



**AGENDA
BOARD OF ADJUSTMENT
REGULAR MEETING
JUNE 16, 2021
5:00 PM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

- 1. CALL TO ORDER / ROLL CALL / DETERMINATION OF QUORUM**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF MEETING MINUTES**
 - 3.1 Approval of Minutes for the Regular Meeting of May 19, 2021.
 - 3.2 Approval of Minutes for the Board of Adjustment Workshop of May 19, 2021.
- 4. OLD BUSINESS**
- 5. NEW BUSINESS**
 - 5.1 **BOA 2021-0006 - COTNER ASSOCIATES, INC., AGENT FOR SUSAN CAPLES, 59 S. FLETCHER AVENUE**
Variance request from LDC Section 1.07.00 Acronyms & definitions. (*Quasi-Judicial*)
- 6. BOARD BUSINESS**
- 7. STAFF REPORT**
- 8. PUBLIC COMMENT**
- 9. ADJOURNMENT**

NEXT BOA REGULAR MEETING IS SCHEDULED FOR JULY 21, 2021.

All members of the public are invited to be present and be heard. Persons with disabilities requiring accommodations in order to participate in this program or activity should contact (904) 310-3115 or through the Florida Relay Services at 711 at least 24 hours in advance to request such accommodations.

All interested parties may appear at said meeting and be heard as to the advisability of any action, which may be considered with respect to such matter. For information regarding this matter, please contact the Planning Department (904) 310-3135.



**MINUTES
BOARD OF ADJUSTMENT
REGULAR MEETING
MAY 19, 2021**

1. CALL TO ORDER 5:02

2. ROLL CALL / DETERMINATION OF QUORUM

MEMBER PRESENT:

Matthew Miller (Chair)	Steven Papke (V-Chair)
Barry Hertslet	Chuck Oliva
Geoffrey Grant	Bill Skulmis (Alt 1)

MEMBERS ABSENT:

None

OTHERS PRESENT:

Daphne Forehand, City Planner
Tammi Bach, City Attorney
Taylor Hartmann, Recording Secretary

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF MEETING MINUTES

4.1 Approval of the April 21, 2021 Regular Meeting Minutes

Member Hertslet pointed out 3 grammatical errors to be corrected: Under Item 6.1 change from stilts to piles and reed yards to rear yards, and under Item 6.2 plated should be changed to platted.

ACTION TAKEN: A motion was made by Member Papke seconded by Member Hertslet to approve the minutes with the noted amendments.

Vote upon passage of the motion was taken by voice vote, and being all ayes, carried.

No members disclosed any ex parte communications.

City Attorney Bach explained the quasi-judicial procedures.

Ms. Hartmann administered the oath to the parties that would be giving testimony.

5. NEW BUSINESS

5.1 BOA 2021-0005 - ANTHONY BROCATO, 324 ELM STREET - Request for a variance from LDC Section 1.03.05 to combine lot 14 with lots 15-16. (*Quasi-Judicial*)

Ms. Forehand presented the case and staff recommended denial because of inconsistencies with the

Literal Interpretation criteria for granting a variance.

Member Grant inquired about the zoning district designation of the proposed new lot.

Member Skulmis inquired about setback requirements for the MU-1 and R-2 zoning districts.

Anthony Brocato, 324 Elm Street, applicant, spoke about his main intent being to preserve the heritage tree.

Ms. Bach detailed the reasons for a change in zoning designation not having to go before the PAB and City Commission.

Public Hearing was opened.

Kevin 315 Elm Street, spoke about being in favor of this variance request and preserving the heritage tree.

Public Hearing was closed.

Mr. Brocato stated that he does not have any current development plans for Lots 12 & 13.

ACTION TAKEN: A motion was made by Member Hertslet and seconded by Member Grant to approve BOA 2021-0005 without conditions; AND moved that the BOA make the following findings of fact and conclusions of law part of the record: That BOA case 2021-0005, as presented, is substantially compliant with the Comprehensive Plan and Land Development Code to warrant approval at this time; and that BOA case number 2021-0012 meets the following criteria for granting a variance: special conditions, special privilege, literal interpretation, minimum variance, general harmony, and public interest.

