

BO ARD OF ADJUSTMENT
MINUTES OF
REGULAR MEETING
March 16, 2023

The regular meeting of the City of Daytona Beach Board of Adjustment was held on Thursday, March 16, 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. John George
Mr. Trey Harshaw

Staff members present were as follows:

Ms. Melissa Phillips, Development Review Technician
Mr. Ben Gross, Deputy City Attorney

1. **Call to Order**

Ms. Bowler called the March 16, 2023, Board of Adjustment Meeting to order at 1:00 p.m.

2. **Roll Call**

Ms. Phillips 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 16, 2023

Board Action:

A motion was made by Mr. Harshaw, seconded by Ms. Barhoo, to approve the minutes of the February 16, 2023, minutes as presented. The motion carried (6-0).

5. **New Cases:**

Case A – BOA2023-006 - Variances from Article 4, Section 4.2.C.3

A request by Aras Grinius, on behalf of Vickers Beach Bryan (property owner), for variances from Article 4 (Zoning Districts), Section 4.2.C.3 (Residential Base Zoning Districts, Multifamily Residential-12) of the CODE Land Development Code (LDC) to decrease the required setbacks and standards for a detached accessory structure. This request will decrease the required rear yard setback of 7.5 feet to 1.2 feet; decrease the required side yard setback of 7.5 feet to 3 feet; and increase the maximum floor area in the rear yard from 200sf to 520sf. This will allow an existing 350sf detached garage to be rebuilt and expanded to 520sf. Location of structure as shown in proposed site plan.

The property is located at 546 Rio Vista Avenue, Parcel ID 5338-18-01-0050.

Applicant Presentation:

Aras Grinius, 546 Rio Vista Avenue, Daytona Beach, Florida stated the building was constructed almost 100 years ago and has been modified and does not meet code. Mr. Grinius stated the building has deteriorated and he would like to rebuild it in the same location and expand it to 500 s.f. Mr. Grinius stated there is a two-car garage and there is a separate out-building that was constructed in 1924. Mr. Grinius stated this would be the last improvement to the property and he would like to make it large enough to store his boat. Mr. Grinius stated his home was the first constructed in the neighborhood and there were no setback requirements at that time. Mr. Grinius stated the previous structure was 18' x 20' and the proposed structure is 20' x 26'.

Ms. Phillips stated the structure will increase in size from 350 s.f. to 520 s.f.

Mr. Betz stated the building has some particular designs that match the house and asked if that will be included when the garage is rebuilt.

Mr. Grinius stated he was not planning on doing that but if the Board wants it included, he will.

Mr. Harshaw asked how tall the building would be.

Mr. Grinius stated it will not be any higher than the existing structure, noting the garage door will be 10 feet high and the roof will be on top of that.

Ms. Bowler asked if the structure was attached, would the setbacks be different.

Ms. Phillips stated the setback would be 25 feet from the rear property line for that zoning district.

Mr. Grinius stated he spoke with his neighbors, and none have had an objection to the proposed structure.

Public Comments:

There were no public comments.

Board Action:

A motion was made by Mr. Betz, seconded by Mr. George, to approve BOA2023-006 - Variances from Article 4, Section 4.2.C.3, as presented, with the condition that the design of the building match the quoins that are on the existing garage. The motion carried (6-0).

Case B - BOA2023-003 Variances from Article 4 Section 4.2.B.3

A request by Anthony Guerra (property owner), for a variance from Article 4 (Zoning Districts), Section 4.2.B.3 (Residential Base Zoning Districts, Single-Family Residential-5) of the CODB Land Development Code (LDC) to decrease required 5,000sf minimum lot area to 4,072sf; to decrease the required 50ft minimum lot width to 45ft; to decrease the required 100 ft minimum lot depth to 90ft; to decrease the minimum 50ft lot frontage on an improved street to 45ft; and to decrease the required 10 ft minimum interior side yard setback on a lot greater than 60ft wide to 3.4ft. This will allow for this existing single parcel to be split into two separate parcels.

The property is located at 318 Flushing Avenue, Parcel ID 4236-03-07-0050.

Applicant Presentation:

Anthony Guerra, 318 Flushing Avenue, Daytona Beach, Florida stated the property is one oversized parcel; and the reason for the variance is if the property was split down the middle, it would impede into the driveway and through the carport. Mr. Guerra stated splitting the property in half would require the carport to be demolished.

Ms. Bowler asked if Mr. Guerra has placed any of the non-conforming structures on the property.

Mr. Geurra stated the home is almost 100 years old; and the things that are on the property were there when he purchased the house.

Ms. Bowler asked if the structures would remain.

Mr. Guerra stated he hopes he does not have to remove the carport unless it is a requirement from the Board.

