

BOARD OF ADJUSTMENT
MINUTES OF
REGULAR MEETING
August 17, 2023

The regular meeting of the City of Daytona Beach Board of Adjustment was held on Thursday, August 17, 2023, at 2:30 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. David Russell, Assistant City Attorney
Ms. Becky Groom, Board Secretary

1. **Call to Order**

Ms. Bowler called the August 17, 2023, Board of Adjustment Meeting to order at 2:35 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 15, 2023

Board Action:

A motion was made by Mr. Harshaw, seconded by Mr. Betz, to approve the minutes of the June 15, 2023, meeting as presented. The motion carried (5-0).

5. **New Cases**

Case A – BOA2023-017- Variances from Article 6, Section 6.8.C.4 of the CODB LDC

A request by Chris Darling, representing Gov Daytona, LLC, (Property Owner) for a variance from Article 6) Development Standards), Section 6.8.c.4.a (Fences, Walls, and Hedges – Height) of the CODB Land Development Code (LDC) to increase the maximum fence height permitted on a parcel from 6 feet to 8 feet.

This will allow an 8 foot high fence to be placed around portions of the parcel in compliance with government agency security standards.

The property is located at 370 North Clyde Morris Boulevard, Parcel ID 5238-55-00-0020.

Application Presentation:

Randy Hudak, Zev Cohen & Associates, 300 Interchange Blvd., Ormond Beach, Florida, stated he was in attendance to answer any questions the Board may have.

Mr. Connors stated he understood the 8 foot high fence is a requirement of the Federal government that there be an 8 foot high fence around their facilities.

Mr. Hudak stated the 8 foot high fence is required due to the intended use of the facility, not Federal government in general.

Chris Darling, HC Government Realty Trust, 1562 Charthouse Court, Mt. Pleasant, South Carolina, stated the use is for a law enforcement agency; and if the variance is not approved, the agency would not locate at this site.

Mr. Connors asked if there will be restrictions on who can purchase adjacent parcels.

Mr. Darling said no. Mr. Darling stated the subject parcel has been purchased from the hospital and there are no requirements that affect the other parcels around it.

Ms. Bowler asked if the applicant should leave the property, could the next owner place an 8 foot high fence on this site.

Ms. Phillips stated the variance runs with the land; but a stipulation could be placed in the approval that this variance would only be for this use.

Mr. Darling stated he has a letter from the agency that states the 8 foot high fence is their security requirement which he could provide to the City.

Public Comments:

There were no public comments.

Board Action:

A motion was made by Mr. Connors, seconded by Mr. Betz, to approve BOA2023-017 - Variances from Article 6, Section 6.8.C.4 of the CODB LDC, in accordance with the staff report as presented, with the stipulation that if there is a change in the use type of the property from this government use, the variance does not continue with the property. The motion carried (5-0).

Case B – BOA2023-015 - Variances from Article 4, Section 4.2.F.3 the CODB LDC

A request by Yuri Miranda (property owner) for variances from Article 4 (Zoning Districts), Section 4.2.F.3 (Residential Base Zoning Districts, Residential/Professional) of the CODB Land Development Code (LDC) for a duplex structure to increase the maximum lot coverage from 35% to 38%, to decrease the minimum front yard setback from 25 ft. to 23.6 ft., and to decrease the minimum rear yard setback from 25 ft. to 16.4 ft.

This will allow a newly constructed duplex (constructed with an approved building permit) and an attached composite roof screen room and shed (constructed without approved building permits) to exceed the noted design standards.

The property is located at 223 North Peninsula Drive, Parcel ID 5305-08-07-0040.

Applicant Presentation:

Yuri Miranda, 223 North Peninsula Drive, Daytona Beach, Florida property owner, stated there was a slab there so he proceeded with the roof. He said he met the minimum setback of 8 feet on both sides of the shed.

Ms. Phillips stated the shed does meet setbacks, but all of the structures exceed the lot coverage.

Mr. Harshaw stated there were dilapidated structures on the property which were demolished and then the property was purchased by Mr. Miranda. Mr. Harshaw stated the city approved building the duplex. Mr. Harshaw asked if the front setback was an error in measurements made by the builder.

