

CITY OF ST. AUGUSTINE, FLORIDA

Regular Code Enforcement, Adjustments and Appeals Board Meeting  
October 11, 2005

The Code Enforcement, Adjustments and Appeals Board met in formal session at 3:00 P.M., Tuesday, October 11, 2005, in the Alcazar Room at City Hall. The meeting was called to order by Irene Arriola, Vice-Chairman, and the following were present:

**1. ROLL CALL**

Irene Arriola, Vice-Chairman  
Gary G. McMahon  
Enid Hurst  
Robert M. Hall  
Sharon A. O'Keefe  
Patricia B. Reilly

Absent: Douglas A. Ferrell, Chairman

James Wilson, Esq., City Attorney  
James Whitehouse, Esq., Staff Attorney/City Prosecutor  
Mark Knight, Director, Planning & Building Department  
Nick Andrade, Building Official  
Duane Galambos, Code Enforcement Inspector  
Noel Mahr, Code Enforcement Inspector  
Nancy Brilliant, Recording Secretary

The City staff was sworn in.

**2. APPROVAL OF MINUTES**  
**(September 13, 2005)**

**MOTION**

**Ms. Reilly moved to approve the minutes. The motion was seconded by Mr. McMahon and approved by a unanimous voice vote.**

**3. DISCLOSURE OF EX-PARTE**  
**COMMUNICATIONS**

There were no ex-parte items reported.

**4. VARIANCES**

**Item 4(a) 2005-1104**

**Ken Pacetti**  
**150 Mendendez Road**  
**City Code, Chapter 8, Section 8-401**  
**Flood control variance.**

Mr. Andrade reported the following:

- The applicant was requesting a flood control variance, from Section 603.1 of the Floodplain Management Code, to allow the construction of a 10' x 19' office addition to a residential garage at a finished floor elevation of 7.5 feet.
- The garage had a finished floor elevation of 5.88 feet and the house had a finished floor elevation of 6.96 feet.
- The proposed space would have heat and air conditioning; therefore, the habitable

space must be in full compliance with Flood Management Code. One possible alternative, which would preclude the need for a variance, would be to construct the addition as unconditioned non-habitable space and thus become part of the garage. Garages were exempt from the elevation requirements of the Flood Management Code.

- The applicant contends that meeting the finished floor elevation requirements of the Flood Management Code preclude him from aesthetically tying in the roof of the new addition to the roof of the existing house; thus, presenting an unreasonable or exceptional hardship.
- The applicant had the burden to prove exceptional or unreasonable hardship.
- Staff proposed the following findings supporting the approval of the variance:
  - ◆ The variance meets the criteria of unreasonable and exceptional hardship as defined in the Flood Management Code.
  - ◆ The granting of the variance does not increase the hazard of flooding to the property or adjacent properties.
  - ◆ The granting of the variance does not present a hazard to the life, safety or welfare of the public.
- Staff proposed the following conditions:
  - ◆ The lowest horizontal structural members of the lowest floor, including basements, but excluding structural building foundation elements of the addition shall be maintained at or above the 7.5 elevation.
  - ◆ New construction below the 9 foot Mean Sea Level (MSL) shall utilize flood resistant materials.

- ◆ The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures were consistent with associated flood factors for their particular flood zone.
- Staff proposed the following finding supporting the denial of the variance:
  - ◆ The justification for the variance, as presented by the applicant, does not present an unreasonable or exceptional hardship as defined by the National Flood Insurance Program (NFIP).
  - ◆ Building design does not preclude the applicant from adhering to the requirements of the Floodplain Management Code.

Mr. McMahon noted that a staff recommendation was usually provided. He questioned whether the recommendation was inadvertently omitted or whether the procedure had changed.

Mr. Andrade explained that the staff recommendation had been deliberately omitted in order for the board to have an objective deliberation without being biased by the staff's opinion.

Robert Raines of 1361 Minlow Avenue, Jacksonville, Florida and Kenneth Pacetti of 150 Menendez Road, St. Augustine, Florida were sworn in.

Ms. O'Keefe asked Mr. Pacetti to describe how the addition would be utilized.

Mr. Pacetti explained that his wife was a Mary Kay Director and she would be utilizing the addition for that purpose.

Mr. Raines stated the following:

- If the addition was constructed at a finished floor elevation of 9 feet the following problems would occur:
  - ◆ The entrance that connects the addition to the other garage office space would be waist high.
  - ◆ The roof line would tower over the height of the existing roof.
- If the addition was constructed at a finished floor elevation was 7.5 feet the following would occur:
  - ◆ Two or three steps would be installed to connect the addition to the other garage office space.
  - ◆ A number of additions had been added to the structure throughout the years. If the roof on the rear of the structure was reconstructed, the structure would not appear as a multitude of additions, but rather as an original structure.

Ms. Arriola asked whether the original structure was constructed in the 1950s.

Mr. Raines agreed that the house was constructed in the mid-1950s.

Ms. Arriola asked whether off-grade or slab construction had been utilized.

