

BOARD OF ADJUSTMENT
MINUTES OF
REGULAR MEETING
January 19, 2023

The regular meeting of the City of Daytona Beach Board of Adjustment was held on Thursday, January 19, 2023, 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. David Betz
Mr. Patrick Connors
Mr. Trey Harshaw

Board Members absent were as follows:

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**

Ms. Bowler called the January 19, 2023, 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:** December 15, 2022

Board Action:

A motion was made by Ms. Barhoo, seconded by Mr. Harshaw, to approve the minutes of the December 15, 2022 minutes as presented. The motion carried (5-0).

5. New Cases:

Case A – BOA2023-001 - Variance from Article 6, Section 6.8.C.4.a

A request by Tom Kaphingst (property owner), for a variance from Article 6 (Development Standards), Section 6.8.C.4.a (Fences, Walls, and Hedges) of the CODB Land Development Code (LDC) to increase the permitted fence height between the front property boundary and the front wall of the structure from 4 feet to 6 feet. This will allow a 6-foot-high fence to be erected around the property perimeter. The property is located at 934 North Halifax Avenue, Parcel ID 5305-01-19-0160.

Applicant Presentation:

Tom Kaphingst, 934 North Halifax Avenue, stated he wants to put up a bigger fence around his property and wants to make all the fencing look the same.

Mr. Harshaw stated he visited the property and asked if the fence will be on the inside or outside of the Oak trees that are on the property.

Mr. Kaphingst stated the Oak trees are on his property on the north side and there already is a fence there; however, on the south side of the driveway, there is no fence. Mr. Kaphingst stated he wants to fence the north lot line.

Mr. Harshaw asked if he would be placing a fence on the front of the house up to the easement.

Mr. Kaphingst stated he was not planning on it but he may in the future.

Mr. Harshaw stated he misunderstood Mr. Kaphingst's intentions on the fence location.

Ms. Bowler stated she also misunderstood.

Ms. Phillips stated Mr. Kaphingst is asking for approval for everything in the event the neighbors change and he wants to place a fence in that area, he will not have to come back to the Board for an additional request.

Mr. Kaphingst stated he gets along great with the neighbors that abut the area that is not fenced. Mr. Kaphingst stated it would also be difficult to maneuver vehicles if a fence is placed in that area.

Mr. Harshaw asked if Mr. Kaphingst plans to place a gate on the fence.

Mr. Kaphingst stated he could place a gate there, but he does not see the need.

Mr. Connors asked if the fence that already exists is Mr. Kaphingst's or his neighbor's.

Mr. Kaphingst stated some of it is his and some belongs to the neighbor. Mr. Kaphingst stated there is a property on each side and the driveway is down the center; and the fence belongs to the property owner on the north side; and the fencing on the south side of the property is Mr. Kaphingst's.

Mr. Gross stated Page 2 of the staff report shows the survey of the property. Mr. Gross stated the Land Development Code requires that any portion of the fence to the front of the lot must be 4 feet.

Ms. Bowler stated he would be allowed to put a 6 foot fence on the rest of the property.

Mr. Gross stated yes, if it is rearward of the property frontage or the front plane of the building.

Mr. Kaphingst stated based on the way the property is laid out, he feels like he has no front yard but the definition says he does.

Mr. Betz asked if Mr. Kaphingst intends to build at any time a fence along the 10 foot easement.

Mr. Kaphingst stated he does not.

Mr. Gross stated this Board could not grant approval for an individual to place a fence over an easement.

Mr. Harshaw asked if Mr. Kaphingst will be using a wood privacy fence.

Mr. Kaphingst stated yes.

Public Comments:

Jeannine Angelotti, 21 University, Daytona Beach, Florida stated she has lived in her home which is next to Mr. Kaphingst's for 20 years and Mr.

Kaphingst purchased his home about 6 years ago. Ms. Angelotti stated her home is on a sand dune and the property is low. Ms. Angelotti stated at one time she did have a Coquina rock wall and 30-year-old trees that supported the sand dune. Ms. Angelotti stated since that is Mr. Kaphingst's front yard and her back yard, she does not go to that portion of her property. Ms. Angelotti stated at one time, she did have a privacy fence there which was taken down with a chain saw. Ms. Angelotti stated she has tarps in place because she is in the process of rebuilding her sand dune. Mr. Angelotti stated she is in agreement with Mr. Kaphingst placing a 6-foot fence there, but she requests that the fence not go near her Coquina rock wall since she is the process of rebuilding the sand dune. Ms. Angelotti stated the Coquina rock wall should have been granted in as has everyone else's to hold the property up. Ms. Angelotti stated someone has been removing the wall and there should not be anymore take out than what already has. Ms. Angelotti stated the other properties have either brick or Coquina walls which have stayed intact but hers is deteriorating.

