

- The proposed space would be conditioned; therefore, the habitable space would require full compliance with the Flood Management Code.
- The applicant contends that meeting the finished floor elevation requirements of the Flood Management Code would create a safety hazard to the guests visiting the Inn; thus, presenting an unreasonable or exceptional hardship warranting the granting of a variance.
- Exceptional or unreasonable variances were defined as: deprivation of reasonable return on property; deprivation of all or any reasonable use; rendering the property valueless; inability to develop property in compliance with applicable regulations and reasonable use could not be made consistent with regulations.
- The applicant had the burden to prove exceptional or unreasonable hardship.
- Staff proposed the following findings supporting 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 variances does not increase the hazard of flooding to the property or the 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 for approval:
 - ◆ 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 8.63 elevation. All accessory mechanical and electrical equipment shall be located above the 9 foot Base Flood Elevation (BFE).

- ◆ New construction below the 9 foot Mean Sea Level (MSL) elevation shall utilize flood resistant materials including but not limited to concrete, ceramic tile, and pressure treated lumber.
- ◆ 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 findings supporting denial of the variance:
 - ◆ Facts presented by applicant did not meet the criteria for unreasonable or exceptional hardship.
 - ◆ The granting of the variance increases the hazard of flooding to the property.
 - ◆ Construction of the project was feasible without granting any special waiver or variance.

John Valdes of John Valdes and Associates, Inc. located at 1395 US 1 South, Suite A-1, St. Augustine, Florida was sworn in and, based on questions directed by the board members, he stated the following:

- The structure was listed on the National Register of Historic Places. The addition would not compromise the historical designation.
- The structure was originally called the Matanzas Hotel and later named the Brock Apartments.

- The structure was constructed utilizing a brick pier foundation, a suspended wood floor system, and terracotta block.
- Submitted an elevation and a floor plan.
- In the early 1990s his company constructed the existing breakfast room which he described as follows:
 - ◆ Foam form insulation was utilized and reinforced concrete was poured.
 - ◆ Concrete stem wall, fill, and concrete slab construction was utilized in order to match the existing porches.
- Access was not difficult during the construction of the previous addition; however, access would be limited for the proposed addition. Therefore, the proposed addition would be constructed utilizing a concrete block stem wall, concrete footer, a pressure treated suspended floor system, PT decking, "Durock", and tile. The exterior walls would be constructed utilizing 2" x 6" pressure treated lumber, with "Aquatough" (cementitious board), and stucco to match the existing building. Per the staff's recommendation, all the materials would be water resistant.
- Breakfast was currently being served on the front porch. The addition would allow the guests to eat breakfast without being exposed to the elements.
- The greenhouse architecture was designed to provide the guests with a unique breakfast room experience.
- The maximum height of the greenhouse was 15 feet. The stem wall was 8.63 feet and once the scissor trusses and air conditioning vents were installed the ceiling height would be reduced by approximately 18".
- The breakfast room would have a total of four ingresses/egresses and a 4" step,

located in a traffic area, would create a trip hazard for the guests.

- Sprinklers and water curtains would be installed to protect the greenhouse from fire.

Mr. Hall stated that the potential flooding hazard was a concern; however, the dangers caused by a step in a high traffic area must be considered.

MOTION

Mr. Hall moved to accept the findings and conditions suggested by the staff and approve the flood control variance. The motion was seconded by Ms. Arriola and approved by a unanimous voice vote.

Item 4(b) 2005-1374

City of St. Augustine
247 West King Street

City Code, Chapter 25, Section 25-56(c)
Removal of one protected tree and three preserved trees.

Mr. Andrade stated the following:

- The City of St. Augustine was requesting permission to remove a protected chinaberry tree measuring 24" in diameter at breast height (d.b.h.) and three preserved oak trees measuring 34", 42", and 45" in diameter at breast height (d.b.h.).
- The 24" chinaberry tree appeared to be in decline and decay was visible. The 34", 42", and 45" oak trees appeared to be healthy.
- Copies of the Application for a Tree Removal Permit, Application to the Code Enforcement, Adjustments and Appeal Board, and photographs of the

trees were in the board's informational packet.

- If the board approved the removal of a protected or preserved shade tree, City Code stated that a minimum of eight replacement shade trees shall be planted on the property within thirty days of the tree removal. Each replacement shade tree shall measure 10' in height and 2" in diameter at breast height (d.b.h.). The applicant must contact the Planning and Building Department to schedule an inspection of the replacement trees.
- The staff recommended the removal of the trees.

Mr. McMahon questioned whether cases involving the removal of trees in a building footprint were usually heard by the Planning and Zoning Board.

Mr. Knight agreed that the Planning and Zoning Board usually heard cases involving the removal of trees in the footprint of a building; however, due to the declining health of the trees, the case was being brought before the Code Enforcement, Adjustments and Appeals Board. He noted that both boards had the authority to approve the tree removal.