Mr. Betz asked if the intent is to sell the vacant lot once the property is split.

Mr. Guerra stated he does not know if he will sell the lot or build a separate home for his in-laws, but he would like to have another structure on the lot.

Mr. Betz asked where the camper and boat will be parked if the property is split.

Mr. Guerra stated the camper will be moved to storage in Winter Park and the boat will remain in the driveway.

Mr. Betz stated he feels if a new house is placed on the vacant lot if this is approved, he does not feel there should be any variances associated with that property and the new structure.

Ms. Bowler stated if this property is split, this would be two of the smaller properties in the neighborhood. Ms. Bowler stated she is concerned there may be requests in the future for variances for these smaller lots.

Mr. Gross stated Page 3 of the staff report indicates the split lot would be 45 feet; and that would not comply with minimum front lot width.

Ms. Phillips stated this would create a non-conformity.

Ms. Bowler asked Mr. Geurra if his intention when he purchased the property was to split the lots.

Mr. Guerra stated it is something he should have looked into further before purchasing the property; but he was hoping he could split the lot and develop the property. Mr. Guerra stated it is his understanding if the variance is approved, he could build a separate residence there but it would have to be compliant.

Ms. Phillips stated the minimum lot width would not have to be met as long as all the other design standards and setbacks are met.

Mr. Harshaw asked what could be built on this lot.

Ms. Phillips stated there would have to be a minimum 5 foot setback on each side and front and rear setbacks would be 25 feet.

Ms. Bowler stated she is concerned there is no garage which will create street parking.

Mr. Harshaw stated he is concerned about parking. Mr. Harshaw stated the existing house does not have a garage and there will probably not be one on the vacant lot; and he feels approval may add to the existing problem of on-street parking.

Mr. Guerra stated he has a long driveway and does not have to park on the street.

Ms. Phillips stated if a garage is not provided, parking for 2 vehicles will be required. Ms. Phillips stated this property would be very close in being able to provide parking space.

Mr. Guerra stated he will make it fit and will not be requesting other variances.

Ms. Bowler stated she does not think the Board could ask that there not be any future variances since that would be something a future Board may have to address.

Mr. Gross stated that is correct.

Mr. Harshaw stated a future landowner of the property may not be aware of the requirements for a future lot and may potentially request variances.

Mr. Gross stated a restricted covenant could be placed with the Property Appraiser Office regarding the development of the lot for any future property owners.

Ms. Bowler asked if the non-confirming structures would go across the lot line once the lots are split.

Ms. Phillips stated it is split the way it is proposed so there are no encroachments.

Mr. Gross asked if the lot is split, will the carport become conforming.

Ms. Phillips stated it would be conforming on the side setback.

Public Comments:

There were no public comments.

Board Action:

A motion was made by Mr. Betz, seconded by Mr. Connors, to approve BOA2023-003 Variances from Article 4 Section 4.2.B.3, in accordance with the staff report as presented, with a condition requiring that prior to recording of the lot split a restricted covenant be placed on the new lot requiring that all development standards for that lot be met, in accordance with the City Attorney's approval, except for the lot frontage; and the last item in the staff report regarding the side yard setback apply to the existing structures on the property. The motion carried (6-0).

Mr. Guerra thanked Ms. Phillips for all of her assistance during this process and stated she is a tremendous asset to the city.

Case C – BOA2023-007 – Variances from Article 4, Section 4.7.U.3 & Article 6, Section 6.3.G.6

A request by Wilfredo Guzman of As Built Florida, on behalf of Erinogert Zhutaj (property owner), for variances from Article 4 (Zoning Districts), Section 4.7.U.3 (Redevelopment Base Zoning Districts, Midtown Center Mixed Use - RDM-1) of the CODB Land Development Code (LDC) requirements for a single-family structure, to decrease the required 5,000sf minimum lot area to 2,400sf; to decrease the required 10ft minimum front yard setback to 6.6ft; to decrease the required 5ft minimum interior side yard setback to 0ft; and to increase the maximum 35% accessory structure coverage in relation to the primary structure to 68%. The applicant also seeks variances from CODB LDC Article 6 (Development Standards) Section 6.3.G.6 (Mobility & Access, Driveway Locations 4& Dimensions) requirements for a singlefamily structure/use, to decrease the required 12ft minimum driveway width at point of entry to 9.8ft; and to decrease the required 5ft minimum driveway setback from the interior side property line to 0ft. This approval will allow for the following structures, installed/constructed on property without building permit submission or approval, to remain as built: a 120sf addition to the existing, nonconforming home, a 445sf detached carport, and an approximately 990sf concrete slab and driveway.

The property is located at 542 Foote Court, Parcel ID 5339-21-01-0081. The current zoning on the property is Midtown Center Mixed Use (RDM-1).

