

MINUTES

BOARD OF ADJUSTMENT

CITY OF MELBOURNE
MELBOURNE CITY HALL
900 EAST STRAWBRIDGE
IN THE COUNCIL CHAMBER
AT THE HOUR OF 6:30 P.M.
February 22, 2010



1. A regular meeting of the Board of Adjustment was held in the City Hall Council Chamber, this date. Chairman Edward Kasold called the meeting to order at 6:30 p.m.

2. All present gave the Pledge of Allegiance to the Flag of the United States of America.

3. **Roll call:** The following members and officials were:

PRESENT:	Ed Kasold	Chairman
	Peter Kostrzewa	Vice-Chairman
	Charles Jackson	Member
	Brenda Burgener	Member
	Dale Young	Member
	James Taylor	Member
	Tom Herbert	Alternate Member
	Tammy Sandberg	Alternate Member

ABSENT:	John Workman	Member (Excused)
----------------	--------------	------------------

ALSO PRESENT:	Alison Dawley	Assistant City Attorney
	Jeffrey Higgins	Planner
	Angela Howard	Recording Secretary

4. Chairman Kasold introduced the Board members and City staff. He advised the audience that the meeting was scheduled to end at 10:00 p.m., unless continued by the Board, at its discretion. Unfinished business will be addressed at a meeting to be scheduled approximately two weeks from tonight. Presentations by the applicant should be limited to ten (10) minutes. Presentations or comments by interested parties should be limited to five (5) minutes. Chairman Kasold reminded applicants that Board members were looking for a hardship in order to approve any variance request and five (5) votes are necessary to approve a variance, and four (4) to deny the request.

5. Approval of Minutes – January 25, 2010

Moved (Burgener/Jackson) to approve the minutes of the January 25, 2010 meeting.

Motion carried unanimously.

6. **Requests for Dismissals, Postponements, or Withdrawals**

No dismissals, postponements, or withdrawals.

NEW BUSINESS

7. **V-10-005** **JAKE WISE FOR LEE & ELENA BURNS / 1900 S. BABCOCK ST.**
In a C-2 zoning district, the following variance is requested:

Variance of 10 ft. to allow a 0 ft. alley setback.

App. B., Art. V, Sec. 2. (A) Table 2B requires a 10 ft. alley setback.

Jake Wise, of Certified Engineering Group located at 2651 W. Eau Gallie Blvd, Ste A, was sworn in, under oath, by Assistant City Attorney Alison Dawley.

Mr. Wise announced that he was the engineer for the proposed project, and if there were any questions that he could not answer the owner and architect for the project were also present.

Mr. Wise reported that the Florida Department of Transportation (FDOT) is taking approximately 15 feet of the property along Babcock Street for right-of-way use. The loss of the property will result in significant changes to the developed commercial site along its frontage, and the existing building has a 0 foot setback. The site is developed with a "T"-shaped building that is currently 4,675± square feet in size. The main part of the building (2,866± square feet) is adjacent to Strawbridge Avenue. The remaining 1,800± square foot of the building is attached centrally to the south of the main building and there are parking areas on either side of this part of the building - in the front, along Babcock Street, as well as in the back along the alley. Once the front 15 feet becomes right-of-way, there will not be any ability to provide code-compliant parking in the front. The proposal is to demolish the 1,800± square foot portion of the building and replace/relocate it with a smaller addition (1,152± square feet) to the rear, abutting the alley. Relocating a portion of the building would allow the site to meet Code requirements for parking space dimensions and drive aisle widths. Granting the variance request would also

improve landscape buffers, ingress/egress, handicap accessibility, add green space, and storm water treatment.

Mr. Wise stated that the request meets the criteria for the variance based on the following conditions:

- The literal interpretation would deprive them rights commonly enjoyed by others
- Would not give any special privileges for their property compared to others
- The special conditions and circumstances were not due to the actions of the applicant, but that of FDOT in taking 15 feet of frontage
- Requesting the minimum variance possible
- Would not be injurious to the neighborhood or detrimental to the public welfare.

Mr. Wise said the site is in the Babcock Community Redevelopment area and in a designated brownfield area, he expressed that the City is dedicated to improving the area and he believes the project reaches that goal.

Jeffrey Higgins, City of Melbourne Planner, said the applicant is requesting a variance in order to renovate a commercial property originally developed in 1964. The applicant is asking for a reduction in the rear setback from an alley. City Code requires a minimum 10-foot setback. With recent right-of-way improvement plans for Babcock Street, the Florida Department of Transportation (FDOT) acquired approximately 15 feet of the property along Babcock Street and is becoming right-of-way. The loss of the property will result in significant changes to the developed commercial site along its frontage. The property owner is actively seeking to modify the site in response to these right-of-way improvements. Once the front 15 feet becomes right-of-way, there will not be any ability to provide code-compliant parking in the front.

Mr. Higgins stated that staff's recommendation to approve the variance is based on the following: The project was evaluated as a redevelopment, has three (3) frontages, no new encroachment, still maintains the 20 foot alley, and if granted would meet additional code requirements. Granting this variance request will be in harmony with the general intent and purpose of the Zoning Code and will not be detrimental to the public welfare.

Chairman Kasold asked for disclosures.

There being none, Mr. Kasold asked the Board and staff if they had any questions for the applicant.

Mr. Jackson asked if the alley would be one-way.

Mr. Wise confirmed, and added that the flow of traffic is eastbound.

Mr. Jackson asked for clarification of the 11x25 area measurement on the site plan.

Mr. Wise specified that perpendicular parking was not possible with a 16 foot drive aisle; therefore, the site plan proposes one parallel space for eastbound traffic.

Mr. Kasold opened the floor for public comments. There were no public comments.

Mr. Kasold asked for correspondence regarding the item.

Mr. Higgins declared that there was no correspondence for the item.

Moved (Burgener/Jackson) to approve V-10-005 as presented.

Ms. Burgener disclosed that her motion for approval was based on the unique configuration of the site, in conjunction with the three roadway frontages and development in the area.

A roll call vote was taken.

Motion carried unanimously.

8. **ADDITIONAL BUSINESS**

None

9. **GENERAL DISCUSSION**

Mr. Kasold asked if there was an update on their presentation to Council.

Mr. Higgins provided the Board with statistics from the previous years and a CD copy of the new Sign Code in their agenda packages. He gave the Board an overview of his statistical findings. Mr. Higgins explained that the Sign Code changes were included because they will have a bearing on the type and

quantity of variances they receive in the future. Redevelopment and commercial request will still be present along with residential to commercial conversions.

Mr. Higgins welcomed additional recommendations from the Board.

Mr. Young expressed that in his opinion some areas of the Code changes are discriminatory.

Discussion continued regarding the Sign Code changes.

Ms. Burgener asked what efforts are being made to educate the community with the new changes, and how violations are being addressed.

Ms. Dawley replied that some attempt has been made through public announcements, like The Melbourne Messenger. (Copy provided to each member) She explained that the City's Code Enforcement Department is also educating property owners by giving them an opportunity to become compliant once the offense is identified prior to issuing a violation. Ms. Dawley mentioned that she staff's the Code Enforcement Board and to date she has not seen a case under the new Sign Code.

Mr. Kostrzewa asked if a human standing with a sign is a way around the Sign Code.

Mr. Higgins said it is classified as freedom of speech; therefore, it would appear that way.

10. **ADJOURNMENT**

Chairman Kasold adjourned the meeting at 6:57 p.m.

Respectfully submitted,



Angela Howard, Recording Secretary