

BOARD OF ADJUSTMENT
MARCH 16, 2022
MINUTES

Minutes of the Board of Adjustment Meeting of the Town of Ocean Ridge, Florida held on Wednesday, March 16, 2022, at 9:00 AM in the Town Hall Meeting Chambers.

CALL TO ORDER

The meeting was called to order by Chair Cody at 9:00 a.m.

ROLL CALL

Town Clerk Armstrong called the roll which was answered by the following: Member Betty Bingham, Member Carolyn Cassidy, Chair Mary Ann Cody, Vice Chair Bruce Hindin, and Member Robert Sloat. Alternate Member Nicholas Arsali was also present in the Chambers.

PLEDGE OF ALLEGIANCE

Chair Cody led the Pledge of Allegiance.

1. APPROVAL OF MINUTES FROM NOVEMBER 17, 2021

Member Bingham moved to adopt the minutes of November 17, 2021; seconded by Vice Chair Hindin. Motion carried 5-0.

2. QUASI-JUDICIAL HEARING: VARIANCE REQUEST FOR 6161 N OCEAN BLVD

An application submitted by Erica Sneed, as agent for Roslyn and Stanley Middleman, for a parcel of property located at 6161 N Ocean Blvd, Ocean Ridge, FL 33435, requesting a variance from the provisions of the Land Development Code, Chapter 67, Buildings and Building Regulations, Article II, Coastal Construction, Section 67-18; Coastal Construction Setback Line. Also from the provisions of the Land Development Code, Chapter 64, Zoning, Article III, Supplemental Regulations, Section 64-41; Accessory uses, buildings and structures generally - to permit a a Chickee Hut that would be located east of the 1979 Coastal Construction Control Line, and would encroach into the side setback for accessory structures. The variance would allow for a 210.63' setback from the 1979 Coastal Construction Control Line and a relief of 8' from the required 15' setback. The property is located at 6161 N Ocean Blvd, property control number 46-43-45-27-08-003-0030 and legally described as AMENDED PL OF BOYNTONS SUB LTS 3 TO 5 INC BLK 3, & TH PT OF BLK 10 LYG W OF & ADJ TO & ABND OCEAN BLVD LYG BET (exact legal description located at Town Hall).

Town Clerk Armstrong read the application by title into the record and advised that all fees have been paid. She noted that she received no additional correspondence.

Chair Cody explained that this is a quasi-judicial hearing and asked if any board members had any ex-parte communications with the applicant, owner, or builder. Member Cassidy notified that she spoke to the applicant to obtain access to the property, and Member Bingham stated that she visited the site. All other Board Members informed that they had no ex-parte communications.

All those planning on providing testimony were sworn in by Town Clerk Armstrong.

Chair Cody invited Town Planner, Corey O' Gorman, to present the project. Town Planner O'Gorman summarized that the variance requested is to allow the installation of a Chickee Hut on the property, and the request would need a variance from two provisions of the code. He corrected that the proposed Chickee Hut would be 33' from the 1979 Coastal Construction Control Line (CCCL), not 210.63' as indicated in the application. The 210.63' setback in the application would

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be from the 1997 Coastal Construction Control Line. Building Official Guy gave the board the background on the property.

Erica Sneed, an agent for Roslyn and Stanley Middleman, explained that the homeowners are looking to install a Chickee Hut that would provide shade over the permitted deck. She stated that the structure is exempted from the Florida Building Code because it is made from natural materials.

Member Bingham asked the contractor if he knew that an enclosed deck has a 15' setback while an unenclosed deck has a 5' setback. Ms. Sneed informed that they obtained approval from the Department of Environmental Protection (DEP) and were unaware of Ocean Ridge's regulations. Member Bingham argued that the contractor should be aware of local ordinances, to which Ms. Sneed stated that they obtained state permits and the location is the most logical place for the Chickee Hut. Member Bingham discussed the intent of ordinances and reiterated that contractors should read the town codes. She advised the contractor could have chosen a different location for the deck if they had read the code before commencing any work. She asked about the height of the hut, and Ms. Sneed provided it.

