

BOARD OF ADJUSTMENT
MINUTES OF
REGULAR MEETING
August 18, 2022

The regular meeting of the City of Daytona Beach Board of Adjustment was held on Thursday, August 18, 2022, at 1:00 p.m. in the 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

Board members absent were:

Mr. Trey Harshaw

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 August 18, 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:** June 30, 2022

Board Action:

A motion was made by Ms. Barhoo, seconded by Mr. Connors, to approve the minutes of the June 30, 2022 minutes as presented. The motion carried (4-0).

5. New Cases:

- Case A – BOA2022-014 - Variances from Article 4, Section 4.2.B.3

A request by Stephen Mezzapelle (property owner) for a variance from Article 4 (Zoning Districts), Section 4.2.8.3 (Residential Base Zoning District SFR-5) of the Land Development Code (LDC) to reduce the minimum required interior side property line setback for an accessory structure from 7.5 feet to 1 foot; to reduce the minimum required rear property line setback for an accessory structure from 7.5 feet to 3.4 feet; to reduce the required distance between the accessory structure and primary structure from 5 feet to 0 feet; and to reduce the required rear property line setback for the primary structure from 25 feet to 14 feet. This will allow for after-the-fact Building Permit approval of a 153sf shed and a 417sf covered patio to resolve Code Enforcement case CE2021-1055. The property is located at 1329 Edgewater Road, Parcel ID 5340-17-00-0350.

Applicant Presentation:

Stephen Mezzapelle, 1329 Edgewater Road, Daytona Beach, Florida stated when he and his wife purchased the home, there was an old, rusted shed on the property, which he removed. Mr. Mezzapelle stated a new structure was built on the slab that was in place. Mr. Mezzapelle stated he was not aware of the City's regulations and went ahead and covered his patio as well.

Ms. Barhoo asked if there was any type of hardship associated with the work that was done or did he just go ahead and do the work as stated.

Mr. Mezzapelle stated he knew that the shed that was in place would be destroyed if there was a hurricane, so he built something that was stronger, better, and more secure. Mr. Mezzapelle stated he was also concerned about the shed blowing away and causing damage to other properties.

Mr. Connors stated the photos provided by staff indicate there is a new shed and the patio covering was not there when the home was purchased.

Mr. Mezzapelle stated that is correct.

Mr. George asked if the new shed is the same size as the one that was previously in place.

Mr. Mezzapelle stated what is shown is a shed that is 8 feet by 11 feet, but the shed is actually 10 feet x 12 feet.

Mr. Connors asked the height of the shed.

Mr. Mezzapelle stated he does not know the height, but it is taller than the old shed.

Ms. Bowler stated the Board is also reviewing the covered lanai which has been placed into the setback. Ms. Bowler asked about the pavers that were in place when the home was purchased.

Mr. Mezzapelle stated there were pavers in place when he purchased the home and patio was installed.

Ms. Bowler stated there is an issue with a permit being requested after the work has been done; and it is noted in the report that a neighbor complained which prompted Code Enforcement action. Ms. Bowler stated as she drove through the neighborhood, she noted other neighbors had sheds in similar locations on their properties.

Mr. Mezzapelle stated there was an anonymous call made to Code Enforcement and that is all he knows.

Mr. George stated isn't there a size of shed that will not require approval.

Ms. Phillips stated all sheds require a permit and a shed 200 s.f. or less structure requires a smaller setback.

Mr. Connors asked if the shed is used for traditional uses, such as storing lawnmowers and maintenance equipment.

Mr. Mezzapelle stated it is used for storage for his wife's crafts and will be used as a place where she can work on her crafts.

Mr. Connors asked if there is air conditioning in the shed.

Mr. Mezzapelle stated no but there is a fan inside.

Ms. Bowler asked if staff could confirm that there was a pad prior to the installation of the new shed.

Ms. Phillips stated an old survey did show there was a shed in place. Ms. Phillips stated Page 6 of the staff report shows the aerial view of the block, and the roof of the shed can be seen in the rear left corner of the lot.

Mr. Connors asked if there is a fine in process from the City.

Mr. Gross stated there is an additional fee for an after-the-fact permit. Mr. Gross stated there could be a fine if Code Enforcement action was taken but he does not know if there is a fine at this point.

Ms. Phillips stated there is a Code Enforcement case in process; and Mr. Mezzapelle has been working with his Code Enforcement Officer and Ms. Phillips to get the issue resolved prior to fines being imposed.

Mr. Mezzapelle stated there have been no fines.

Ms. Bowler stated she thought the permit fees would be doubled.

