

The Board of Adjustment held a regular meeting on Wednesday, June 24, 2009, in the Commission Chambers of City Hall, 155 Corey Avenue, St. Pete Beach, Pinellas County Florida.

The meeting was called to order by Vice Chairman McFarlin.

Roll Call: Present: Steve McFarlin, Park Lampson, Doug Lampe, Darrel Pray, Director of Community Development Karl Holley and Deputy City Clerk Pamala Prell

Absent: Paul Skipper

Vice Chairman McFarlin asked Mr. Holley if the applicants had an option to have their case continued until next month, due to the absence of one member. Mr. Holley stated that was correct.

Mr. McFarlin explained the rules for the meeting and swore in the audience members who wished to comment.

Approval of Minutes

Ms. Pray made a motion to approve the Minutes of April 29, 2009, with the correction that she was in attendance. Mr. Lampe seconded the motion. The motion was approved by a unanimous roll call vote.

Case No. 20090019: Daniel Dennehy, Agent for St. Pete Beach Properties, LLC, Owners. Request for a variance to Section 14.7(b)(2) requirement of 25.0' to permit a reduction of the secondary front yard setback to 3.0' (37th Ave) for the addition of a porte-cochere. 3701 Gulf Blvd. (continued from May Meeting)

Mr. Holley informed the Board there was no one here to represent this case and the City has not received any correspondence regarding this case, so this case could be denied. There was a general discussion regarding the case being heard at the last meeting and the applicant was to bring back re-designed plans for the structure.

Ms. Lampe made a motion to deny the variance request to Section 14.7(b)(2) requirement of 25.0' to permit a reduction of the secondary front yard setback to 3.0' (37th Avenue) for the addition of a porte-cochere for the property located at 3701 Gulf Blvd. Mr. Pray seconded the motion. The motion was approved by a unanimous roll call vote.

Case No. 20090022: Jackson Brown, Agent for John DaSilva. Owner. Request a variance to Section 3.10(c)(1)(b). No Structure in which a nonconforming use is located shall be enlarged, altered, improved or relocated to occupy other portions of the lot upon which it is located or to increase the size of the structure. 2707 Pass-a-Grille Way.

Mr. Jackson Bowman, 1780 102nd Ave., North, stated that he is the Agent for Mr. DaSilva. He provided notebooks to the board members regarding the application for the variance. Mr. Bowman explained that the property is known as the former Bush Estate, but now it is called The Birds of Paradise. He testified that Mr. DaSilva purchased the property in 1997 for 1.1 million dollars and has spent hundreds of thousands of dollars in maintaining the property, to keep it within the Pass-a-Grille character, which he still intends to do with the new plan. He stated that the property is zoned RU2 (residential) and that the Pass-a-Grille Overlay District allows rental of properties for a period of 30 days, three times a year. He testified that Mr. DaSilva will continue to abide by those rules.

Mr. Bowman testified that Mr. DaSilva is seeking a variance to raise the center house to meet FEMA standards. He disclosed that the center home floods and that Mr. DaSilva wants to make the other homes match architecturally. He displayed photos of the front and back of the proposed plan for the property. He referenced the notebook and explained its content to the board members. A copy of the notebook is on file in the Planning Department.

Mr. Bowman asked Mr. Holley if the plan that was submitted would conceptually fit within the requirements of the Land Development Code for that area. Mr. Holley replied "yes" with the exception of the illegal non-conforming use and that the property has a license for short term rentals.

Ms. Pray stated that she was concerned that the Estate currently contained homes and the new plan would make them more like a hotel.

There was a general discussion concerning the criteria for a variance.

Mr. Bowman stated that this estate takes up an entire City block and he showed an aerial of the existing property. He explained that the homes are used cohesively and that the Bush family used the property as a compound to entertain people. Mr. Bowman testified that this is a unique property and that the property appraiser's office issues Mr. DaSilva one tax bill and the property has one parcel number. He disclosed that the taxes on this property last year were \$65,800 and that Mr. DaSilva needs to improve the property so that he can generate more revenue to offset the costs associated with the maintenance of the property. He testified that there are covenants running with the property and that Mr. DaSilva is

not seeking any changes to those covenants and he will operate the same way that he is currently operating.