Jason Sheffield, a staff member for the City of St. Augustine, was sworn in and stated the following:

- Submitted an informational packet which included the following:
 - ◆ Elevation plan of the proposed buildings.
 - ◆ Location of the trees on the site.
 - ◆ Photographs of the trees.

- ◆ Report from a certified arborist which outlined the poor health of the trees.

- The Fleet Operations Building was currently located adjacent to the Water Treatment Plant. In order to facilitate the expansion of the Water Treatment Plant, a new building would be constructed to house the Fleet Operations and Warehouse Facility. A decision was made, following four months of research, that the most strategic place for the Fleet Operations and Warehouse Facility was across the street from the present site.
- Offered to plant a total of sixteen trees on the City owned property which included the following locations:
 - ◆ Site of the new Fleet Operations and Warehouse Facility.
 - ◆ Site of the existing Field Operations Facility which was located adjacent to the property in question.
 - ◆ Intersection of Leonardi Street and South Dixie Highway.

Ms. Arriola noted the following:

- The applicant was usually ordered to plant replacement trees within 30 days of the tree removal.
- A large amount of construction would be taking place on the site; therefore, she suggested that the trees be planted prior to the issuance of a certificate of occupancy.

Mr. Knight recommended the following conditions:

- The replacement trees must be planted prior to the issuance of a certificate of occupancy.

- The replacement trees must be planted within 60 days of the tree removal if the project was cancelled.

Mr. McMahon commented that the trees could be planted during the landscaping phase of the project.

Mr. Sheffield stated that the City Commission approved the project and noted that the City would be signing a construction contract in the near future.

MOTION

Ms. Arriola moved to approve the removal of the 24" protected chinaberry tree and the 34", 42", and 45" preserved oak trees and ordered the planting of sixteen 10' replacement shade trees measuring 2" in diameter at breast height (d.b.h.) to be planted on the City owned property on or around 247 West King Street during the landscaping phase of the project or within thirty days of the tree removal if the project was cancelled. The motion was seconded by Ms. Reilly and approved by a unanimous voice vote.

5. REVIEW OF PREVIOUSLY HEARD CASES

Item 5(a) 2004-2212

**D. W. Randall
5 Prawn Street**

**City Code, Chapter 8, Section 8-301
Unsafe structures (building and dock).**

Mr. Boles summarized the case as follows:

- On November 8, 2005 the Code Enforcement, Adjustments and Appeals

Board found the case in "non-compliance" and issued an "Order Imposing a Fine" in the amount of \$250 for November 8, 2005 and for each day thereafter of continued violation. The respondent was ordered to provide the following documentation to City staff within 10 days:

- ◆ Provide the requested documentation that was submitted to the Army Corp of Engineers. Provide proof that the documentation was delivered.
- ◆ Provide any and all correspondence sent to and received from the Army Corp of Engineers.
- ◆ Provide a telephone log listing the dates and times that telephone calls were made to the Army Corp of Engineers.
- The respondent was ordered to provide the documentation to the City staff by November 18, 2005. On November 21, 2005 he spoke to Nick Andrade (Building Official) and James Wilson (City Attorney) who stated that no documentation had been submitted.
- The fine had accumulated from November 8, 2005 until December 13, 2005 and totaled \$9,000.
- Staff recommended that the fine continue to accumulate until the requested documentation was submitted.
- Information was faxed to the City staff on the morning of December 13, 2005.

Douglas Randall of 5 Willard Drive, St. Augustine, Florida was sworn in.

Ms. Reilly asked Mr. Randall to explain the reason the information had not been submitted earlier.

Mr. Randall explained that he had difficulty locating the letter from the Army Corp of Engineers. He noted that the following information was faxed to the City staff:

- September 13, 2005 letter from the Army Corp of Engineers stating that they had jurisdiction.
- Detailed demolition plans mailed to the Army Corp of Engineers on November 15, 2005 and November 18, 2005 per their request.
- Copies of the certified mail receipts which proved that the Army Corp of Engineers received the correspondence.
- Log outlining telephone calls made to and received from Paula Johnson at the Army Corp of Engineers.
- Referenced a December 3, 2005 letter to the Army Corp of Engineers which explained that he needed their immediate assistance since a fine had been imposed. (Letter was not included in the faxed information).

Mr. McMahon noted that the Army Corp of Engineers received the detailed demolition plans on November 16, 2005 and November 21, 2005. He asked why Mr. Randall had not submitted copies of the detailed demolition plans and certified mail receipts to the City staff prior to December 13, 2005.

Mr. Randall explained that he thought that the only information that had to be provided to the City staff was the September 13, 2005 letter from the Army Corp of Engineers.

Mr. Ferrell reiterated that the board ordered the respondent to provide any and all correspondence sent to and received from the Army Corp of Engineers.

