



**MARTIN COUNTY
BOARD OF ZONING ADJUSTMENT
MINUTES**

**Commission Chambers
2401 SE Monterey Road, Stuart, FL 34996**

October 24, 2019

**Cabell McVeigh, Chairman
Travis Waddell, Vice Chairman
Michael Dooley
John Honan
Scott Rodriguez
Rodney Sturm
Mac Ross**

CALL TO ORDER

BOZA Members Present: 6

Chairman Cabell McVeigh, Vice Chairman, Travis Waddell, Michael Dooley, John Honan, Rodney Sturm and Scott Rodriguez.

Absent: Mac Ross

Present:

**Senior Assistant County Attorney Krista Storey
Deputy Director, Development Review..... Paul Schilling
Principal Planner Peter Walden
Agency Recorder/Notary Mary Holleran**

MIN – 1 BOARD APPROVAL OF MINUTES – SEPTEMBER 26, 2019

The Board of Zoning Adjustment was asked to approve the Minutes of the September 26, 2019 meeting.

Agenda Item: 20-0071

A MOTION was made by Mr. Honan; SECONDED by Mr. Rodriguez to approve the minutes of the Board of Zoning Adjustment Meeting of September 26, 2019. The motion CARRIED Unanimously (6-0) .

QJP – 2 QUASI JUDICIAL PROCEDURES

Quasi Judicial Procedures apply when a request involves the application of a policy to a specific application and site. It is a quasi-judicial decision. Quasi-Judicial proceedings must be conducted with more formality than a legislative Proceeding. In quasi-judicial proceedings, parties are entitled – as a matter of Due process – to cross examine witnesses, present evidence, demand that the Witnesses testify under oath, and demand a decision that is based on a correct application of the law and competent substantial evidence in the record.

Agenda Item: 20-0072

All persons wishing to speak on a Quasi Judicial agenda item will be sworn in.

NEW BUSINESS

NB - 1 2nd GENERATION BUILDING CORPORATION VARIANCE REQUEST

Request for a variance by 2nd Generation Building Corporation, a Florida Corporation, to reduce the setback requirements of Article 3, Zoning Districts, Land Development Regulations, Martin County Code, for the HR-1, Single Family Residential District to permit the construction of a swimming pool and deck. The subject property is located at 8500 SE Sabal Street Hobe Sound, Florida.

Agenda Item: 20-0073

Presented by: Peter Walden, Principal Planner, Growth Management Department.
Agent for the Applicant: Joe Basso, 2nd Generation Building Corporation

*** For the Record:**

BOARD MEMBERS: There were no ex parte communication disclosures. No interveners were present.

APPLICANT: Required notices and a complete list of surrounding homeowners that were notified was provided, NB-1, Exhibit 2.

COUNTY: Principal Planner Peter Walden entered a copy of the full agenda items, correspondence from the neighbors, and his work history/resume as NB-1 Exhibit -1.

COUNTY: Principal Planner Walden indicated that a revised Site Plan came in after the agenda was provided. He reviewed the applicant, Second Generation Building Corporation's request to reduce the setback requirements of Article 3, Zoning Districts, Land Development Regulations, Martin County Code, for the HR-1, Single Family Residential District to permit the construction of an unenclosed swimming pool and deck. Mr. Walden reviewed the site location in Hobe Sound, noting numerous variances have been reviewed by the Board in this same community. Views of the location, the lot, the proposed variance site, a backyard view and surrounding lots of homeowners was displayed.

The applicant is proposing to construct an unenclosed swimming pool and deck, and reduce the 35 ft. HR-1 Zoning District setback to 25 ft., to meet the Shoreline Protection Zone setback requirements. Special circumstances exist as the existing dwelling, size and configuration of the lot, the current setbacks and shoreline protection zone requirements for the lot significantly reduce the design flexibility for the proposed swimming pool and patio addition. Literal interpretation of Article 3 would deprive the applicant the rights commonly enjoyed by others in the same zoning district, because of the 35 ft. setback. Based on a strict interpretation of the rear yard setback requirements for this lot, the proposed swimming pool and patio would not be permitted. Special conditions and circumstances for this request are not the result of the applicant's action, and granting the variance will not confer a special privilege on the applicant as many owners in the same zoning district have been granted setback variances for swimming pools.