Mr. Bowman disclosed that the new plan will offer a conference area, that there will be no front desk and that the plan is to have the character of a home. He stated that the property would be used as a corporate retreat, similar to how the Bush family operated.

Mr. Tom Lemroth, CPA, testified that his firm has been the accountant for Mr. DaSilva for over 15 years and he has managed the accounts for the last five years. He testified that according to Mr. DaSilva's tax returns for the year, you can see that the expenses far exceed the income from the property for the last five years; and the prior five years were not much better. He testified that the income from the property is not enough to support the expenses for maintaining the property in its present form. Upon inquiry by Mr. McFarlin, Mr. Lemroth testified that there were no rentals for the property in 2008.

Mr. Bowman advised that if the variance request is denied that Mr. DaSilva may have to raze all three structures and construct four box-type homes similar to what other properties have done in Pass-a-Grille.

Mr. John DaSilva (property owner) 621 Brightwaters Blvd., St Petersburg, read a statement to the board members. He did not submit a copy of the document for the record.

Upon inquiry by Vice Chairman McFarlin, Mr. Holley testified that there are no variances required for the new plan, the height is within the Code requirements and that the center home will actually be further from the seawall than it is currently.

Vice Chairman McFarlin asked that anyone in the audience that is opposed to the plan to address the board at this time.

Bob Douglas, 2811 Pass-a-Grille Way, stated that he understood Mr. DaSilva's situation. He stated that the application was not filed before the deadline for this meeting; that the application was filed on June 5 and the deadline was May 8. He stated that he felt that accepting the application almost three weeks past due was unusual for the City.

Mr. Douglas also stated that the neighborhood needs to be considered; that he did not get the notice regarding this case until last week; that he came to City Hall to inquire about the plans and was told that there were only five hard copies, (he felt that the rule was to submit 10 copies) he did not get to see the plans; Mr. Holley did send him an electronic version that was difficult to read. He stated that there was no staff report and he asked

that the meeting be continued until next month so the citizens would have time to review the plans and provide input regarding this variance.

Mr. Douglas disclosed that the plans are dated 2005 and if the plan was so critical they would have presented it much earlier and the residents would have had time to provide their input. Ms. Douglas gave a brief history of the property. He stated that he felt that Mr. DaSilva did a good job maintaining the estate, but that he was aware of all the difficulties regarding the property when he bought it.

Mr. Douglas referenced a lawsuit filed by Mr. DaSilva against the City and the Settlement Agreement that was reached by the parties. He stated that he felt that Mr. DaSilva got everything he wanted and now he is back asking for the same thing. Mr. Douglas stated that he did see any hardship regarding this case. He stated that the citizens do not even know how many new bedrooms will be added and how it will affect their neighborhood and how many additional guests will be staying at the estate. Mr. Douglas stated that he felt that there will be parking issues and that the structures will not fit into the Pass-a-Grille area; and that a financial drain is not a hardship.

Mr. Charles D. Howe, 2700 Pass-a-Grille Way, stated that has he lived directly across the street from the most-southern house for over 40 years; that he felt that Mr. DaSilva has not helped the residential area because the business is commercial and people are always coming and going from that property.

Mr. Howe pointed out that a friend of his named Captain Merry (no deceased) lived in one of the Bush Estate homes (2701) for many years, and that no one seems to remember that. The City's Public Pier, in Pass-a-Grille, is named after Captain Merry, "The Merry Pier". He stated that the property is probably worth more today than what Mr. DaSilva paid for it. He was concerned about Mr. DaSilva selling the property and how a new owner would operate the compound. He asked that the variance be denied.

There was a discussion between Mr. Bowman and Mr. Howe regarding if the most southern home once had a garage that Mr. DaSilva demolished. Mr. DaSilva testified that the house never had a garage as long as he has owned it.

