



**BOARD OF ADJUSTMENTS
3048 S. Atlantic Avenue
Daytona Beach Shores, Florida
Monday, September 26, 2005
9:00 a.m.
AGENDA**

CALL TO ORDER

APPROVAL OF MINUTES:

Minutes of the Board of Adjustments, August 15, 2005.

VARIANCE REQUESTS - PUBLIC HEARING/BOARD DETERMINATION

1. ZV2005-5: Bella Vista Condominium – 2515 S. Atlantic Avenue
Variance for building height
2. ZV2005-7: Palma Bella – 3235 & 3245 S. Atlantic Avenue
Variance for building height, and breezeway corridor

DISCUSSION

REMARKS OF BOARD MEMBERS

ADJOURNMENT

NOTICES: Notice is hereby given to all interested parties that if any person should decide to appeal any decision made at the aforementioned meeting of the Board Of Adjustments, such person will need a recording of the proceedings conducted at such meeting, and for such purpose he or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the City Clerk, City of Daytona Beach Shores, at least five working days prior to the meeting.



BOARD OF ADJUSTMENTS
3048 S. Atlantic Avenue Daytona Beach Shores, Florida
September 26, 2005
MINUTES

CALL TO ORDER: Chairperson Jill Trafton called the meeting to order at approximately 9:00 a.m. Board members present were: Gary Brown, and Frederick Ehle. Rita Whitman and Anne DiGaetano were absent (excused). City staff members present were: Fred Hiatt, Director, Community Services; Stewart Cruz, City Planner; and William Reischmann, City Attorney.

The resignation letter of Hank Smith was put on the record.

APPROVAL OF MINUTES:

Minutes of the Board of Adjustments, August 15, 2005.

Mr. Brown moved, seconded by Mr. Ehle to approve the minutes of August 15, 2005. The motion passed unanimously.

VARIANCE REQUESTS - PUBLIC HEARING/BOARD DETERMINATION

1. ZV2005-5: Bella Vista Condominium – 2515 S. Atlantic Avenue
Variance for building height

The hearing opened at 9:05 am. Witnesses were sworn in by the City Attorney.

City Planner Stewart Cruz read from his staff report. He explained that this project had previously been granted a height variance and is requesting another. He reported that the impetus behind this was a requirement made in the Final Order issued by the Florida Dept. of Environmental Protection (DEP). The DEP is requiring that the finished floor elevation of the building be raised by 1.33' to an elevation of 10 feet NGVD. This site plan has already been approved by the City Council, however, the Final Order has to be complied with by the developer in order for DEP to approve the site plan as proposed. Staff had met with the developer prior to the hearing at the applicant's request and had since amended their report based on two letters provided by the applicant and his architectural firm. The architect's letter essentially stated that the ceiling can't be lowered without jeopardizing the height of the room. That letter continued to state that the ceiling is only 9' 4" to start with and ends up with an 8 foot

ceiling as the finished project. The applicant's letter stated that the floor/ceiling slab thickness could not be reduced due to safety issues.

Jim Morris, attorney for the project spoke on behalf of the applicant. He explained that the underground parking garage is the pedestal for the building itself. Underground parking is required by the City's code. David Portwith, architect for the project stated that they did try to take away the height from the garage area but that was not possible due to the plumbing in the ceiling. He explained that the approved site plan is not able to be approved by the DEP due to their new guidelines that have been put in place since last year's storms. Glen Greiner, structural engineer for the project, explained that DEP mandates that the finished floor can not be lower than an elevation of 10 feet.

Mr. John Ersland spoke in favor of the project. Since the variance is due to the requirements of the DEP there is not much to discuss.

Those opposed to the project also had a chance to speak. Audience member Molly Zurheide asked about the referendum a few years ago on the height limit. She also felt that the site plan shouldn't be seen until after the DEP gave their permission for the project. Mr. Morris explained that there were special conditions at the site. He further explained that the referendum couldn't stop this board. The City's code allowed for 12 stories and this project is only 11 stories.

Bill Dryer questioned whether the DEP had really changed their rules. It was explained that this was to protect the sand dunes.

A short recess was taken at 10:07 am. with the meeting resuming at 10:14am.

City Attorney Bill Reischmann explained the Board needed to consider a height variance for 1.33 feet. Due to the new requirements from the DEP the applicant had to come before the board a second time. Staff has asked the applicant if the ceiling height could be lowered. It has been explained that the occupiable space in each room needs to stay at 8 feet.

The public hearing closed at 10:29 am.

Mr. Brown moved, seconded by Mr. Ehle to approve the variance request for additional building height. The motion passed unanimously by voice vote.

2. ZV2005-7: Palma Bella – 3235 & 3245 S. Atlantic Avenue
Variance for building height, and breezeway corridor

The public hearing opened at 10:36 am. There were no new witnesses to be sworn in.

City Planner Stewart Cruz read from his staff report. He explained that in February 2005 this project had already been awarded two variances for lot coverage and lot width. The building height variance request is due to a letter from the DEP recommending the finished floor elevation of the garage be raised to Elevation 10 feet NGVD. The rise in the finished floor elevation of the garage would force portions of underground garage and site elevation to be greater than one foot above the average crown of the road within breezeway/visual corridor. The City's code prohibits the site elevation within the corridor to be greater than one foot above the crown of the road within the corridor. The total building height variance requested is for 2031 feet. The breezeway reduction variance request is for 34.47 feet or 14.66% of the code requirement.

Attorney Jim Morris spoke on behalf of the applicant. He reiterated Mr. Cruz's comments.

Audience member John Ersland spoke in favor of the project. He explained that since this is coming from a regulatory body that the City has no control over, the variances should be granted. He suggested revising the City's Code in the future to allow for this kind of change.

Audience member Molly Zurheide spoke in opposition of the project. She does not want the view of the ocean to be obstructed.

The public hearing closed at 10:59 am.

Mr. Brown moved, seconded by Mr. Ehle to approve the variances for building height and breezeway corridor. The motion passed unanimously by voice vote.

DISCUSSION: None.

REMARKS OF BOARD MEMBERS: None.

ADJOURNMENT : The meeting was adjourned at approximately 11:02 a.m.

ATTEST:

Cheri Schwab

Jill Trafton