



City of Stuart

A G E N D A
STUART BOARD OF ADJUSTMENT
TO BE HELD JULY 16, 2019
AT 5:30 PM
COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994

Chair - Kristin Stanley
Vice Chair - Antone Freitas
Board Member - Christina Vogl
Board Member - Donna Rollins
Board Member - Helen McBride

ADMINISTRATIVE

Development Director, Kev Freeman
Board Secretary, Jordan Pinkston

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation to attend this meeting should contact the City's ADA coordinator at 288-5306 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

1. Approval of BOA Minutes

COMMENTS FROM THE PUBLIC (5 min. max)

COMMENTS FROM THE BOARD MEMBERS

OTHER MATTERS BEFORE THE BOARD

2. DISCUSSION AND DELIBERATION REGARDING A REVIEW OF THE LIMITATIONS ON GRANTING VARIANCES

STAFF UPDATE

ADJOURNMENT

UPCOMING MEETINGS and EVENTS

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
Board of Adjustment**

Meeting Date:7/16/2019

Prepared by:Jordan Pinkston

Title of Item:

Approval of BOA Minutes.

Summary Explanation/Background Information on Agenda Request:

Funding Source:

N/A

Recommended Action:

Approve.

ATTACHMENTS:

Description	Upload Date	Type
BOA Minutes 2.28.19	7/8/2019	Cover Memo



MINUTES

**BOARD OF ADJUSTMENT MEETING
FEBRUARY 28, 2019 AT 5:30 PM
CITY COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994**

**BOARD OF ADJUSTMENT MEMBERS
Chair – Kristin Stanley
Vice Chair – Antone (TJ) Freitas
Board Member – Helen McBride
Board Member – Donna Rollins
Board Member – Christina Vogl**

**ADMINISTRATIVE
Development Director, Kev Freeman
Board Secretary, Michelle Vicat**

CALL TO ORDER  **5:30 PM**

ROLL CALL  **5:31 PM Roll Call.**

Present: Donna Rollins, Helen McBride, Kristin Stanley, Christina Vogl, Antone Freitas.

The City Attorney swore in the new board members.

BOARD REORGANIZATION

Helen McBride nominated Kristin Stanley as Chair. Donna Rollins seconded the motion. Motion approved unanimously.

Helen McBride nominated TJ Freitas as Vice Chair. Donna Rollins seconded the motion. Motion approved unanimously.

APPROVAL OF MINUTES

 5:35 PM **Motion: Action:** Approve, **Moved by** Helen McBride, **Seconded by** Donna Rollins. Motion passed unanimously.

COMMENTS FROM THE PUBLIC: None

COMMENTS FROM THE BOARD MEMBERS: None

OTHER MATTERS BEFORE THE BOARD

1. Final Order of Variance Request - 1515 SE 5th Street - Jeremy LeMaster

PRESENTATION: Stephen Mayer, Senior Planner
Ella Taylor, Medalist Planner

PUBLIC COMMENT:

Michael Roberts of 1510 SE 5th Street said he lives across the street and is a general contractor who jumped through a lot of hoops to build and did things right. He asked why he didn't stop building when he knew about this problem instead of continuing to build. He said the street is blocked with construction and when he called about it, the applicant said "it was not his problem". He said if the variance is given it should be only with city sewer and there will be problems with drainage. He said the street is very busy and said the city isn't responsible to review the plans and make them right, the builder is responsible for knowing the codes.

Marie Stein of 418 SE Flamingo Avenue said she is contiguous to this. She said her house was built on grade and below the new home and there is nothing to keep water from flowing into her yard. She said she had no idea he was going to build the house so close to her and he should know as a builder that he would need a variance. She said she felt railroaded.

Doug Killane of 502 Dolphin Drive said he had three lots for his house and was concerned that one owner had built their home on both lots so once that home has been destroyed he still had one lot. He said the builder builds a nice product but he doesn't agree with the Development Director and didn't know how they could agree with a variance when they haven't created the cottage lots yet.

Cheryl Killane of 502 Dolphin Drive said they have lived in the home since 1981 and didn't understand how he could build two homes with one permit. She said there is no way the driveway is going to fit and it's so close to the street and thought what he was doing was underhanded and dirty.

BOARD COMMENT:

Kristin Stanley asked if they were originally platted as two lots.

Stephen Mayer said they were originally platted as two lots and then they were combined.

Mike Mortell said they are platted lots until there such time as there was some new.

Helen McBride asked if there was sewer there and what happened to the septic tank that was there.

Stephen Mayer said he wasn't sure.

Mike Mortell said there were plans for septic soon.

Helen McBride said it is a big drop in lot size.

Cristina Vogl asked to see the original plat

Donna Rollins said she drove by and thought she saw a new house.

Jeremy LeMaster said she was correct. They are building a new house on one of the lots.

Donna Rollins asked if they are here for the lot with the foundation.

Jeremy LeMaster said they are here for the whole parcel.

Kristin Stanley asked if they started the project as one house or two.

Jeremy LeMaster said originally they submitted two of everything and then found out that they couldn't which was why they were before the board.

Kev Freeman said they had initial discussion before any application was submitted and advised that he could build one home on there and that they would be having workshops regarding amending the cottage lots to enable these type of lots and the commission directed staff to do them on a neighborhood by neighborhood basis which they are working on now. He said they advised the applicant to hold until that was complete but he submitted the applications anyway and started building. They returned one of the applications with the condition that they would allow one home only then the applicant formed a foundation on the other lot so a Stop Work Order was issued which is in place today.