Applicant Presentation:

Wilfredo Guzman, As Built Florida, spoke on behalf of the property owner who contacted him to secure permits to do the work at the subject property; however, the property does not meet the minimum requirements. Mr. Guzman stated the only solution is to apply for a variance so the structures can be built.

Ms. Bowler stated she would like to know why there are structures on the property that were built without permits.

Erinogert Zhutaj, property owner, stated he just went ahead and built the structures without permits just like everyone else.

Mr. Connors asked if the intent is to completely remove the carport and completely rebuild onto the current home structure.

Mr. Guzman stated what is proposed does not comply with the setbacks and easements. Mr. Guzman stated if the variance is granted, the owner is willing to build everything by code and pull permits.

Mr. Connors expressed concern about the proximity of the structures, yet the staff report indicates there is no concern for health and safety if this request is approved.

Mr. Gross stated the provisions of the Building Code and Fire Codes would not be waived by this variance. Mr. Gross stated the variance will allow the applicant to apply for building permits, and at that point, it will be determined through the permit review process if the structures will meet current code requirements.

Mr. Betz asked what Mr. Guzman will do as the contractor to see that the structures comply with the codes.

Mr. Guzman stated he will meet with the applicant and structural analysis will be done to determine what needs to be removed.

Mr. Gross stated much of the existing building will need to be removed in order to comply with building permit requirements; but permits cannot be applied for until the variance is granted regarding the setbacks.

Mr. Harshaw asked about impervious surface area.

Ms. Phillips stated the applicant will have to show the drainage pattern.

Mr. Betz stated he feels better plans should be provided that would show what will be there in the future as opposed to the Board addressing the variances on what is in place.

Mr. Gross stated the variance request will not waive Building Code and Fire Code requirements.

Mr. Guzman stated other lots in the area do not comply.

Ms. Bowler stated she is not hearing an argument for hardship for things that have been done on this property.

Public Comments:

There were no public comments.

Board Action:

A motion was made by Mr. Betz to approve BOA2023-007 - Variances from Article 4, Section 4.7.U.3 & Article 6, Section 6.3.G.6, except for Item 2 relating to the deck on the east property line; and Item 3 relating to the carport; and the fence at the rear of the property be removed back to the property owner's property line; and the applicant may want to provide better drawings for the other items outlined in the variance request. The motion failed for lack of a second.

Mr. Harshaw stated he could not support this request.

Mr. Connors stated he would prefer for the applicant to bring back better plans for this request.

Mr. Guzman stated he could provide a site plan and scope of work.

A motion was made by Mr. Harshaw, second by Mr. Connors, to continue BOA2023-007 - Variances from Article 4, Section 4.7.U.3 & Article 6, Section 6.3.G.6, to allow the applicant to provide a more detailed site plan for the concrete drive and the rear of the building, the carport, the deck, and the impervious surface and how they would fit into the overall plan for the property. The motion carried (6-0).

Case D - BOA2023-008 Variances from Article 4 Section 4.2.B.3

A request by George Symington (property owner) for variances from Article 4 (Zoning Districts), Section 4.2.B.3 (Residential Base Zoning District SFR-5) of the Land Development Code (LDC) to reduce the minimum required rear property line setback for an accessory structure over 200sf from 25ft to 10ft; to reduce the required minimum street side setback from 15ft to 10ft; and to reduce the required minimum distance between a primary and accessory structure from 5ft to 2.5ft. This will allow for the construction of a 560sf detached garage.

The property is located at 928 Benecia Avenue, Parcel ID 5239-09-00-0240.

Applicant Presentation:

George Symington, 928 Benecia Avenue, stated a variance was previously approved by the Board of Adjustment. Mr. Symington stated his contractor did not provide him with plans for construction of the shed. Mr. Symington stated he was able to locate another contractor who suggested placing the structure in another location.

Ms. Bowler asked if this structure will be the same size as the one previously approved by the Board.

Mr. Symington stated it is narrower and slightly longer, approximately 20 to 30 sf larger. Mr. Symington stated the structure will match the colors of the house.

Public Comments:

There were no public comments.

Board Action:

A motion was made by Mr. Harshaw, seconded by Ms. Barhoo, to approve BOA2023-008 Variances from Article 4 Section 4.2.B.3, in accordance with the staff report as presented. The motion carried (6-0).

