

MINUTES OF THE SPECIAL MEETING OF THE CITY OF STUART BOARD OF ADJUSTMENT HELD IN CITY HALL, 123 SOUTHWEST FLAGLER AVENUE, STUART, FLORIDA ON APRIL 12, 2007

Those present: John Pasqualone, Chairman
Bonnie Landry
Dr. E.E. Griffith
Philip Harvey

Those absent: Mark Mathes

Also present: Paul Nicoletti, City Attorney
Kev Freeman, Development Director
Dennis Mrozek, Planner

I. CALL TO ORDER: Chairman

Chairman Pasqualone called the meeting to order at 6:06 PM.

II. ROLL CALL: Secretary

Those answering roll call and others present are referenced above.

III. APPROVAL OF MINUTES: March 22, 2007

MOTION: Bonnie Landry
SECOND: Vice Chairman Harvey

Motion carried

Paul Nicoletti, At the March 23rd hearing the Board had continued the hearing on Case#06110001, which is First South Properties, Crowson Family Petition for a couple of variances that had been heard by this Board on three or four occasions and you continued that based on some advice that I had given you and you may recall that I had given you Mr. Chairman some quasi-judicial hearing procedures that we used for that hearing and at the conclusion there was a question about the vote that the vote was in fact two in favor of granting the variance, one opposed and I had ruled based on my cheat sheet that it took 3 affirmative votes however, I was not considering the fact that the Board of Adjustment under our code is a standing board which board rules allow for a majority vote. So in fact, the decision had already been made. I didn't realize it at the time and certainly misspoke when I advised that this Board required an affirmative vote of three. Just prior to that we had a similar hearing in front of the City Commission, in fact the City Commission does require three affirmative votes. It's not unusual for a quasi-judicial proceeding to require three affirmative votes however that is not the way our Code is set up. So I apologize to the Board and the public and First South Properties and their consultants however the only action that is before you tonight is to enter the order that was approved at the March 23rd hearing. There is not question in my mind that it is the appropriate action. It does not prejudice anyone's rights to appeal within 30 days. I wanted to advise the Board and members of the public and put into the record that the board action that occurred at last

meeting is a valid order. I have drafted an order and a copy is in front of you. I don't want to belabor the point but I tried to make sure that I included all of the points that needed to be. You'll note that the vote is recorded there for you. I will be happy to answer any questions that you might have.

IV: QUESTIONS FROM THE PUBLIC:

Lucille Rice 816 St. Lucie Crescent, Did you get a copy of our petition in your packets? We came to the quasi-judicial meeting not know what it was with the petition of the homeowners in that section of the R1.

Chairman Pasqualone, No

Dennis Mrozek, It was presented after the vote was already in place and it is in the file.

Chairman Pasqualone, So it was received after the vote?

Dennis Mrozek, Yes.

Lucille Rice, Only because it was a quasi-judicial meeting and you would not let us present it. I was not in the area that received the notification that the meeting was quasi-judicial.

Chairman Pasqualone, I believe you could speak at that meeting but not present evidence unless you applied as an intervener and paid the fee. That is something that you need to discuss with the City Attorney.

Dr. Griffith, I understand what you are saying and maybe if you wrote out what you think is unfair and if this case goes to appeal, that information could be presented then. We did hear all of your testimonies and knew there was a large population of individuals that were not pro for this house being approved.

Ann Burford 720 SW Cleveland Ave., I know this matter has gone before the Board since 2005 but there were two variances that were denied. The only thing that I would request in the near future is the Cottage Lot ordinance. I would like to ask that no variances be approved until this Cottage Law is in effect.

Joly Pond 817 St. Lucie Crescent, There were a least 3 glaring misrepresentations made by the architect at the last meeting and these things upset my integrity to the bone. This is a pure case of misrepresentation and sham.

Chairman Pasqualone, Please keep your comments professional and let's refrain from any accusations of impropriety.

Jeff Norris 700 Cleveland Avenue, I am against the proposed variances.

Keith Wood 701 Cleveland Ave., You people made your decision all well and good, but I am very disappointed in this City that they are not doing anything to protect our old neighborhoods.

Chairman Pasqualone, We are a peer group of yours, members of the community and we are not paid to sit here and make decisions. We are doing this as a judicial good for the community based upon the best knowledge of information that we have. If you would like to see change made to City ordinances by all means you have a very well spoken community group here, please petition the City Commission.

Dr. Griiffith, Anyone can volunteer for these committees regarding the growth of the City.

Keith Wood, I think you need to just go by the Code.

Pat Wood 701 Cleveland Ave., I am against the project and granting of the variance for this project.

Joe George 705 St. Lucie Crescent, Two variances were denied and the changes the architect made were not very dramatic. The house there was purchased for over \$300,000 and now it is for sale. They are erecting a home that is going to be large enough to make a profit. I think the neighborhood is being developed and we will be able to use this house as an example when the next variance is requested.

Dr. Griffith, This is a question for the City Attorney. I don't think there was two votes to not approve it, I think there was a motion on the floor to not approve it but that wasn't approved and there was a motion on the floor to approve it that was a two to one vote of approval.

Paul Nicoletti, I believe that is correct and I think what the public is trying to tell you is that it has been before you a couple of times before and there was no agreement by the board to approve a variance and it was the third time in fact that the approval was actually granted which is different and not quite the way it was stated by the members of the public but that is what happened. So in fact, it wasn't really denied prior to that.

Dr. Griffith, So the appellate approach here is still in place and if you are disagreeing with what two of the three of us voted then that is your next move, to appeal that.

Annette Salvatori, I live across the street from this house and I have heard so much negativity that I had to get up. I have 30 signatures here of people who approve of this house that is going to be built because it will improve our neighborhood and I approve of this building and want it to go on record.

V: NEXT BOA MEETING: April 26, 2007

VI: ADJOURN:

MOTION: Dr. Griffith
SECOND: Bonnie Landry

Chairman Pasqualone, there being no further business before the Board the meeting is adjourned at 6:30PM.

APPROVED

RESPECTFULLY SUBMITTED

Jon Pasqualone, Chairman

Michelle Vicat, Board Secretary