

1 **MINUTES OF THE CITY OF LAKE MARY, FLORIDA, BOARD OF ADJUSTMENT**
2 **MEETING HELD ON SEPTEMBER 12, 2007, 7:00 P.M., CITY HALL, 100 N.**
3 **COUNTRY CLUB ROAD**

4
5 **TAPE 1, SIDE A**

6 I. Call to Order

7 The meeting was called to order at 7:00 p.m.

8 II. Moment of Silence

9 III. Pledge of Allegiance

10 IV. Roll Call - Determination of a Quorum

11 The following members were present:

12
13 Chairman Jim Lormann
14 Vice Chairman Frank Martin
15 Member Shawn O'Brien
16 Member George Ludwig
17 Member Meryem Stanek
18 Alternate Sean Fitzgerald

19
20 City staff present were Juan (John) A. Omana, Jr., Community Development
21 Director; Tom Connelly, P.E., Planning Engineer; and Diana T. Adams,
22 Administrative Secretary.

23
24 Also present was Steve Esler.

25 V. Approval of Minutes - June 6, 2007

26 **MOTION:**

27 **Member O'Brien moved to approve the Minutes of the June 6, 2007, Board of**
28 **Adjustment meeting, as presented. Member Ludwig seconded the motion,**
29 **which carried unanimously.**

30 VI. Old Business

31 None

1 VII. New Business

2 A. 2005-SP-19: Request for two variances from the minimum building setback
3 from the property line in conjunction with a site plan for two office buildings
4 proposed for 135, Parcel B, and 145, Parcel A, Middle Street, Lake Mary,
5 Florida; Applicant: McKee Construction Company for Beach Brothers, LLC
6 (Parcel B) and Beach Brothers II, LLC (Parcel A)
7

8 Juan (John) A. Omana, Jr., Community Development Director, presented the
9 request and the related Staff Report. The Location Map attached to the Staff
10 Report was on the overhead projector. He said that this item was before the
11 Board at their last meeting at which time the Board made the decision to deny
12 the requested variances. He stated that this request involves two variances; one,
13 a variance from the south property line at 135 Middle Street from 25' to 14.2', a
14 reduction of 10.8', and variance number two, a variance from the north property
15 line at 145 Middle Street, Beach Brothers, LLC, from 25' to 16.2', a reduction of
16 8.8'.
17

18 Mr. Omana said, new information has been obtained by staff that warrants re-
19 view by the Board, and I can stand here before the Board and testify to that
20 fact in that I was the individual that had to go through about four boxes and three
21 different files dating back to 1992 and – quite a few years back. He stated, in the
22 original review that Mr. Connelly had conducted, he had referenced our variance
23 log, which is basically a blue book about so big (indicating) and it lists the
24 variances that have been done by the City going back many years. Obviously,
25 based on that analysis, he found no entry for such variances related to any
26 property along what we term the Middle Street corridor.
27

28 Mr. Omana said, what struck my curiosity was that, in visiting the site or the
29 vicinity, the Discount Auto Parts store is only five feet from the property line to the
30 east, and the building to the south, which is an existing office building, has a 20-
31 foot setback on the east side and a 10-foot setback on the north side. So, I sat
32 down and I asked the question, well, wait a minute. Where is the 25-foot
33 setback, folks? So, that prompted the pulling out boxes and let's try to get to the
34 bottom of this matter.
35

36 Mr. Omana proceeded to discuss the findings that staff made. He stated that the
37 first finding is that the analysis of the land use map reveals that it is Restricted
38 Commercial on all sides. He asked, putting aside the variance for a minute,
39 Restricted Commercial, if it is on all sides, what are you really buffering from?
40 What are you really separating from? He said, I could understand Restricted
41 Commercial next to residential or a less-intensive use, but here we have
42 comparable land use designations.

1 Mr. Omana stated that he also had an opportunity to review Minutes and
2 documents that were associated with the Discount Auto Parts store back in 1992
3 (15 years ago), and based on that review he concluded that the setbacks would
4 be dealt with on a case-by-case basis. He noted a specific reference where one
5 of the Board Members at that time said, hey, where is the 45-foot separation, and
6 there was a reference made to the Griffin property just to the east, and another
7 commissioner jumped in and stated, well, we have got to deal with these on a
8 case-by-case basis. He said that in reviewing those files, there were technically
9 no variances processed under those site plan petitions.

10
11 Mr. Omana stated, I have concluded that based on the evidence that was
12 obtained through the files and the site plans that these items were provided with
13 those respective setbacks based on the Restricted Commercial land use
14 designation of the surrounding areas and is unique to this specific Middle Street
15 corridor.

16
17 Mr. Omana said, considering these factors and findings, I have concluded that
18 there is a special condition that exists that is peculiar to the Middle Street corridor
19 given their common Future Land Use designations and also the assessment that
20 was done to attempt to treat these on a case-by-case basis.