Mr. Gross stated the fence can be placed on the property line; and Mr. Kaphingst could place a 4-foot fence with no approval required from this Board on his property line.

Ms. Angelotti stated if there is a Coquina rock wall there, he cannot put a fence in it.

Mr. Gross stated the City would not get involved in boundary disputes between neighbors. Mr. Gross asked if the Coquina wall could possibly encroach onto Mr. Kaphingst's property.

Ms. Angelotti stated her property aligns straight with the Coquina rock wall and her property line is the rock wall. Ms. Angelotti stated AAA Fence told her when they installed her fence that it had to be 6" away from her property line.

Mr. Gross stated he suspects the reason she was told that by the contractor is because, even though the property owner has the right to place the fence on the property line, the owner may not have the right to step on the neighbor's property in order to maintain their fencing. Mr. Gross stated usually a fence may be moved in from the property line as a courtesy between neighbors.

Mr. Harshaw asked Mr. Kaphingst if he sees an issue with the Coquina wall.

Mr. Kaphingst stated it is on the property line and it is not straight. Mr. Kaphingst stated he understands Ms. Angelotti's concern about erosion and he will take due diligence to not cause any further erosion.

Ms. Bowler asked if Mr. Kaphingst intends to remove any piece of the Coquina wall.

Mr. Kaphingst stated he does not intend to remove any of the Coquina wall.

Mr. Harshaw encouraged Mr. Kaphingst to coordinate with his neighbor because there may be a concern in the future regarding fence maintenance. Mr. Harshaw stated a lot of soil placed up against the fence may cause the wood to rot.

Mr. Gross stated if he does not coordinate with his neighbor and the dune is constructed, there may be a maintenance issue with the fence since it may not be able to support the wall.

Mr. Kaphingst stated he will work according to where the survey indicates the lot line is located and intends to have the fence at least a few inches away from the property line, but the fence will be close to the wall.

Ms. Bowler asked Ms. Angelotti if that is agreeable to her and stated she feels Ms. Angelotti does not want the wall removed.

Ms. Angelotti stated that is fine. Ms. Angelotti stated she does not anticipate placing a lot of dirt in there. Ms. Angelotti stated she wants to be a team player. Ms. Angelotti stated the fence will benefit her also.

Ms. Bowler asked if the survey markers are in place and if they involve the Coquina wall.

Mr. Kaphingst stated they are in place and noted there is Coquina wall all around the property. Mr. Kaphingst stated the markers are close to the Coquina wall.

Board Action:

A motion was made by Mr. Connors, seconded by Ms. Barhoo, to approve Case A – BOA2023-001 - Variance from Article 6, Section 6.8.C.4.a, as presented. The motion carried (5-0).

Case B – BOA2023-002 – Variance from Article 6, Section 6.8.C.4.a

A request by Garret Cavanaugh of D.R. Horton Home Builders on behalf of ADJ Champions Quarters LLC and D.R. Horton Inc. (property owners), for a variance from Article 6 (Development Standards), Section 6.8.C.4.a (Fences, Walls, and Hedges) of the CODB Land Development Code (LDC) to increase the permitted fence height along the rear property boundary from 6 feet to 8 feet. This will allow an 8-foot-high fence to be erected along the rear property boundaries of lots 1-20, which abut an existing single-family neighborhood. The properties are located on Wicker Way, lots 1-20, in the newly developed subdivision Champions Quarters.

Applicant Presentation:

The applicant was not in attendance; therefore, the Board agreed to continue this case to the February 16, 2023, meeting.

Board Action:

A motion was made by Ms. Barhoo, seconded by Mr. Harshaw, to continue Case B, BOA2023-002 – Variance from Article 6, Section 6.8.C.4.a, to the February 16, 2023, meeting. The motion carried (5-0).

6. **Review of Cases**

Case A - approved (5-0)
Case B - continued to the February 16, 2023, meeting

7. **New Business**

There was no new business to discuss.

8. **Adjournment**

There being no further business, the meeting was adjourned.



Maja Sander Bowler, Chair



Becky Groom, Board Secretary