

BOARD OF ADJUSTMENT
MINUTES OF
REGULAR MEETING
February 21, 2019

A regular meeting of the City of Daytona Beach Board of Adjustment was held on Thursday, February 21, 2019 at 1:00 p.m. in the City Commission Chambers, 301 S. Ridgewood Ave., Daytona Beach, Florida.

Board members present were as follows:

Mr. Trey Harshaw, Chair
Ms. Maja Sander Bowler
Mr. Eddie Gentle
Mr. Thomas Leek
Mr. Gary Libby
Mr. Larry Riley
Mr. Roger Stine

Board members absent:

Ms. Sharlene Barhoo

Staff members present were as follows:

Ms. Lauren Taylor, Planner
Ms. Carly Meek, Assistant City Attorney
Ms. Becky Groom, Board Secretary

1. Call to Order

Mr. Harshaw called the February 21, 2019 Board of Adjustment Meeting to order at 1:00 p.m.

2. Roll Call

Ms. Groom called the roll and noted members present as indicated above.

3. Introduction of City Staff

Mr. Harshaw introduced staff members in attendance, as listed above.

4. Approval of Minutes

Ms. Bowler stated under Item 4 of the December 20, 2018 meeting, the motion should read to approve the August 16, 2018 meeting, not December 20, 2018 as stated.

A motion was made by Mr. Riley, seconded by Mr. Leek, to approve the minutes of the December 20, 2018 meeting as corrected. The motion carried (7-0).

A motion was made by Mr. Libby, seconded by Mr. Stine, to approve the minutes of the August 16, 2018 meeting as presented. The motion carried (7-0).

New Cases:

5. Case A – BOA2019-001 Variances from Article 4, Section 4.2.B.3

A request by Colleen Miles, Land Development Resource Group LLC, on behalf of Karen Feher (property owner), for a variance from Article 4 (Development Standards) Section 4.2.B.3 of the Land Development Code (LDC) to reduce the required interior side yard setback from 7.5' to 3'. The property is located at 405 Goodall Avenue. The zoning on the property is Single-Family Residential-5 (SFR-5), and the Future Land Use (FLU) on the property is Level 1 Residential. The property is also located in the South Atlantic National Register Historic District.

Applicant Presentation:

Colleen Miles, Land Development Resource Group LLC, 140 S. Beach Street, Suite 400, Daytona Beach, Florida, spoke representing the applicant. Ms. Miles stated staff has provided a photograph of the carport that was previously in place at this location. Ms. Miles stated car doors cannot be opened if a car is placed in the area where the previous carport was located. Ms. Miles stated the applicant removed the previous carport as a result of damage received during the hurricanes and the request is reduce the side yard setback on the west side of the property to construct a detached garage.

Mr. Libby asked if Ms. Miles agreed with the findings of the staff report.

Ms. Miles stated she does not agree with the findings in the staff report. Ms. Miles stated 70% of the homes in the area have less than the required side yard setback and some have nil, some on both sides of the structure. Ms. Miles stated this requests meets the Florida Building Code and the National Fire Prevention Code in relation to separation of structures.

Ms. Miles stated she received a telephone call from the neighbor to the north of the subject property about the palm trees; and Ms. Miles stated the applicant has agreed to remove the palm trees.

Mr. Leek asked when the previous carport had been demolished.

Ms. Miles stated less than three years ago.

Mr. Gentle stated the law states the carport can be put back as it was. Mr. Gentle asked why the applicant is not proposing to place the carport at the rear.

Ms. Miles stated if that was done, a greater variance would be requested from the Board of Adjustment since the applicant would exceed the maximum impervious surface area. Ms. Miles stated the applicant wants to keep the structure attached to the home so he does not have to walk through inclement weather to enter the house.

Mr. Harshaw stated what is in place appears to be new and asked if the proposed garage would be the size of the slab.

Ms. Miles stated the carport slab will be a little bit bigger but the driveway slab will not. Ms. Miles stated the exterior side of the structure will be 3 feet from the property line.

Mr. Gentle stated the driveway that exists is at an angle and the fence in the rear could be moved.

Ms. Taylor stated she provided a letter to the Board that was received after the staff report was prepared from the neighbors who reside at 401 Goodall. Ms. Taylor stated the letter provides a good visual of the proposed garage.

Ms. Miles stated there are encroachment issues relative to the neighbor's property and the neighbor's sewer cleanout is on the applicant's property.

Ms. Bowler stated she did not feel the encroachment issue is something that is before the Board.

Ms. Miles stated she could build the carport in the exact same spot as one was previously located without getting a permit.

Ms. Taylor stated a carport or garage could be built in the exact same footprint.

Mr. Stine stated what is proposed is larger and that is why the variance is being requested.