Vote upon passage of the motion was taken by ayes and nays, being all ayes, carried.

6. BOARD BUSINESS

Member Skulmis commended staff for the thoroughness of the staff report. All members agreed.

7. STAFF REPORT

8. PUBLIC COMMENT

No parties wished to speak.

9. ADJOURNMENT 5:39

Taylor Hartmann, Recording Secretary

Matthew Miller, Chair



**MINUTES
BOARD OF ADJUSTMENT
WORKSHOP
MAY 19, 2021**

1. CALL TO ORDER 4:00

2. ROLL CALL

MEMBER PRESENT:

Matthew Miller (Chair)	Steven Papke (V-Chair)
Barry Hertslet	Chuck Oliva
Geoffrey Grant	Bill Skulmis (Alt 1)

MEMBERS ABSENT:

OTHERS PRESENT:

Daphne Forehand, City Planner
Tammi Bach, City Attorney
Taylor Hartmann, Recording Secretary

Chair Miller requested that a hyperlink be included in the BOA meeting notifications posted to social media.

Member Hertslet requested that the BOA meetings be advertised in the News Leader.

3. QUASI JUDICIAL RULES AND PROCEDURES

Ms. Bach presented a PowerPoint slideshow reviewing proper protocol for quasi-judicial hearings on land use matters.

Upon completion of the slideshow presentation, members were able to ask questions regarding the material covered.

4. ADJOURNMENT 4:58

Taylor Hartmann, Recording Secretary

Matthew Miller, Chair



BOARD OF ADJUSTMENTS STAFF REPORT
BOA 2021-06
JUNE 16, 2021

Owner/Applicant:	John Cotner, Cotner Associates, Inc. Agent for Susan Caples, Lodging Resources Inc.
Property Address:	59 S. Fletcher Ave
Parcel Number:	00-00-31-1020-0052-0000
Requested action:	VARIANCE from LDC 1.07.00 Acronyms & Definitions
Current zoning:	C-1
FLUM land use category:	General Commercial
Existing uses on the site:	Storage

All required application materials have been received. All fees have been paid. All required notices have been made.



