

Meeting of the Board of Adjustment of the Town of Ocean Ridge, Florida held on Wednesday, Sept. 10, 2008 at 8:30 AM in the Town Hall meeting chambers.

The meeting was called to order by Chairman Hanna and roll call was answered by the following:

Gail Adams Aaskov Bernd Schulte
Bruce Gimmy Chairman Hanna

Atty Spillias was present representing the Town.

III. **APPROVAL OF MINUTES FROM May 14, 2008**

Mr. Schulte moved to adopt the minutes from May 14, 2008 as presented. Mr. Gimmy seconded the motion.

Motion carried – Yea (4).

VI. **VARIANCE REQUESTS**

1. An application submitted by Gabrielle Pearce, 6019 North Ocean Blvd., Ocean Ridge FL 33435, requesting a variance from the provisions of the Land Development Code, Chapter 63, General and Administrative Provisions, Article VII; Nonconforming and Grandfathered Uses, Section 63-117; Grandfathered uses, lots and structures, (d) grandfathered structures, (1) alteration, extension, enlargement or expansion and Chapter 64, Zoning, Article I; District Regulations, Section 64-1; RSF and RSE Single-Family Residential District, Paragraph (h); Floor Area Calculations (1) Second floor area shall not exceed 75% of the first floor and Paragraph (j); RSE development regulations (2)(b) minimum 15' side yard setback requirements - to permit the construction of a 191 sq ft single-car garage that would encroach a maximum of 9' into the south side setback and the existing 2nd story is already 117.3% of the 1st story and would still exceed the 75% requirement with the proposed addition by remaining 106.3% of the 1st story. This would expand on an existing grandfathered structure. The property is located at 6019 North Ocean Blvd. and described as Lot 9, Block 9 of Boynton Sub Amended Subdivision (exact legal description located at Town Hall)

Town Clerk Hancsak read the variance request, and added that all original fees had been paid and that no additional correspondence had been received. The board members disclosed that they had driven past the site and did not have any contact with the applicant. All individuals planned on giving testimony were sworn in.

Due to the fact that there were members from the public present, the Justification of Application applicant and town responses would be read into the record.

Town Clerk Hancsak read the summary statement from the applicant which provided the specifics of the lot size and structure with a 6' storage area that resembles a garage in appearance, setbacks and lack of a garage. It went on to explain that the only conceivable

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location for a garage is the proposed location. In conclusion the applicant advised they recently became owners and plan to renovate the residence by replacing the flat roof with a pitched roof and completing interior renovations and would like to add the garage to significantly enhance the safety, security and functionality of the residence to better protect the automobile from the elements when not in use.

Chairman Hanna and Town Clerk Hancsak read the justification of application and responses for the requested variance and also the administrative comments. The applicant stated that special conditions and circumstances exist because the hardship runs with the uniqueness of the land elevation and dimensions and there is no garage to service the existing residence without the requested relief, while the administrative comments agree with the land and also state that any side addition would encroach into the side setback. The applicant stated that special conditions and circumstances do not result from the actions of the applicant because the fact that there is no garage or the ability given the uniqueness of the lot to situate a garage in any other location, with concurrence in the administrative comments. The applicant stated that granting the variance would not confer any special privileges because if not for the challenges to the property the applicant would be able to construct a single or two-car garage structure as it is essential for the proper use of the single family residence. They added that nearly all of the properties located within that district are availed the benefit for a garage, with agreement by the administrative comments. The applicant stated that literal interpretation of the ordinance would work unnecessary and undue hardship because of the hardship that runs with the land and impact on the property. Administrative comments agreed and added that there was no other feasible alternative than to follow the building line of the existing structure. The applicant felt it was the minimum variance because both sides of the structure encroach into the side setbacks and the garage would run along the same building line and by doing so is the minimum request and it would be in harmony with the general intent of the ordinance. They added that the addition also reduces the second floor ratio from 117.3% and 106.3%. Administrative comments also advised that it was the minimum variance because it only services one car and is situated in the only conceivable location and will only add 191 sq ft of area to the residence while meeting the minimum specs for its function and would be in harmony. The applicant concluded by stating that the variance would not be injurious to the area. Administrative comments advised that the variance would not be injurious to the area and will actually make an existing non-conforming structure less non-conforming and it merely extends the building and does not encroach any further into the side setback.

Greg Young, attorney representing the applicant, stated that he was available to answer any questions. He pointed out the elevations on the east side of the property which make it impossible for a garage on that side.

Mr. Gimmy questioned whether there was any other way to accomplish the garage such as constructing it in the center of the lot just east of SR A1A, similar to 6125 N Ocean Blvd. or utilizing a canvas canopy. Atty Young commented that it would be detached sitting directly in front of the home thereby making it not accessible to the owner. He added that it would not be safe and defeats the purpose. He also stated that Mrs. Pearce

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was a part-time resident and would like to secure her vehicle when she is not in town and cited the safety, security and accessibility as the hardships.

Mr. Gimmy stated he was concerned whether a hardship was proven with “C” in the Justification of Application. Atty Young stated that there were many other homes that have the benefit of garages.

Manuel Palacios, zoning official for the Town, stated that after physical inspection and review of the plans, he felt the proposed location was the only possible location because it did not make sense to place it in the center of the lot, although it appears there is adequate footage in the center.

There were no comments from the public and the board was declared in executive session.

Mr. Gimmy again mentioned 6125 N Ocean Blvd. utilizing a detached garage and did not feel the request was justified. Atty Spillias reminded the board that they needed to base their decision on what is placed in the record for this particular request and on its own merit.

Mr. Schulte and Mrs. Aaskov both agreed that they really did not see any other alternative that would provided the opportunity for a garage.

Chairman Hanna mentioned that he was inclined to grant the variance citing the makeup of the parcel.

Mrs. Aaskov moved to grant the variance was submitted, seconded by Mr. Schulte.

Motion carried – Yea 3 (Hanna, Schulte, Aaskov)
Nay 1 (Gimmy)

Town Clerk Hancsak advised a letter to the applicant would be forthcoming.

At this point the board requested a brief re-fresher discussion regarding the variance process and duties of the board. Atty Spillias explained the difference between a waiver and a variance. He stated a waiver is usually heard by a Town Commission and that our Town only provides for a variance. He stated the criteria that must be met was determined by a court decision and any deviations from a zoning code must proceed through a variance process. He advised that each criteria must be reviewed on how it affects the zoning and the reasonable use of the land, building or structure.

Atty Spillias advised that the Board of Adjustments is a quasi-judicial board because it deals with individual’s property rights and can only be appealed through the court system. He stated that the board reviews substantial evidence such as surveys, site plans, zoning official comments, and applicant information. He stated that neighbors or other individuals may give an opinion but the decision must be made by substantial competent

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evidence. He concluded by stating that during an appeal the court strictly looks at the correctness of the decision and the competence of evidence.

The board thanked Atty Spillias for the summary.

V. Adjournment

The meeting was adjourned at approximately 9:50 A.M.

ATTEST:

Town Clerk

Chairman Hanna
Gail Adams Aaskov
Bernd Schulte
Bruce Gimmy