Ms. Miles stated what previously existed did not meet the current code.

Mr. Libby stated there is an option and the carport could be placed further back on the lot.

Ms. Taylor stated placing the carport at the rear could potentially increase the lot coverage; because as it is right now and if the variance is approved and a carport is built of the proposed size, the property would be at 34% of lot coverage.

Mr. Libby stated there are concerns from the neighbors about the closeness to their home.

Ms. Bowler stated the neighbor's house is also non-conforming; and if the neighbor's house was recently built, it would make a difference to her.

Mr. Leek asked how deep the proposed garage will be.

Ms. Miles stated the proposed garage is 14 feet by 43-1/2 feet which would accommodate two cars and storage in the back.

Mr. Harshaw stated he is concerned about the proposed structure being adjacent to a neighbor's bedroom and that house is non-conforming; Mr. Harshaw stated the applicant is asking for a very large garage and the applicant could reduce the width to 13 feet and be able to open both doors.

Ms. Miles asked if a 13 foot width is more palatable.

Mr. Harshaw asked what the dimensions were of the previous carport.

Ms. Taylor stated she has an image of the previous carport but does not know the dimensions.

Mr. Libby asked if the additional space proposed for storage in the structure is necessary.

Ms. Taylor stated the length of the proposed structure is not part of the variance; the variance is just for the side yard setback.

Mr. Stine stated there could be an issue with lot coverage.

Ms. Meek stated the structure could be built to the previous footprint.

Ms. Miles stated the code reads if you have an encroachment, the encroachment can continue the length of the structure.

Ms. Taylor stated that is not how staff has interpreted that section of the code in the past and she would present that to staff for discussion at a later time. Ms. Taylor stated that would be an expansion of a non-conforming use.

Mr. Leek asked the total square footage of the house.

Ms. Miles stated the house is a total of 1,213.8 s.f. with the porch; and the proposed addition is 610 s.f.

Ms. Taylor stated the house alone without the porches is 989 s.f.

Public Comments:

Linda Colella, 401 Goodall, Daytona Beach, Florida, stated she lives adjacent to 405 Goodall and also owns the property at 399 Goodall. Ms. Colella stated she is opposed to the proposed variance request. Ms. Colella provided two letters from neighbors opposing the variance request. The letters were read into the record. Ms. Colella stated she has lived in her home for 29 years. Ms. Colella stated the sewer was in place when she purchased the home. Ms. Colella stated the home is 70 years old and is a one-story structure with a large attic. Ms. Colella stated a drawing of the proposed structure shows a garage door on the front and a garage door on the back which she would believe means there would be vehicles going in and out, and possibly recreational vehicles. Ms. Colella stated she does not like the idea of a large structure going the entire length of her property. Ms. Colella stated the previous aluminum carport was 12 feet wide and 21 to 22 feet long. Ms. Colella stated most garages in the area abut other garages or vacant property. Ms. Colella stated she is concerned about how the proposed structure would impact her property value. Ms. Colella stated the proposed structure would go from the front of her house to 15 feet beyond her house.

Robert Colella, 401 Goodall, Daytona Beach, Florida stated he lives at 401 Goodall and owns property at 399 Goodall. Mr. Colella stated the proposed structure would block his view and he is concerned about water run-off since what is proposed would extend another 30 feet of concrete. Mr. Colella stated what is proposed is out of character for the neighborhood.

Board Action:

A motion was made by Mr. Stine, seconded by Mr. Riley, to approve Case A – BOA2019-001 Variances from Article 4, Section 4.2.B.3, as presented.

Mr. Trey Harshaw	No
Ms. Maja Sander Bowler	No
Mr. Eddie Gentle	No
Mr. Thomas Leek	No
Mr. Gary Libby	No
Mr. Larry Riley	No
Mr. Roger Stine	No

The motion failed (0-7).

6. **Review of Cases**

Mr. Harshaw stated Case A was denied.

7. **New Business**

Florida Sunshine Law Presentation:

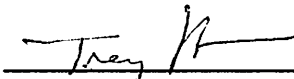
Ms. Meek provided an update to the Board on the Florida Sunshine Law and included in the Board packet a pamphlet from the State of Florida regarding the Sunshine Law.

Mr. Libby expressed concern that some minutes from Board meetings were not posted on line for several months and asked if there is a time limit for those being placed on the City's website. Mr. Libby stated he feels there needs to be additional training for advisory boards and noted he attended the Historic Preservation Board meeting and the members were unaware of the Historic District Design Guidelines.

Ms. Meek stated she would discuss his concerns with staff.

8. **Adjournment**

There being no further business, the meeting was adjourned at 2:04 p.m..

 _____, *Chair*

Trey Harshaw, Chair

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Becky Groom, Board Secretary