Ms. Phillips stated that is correct and the variance process fee is also doubled; but if the applicant gets an approved permit, that will resolve the Code Enforcement case.

Mr. Connors stated if the variance is not approved, the shed will have to be removed.

Mr. Mezzapelle stated Code Enforcement shows the property is non-compliant; and Code Enforcement directed him to get with Ms. Phillips to request the variance, and a fine would only be imposed if the issue is not resolved.

Ms. Bowler stated if this is approved today, the Code Enforcement action will cease and the penalty to Mr. Mezzapelle will be double the permit fees and double the variance process fee, which has already been paid.

Ms. Phillips stated the variance application fee for Mr. Mezzapelle was \$600 and normally the fee is \$300.

Public Comments:

Tracy Bower, 1328 Ruthbern Road, Daytona Beach, Florida stated she lives directly behind the Mezzapelle property, and she does not have a problem with the placement of the Mezzapelle's shed. Ms. Bower stated utility companies still have access to the easements. Ms. Bower stated the previous owner did have a dilapidated shed on the property.

Board Action:

A motion was made by Mr. George, seconded by Ms. Barhoo, to approve BOA2022-014 – Variances from Article 4, Section 4.2.B.3, in accordance with the staff report as presented. The motion carried (4-0).

- **Case B - BOA2022-015 - Variances from Article 4 Section 4.7.Z**

A request by Paula Reed (property owner) for a variance from Article 4 (Zoning Districts), Section 4.7.Z (Redevelopment Midtown - Residential Preservation, RDM-6) of the Land Development Code (LOG) to reduce the minimum required rear property line setback from 25 feet to 5 feet; and to increase the maximum lot coverage from 35% to 38%. This will allow for the addition of an 867sf attached garage. The property is located at 861 Magnolia Avenue, Parcel ID 5239-03-11-0010.

Applicant Presentation:

Paula Reed, 861 Magnolia Avenue, Daytona Beach, Florida stated currently she parks across the street at her neighbor's home; and she would prefer to have an attached garage so she can safely enter her home. Ms. Reed stated she wants to invest in and improve her home. Ms. Reed stated the garage will be on the left side of her home and she will enter from Adams Street.

Mr. Gross stated if the Board looks at the aerial photo in the packet, a house is under construction on the adjacent vacant lot. Mr. Gross stated the setback will be 15 feet based on the orientation of the building and the fact that this is a corner lot.

Mr. Connors asked if there will be an area for turn-around of a vehicle on the property.

Ms. Reed stated no, there will only be a driveway. Ms. Reed stated the shed that was on the property has been removed and the garage will provide replacement space.

Public Comments:

Ms. Reed stated four of her neighbors are in attendance and all indicated they are in support of this variance request.

Board Action:

A motion was made by Ms. Barhoo, seconded by Mr. George, to approve Case B - BOA2022-015 Variances from Article 4 Section 4.7.Z, in accordance with the staff report as presented. The motion carried (4-0).

- **Case C - BOA2022-016 - Variances from Article 4 Section 4.2.F.3**

A request by Joe Hopkins and The Performance Group, acting on behalf of property owners RE Equity Investment Group, LLC., and Juanny Paulino, for a variance from Article 4 (Zoning Districts), Section 4.2.F.3 (Residential/Professional, R/P) of the Land Development Code (LDC) to reduce the minimum required front property line setback from 25 feet to 8 feet. This will memorialize the current placement of the existing structure and allow it to be considered a conforming structure. The property is located at 736 South Beach Street, Parcel ID 5339-58-01-0010

Applicant Presentation:

Joe Hopkins, The Performance Group, 100 Marina Point Drive, Daytona Beach, Florida spoke on behalf of the property owner. Mr. Hopkins stated the structure has been on the property since 1926. Mr. Hopkins stated the Land Development Code states a non-conforming structure is allowed to remain as long as it is not expanded and that is the case here. Mr. Hopkins stated an addition that was placed on the property several years ago will be removed and will make the structure a little bit smaller. Mr. Hopkins stated there is a change of use from a funeral home to an 18-unit apartment complex. Mr. Hopkins stated the front porch of the structure is 8 feet from the property line and the main base of the structure is 18 feet from the property line. Mr. Hopkins stated the current regulations require a 25-foot setback which makes the existing structure non-conforming. Mr. Hopkins stated the request today is to memorialize the structure as non-conforming and to request a variance in order to allow the structure to remain where it is. Mr. Hopkins stated Residential is a permitted use in this zoning, but staff has requested that the variance be processed in order to note that there is a deficiency in meeting the required setback.