Mr. Harry Metz, 504 Pass-a-Grille Way, referenced the five criteria for variances and stated that he did not think this plan met any of them and that all the problems that the property had when Mr. DaSilva bought it are still the same today. He asked that the variance be denied.

Vice Chairman McFarlin asked if anyone in the audience wished to speak in favor of this application to come forward at this time.

Mr. Dick Wyckoff stated that he has lived directly across the street from the property for about 20 years. He stated that the property is well maintained and that he felt that it would be beneficial to the neighborhood and the City if the property were upgraded.

Mr. Ron Holehouse, 113 12th Avenue, stated that he was aware of the hardships to improve properties in Pass-a-Grille, under the current rules and regulations, because he has experienced the same issues when renovating an apartment house in Pass-a-Grille. He stated that he felt that the variance should be granted.

Mr. Holley advised that Mr. DaSilva could improve the substandard buildings, but not with the grandfathered use that he is licensed for without a variance.

Mr. Holehouse stated that the community should support the project, it will increase the tax base, and the City should encourage this type of project. He pointed out a recent zoning change that was approved by the City Commission for a single-family home so that it could be part of the Yacht Club in Pass-a-Grille.

Ms. Melinda Pletcher, 2281 E. Vina Del Mar, stated that the Pass-a-Grille community gauges the flooding and drainage problem by the center home, because it is the first to flood. She stated that she did not want to lose the historic structures and requested that the variance be granted. She pointed out that Mr. DaSilva has done a good job maintaining the property and that he testified that he did not rent out the property in 2008 because he could not get any tenants that he felt were appropriate for the neighborhood.

Deborah Nicklaus, 417 55th Avenue, stated that tourism issues and non-conforming structures were not uncommon in the Pass-a-Grille area. She pointed out that recently there were some zoning changes approved to save two hotels in the area. She stated that she felt that this Corporate Retreat was unique and something that other communities do not have and we should protect it. She further stated that when there are issues in a neighborhood the community needs to work together to solve them. She asked that the variance be granted.

Joy Lamb, 103 26th Avenue, stated that she lives just one block from the property and that in the past there have been parking and noise problems which have disrupted the neighborhood. She was concerned

that the problems might become worse if the property has more bedrooms and more guests.

Upon inquiry, Mr. Holley stated that the submittal deadline for the agenda was an Administrative Process and that all the legal advertisements and notices were done properly, as required by State Law.

Mr. Lampson stated that he felt this was the type of development that would revitalize properties and attract visitors from other parts of the Country and it would benefit the tax base and the entire community. He stated that he was in favor of the variance.

Ms. Pray stated that she was concerned with condoning non-conforming uses and that the property would be more like a hotel. She stated that she wanted to hear what the residents had to say before she formed an opinion. She mentioned that the covenants would provide some protection to the neighbors. She stated that she would support the variance. She commended Mr. DaSilva for maintaining the property. She stated that she would not want to see the property sold and did not want to see any zoning changes.

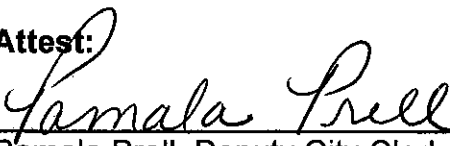
Mr. Holley stated that he would need some enforcement rights regarding the rental rules for the property. He suggested that the motion include "that the owner will adhere to the Settlement Agreement and Covenants as a condition for approval".

Ms. Pray made a motion to approve the variance as requested with the condition that the Settlement Agreement between Mr. DaSilva and the City, including the Covenants be adhered to. The motion was seconded by Mr. Lampe. The Motion was approved by a unanimous roll call approval.

Request to the Planning Board

Mr. Lampson made a motion to recommend that the Planning Board review Section 3.10(b)(3) regarding the 6" maximum height over the mean flood stage requirement and to consider eliminating that requirement. Mr. Lampe seconded the motion. The motion was approved by a unanimous roll call vote.

Attest:


Pamala Prell, Deputy City Clerk


Paul Skipper, Chairman