Member Cassidy noted that surrounding properties have a Chickee Hut and asked how they were able to install one. Building Official Guy stated he had not researched the surrounding properties. Town Clerk Armstrong noted that the town has a process referred to as a "no-fee zoning application" for Chickee Huts or Tiki Huts. She notified that the process had been in place for some time and that she had seen properties apply for it; however, she did not have any information regarding variances for the surrounding properties. Member Cassidy asked for more details on how the Chickee Huts were allowed to be rebuilt after the seawall reconstruction. Town Clerk Armstrong stated that a grandfathered structure could be reconstructed if it is destroyed by any non-voluntary means.

Erica Sneed stated that there is a chickee Hut near the subject property that did not obtain a DEP permit, and she does not think it has a Town permit. Town Manager Stevens stated that properties should not be compared because specific structures could have been built under different regulations. She asked for the board to focus on the variance presented. Town Attorney Goddeau concurred and notified that the board needs to look at variances on a case-by-case basis.

Vice Chair Hindin asked for clarification on statement D in Exhibit B. Ms. Sneed stated that the proposed location is the prime location for the Chickee Hut. The Chickee Hut is proposed to go over the permitted deck that connects to the stairs for beach access.

Member Cassidy stated that the Coastal Construction Control Line creates a hardship for residents who bought their homes prior to the passing of the Ordinance 2020- 05 because it limits the owners on what they can do on their property. Member Bingham stated that the issue is the side setback. Member Cassidy noted that she only refers to the Coastal Construction Control Line setback.

Stanley Middleman, property owner, thanked the board for considering the application. He stated that he was unaware of the variance requirement and that he did not plan to install the Chickee Hut when the deck was proposed. He said that now that the deck is constructed, he would like shade over it.

Chair Cody called for public comment, and there was none.

Member Bingham asked if the surrounding properties had a permit to install their Chickee Huts, and Town Clerk Armstrong notified that she was unsure and would have to research. She reported

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that the town has a process to install a Chickee Hut called no-fee zoning. Member Cassidy asked for information on the no-fee zoning application, which Town Clerk Armstrong provided. Town Manager Stevens stated that further research would have to be done on the surrounding properties in order to answer the questions posed by members, and she asked members to notify staff before the meeting if research is needed so that staff can be prepared for the meeting.

Vice Chair Hindin asked the owner if they had intentions of adding a shower or summer kitchen to the deck, to which Mr. and Mrs. Middleman stated that they already have those items in a separate location of the home.

Member Cassidy stated that she could understand the homeowner's point of view in not knowing that a variance is required where they wanted to place the Chickee Hut. Member Bingham concurred and stated that it is the responsibility of the contractor.

Chair Cody asked if there would be any additional improvements to the Chickee Hut and whether they would enclose the Chickee Hut. Mr. and Mrs. Middleman stated that they have no intention to add any additional items to the Chickie Hut or enclose it. They said that they only wanted it for shade.

Member Sloat stated that he favors approving the chickee hut subject to the hut remaining unenclosed.

Member Bingham warned that people should do research prior to doing the work. She advised that the code should be adhered to.

Vice Chair Hindin stated that he favors granting the variance so that the owners can have shade on their property. He noted that the deck in place was permitted and that the deck is out of the setback. He further advised that he favors all the recommendations presented by staff except that the variance will cease if the single-family home and deck are demolished because the deck and the single-family home could be destroyed by non-voluntary means. Member Bingham clarified that an unenclosed deck has a different setback than the accessory structure.

Member Cassidy notified that she is in favor and that the request is reasonable. She agreed that the structure should never be enclosed.

Chair Cody is in favor of approving the variance with all staff recommendations except the one regarding the ceasing of the variance if the deck or home is demolished. Town Attorney Goddeau clarified the phrase "unless an act of God" could be added so that the variance would stay in place if the single-family home, deck, and/or Chickee Hut is demolished by non-voluntary means.