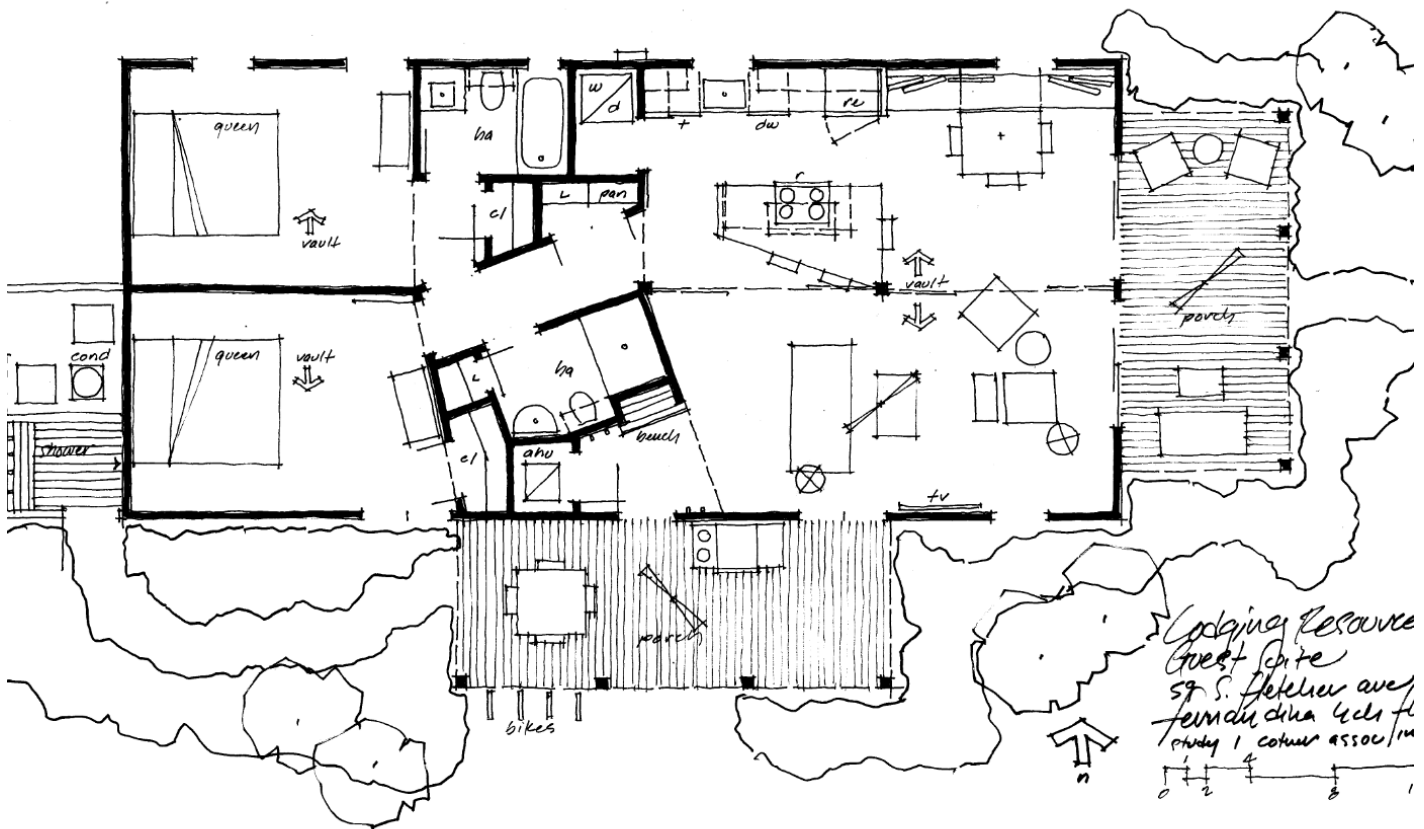
SUMMARY OF REQUEST AND BACKGROUND INFORMATION:

The applicant is seeking a variance from the definition of lodging accommodations/hotel/motel as described in chapter one of the LDC. The existing structure is currently utilized as open storage for Lodging Resources LLC. and according to the Property Appraiser's website, the structure was built in 1959. The applicant is seeking to adaptively reuse the existing storage structure as a two-bedroom, two-bathroom lodging unit with no significant change in footprint (southern and eastern porch additions). Lodging accommodations or hotel/motel are allowable within the C-1 zoning district subject to the following: lodging accommodations: a) shall not contain kitchen but may have a kitchenette b) shall not contain laundry facilities in individual units; hotel or motel – requirement of central office on property. The resulting effect of approval would allow for alteration of the existing structure without meeting all requirements for lodging accommodations or hotel/motel.

LDC section 1.07.00 defines lodging accommodations as “any unit, group of units, dwelling, building or group of buildings within a single complex of buildings, which is rented to guests more than three (3) times in a calendar year for periods of less than thirty (30) days, or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. Lodging Accommodations may not be homesteaded and shall not contain a kitchen but may have a kitchenette as defined in this section. Lodging Accommodations shall not contain laundry facilities in individual units or rooms but may have a central laundry room accessible to all guests. See also hotel or motel.” The applicant is requesting to utilize the existing structure with a full kitchen and laundry as a lodging accommodation. A hotel or motel is defined in chapter one as “any public lodging establishment which offers rental units with daily or weekly rates, off street parking for each unit, a central office on the property with specified hours of operation, and which is recognized as a hotel or motel in the community which it is situation or by the industry. See also lodging accommodations”. The applicant’s proposed mode of operation is remote check-in/out as an alternative to the central office requirement, which is the current model for Lodging Resources LLC.

