaw stated he lives south of the subject property; and there is a person who put up a metal garage nearby and he does not feel it is in character with the home. Mr. Harshaw stated there is already a shed on the property and the proposed garage is a significant size at 720 s.f. Mr. Harshaw stated he does not feel the proposed garage is in character with the neighborhood and feels it is industrial looking. Mr. Harshaw asked the height of the structure.

Mr. Higham stated it is over 17 feet tall.

Mr. Harshaw stated a concrete block structure with an asphalt roof would be more acceptable.

Mr. Higham stated the structure will match the house and will have the same color trim. Mr. Higham stated it will also have a gabled roof.

Ms. Bowler asked why Mr. Higham would like a detached garage.

Mr. Higham stated the windows on the house face the east and an attached garage would block his view.

Ms. Bowler stated she visited the property and the property is beautiful. Ms. Bowler noted there are other steel structures in the neighborhood but those are hidden by the homes.

Ms. Bowler asked if the request to have a detached garage would allow for the structure to be higher.

Ms. Phillips stated the maximum height is 20 feet.

Ms. Bowler asked if the structure would have windows.

Mr. Higham stated there will be windows on each side and roll-up doors on the front.

Ms. Barhoo asked about the height.

Mr. Higham stated the structure will be shorter than the main house. Mr. Higham stated there is a hip roof but there is a flat roof over the living room.

Mr. Gross stated the Board could impose stipulations on the condition of approval, such as for the height or square footage. Mr. Gross stated the

Board could continue the case in order to allow the applicant to provide a rendering of the proposed structure. Mr. Gross stated if the variance is denied, the applicant could not submit another application for a variance for six months.

Ms. Bowler stated she did not want the case to go undecided and asked if the applicant could provide a picture of the proposed structure on his cell phone.

Public Comments:

Louis Vigliotti, LAV Engineering, stated stucco could be applied to the structure to make it look like the main structure. Mr. Vigliotti stated there are a number of ways to make the building look better. Mr. Vigliotti stated there is a similar structure close by and he feels it is out of character with the neighborhood.

Robert Musson, 318 Eastwood Lane, stated he does not have a problem with the roof and what is proposed would be an upgrade to the neighborhood, which he likes.

John Gordon, 513 Eastwood Lane, stated when he moved into the neighborhood, there was no one around; however, someone had variances approved and built a structure that is 37 feet high and the property is rentals. Mr. Gordon stated there have been a lot of problems with the rentals, such as drugs and other crimes. Mr. Gordon stated he is in favor of this variance request.

David Fritz, 420 Frances Terrace, stated he is the adjacent property owner. Mr. Fritz stated the rental property that was mentioned by Mr. Gordon has created all sorts of problems. Mr. Fritz stated as far as Mr. Higham's variance, he stated people approached him about the size and expressed concern that someone may try to live in it but he does not believe that will be an issue. Mr. Fritz expressed concern about drainage and water retention if the proposed structure is added to the property. Mr. Fritz stated he may want to request a similar variance for his property in the future.

Ms. Bowler stated it should be noted in the record about the concerns about drainage but that is not an issue this Board would address.

Mr. Gross stated there is a requirement in the Land Development Code that addresses drainage when the pervious surface is changed to impervious.

Ms. Bowler acknowledged that 6 letters were received in support of this variance request.

Board Comments:

Ms. Bowler asked the Board if it is their desire to continue this case.

Mr. Connors stated he would like to see a rendering of the proposed structure.

Mr. Gross stated the Board could continue the case to a time certain and direct the applicant to provide a rendering showing the color, material, size, and scale.

Ms. Higham indicated she was able to locate the unit on her cell phone, and the website showing the proposed structure was displayed on the video screen by staff.

Mr. Higham stated he does have paper copies of the information being presented but it was not submitted with his application since it was not required.

Mr. Harshaw stated his concern is that the building is very industrial looking. Mr. Harshaw expressed concern about such a building being visible from three different roads.