Chair Cody moved to approve the variance request to install a Chickee Hut at 6161 N Ocean Blvd as presented, subject to the following conditions: the chickee hut can never be enclosed, no additional improvements can be made such as electrical or plumbing, and the variance will cease if the single-family home is demolished or if the deck is demolished unless by an act of God; seconded by Member Sloat. Roll Call is as follows:

Member Sloat Aye

Member Bingham Nay

Vice Chair Hindin Aye

Member Cassidy Aye

Chair Cody Aye

Motion Carried 4-1.

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Chair Cody called for public comment on any item on the agenda.

Darlene Johnston and Robert McAllister, 26 Harbour Drive South, stated that they were granted a variance to install a sun trellis; however, now the town has indicated that an additional variance is needed for the balcony. He explained that the extension of the balcony is needed to support the sun trellis. He stated that drawings submitted with the previous variance showed that the balcony was increasing. Building Official Guy provided history into the circumstances and noted that the balcony is being expanded more than allowed by code. Ms. Johnston and Mr. McAllister stated that they were not aware they would need a variance to extend the balcony. Chair Cody noted that the board has no authority at this time to waive any requirements.

The board asked Building Official Guy if Ms. Johnston would need an additional variance. Building Official Guy stated that a variance would be required because they are extending more than allowed under code.

Ms. Johnston asked why she was not notified prior about needing a variance. Building Official Guy stated that the variance application was only for a sun trellis and only a cursory review is required for a variance application for the requested item. He advised that a holistic project review is conducted during the building permit stage. He stated that Ms. Johnston could continue with the current size of the balcony. Mr. McAllister gave some history of the property. He indicated that they were unaware that a variance is needed to extend the balcony since it would connect to the sun trellis.

Vice Chair Hindin stated that the balcony could be removed since the balcony is non-functional, and the sun trellis can be directly attached to the home's rear elevation. Mr. McAllister stated that it could be a hazard if the balcony is removed. He advised that the town is requiring another variance. Chair Cody asked if there is an abbreviated process to apply for a variance, and Town Attorney Goddeau stated that there is no process within the code to amend a variance request already heard.

Member Cassidy asked if the Building Official reviews what is provided, and Town Attorney Goddeau stated that he does, but the standard of review is different for a variance application versus a building permit. Town Clerk Armstrong showed the application that was submitted. Mr. McAllister stated that one item showed the balcony, to which Chair Cody noted that there was no mention in the application about the balcony.

Member Cassidy stated that staff should have caught the balcony extension and further asked about who's responsible on ensuring that owners apply for the right items. Town Attorney Goddeau stated that it is ultimately the applicant's responsibility to ensure that they are disclosing all the items they are doing and asking for in the application. She further stated that the applicant should work with the contractor to ensure all the information is placed on the variance application, and staff should not be put in a position to advise applicants.

Ms. Johnston and Mr. McAllister stated that they were not aware that a variance was needed for the balcony. Ms. Johnston advised that the balcony extension was done prior to the sun trellis.

Chair Cody asked the applicant to continue working with the Town, and Mr. McAllister and Ms. Johnston stated that they would continue to work with the Town.

Town Manager Stevens advised that she would work with the applicants to try to waive their application fees.

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The board discussed the difference between Chickee Hut and Tiki Hut.

Member Cassidy asked for a history of the Chickee Huts near 6161 N. Ocean Blvd. Town Attorney Godeau warned that staff could do the investigation, but if the investigation shows that some Chickee Huts were installed without the proper permits, then a Community Standards case may be brought forth for those owners who are not in compliance. Vice Chair Hindin stated that it would be better for the Planning and Zoning Commission to review Chickee Huts. Chair Cody concurred.


Member Bingham warned about what could happen if people stopped avoiding the laws and stated that residents should adhere to Town codes.

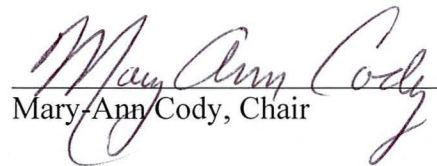
VII. ADJOURNMENT

The meeting was adjourned at 9:58 a.m.

Minutes taken by Town Clerk Armstrong and adopted by the Board of Adjustment on April 19, 2022.

ATTEST:



Karla Armstrong, Town Clerk

Mary Ann Cody, Chair