Mr. McMahon noted that Mr. Randall could not control the Army Corp of Engineers response; however, he had not demonstrated due diligence by mailing the demolition plans to the Army Corp of Engineers on November 15, 2005 and November 18, 2005.

Mr. Randall explained the following:

- Code Enforcement, Adjustments and Appeals Board meeting was held late in the afternoon on November 8, 2005.
- November 11, 2005 was Veteran's Day.
- The demolition contractors had not provided the demolition plans until November 15, 2005 and November 18, 2005, at which time he promptly mailed the documentation to the Army Corp of Engineers.

The board members reviewed previous submitted testimony and evidence.

Mr. Ferrell noted that, in order for the board members to prepare, an informational packet containing relevant information pertaining to each case was delivered to the board members prior to the meeting. He stated that the board members needed time to review the information submitted by Mr. Randall.

Ms. Arriola stated that she had anticipated that the following would occur:

- Mr. Randall would not be present at the December 13, 2005 hearing.
- City staff would distribute the document that they received from Mr. Randall on or before November 18, 2005.
- The board would rescind the \$250 per day fine which was established on November 8, 2005.

Mr. Randall apologized and stated that he had misunderstood the board's instructions.

A brief discussion ensued in which it was decided that the case would not be in full compliance until the necessary permits were obtained and the slab and pilings were removed.

Mr. Wilson noted that Mr. Randall had failed to submit the necessary documentation to City staff within 10 days; however, he submitted the necessary documentation to the Army Corp of Engineers within the 10 day timeframe.

Mr. Ferrell noted that a permit from the Army Corp of Engineers would be required and questioned whether a City permit was necessary.

Mr. Andrade explained that a City demolition permit had been previously issued to Mr. Randall; however, it was possible the permit had expired. He noted that Mr. Randall could apply for a City demolition permit once he received a permit from the Army Corp of Engineers.

Mr. Knight noted that, based on the information presented by Mr. Randall and his dependence on the actions of another agency, he recommended the following:

- The case should be held in abeyance until January 10, 2006 (neither rescind nor impose the fine).
- Mr. Randall must continue his efforts to obtain a permit from the Army Corp of Engineers.

A brief discussion ensued and the board decided that Mr. Randall should present, to

City staff, any and all correspondence sent to and received from the Army Corp of Engineers by January 3, 2006.

Mr. Randall stated that he clearly understood the board's instructions.

MOTION

Mr. McMahon moved to continue the case in abeyance and ordered the following:

- **The respondent shall continue his efforts to obtain a permit from the Army Corp of Engineers.**
- **By January 3, 2006 the respondent shall submit the following documentation to the City staff:**
 - ◆ **Any and all correspondence sent to and received from the Army Corp of Engineers. Provide proof that the documentation was delivered.**
 - ◆ **Provide a telephone log listing the dates and times that telephone calls were made to the Army Corp of Engineers.**

The motion was seconded by Ms. Hurst and approved by a unanimous voice vote.

6. REVIEW OF NEW CASES

(None)

7. OTHER BUSINESS

Mr. McMahon's Final Meeting.

Mr. Knight stated the following:

- Following eight years of service, Mr. McMahon was attending his final board meeting.

- Thanked Mr. McMahon for his fine efforts and community service to the City of St. Augustine.
- Presented Mr. McMahon with a City of St. Augustine Coin.

The board members thanked Mr. McMahon for sharing his knowledge and experience and stated that he would be surely missed.

Mr. McMahon stated that it had been a pleasure serving on the board.

Flood Control Variances

A brief discussion ensued regarding Chapter 10 – Variance, Section 1001.2 Exceptions for Historic Structures. The following was discussed:

- Variance may be issued for the reconstruction, rehabilitation or restoration of buildings listed on the National Register of Historic Places or the State Inventory of Historic Places. It was suggested that “accurately” restored buildings should be added.
- Chapter 10 was a Federal Code; therefore, the board lacked the authority to reinterpret or modify the code.
- Mr. Andrade offered to send a letter to the appropriate Federal Agencies requesting the modification of the code. The results would be reported at a future meeting.
- A large number of historic houses had been demolished during the previous twenty years.
- A large amount of money was required to restore a historic structure.
- The board could consider the structure’s historic significance.

- The City’s flood rating would not be greatly affected by the small number of flood control variances approved.

8. CITY ATTORNEY ITEMS

Thanked Mr. McMahon for his service to the City of St. Augustine.

9. REVIEW OF CONFLICT STATEMENTS FROM PREVIOUS MEETING

(None)

10. ADJOURNMENT

MOTION

Mr. McMahon moved to adjourn the meeting. The motion was seconded by Ms. Arriola.

Meeting was adjourned at 4:18 P.M.

Douglas A. Ferrell, Chairman

Nancy E. Brilliant, Recording Secretary