Jeremy LeMaster said they submitted plans for both lots and he did meet with Kev who told him that he could only build on one lot and he would have to speak with the City Attorney who said they have a problem.

Mike Mortell said what was submitted didn't matter. He said after some confusion there was one permit issued for one house. Mr. LeMaster thought he got one permit for two lots. They agreed today that without a variance he can only build one house but he could build a garage with a flat above but if he wants two homes fee simple he needs a variance.

Cristina Vogl asked if this set a precedent and if they can do this on lots 20 and 21.

Mike Mortell said this doesn't create a precedent and each board application stands on its own. He said they could approve a lot split as long as it doesn't violate the comp plan. He said the Development Department would not bring the board an application that was higher density than the comp plan would allow.

Cristina Vogl said in the presentation Medalist states "the approval of this variance will also allow the development of other lots in this predicament and add to the city's housing availability".

Mike Mortell said they are just stating that is something they would like to do.

Helen McBride said the house that is built went up in two weeks and has a For Sale sign on it and asked if it was for sale and what was the hardship.

Jeremy LeMaster said they didn't get a Stop Work Order before they built and it wasn't on the market just because they put a sign out.

Helen McBride said there is a real estate sign on it.

Jeremy LeMaster said "that's my wife".

Kristin Stanley asked if it was on the market.

TJ Freitas asked if he was going to live there.

Jeremy LeMaster said no they aren't and they have a sign up but it's not being advertised on the market.

Helen McBride asked if there was a septic tank in the ground.

Jeremy LeMaster said they permitted it for a septic system.

Helen McBride said if they grant this, there is very little side, back and front lots. She said houses need some more yard space and asked where the cars would be parked. She said because he wanted to build another home is not a hardship to her.

Jeremy LeMaster said the paver driveway or garage is where they are going to park.

Kristin Stanley asked what they are doing to separate the homes.

Jeremy LeMaster said there is 18 feet of separation and they are just trying to bring it back to the original two separate lots.

Helen McBride asked why they didn't bring it back when the cottage lot ordinance is in place.

Jeremy LeMaster said that is an option but they believe these are cottage lots.

TJ Freitas said he was still trying to find the hardship and asked why he didn't get a variance before he put a shovel in the ground.

Jeremy LeMaster said he had discussion with Kev about the lot and he didn't agree with what Kev was saying so he went to Mike Mortell to get a ruling on whether or not this was a cottage lot and that's when they submitted the plans.

Antone Freitas said so at that point you didn't think you should get a variance.

Jeremy LeMaster said he had his permit for one already at that point.

TJ Freitas said but at that point you only had one lot and he didn't have the lot split.

Jeremy LeMaster said technically he could sell the house right now and thought they met a number of criteria.

Helen McBride said she was concerned about this, it was very close to the roadway and they are concerned about how this happened.



6:40 PM **Motion: Action: Denied, Moved by Helen McBride, Seconded by Antone Freitas.**
Motion passed unanimously.

Joe Philips of 500 Flamingo asked if you would start building on this lot without a permit.

Kristin Stanley said that is not what they are voting on.

TJ Freitas said he would have been more comfortable if he had asked for the variance before he started building.



6:44 PM **Motion: Action: Adjourn, Moved by Donna Rollins, Seconded by Helen McBride.**
Motion passed unanimously.

Kristin Stanley, Chair

Michelle Vicat, Board Secretary

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST Board of Adjustment

Meeting Date: 7/16/2019

Prepared by: Kev Freeman

Title of Item:

DISCUSSION AND DELIBERATION REGARDING A REVIEW OF THE LIMITATIONS ON GRANTING VARIANCES

Summary Explanation/Background Information on Agenda Request:

Staff will present an overview of the existing limitations on granting variance requests and discuss with the Board whether the Land Development Code should be amended to provide for greater review of architectural and design requirements.

The existing code is set out in the Land Development Code:

Sec. 8.05.02. - Limitations on granting variances.

Initial determination. The board of adjustment shall have the power to authorize in specific cases such variances from the provisions set forth in subsection 8.04.01.A., which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of certain parts of this code will, in an individual case, result in unnecessary hardship, so that the spirit of the code shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such case of unnecessary hardship upon the following findings by the board of adjustment.

B. Required findings. The need for the proposed variance is attributable to unique characteristics of the property either as to the land or as to any improvements thereon, or both, and the proposed variance, if granted, will not:

1. Authorize any use of the property that is not allowed as a permitted use or a use allowed by conditional use in the district in which the property is located; and
2. Allow a density or intensity of use that exceeds the maximum density or intensity that is permitted in the district in which the property is located; and
3. Result in a verifiable reduction of the property values of any adjacent or nearby properties; and
4. Cause a detrimental effect in the supply of light and air to adjacent properties; and
5. Cause a detrimental effect with respect to drainage of the subject property as well as adjacent properties; and
6. Cause an increase of traffic on adjacent or nearby roads to levels that are not usual for the types of uses in the neighborhood; and
7. Cause any threat to public safety in any manner whatsoever; and
8. Cause any threat to the health or general welfare of the inhabitants of the city.

C. A variance shall not be granted that exceeds the minimum variance to the strict application of the provisions of this Code necessary to alleviate the unnecessary hardship.

Funding Source:

N/A

Recommended Action:

Feedback and/or direction from the board.