Ms. Phillips stated she believes so.

Mr. Harshaw stated the slab was approved and then Mr. Miranda placed a hard roof over the slab; and setbacks have not been met as a result.

Ms. Phillips stated that is correct. Ms. Phillips stated Mr. Miranda submitted a revision for the roof and the revision was rejected since it did not meet the setbacks.

Ms. Bowler asked if he was denied the revision and went ahead and built the roof.

Ms. Phillips stated that is her understanding.

Mr. Harshaw stated Mr. Miranda should have secured a permit for the shed but he did not.

Ms. Phillips stated that is correct.

Mr. Harshaw stated the shed does meet the setback requirements. Ms. Phillips stated the fence is on the property line; and in some cases, it is encroaching onto the city right of way. Ms. Phillips stated the rear fence is on the property line.

Mr. Connors asked if Mr. Miranda knew he should not proceed since the revision was denied.

Mr. Miranda stated by that time, the work was already done. Mr. Miranda stated he thought the revision would be approved; but when it wasn't he

felt he should ask for the variance. Mr. Miranda stated he was concerned about water flow on the property without the roof being in place.

Mr. Connors stated if this was a screen roof, it would not be a problem.

Ms. Bowler asked if the roof is built to code.

Ms. Phillips stated if the variance is approved, the roof will be inspected.

Ms. Bowler stated she is concerned about the fees. Ms. Bowler asked if Mr. Miranda would be willing to withdraw his request to receive reimbursement for the fees if the variance is approved.

Ms. Phillips stated Mr. Miranda paid \$450 for the variance process and \$450 for the after-the-fact permit issue. Ms. Phillips stated what Ms. Bowler is suggesting is that Mr. Miranda withdraw his request to be reimbursed for the after-the-fact permit fee.

Mr. Miranda stated yes.

Mr. Betz stated the front setback on the property is the same as the other houses in the area. Mr. Betz stated what has been done is an improvement in the neighborhood; and he is in support of the request, pending Mr. Miranda does not request reimbursement of the after-the-fact permit fees.

Mr. Harshaw stated Mr. Miranda has made a great improvement to the property and stated he does not think the fence is an issue. Mr. Harshaw stated he agrees that the request to reimburse the fees should be withdrawn.

Public Comments:

Tom Halstead, 226 N. Peninsula, Daytona Beach, Florida stated he appreciates what Mr. Miranda has done for the neighborhood and hopes the variance is approved.

Board Action:

A motion was made by Mr. Harshaw, seconded by Ms. Barhoo, to approve BOA2023-015 - Variances from Article 4, Section 4.2.F.3 the CODB LDC, including the stipulation that the request to reimburse the after-the-fact permit fees be withdrawn. The motion carried (4-1) with Mr. Connors voting nay.

7. **Review Cases:**

- Case A - approved 5-0
- Case B - approved 4-1 (Mr. Connors voting nay)

8. **New Business:**

The Board stated they will discuss the meeting time for future meetings when the entire Board is in attendance.

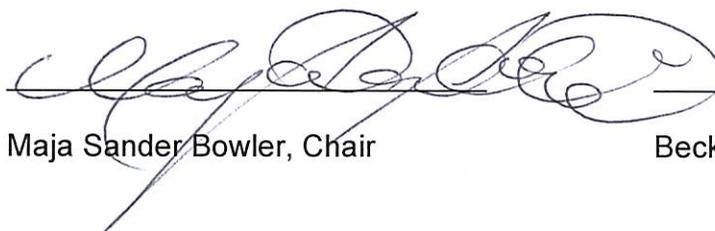
The Board discussed the need to have the City Commission fill the vacancies on the Board. Ms. Bowler and Mr. Harshaw indicated they may attend a future City Commission meeting to address their concerns about the vacancies on the Board.

Ms. Phillips stated there are vacancies in Zones 2 and 6 for the Board.

Mr. Connors stated he feels a letter from the Board should be sent to the City Commission indicating the Board's concern about the vacancies that have not been filled.

9. **Adjournment**

There being no further business, the meeting was adjourned.


Maja Sander Bowler, Chair


Becky Groom, Board Secretary