Case E - BOA2023-009 Variances from Article 4 Section 4.2.C.3

A request by Alan Lootens (property owner) for variances from Article 4 (Zoning Districts), Section 4.2.C.3 (Residential Base Zoning District, Multifamily Residential-12, MFR-12) of the Land Development Code (LDC) for a single family structure, to reduce the required minimum lot area from 6,000sf to 5,800sf; to reduce the required minimum lot frontage on an

improved street from 50ft to 0ft; to increase the maximum lot coverage from 35% to 37%; to reduce the required minimum front yard setback from 20ft to 0ft; and to reduce the required minimum interior side yard setback from 7.5ft to 2ft. This will allow the existing 100x114/110 parcel containing two dwelling units to be split into two separate, single dwelling unit parcels.

The property is located at 255 Lexington Drive, Parcel ID 5338-06-00-0360.

Applicant Presentation:

Alan Lootens, 255 Lexington Drive, Daytona Beach, stated he is trying to improve the property by creating two parcels and the separate unit will be a rental property.

Mr. Betz stated he is within the notification zone of this property but does not have any expectation that this will have any effect on his property value.

Mr. Gross stated Mr. Betz' vote on this item will not constitute a conflict.

Mr. Harshaw asked Mr. Lootens if he lives at this property.

Mr. Lootens says he does not, but he wants to be part of improving the area.

Mr. Harshaw questioned the 2-foot side yard setback.

Mr. Gross stated the intent is to make the structure a conforming structure.

Ms. Bowler asked if this could be developed into duplexes or other multi-family structures.

Mr. Gross stated the zoning would not permit it.

Public Comments:

Florentine Vicilio, 284 Lexington Drive, Daytona Beach, Florida stated he lives near this property, and he supports the applicant's request.

Board Action:

A motion was made by Mr. Connors, seconded by Mr. Harshaw, to approve BOA2023-009 Variances from Article 4 Section 4.2.C.3, in accordance with the staff report as presented. The motion carried (6-0).

Mr. Lootens thanked Ms. Phillips and staff for their efforts on behalf of this request.

Case F - BOA2023-010 Variances from Article 4 Section 4.2.B.3

A request by Sheron and Vernon Weatherholtz (property owners) for variances from Article 4 (Zoning Districts), Section 4.2.B.3 (Residential Base Zoning District SFR-5) of the Land Development Code (LDC) for a single-family structure, to reduce the minimum required rear property line setback from 25ft to 20ft; and to reduce the required minimum interior side setback from 10ft to 7.5ft. This will allow for a 550sf addition to the left rear of the existing home.

The property is located at 3 Granville Circle, Parcel ID 5322-14-00-0110.

Applicant Presentation:

Vernon Weatherholtz, 3 Granville Circle, Daytona Beach, Florida stated the house was built in 1957 and was annexed by the City from Volusia County. Mr. Weatherholtz stated he is proposing to enlarge the bedroom and bath area as well as adding a room. Mr. Weatherholtz stated it is a brick house and the addition will be stucco.

Mr. Connors asked about the shed on the property.

Mr. Weatherholtz stated it was existing when he bought the house.

Public Comments:

There were no public comments.

Board Action:

A motion was made by Mr. Harshaw, seconded by Ms. Barhoo, to approve BOA2023-010 Variances from Article 4 Section 4.2.B.3, in accordance with the staff report as presented. The motion carried (6-0).

Mr. Weatherholtz complimented staff for their support during this process.

6. **Review Cases**

Case A – BOA2023-006	-	approved 6-0
Case B – BOA2023-003	-	approved 6-0

Case C - BOA2023-007 - continued
Case D – BOA2023-008 - approved 6-0
Case E – BOA2023-009 - approved 6-0
Case F – BOA2023-010 - approved 6-0

7. **New Business**

Ms. Bowler stated she was originally opposed to this meeting time; but with so many cases on the agenda today, it gave her an opportunity to have time to view properties in the morning. Ms. Bowler suggested leaving the meeting time at 2:30 p.m. for another 3 months unless someone suggested another time. The Board agreed to continue the meetings at 2:30 p.m. for another 3 months.

Mr. Betz stated he will not be in attendance at the next meeting.

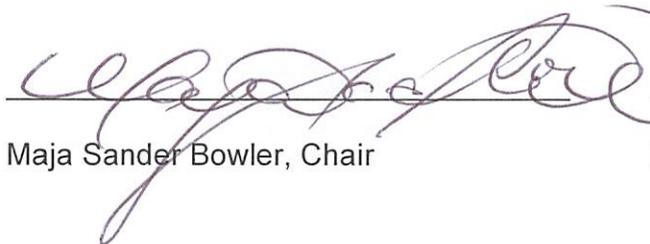
Mr. Connors stated he will not be in attendance at the next meeting.

Ms. Barhoo stated she will not be in attendance at the June meeting.

Ms. Bowler stated she will not be able to attend the May meeting.

8. **Adjournment**

There being no further business, the meeting was adjourned.


Maja Sander Bowler, Chair


Becky Groom, Board Secretary