

BOARD OF ADJUSTMENT MINUTES
March 27, 2024 – 2:00 P.M.
Commission Chambers

PRESENT: Michael Bomar, Vice Chair
Joe Moholland, Member
Dan Small, Member

MEMBERS ABSENT: Paul Skipper, Chair
Denise Chase, Member

STAFF PRESENT: Kristin Coman, Community Development Director; Matthew McConnell, Assistant City Attorney; Ginny Bodkin, Deputy City Clerk

Vice Chair Bomar called the meeting to order at 2:12 P.M.

1. Approval of the Agenda -

Motion: Vice Chair Bomar moved, and Member Small seconded the approval of the March 27, 2024 agenda as presented; the motion carried unanimously by a voice vote.

2. Audience Comments – There were no comments.

3. Approval of Minutes – February 28, 2024 Meeting

Motion: Member Moholland moved, and Member Small seconded the approval of the February 28, 2024 meeting minutes as presented; the motion carried unanimously.

The Deputy Clerk duly swore in all those present who would be testifying.

Vice Chair Bomar explained to the applicants that as only three Board members were present, all three (the required Board majority) would need to vote affirmatively for approval of their applications. He offered that they could continue their cases until the April hearing. Neither of the applicants chose to continue.

4. Action Items

- a. Case No. 24012 – 510 78th Ave.
Unnecessary and Undue Hardship Variance: Thomas DeYampert requests to replace existing residential storage building with proposed 160 sq. ft., 9'1" high residential storage building where maximum of 80 sq. ft. and maximum height of 8' is permitted (LDC Sec. 6.13(b)(5)(a-b)).

Community Development Director Kristin Coman presented a thorough review of the application for this Variance application. Her presentation is part of the meeting record and included site photographs, zoning, zoning table, survey, property description, existing and proposed site plans, hearing notices, variance criteria, variance request detail, staff analysis and staff comments. A

pergola was previously approved by the Board in 2022 (Case 20040). The current request exceeds maximum size and height. No letters of objection or support were received. Staff findings were reviewed and their recommendation was for approval.

Assistant City Attorney Matthew McConnell asked the Board to disclose any ex-parte communications; Member Moholland had visited the site and walked the perimeter.

Applicant Tom DeYampert appeared and testified with additional details of his request including the materials to be stored, stabilization of the structure, and compliance with stormwater runoff requirements. He provided an aerial view of his property, which is part of the meeting record. He answered Board questions.

There was no comment in favor of or against the application and the Vice Chair closed public comment.

The Board deliberated.

Motion: Member Small moved and Member Moholland seconded to approve the variance for Case No. 24012 with the recommended conditions; the motion passed 3-0.

b. Case No. 24002 – 2909 Sunset Way

Unnecessary and Undue Hardship Variance: Ron Wilson, Peregrine Construction
Practical Difficulty Variance: Brian Aungst, Jr. for Olin and Elise Lippincott requests construction of an elevated rear deck and inground pool that exceeds 2' in height with proposed north and south side yard setbacks of 2' where a minimum 5' setback is required and rear yard setback of 0' where 20' is required (LDC Sec. 6.13(c)(1)(b) and (c)(2)(b)) and construction of 3rd floor open, unroofed terrace that does not meet the required 17' rear yard setback with 9'7" proposed (LDC Sec. 6.22(b)).

Member Moholland disclosed that he had walked the front and back of property several times, but had no communications with the applicants.

Ms. Coman presented a thorough review of the application for this Variance application. Her presentation is part of the meeting record and included photographs, zoning, zoning table, site plan, survey, proposed elevation renderings, property description, plans, hearing notices, and variance criteria. The property received a prior variance in 2020 for encroachment elevated deck encroached in setback. Ms. Coman explained that this is a large project.

Staff found that the request would not have an adverse impact on the neighborhood. Staff recommended approval with the following conditions:

- The condition of prior Variance Case No. 20040 contained within the executed Development Order that any elevated deck railing used for the rooftop seating area shall be open in design to the extent possible under the Florida Building Code shall also be applied to this approval.

- The proposed 3rd floor terrace and lower patio levels shall not be enclosed or roofed by any means, permanent or temporary, and shall remain open and may not be enclosed in such a manner as to be construed as living space.
- Fencing to secure the pool may not exceed an overall height of 4' as shown on the application for building permit 2101068.
- Applicant shall submit sealed As-Built Survey noting all setbacks and ISR calculation and approved by Zoning prior to the issuance of the Certificate of Occupancy/Final Inspection.

Attorney Clay Gilman of McFarlane Ferguson appeared on behalf of the applicants. Owner Elise Lippincott testified in answering Board questions. The previously approved variance was discussed. Builder and expert Carmine Pici testified as to the grading on the property and his belief that the deck is within city requirements. There is the expectation of a change to the steps from deck to rear beach walkway area.

Member Moholland voiced concerns with how far the third level extends and having had multiple variances. Architect and expert Michael McCoy testified that they are staying within the same existing footprint. Attorney Gilman also testified that there is no further encroachment into the setback. Mr. Pici testified regarding the fencing.

Attorney Gilman consented to the conditions as proposed.

The Vice Chair closed public comment and the Board deliberated.

Motion: Member Small moved, and Vice Chair Bomar seconded to approve the variance for Case No. 24002 with the four staff recommended conditions; the motion passed 3-0.

Assistant City Attorney McConnell mentioned that a new member is being appointed by Chair Rzewnicki; he thanked Chair Skipper for his many years of service to the City and that he will be missed.

6. Adjournment – The next meeting is scheduled for April 24, 2024.

Vice Chair Bomar moved, and Member Moholland seconded to adjourn the meeting at 3:07 PM.

These minutes were approved at the April 24, 2024 Board of Adjustment meeting.