Mr. Gross stated as a non-conforming structure, if there is a catastrophic event, such as a hurricane or a fire, the building could not be reconstructed; but granting the variance will allow the structure to be rebuilt.

Mr. Hopkins stated if the structure is damaged by 65% or more, it would have to come into compliance with all of the current rules and regulations; and by having the variance in place, it will allow for the structure to be rebuilt.

Ms. Barhoo asked if there is an apartment currently upstairs.

Mr. Hopkins stated there is a bathroom and offices and there could have been a proprietor's area. Mr. Hopkins stated the proposed units will be small and will be market rate.

Ms. Bowler stated she is pleased to see the property redeveloped.

Public Comments:

Patricia Wiggins, 116 Bellevue Avenue, Daytona Beach, Florida stated she thought the building was being torn down.

Mr. Gross stated the applicant is not proposing to move the building and it will not be torn down.

Mr. Hopkins stated to Ms. Wiggins that the variance that is requested is for the porch area.

Ms. Wiggins asked about the parking lot and flooding which drains into her yard.

Mr. Hopkins stated the parking lot is paved and there is a depression in the southern portion of the parking lot where it appears a tree may have been removed. Mr. Hopkins stated the entire parking lot will be repaved as part of the renovation and should correct some of the drainage deficiencies.

Ms. Bowler stated the Board is only here to discuss the variance that is requested and believes the city is working on the drainage issues.

Kampta Samlall, 811 S. Beach Street, Daytona Beach, Florida expressed concern about development in a historic district.

Mr. Gross stated he is not sure if this property has been designated as a historic structure and reviewed the historic designation process, noting that Ms. Phillips has indicated that this site is not in one of the City's historic overlays.

Mr. Samlall stated he would not want the building design to change.

Mr. Hopkins stated his office is less than one block from this site and he is familiar with the flooding in the area. Mr. Hopkins stated this project will reduce the impervious surface.

Board Action:

A motion was made by Mr. George, seconded by Ms. Barhoo, to approve Case C - BOA2022-016 - Variances from Article 4 Section 4.2.F.3, in accordance with the staff report as presented. The motion carried (4-0).

6. **Review Cases**

Case A - approved 4-0
Case B - approved 4-0
Case C - approved 4-0

7. **New Business**

Mr. Connors stated the Board had previously discussed a change in time for the regular meetings.

Ms. Bowler stated Ms. Phillips has provided information on available times for meetings in the Commission Chambers; but Ms. Bowler stated she would like to wait until Mr. Harshaw is in attendance before making a decision on changing the meeting time.

Ms. Phillips stated Monday is the only available day for the meeting; but the third Thursday is available all day.

Ms. Bowler stated the Board discussed changing the time to either early in the morning or late in the day.

Mr. Connors stated the time of the meeting could hinder the availability of applicants who may work during the day and not be able to attend in the middle of the day.

Ms. Bowler stated she agrees.

Mr. George stated Thursday any time during the day is fine for him.

Ms. Barhoo stated it would be better for her in the afternoon since she has another Board meeting on Thursdays.

Mr. Connors stated he feels later in the afternoon would be better.

Ms. Bowler stated she would prefer the morning.

Mr. Gross stated Ms. Phillips will inform Mr. Harshaw of the times discussed by the Board.

Ms. Bowler stated she would like to discuss this at next month's meeting.

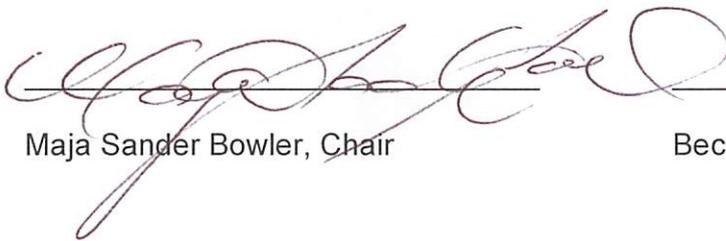
Ms. Phillips asked if the Board would like to consider 3:00 p.m. on the third Thursday.

Ms. Barhoo asked if we are still looking for Board members.

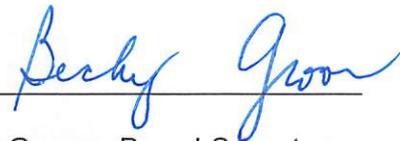
Ms. Phillips stated Zone 2, Zone 6, and the at-large position are vacant.

8. **Adjourned**

There being no further business, the meeting was adjourned.



Maja Sander Bowler, Chair



Becky Groom, Board Secretary