Ms. Bowler stated she does not feel the Board is ready to approve this.

Mr. George stated he is concerned about the size of the structure.

Mr. Gross stated the Board could continue the case and require that the applicant provide information requested by the Board within ten days of the next meeting.

Ms. Bowler stated she would like to see a smaller structure, a material that does not look industrial, and information on the highest and lowest peaks of the roof peak.

Mr. Harshaw stated he would also like the applicant to look at the style of the garage door.

Board Action:

A motion was made by Mr. Harshaw, seconded by Mr. George, to continue Case A, BOA2022-007, 920 S Grandview, to the May 19, 2022, meeting, and to have the applicant provide renderings and elevations for

the proposed structure, as well as elevations for the main house. The motion carried unanimously (5-0).

Case B – BOA2022-003 – Variances from Article 4, Section 4.2.B.3

A request by Thomas Huger, TAH2, LLC, (Contractor) on behalf of Carlus Marchbanks of CENTRAL FLORIDA REALTY PROPERTY MANAGEMENT, LLC (property owner), for a variance from Article 4 (Zoning Districts), Section 4.2.B.3 of the Land Development Code (LDC) to reduce minimum required street side yard setback of 15 feet to 5 feet and to reduce the minimum required interior side yard setback from 7.5 feet to 5 feet. This will allow for the construction of a 1920sf single family home.

The property is located at 443 Jefferson Street, Parcel ID 5338-98-05-0180. 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:

Thomas Huger, TAH2 LLC, 920 Sycamore Street, Daytona Beach, Florida, stated the lot is currently vacant but there previously was a home on the site. Mr. Huger stated the proposed house is twice as large as the previous home that was on site. Mr. Huger stated he is requesting a 5 foot setback and the LDC requires 15 feet. Mr. Huger stated what is proposed will improve, enhance, and stabilize the neighborhood.

Mr. Harshaw stated a two-car garage is proposed and what he sees looks good.

Mr. Connors asked if there are other structures proposed on site.

Mr. Huger stated there will be no other structures on the property and the building will face Jefferson.

Mr. Harshaw asked how many other homes Mr. Huger is building.

Mr. Huger stated there will be four on the same street.

Mr. Connors stated based on the aerial photos provided, some other houses are built over the property lines so, obviously, other variances have been given.

Mr. Gross stated a variance cannot be granted to encroach on another person's property, so no variances have been given.

Ms. Barhoo stated when she visited the area, it was difficult to determine property lines.

Mr. Harshaw stated he wanted to make sure this is going to be a single-family home and not a rental unit with multiple families occupying the space.

Mr. Gross stated if the home is constructed, this Board would have no jurisdiction over how many people occupy the site.

Ms. Barhoo asked what the hardship is for this request.

Mr. Huger stated the hardship is the setback requirement.

Mr. Harshaw asked the square footage of the proposed structure.

Mr. Huger stated the square footage will be 1900 s.f. plus the garage.

Public Comments:

There were no public comments.

Board Action:

A motion was made by Mr. George, seconded by Mr. Harshaw, to approve Case B – BOA2022-003 – Variances from Article 4, Section 4.2.B.3, in accordance with the staff report as presented. The motion carried unanimously (5-0).

Case C – BOA2022-008– Variance from Article 5, Section 5.3.C.28.c

A request by Thomas Luterbach (property owner) for a variance from Article 5 (Use Standards), Section 5.3.C.28.c of the Land Development Code (LDC) to reduce the minimum required rear setback for a pool enclosure from 3 feet to 0.6 feet. This will allow for the construction of a screen enclosure around the existing swimming pool, atop an existing retaining wall.

The property is located at 124 West Ocean Dunes Road, Parcel ID 5316-29-00-0020. The zoning on the property is Single-family Residential-5 (SFR-5), and the Future Land Use (FLU) on the property is Level 1 Residential (L1-R).