The granting of the variance will not create a negative impact to the health, safety and welfare of the surrounding neighborhood and the requested variance appears to be the minimum variance required to permit the proposed swimming pool and patio.

Mr. Walden advised the application for a setback variance is in order and qualifies for an action of approval for a rear yard setback variance of 10 ft. to reduce setback requirement from 35 ft. to 25 ft. to permit the proposed swimming pool and patio, and a west side yard setback variance of 3 ft. to reduce the west side yard setback requirement from 15 ft. to 12 ft., to accommodate the pool deck.

If the Board concurs and approval is granted, authorization is requested for the Chairman to sign the variance resolution which has been prepared with an attached survey that provides an illustration of the proposed improvements and reduced setbacks.

BOARD/ZONING ADJUSTMENT (BZA): The Board discussed the wall, encroachments, that the pool is not in the setback, it's just the deck. A sidewalk does not require a variance. Other properties of neighbors who have spoken to staff were displayed. Other pools and variances that were granted over the years were discussed when the Shoreline Protection Zone was not in existence.

COUNTY: Ms. Storey advised the Board was provided with copies of communications from neighbors who could not attend the meeting. Mr. Walden indicated staff spoke with two neighbors to the west who were not in favor of the 3 ft. side setback.

APPLICANT: Mr. Joe Basso, 2nd Generation Building Corporation, President/Owner, *** provided the Affidavit Attesting to Notification – NB-1, Exhibit 2. Mr. Basso provided a history of the property and his discussions with his neighbor on the left. (Lot #57). He discussed the demo of the old patio, and other pools in the community and their distance from the water.

BZA: Mr. McVeigh confirmed the pool would not be enclosed. Mr. Walden confirmed the setbacks.

APPLICANT: Mr. Basso said he would have an aluminum fence around the house with an alarm system, and would fulfill Code requirements and criteria for a child barrier. Mr. Basso discussed the fencing, deck and patio construction materials.

PUBLIC: No comments at this time.

BZA: Mr. McVeigh indicated the applicant has requested the same setbacks as others, and the request will not obstruct the view. Mr. Dooley was familiar with the area, he requested Lot #53 be displayed, and discussed the setbacks and code requirements.

MOTION: Mr. Dooley moved to approve staff's recommendation to allow a rear yard setback variance of 10 ft. to reduce the setback requirement from 35 ft. to 25 ft. to permit the proposed swimming pool and patio, and a west side yard setback variance of 3 ft. to reduce the west side yard setback requirement from 15 ft. to 12 ft., with special conditions that the pool and deck area

will not be screened; the applicant is not receiving any special privileges that others have been granted and it will not create a negative impact to the health and welfare of the neighborhood. The variance will be tied to the Site Plan presented to the Board of Zoning Adjustment. Mr. Sturm mentioned a condition only for a sidewalk. Mr. Dooley added that the sideline setback will only be for any type of sidewalk, walkways, nothing vertical and that includes the deck and no screen enclosure.

MOTION SECONDED by Mr. Waddell. CARRIED Unanimously (6-0).

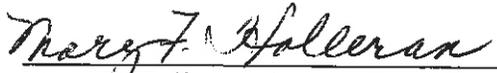
COMMENTS

1. **PUBLIC** – None
2. **BOARD:** - Requested receiving packets prior to the meeting, especially Staff Report; Survey, (11 x 1) and Site Plan. Mr. Schilling confirmed they would receive paper copies of their request. New software has been introduced with exhibits to match agenda items.
3. **STAFF:** The next Board of Zoning Adjustment meeting has not been scheduled. Board members will be notified of the next scheduled meeting.

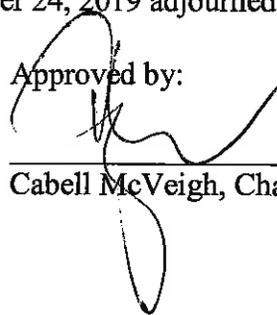
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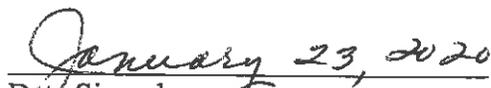
The Board of Zoning Adjustment meeting of October 24, 2019 adjourned at 7:55 pm.

Respectfully Submitted:


Mary E. Holleran, Agency Recorder
Notary Public

Approved by:


Cabell McVeigh, Chairman


Date Signed:

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