21
22 Mr. Omana stated, considering that analysis, it is my professional opinion that all
23 six of the variance criteria as outlined in Chapter 154.06 of the City's Land
24 Development Code have been met and that the subject variances may be
25 approved by the Board of Adjustment.

26
27 Mr. Omana concluded, saying, with that, staff finds that these are consistent,
28 does not create any special treatment or any other detrimental factor to the
29 neighboring community and staff recommends approval.

30
31 Member Ludwig questioned, when did the 25-foot setback go into effect?

32
33 Mr. Omana answered, based on my research, when I came here to the City back
34 in '98, it was in place in '98. I have seen references to it in '95. That is as far as I
35 could get based on the documents that were at hand. I would suspect it was
36 probably done even earlier than that, but understand that is a strict minimum.

37
38 Member Ludwig asked, it was likely in place when '92 rolled around?

39
40 Mr. Omana responded, I would say it was likely in place, but, again, in reading
41 the Minutes and the documents, everybody was referencing 45-foot separations
42 and – just increased separations above these minimums, but at the end of the

1 day, they were basically saying, look, similar land use designations. What are
2 we really separating from?

3
4 Vice Chairman Martin questioned, the Middle Street office building that was built
5 in 1999, likewise, there was no variance issued for that building?

6
7 Mr. Omana replied, likewise, there was no variance issued for that project as
8 well.

9
10 Vice Chairman Martin asked, but, obviously, that setback wasn't in – or that
11 existed at that point in time – the requirement for the setback?

12
13 Mr. Omana interjected, answering, the requirement existed at that point in time.
14 What I believe may have transpired is that my predecessors looked upon the '92
15 assessment and carried it forward to the building on the south, and I think here it
16 would be equitable to do the same thing.

17
18 Member O'Brien questioned, so that was, like, approved at a staff level for '99
19 most likely?

20
21 Mr. Omana responded, for '99, an interpretation would have been made at the
22 staff level and move it forward through the process based on a staff assessment.

23
24 Chairman Lormann asked, was this re-notified to the public?

25
26 Mr. Omana replied, yes, sir. What we did was we re-advertised, we had the
27 reposting and also the notices through the office.

28
29 Chairman Lormann questioned, and did we receive any feedback?

30
31 Mr. Omana answered, I did not receive any pros or cons. Mr. Connelly may have
32 something here.

33
34 Tom Connelly, P.E., Planning Engineer, further responded, I did receive one call
35 from the property owner to the south of the Beach Brothers property. I'm thinking
36 her name was Mrs. Sullivan, who is actually in Illinois, and she had some
37 confusion on the notice. She thought possibly that some of her property was
38 being taken, but once I told her it was for the development of this other property,
39 she said, well, I don't have any problem with that, and that was the end of our
40 phone conversation, but I did have one phone inquiry.

41
42 Member O'Brien asked, and all the surrounding properties are that same land
43 use designation?

1 Mr. Omana replied, land use designation of Restricted Commercial.

2
3 Member O'Brien questioned, all Middle Street is?

4
5 Mr. Omana answered affirmatively.

6
7 Chairman Lormann requested the Applicant to come forward and address the
8 Board.

9
10 Steve Esler with McKee Construction Company, 790 Monroe Road, Sanford,
11 Florida 32771, addressed the Board in favor of granting the two requested
12 variances. He just said, "I can't say anything better than what the gentleman has
13 already said".

14
15 Chairman Lormann opened the hearing to public comment. Hearing none, he
16 closed that portion and entertained board discussion and/or a motion.

17 **MOTION:**

18
19 **Member O'Brien moved to approve the request by McKee Construction**
20 **Company for Beach Brothers, LLC (Parcel B) and Beach Brothers II, LLC**
21 **(Parcel A) for two variances from the minimum building setback from the**
22 **property line in conjunction with a site plan for two office buildings**
23 **proposed for 135, Parcel B, and 145, Parcel A, Middle Street, Lake Mary,**
24 **Florida, consistent with staff's Findings of Fact listed in the Staff Report.**
25 **Vice Chairman Martin seconded the motion.**

26
27 **Chairman Lormann requested a roll-call vote on the motion, and was taken**
28 **as follows:**

29
30 **Vice Chairman Martin - Yes**

31 **Member O'Brien - Yes**

32 **Member Ludwig - Yes**

33 **Member Stanek - Yes**

34 **Chairman Lormann - Yes**

35
36 **The motion carried unanimously 5-0.**

37
38 Mr. Omana announced that per code, any affected party may appeal this matter
39 in accordance with 154.06.

40
41 VIII. Other Business

1 The Board welcomed Sean Fitzgerald, the new alternate, to the Board of
2 Adjustment.

3 IX. Reports of Other Members

4 None

5 X. Adjournment

6 The meeting was adjourned at 7:14 p.m.
7
8
9

10

11 _____
Jim Lormann, Chairman

Diana T. Adams, Administrative
Secretary

12

13