Applicant Presentation:

Thomas Luterbach, 124 West Ocean Dunes Road, Daytona Beach, Florida stated a retaining wall exists above ground that was in place when he purchased the home. Mr. Luterbach stated there is only 5 feet in one point from the wall to the edge of his pool. Mr. Luterbach stated he would like to increase the height of the wall 2 to 3 feet so debris from his neighbor's yard does not come into his swimming pool screen. Mr. Luterbach stated once the wall is complete, the screen will sit on top of the wall.

Mr. George stated it appears the wall will slope, and it appears the lower area is about 5 feet high.

Mr. Luterbach stated that is correct and only one or two courses would be added to increase the height.

Mr. Harshaw stated he does not see any issues with what is proposed.

Ms. Bowler asked if this would affect the neighbor's property by being near his windows and will it require you to go onto your neighbor's property to access the rear of your property.

Mr. Luterbach stated there is a foot of his property at the rear. Mr. Luterbach stated he has talked with his neighbor about his plans and the neighbor has no problem with what is proposed.

Public Comments:

There were no public comments.

Board Action:

A motion was made by Ms. Barhoo, seconded by Mr. Harshaw, to approve Case C – BOA2022-008– Variance from Article 5, Section 5.3.C.28.c, in accordance with the staff report as presented. The motion carried unanimously (5-0).

Case D – BOA2022-009 – Variances from Article 4, Section 4.2.B.3

A request by Jennifer Lex (property owner) for a variance from Article 4 (Zoning Districts), Section 4.2.B.3 of the Land Development Code (LDC) to reduce the minimum required interior side setback from 7.5 feet to 0.2 feet and to reduce the required 5 foot spacing from the primary structure. This will allow for the construction of a detached 12.4' x 17.17' garage.

The property is located at 510 Bostwick Avenue, Parcel ID 5309-38-06-0120. The zoning on the property is Single-Family Residential-5 (SFR-5),

and the Future Land Use (FLU) on the property is Level 1 Residential (L1-R).

Applicant Presentation:

Jennifer Lex, 510 Bostwick Avenue, Daytona Beach, Florida stated there was a shed on the property when she purchased the home and she would like to convert that to a garage. Ms. Lex stated there is a cinder block wall on one side. Ms. Lex stated the proposed structure would look like her house and she would like to have the ability to place her car in a garage, mainly for safety reasons.

Ms. Bowler asked if the proposed structure would be the existing footprint of the previous structure.

Ms. Lex stated yes. Ms. Lex stated she was able to provide a survey of the property from 1941 which shows a garage in place at that time.

Mr. Connors asked if there will be another door.

Ms. Lex stated there will be a door on the east side.

Mr. Harshaw stated he feels it will be a great improvement.

Mr. Connors asked if the driveway will be re-done.

Ms. Lex stated it is not needed and the existing driveway is concrete.

Ms. Bowler asked how the back yard is currently accessed.

Ms. Lex stated there is a door access through the screened porch.

Ms. Lex stated a letter was provided to Ms. Phillips from a neighbor in support of her request.

Ms. Bowler stated the letter was provided to the Board.

Public Comments:

There were no public comments.

Board Action:

A motion was made by Mr. Harshaw, seconded by Ms. Barhoo, to approve Case D – BOA2022-009 – Variances from Article 4, Section 4.2.B.3, in accordance with the staff report as presented. The motion carried (5-0).

Case E – BOA2022-010 – Variances from Article 6, Section 6.3.G.6.a.i

A request by Christopher Wren (property owner) for a variance from Article 6 (Development Standards), Section 6.3.G.6.a.i (Mobility & Access, Driveway Location and Dimensions) of the Land Development Code (LDC) to reduce the minimum required interior side property line setback for a residential driveway from 5 feet to 0 feet, and to accept the driveway in its current configuration with regard to setbacks, standards, and apron placement. This will allow for the building permit approval of a paver driveway that was installed without a permit, which resulted in Code Enforcement Case CE2022-0155.

