

Baldwin County Commission District 4, Board of Adjustment
January 9, 2020
Regular Meeting Minutes
Foley Satellite Courthouse
Large Meeting Room

The Board of Adjustment for Baldwin County Commission District 4 met in a regular session on January 9, 2020 at 3:30 p.m., in the Baldwin County Foley Satellite Courthouse Large Meeting Room. Chairman, Stuart Arnold called the meeting to order. Members present included: James Koeppen, Jack Danley, Robert Broseus, Ernie Church, Harold Stephens and Johanna Moloney. Staff member present was Linda Lee, Planner.

The first order of business was approval of the minutes from the December 12, 2019 meeting. Mr. Koeppen made a motion to approve the meeting minutes. The motion received a second from Mr. Church and carried unanimously.

Election of Officers

The next order of business was election of officers for 2020. The floor was opened for nominations. Mr. Arnold was nominated for chairman by Mr. Church with a second from Ms. Moloney. There were no other nominations for chairman. The motion for chairman carried unanimously. Mr. Church was nominated for Vice Chairman by Ms. Moloney with a second from Mr. Broseus. There were no other nominations for vice chairman. The motion for vice-chairman carried unanimously.

V-20001 Property Owners Association of Ono Island Property

Mrs. Lee presented the applicant's request for approval of a variance from the east side yard setback and rear yard setback requirements to allow for an addition to the southeast side of the existing fire station. The purpose of the addition is to allow housing for a third fireman per Orange Beach request. Staff recommended approval of the variance request.

There was no one in attendance to speak for or against this request.

Mr. Koeppen made a motion to approve the variance request. The motion received a second from Mr. Church and carried unanimously.

V-20002 Sedrak Property

Mrs. Lee presented the applicant's request for approval of a variance from the maximum height of a single-family structure being limited to two (2) habitable stories in planning district 25. The purpose of the variance request was to allow for the construction of a single-family dwelling with three (3) habitable stories.

The Fort Morgan Advisory committee recommended denial of the request. The board received five letters in opposition to this request.

Staff recommended denial of the variance request due to the applicant had not submitted any information supporting a hardship on the land. Staff answered questions from the board.

Mr. Kris Anderson, attorney for the property owner, spoke in favor of the variance request. Mr. Anderson stated that Mr. Sedrak purchased the property and spent a substantial amount of money on plans and engineering in reasonable reliance on the zoning ordinances as they existed prior to September of this past year when they were changed relative to the story ordinance. Mr. Anderson stated that Alabama law does provide for vested rights. He requested that the board allow Mr. Sedrak to do what he had already started.

He referenced section 18.6(c) as it pertains to preservation of a property right. Per Mr. Anderson, his client had already spent a lot of money because he bought this property for a residence on the gulf and when you spend a lot of money on a lot that's gulf front you want to get your money's worth and that's what he planned to do. His client does have vested property rights and they are requesting that he can complete that. He stated that all the county has submitted relevant to this concern is about fire safety. He referenced section 18.6(d) and stated in the record before the board there is only one objection stated to this. He stated that there was no argument that light or air was affected. He expressed that someone stated their view was going to be affected, however a view isn't protected under Alabama law. In reference to the concern of the volunteer fire department that they do not have a ladder that could reach a third story, his client authorized him to make an offer that as a condition to the granting of the variance request, his client would agree to install commercial grade sprinklers or a fire escape to resolve this fire concern. He stated that per the ordinance his client could still build thirty-five feet high and that's exactly what he intends to do if this variance is not granted. He won't put a third habitable story up there, he'll just put a third story up there and at some point in the future when the law changes again he will add what he wanted to do in the first place. But, if the board approves this variance today, allow his client to finish what he started, he will go above and beyond to make this the safest single-family residence out there by doing one of those two things. Mr. Anderson answered questions from the chairman pertaining to his client building four stories. He stated that his client would not violate the law by adding a third habitable story. He will build what he's authorized to do under the law and then pursue appropriate damages in another form. He went on to answer a question from a board member pertaining to the height. He stated the height would be thirty-five feet.

Ms. Linda Willingham spoke in opposition to the variance request. She expressed concerns related to parking issues.

Mrs. Lee stated that in response to Mr. Anderson's comments on the granting of the application is necessary for the preservation of a property right, no one is denying the owner the right to build a dwelling on the property. Limiting the number of stories does not negate his right to a single-family dwelling or a two-family dwelling. As to the safety issue, those would be great, however, none of that supports a hardship on the land. What is wrong with that land, that you cannot build and meet the zoning ordinance? Their desire to get value for what they spent is not a hardship on the land.

Following a short discussion, Mr. Church made a motion to deny the variance request. The motion received a second from Ms. Moloney and carried unanimously.

Adjournment

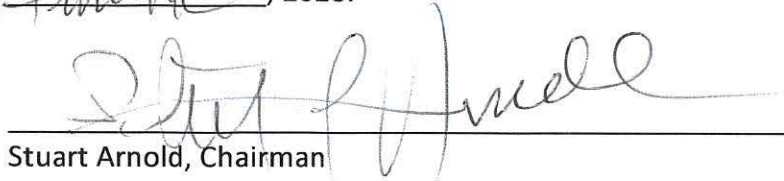
There being no further business to come before the board the meeting was adjourned at 4:05 p.m.

Respectfully Submitted,

Linda Lee, Planner

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I hereby certify that the above minutes are true, correct and approved this 13th day of February, 2020.



Stuart Arnold, Chairman