Mr. Raines stated that off-grade construction was utilized.

Mr. Hall asked whether the heat and air conditioning would be tied into the existing duct work.

Mr. Raines agreed that the duct work would be extended.

Ms. Arriola asked whether Mr. Pacetti would be willing to raise the electrical outlets and wiring.

Mr. Pacetti agreed.

Mr. Hall asked whether construction plans were available for the board to review.

Mr. Raines submitted construction plans and responded to the board's questions as follows:

- The new office would be accessible from the house and the garage.
- Three steps currently connected the house to the garage.
- If the addition was constructed at a finished floor elevation of 9 feet, four or five steps would have to be installed to connect the garage to the new addition. However, if the addition was constructed at a finished floor elevation of 7.5 feet, one or two steps would have to be installed.

Ms. O'Keefe emphasized that the applicant had not submitted evidence proving an unreasonable or exceptional hardship.

A brief discussion ensued regarding previously submitted evidence.

#### **MOTION**

**Ms. Reilly moved to accept the findings and conditions suggested by the staff and approve the flood control variance with the additional condition that the electrical outlets and wiring shall be installed 48" above the finished floor elevation. The motion was seconded by Mr. McMahon.**

**In Favor**  
Ms. Reilly  
Mr. McMahan  
Ms. Hurst  
Mr. Hall  
Ms. Arriola

**Opposed**  
Ms. O'Keefe

**Item 4(b) 2005-1130**  
**Debra Moortgat and Emmanuel**  
**Moortgat**  
**67 Park Place**  
**City Code, Chapter 25, Section 25-56(c)**  
**Removal of a preserved tree.**

Mr. Andrade reported that the applicant was requesting permission to remove a preserved water oak tree measuring in excess of 30" in diameter at breast height (d.b.h.). He stated that the tree was hollow from approximately five feet to the ground. He noted that a large branch had fallen and was resting on an electrical line. He stated that staff recommended the removal of the tree and the planting of two replacement shade trees on the property.

Ms. Arriola noted that Certified Arborist Eddie Conlon had recommended the removal of the tree in the report submitted in the board's informational packet.

The applicant was present, but chose not to speak.

#### **MOTION**

**Ms. O'Keefe moved to approve the removal of the preserved water oak tree measuring in excess of 30" in diameter at breast height (d.b.h.) with the stipulation that two replacement shade trees measuring 10' in height and 2" in**

**diameter at breast height shall be planted on the property. The motion was seconded by Mr. Hall and approved by a unanimous voice vote.**

#### **5. REVIEW OF PREVIOUSLY HEARD CASES**

(None)

#### **6. REVIEW OF NEW CASES**

**Item 6(a) 2005-3237**

**Julia Trotman Estate**  
**c/o Sammy Washington**  
**7 Blanche Lane**

**City Code, Chapter 19, Sections 19-3 and 19-4**

**Request for Order Imposing Penalties and Lien to recover the costs associated with the continuous abatement of the property.**

Mr. Mahr summarized the case as follows:

- On September 9, 2003 the board found case number 2003-2165 in violation and imposed an "Order Approving Continuous Abatement" of the property.
- On September 2, 2005 the Planning and Building Department sent an "Official Notice of CEAAB Hearing" for October 11, 2005 to the respondent via certified mail. The notice was returned "not deliverable as addressed and unable to forward."
- On September 15, 2005 the property was posted with an affidavit of an "Official Notice of CEAAB Hearing" for October 11, 2005.
- The staff recommended that the board issue an "Order Imposing Penalties and Lien" in the amount of \$405.00 (\$45 per

month) to recover the costs associated with the continuous abatement of the overgrown lot from December 2004 to August 2005.

There was no public comment.

#### **MOTION**

**Mr. McMahon moved to issue an “Order Imposing Penalties and Lien” in the amount of \$405. The motion was seconded by Ms. O’Keefe and approved by a unanimous voice vote.**

#### **7. CITY ATTORNEY ITEMS**

(None)

#### **8. OTHER BUSINESS**

Ms. Arriola thanked Mr. Andrade for the informative workshop.

Mr. Andrade stated that he would be willing to schedule additional workshops at the board’s request.

Based on the information presented at the flood control workshop, the following discussion occurred:

- Regulations pertaining to unreasonable and exceptional hardships and the various ways in which the regulations could be interrupted.
- Wheel chair accessibility issues.
- Decisions made by the board must be consistent.
- The City’s rating could be affected by the number of flood control variances approved. Therefore, the cost and

availability of flood insurance coverage to the City’s residents could be affected.

#### **9. REVIEW OF CONFLICT STATEMENTS FROM PREVIOUS MEETING**

(None)

#### **10. ADJOURNMENT**

#### **MOTION**

**Mr. Hall moved to adjourn the meeting. The motion was seconded by Ms. Reilly.**

Meeting was adjourned at 4:05 P.M.

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Irene Arriola, Vice-Chairman

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Nancy E. Brilliant, Recording Secretary