The property is located at 125 Botefuhr Avenue, Parcel ID 5316-10-04-0280. The zoning on the property is Single-Family Residential-5 (SFR-5), and the Future Land Use (FLU) on the property is Level 1 Residential (L1-R).

Applicant Presentation:

Christopher Wren, 125 Botefuhr Avenue, Daytona Beach, Florida, stated he and his wife purchased the home and have made improvements. Mr. Wren stated his original plan for his driveway was for a circular driveway which would require the removal of trees and would also require a variance. Mr. Wren stated he did not want to remove the trees since they are the only trees on the property. Mr. Wren stated his plans were for a concrete driveway, but he was unable to get a contractor to do the work. Mr. Wren stated he then had the pavers installed; Mr. Wren stated he has obtained permits for all of the other work that was done on the home but was naive on this situation. Mr. Wren stated there was a ribbon driveway previously in place. Mr. Wren stated landscaping has been added to the area as well. Mr. Wren stated a letter has been provided from his neighbors at 123 Botefuhr who state they have no objections on the placement of the driveway.

Ms. Bowler asked what the penalty is for issuing an after-the-fact permit.

Mr. Gross stated the building permit fees will be doubled.

Mr. Harshaw stated the Wren's are doing a beautiful job on the property.

Public Comments:

Gerard Woodin, 121 Botefuhr, Daytona Beach, Florida stated the Wren's have made something that was an eyesore into an asset, and they should not be penalized.

Phillip Wren, 1620 Crescent Ridge, Daytona Beach, Florida stated the house looks a lot better and is an improvement.

Donna Wren, 121 Botefuhr, Daytona Beach, Florida, stated the house was in disrepair and the new owners have made many improvements and the house is beautiful.

Patricia Olsen, 127 Botefuhr, Daytona Beach, Florida, stated the Wren's are terrific neighbors and have improved the street.

Art Olsen, 127 Botefuhr, Daytona Beach, Florida, stated the Wren's are great neighbors and should be allowed to keep the pavers.

Nanette Durning, 1926 Maryland, stated the property is beautiful and likes the improvements that have been made.

Valerie McClain, 323 Wilder Road, Daytona Beach, Florida stated she lives one block north of this property and appreciates the improvements that have been made and feels the variance should be granted.

Matthew McClain, 323 Wilder Road, Daytona Beach, Florida stated the roof, windows, and driveway have been replaced which makes it a much nicer home.

Virginia Lela, 1219 Botefuhr, Daytona Beach, Florida, stated she objects to this driveway because she was not given the same courtesy. Ms. Lela stated she has beautiful gardens, a beautiful home and driveway. Ms. Lela stated she has one parking space on the front of her property and was not permitted to put in a driveway and does not feel the Wren's should be allowed to keep theirs.

Ms. Bowler asked if Ms. Lela applied for a variance.

Ms. Lela stated no and stated the parking space which went up to the property line has been in place for 28 years. Ms. Lela stated if Mr. Wren was allowed to put in a driveway, she should have been able to as well.

Board Action:

A motion was made by Mr. George, seconded by Mr. Connors, to approve Case E – BOA2022-010 – Variances from Article 6, Section 6.3.G.6.a.i, in accordance with the staff report as presented. The motion carried unanimously (5-0).

Case F – BOA2022-011 – Variance from Article 4, Section 4.2.B.3

A request by Louis A Vigliotti of LAV Engineering, on behalf of Steven M. Dumais (property owner) for a variance from Article 4 (Zoning Districts), Section 4.2.B.3 (Residential Base Zoning Districts) of the Land Development Code (LDC) to reduce the minimum required interior side setback from 7.5 feet to 5 feet. This will allow for the construction of an open-air roof structure, in alignment with the existing home, over the existing rear patio.

The property is located at 1812 North Atlantic Avenue, Parcel ID 4225-05-02-0030. The zoning on the property is Single-Family Residential-5 (SFR-5), and the Future Land Use (FLU) on the property is Level 1 Residential (L1-R).

Applicant Presentation:

Louis Vigliotti, LAV Engineering, 200 Tomoka Avenue, Suite D, Ormond Beach, Florida, spoke representing the applicant. Mr. Vigliotti stated the applicant proposes to construct a rear covered addition to the rear of his house. Mr. Vigliotti stated the structure will be two feet higher than the existing structure and will be non-inhabitable. Mr. Vigliotti stated there must have been a 5-foot setback on the house because that is what is in place so the setbacks must have been amended at some point in time from 7-1/2 feet. Mr. Vigliotti stated what is proposed will be symmetrical to the house.

Ms. Bowler asked what the roof material will be.

Mr. Vigliotti stated the roof will be a rolled roof to match the house.

Public Comments:

Justin Woods, 1880 N. Atlantic Avenue, Daytona Beach, Florida stated he just moved into his house on April 1, 2022 and was unaware of this variance application. Mr. Woods stated he would like some time to review what is proposed before the Board acts on the variance.

Mr. Gross stated Mr. Woods may not have been noticed of this hearing since he just purchased the property. Mr. Gross stated his suggestion would be to continue the case in order to allow the adjacent property owner an opportunity to review what is proposed.

Mr. Vigliotti stated he had no problem with delaying the case in order to discuss the proposed plans with Mr. Woods.

Board Action:

A motion was made by Mr. Connors, seconded by Ms. Barhoo, to continue Case F – BOA2022-011 – Variance from Article 4, Section 4.2.B.3, to the May 19, 2022, Board of Adjustment Meeting. The motion carried unanimously (5-0).

Case G – BOA2022-012 – Variance from Article 4, Section 4.2.B.3

A request by Cobb Cole, on behalf of Homes Bring Hope, LLC (Property Owner), for a variance from Article 4 (Development Standards), Section 4.2.B.3 (Residential Base Zoning Districts) of the Land Development Code (LDC) to reduce the required interior side yard setbacks from 7.5 feet to 5 feet. This will allow for the development of a 1,478sf single family home.

The property is located at 540 Spruce Street, Parcel ID 5338-92-02-0090. 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:

Nikki Hosseini, Cobb Cole, spoke on behalf of the applicant. Ms. Hosseini stated the applicant is trying to build affordable housing in the neighborhood. Ms. Hosseini stated the City Commission recently donated lots to the applicant for construction of affordable housing and the group is now building on those lots. Ms. Hosseini stated the builder proposes one type of plan in order to streamline the building permit process. Ms. Hosseini stated the setbacks differ depending on the width of the lot.

Public Comments:

There were no public comments.

Board Action:

A motion was made by Mr. George, seconded by Mr. Harshaw, to approve Case G – BOA2022-012 – Variance from Article 4, Section 4.2.B.3, in accordance with the staff report as presented. The motion carried unanimously (5-0).

6. **Review Cases**

- Case A - Continued to May 19, 2022, meeting (5-0)
- Case B - Approved (5-0)
- Case C - Approved (5-0)
- Case D - Approved (5-0)

- Case E - Approved (5-0)
- Case F - Continued to May 19, 2022, meeting (5-0)
- Case G - Approved (5-0)

7. **New Business**

Ms. Bowler stated she has not attended a City Commission meeting to discuss the need for filing the vacancies on the Board.

Ms. Phillips stated she has not heard from Ms. Goodman as to whether anyone has applied for the Board.

Ms. Bowler thanked Mr. Gross for his assistance in such a lengthy meeting today.

Mr. Gross stated the Board may want to adopt a guideline for limiting time for people to speak as has been done with other Boards. Mr. Gross stated the Board could also ask people that want to speak to complete a Request to Speak form and then they could be called on to speak by the Chair.

Ms. Bowler stated she would rather put something in place based on the length of the agenda.

8. **Adjournment**

There being no further business, the meeting was adjourned at 3:37 p.m.

Maja Sander Bowler, Chair

Becky Groom, Board Secretary