It is important to note that this commercially zoned parcel has unique limitations with regards to lot combination under LDC 10.02.01(D)(8): “A variance shall not be granted to deviate from LDC section 4.02.02 to combine two (2) or more lots which would result in a lot width greater than 100 feet for lots or parcels that abut Ocean Avenue, North Fletcher Avenue, or South Fletcher Avenue.” With this requirement in place, opportunities for commercial redevelopment are limited. Additionally, this structure falls within the City’s designated “Job Opportunity Areas” as described in Policy 12.05.01 of the City’s Comprehensive Plan. The applicant’s request is generally consistent with Objective 12.05- Land Use and Infrastructure Expansion: “The City shall protect existing land designated for employment-generating uses, whether vacant or developed, from encroachment of incompatible uses and promote sustainable development and redevelopment of properties within its designated Job Opportunity Areas.”

EHIBIT A: SITE PLAN



[illegible]

CITY OF FERNANDINA BEACH LAND DEVELOPMENT CODE:

CITY OF FERNANDINA BEACH COMPREHNSIVE PLAN:

- Policy 1.02.07 – The City shall implement the Fernandina Beach Comprehensive Plan in a manner that acknowledges private property rights.
- Policy 1.02.10 – The City shall protect privacy and access to light, air, and open space. The City shall consider regulations such as building placement on a site, building design, and building orientation as one means to achieve this policy.
- Objective 1.06 – Community Character - Community character is reflected in lot sizes, house sizes, site placement, height, architectural features and existing vegetation. The City shall strive to stabilize and preserve neighborhoods and establish urban design standards which protect and promote quality of life, in order to prevent teardowns, encourage re-use, infill and new development.
- Objective 12.05 – The City shall protect existing land designated for employment-generating uses, whether vacant or developed, from encroachment of incompatible uses and promote sustainable development and redevelopment of properties within its designated Job Opportunity Areas.
- Policy 12.05.01 – The City's designated Job Opportunity Areas shall include the Central Business District, the 8th Street and 14th Street commercial areas, Community Redevelopment Area (CRA), the Sadler Road/South Fletcher Avenue activity center, the Main Beach Activity Center at Atlantic Avenue, and the Municipal Airport. Within these areas the City, working in partnership with the NECDB, will establish a list of target industries and businesses for economic development opportunities.

ANALYSIS:

In order for an application for a variance to be approved or approved with conditions, the BOA shall make a positive finding with regard to each of the following provisions:

Consistent with Criteria? All questions must be answered in the affirmative in order for staff to recommend approval of a variance. Negative answers must be addressed in the findings.

Criteria	Staff Analysis	Meets Criteria
<u>1. Special Conditions</u> <i>Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. Special conditions or circumstances do not result from actions of the applicant and are not based on a desire to reduce development costs.</i>	Yes. Special conditions <u>do exist</u> which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Although all C-1 zoned properties are required to meet the standards for lodging accommodations defined in chapter one; this parcel is unique in that it lies within a City designated "Job Opportunity Area". Comp Plan Objective 12.05 promotes the protection of existing land designated for employment-generating uses, whether vacant or developed, from encroachment of incompatible uses. This objective also encourages the sustainable redevelopment of properties within this area. In addition, unique limitations exist with regards to lot combination that are not applicable to all C-1 zoning districts and do not result from actions of the applicant.	☒ Yes ☐ No
<u>2. Special Privilege</u> Granting the variance does not confer upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district.	No. Granting the variance <u>does confer</u> upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district. Although this parcel is located within the "Job Opportunity Area" and unique limitations due to the South Fletcher location exist, these factors do not preclude the applicant from meeting the requirements/standards imposed on surrounding property owners.	☐ Yes ☒ No
<u>3. Literal Interpretation</u> Literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.	Yes. Literal interpretation of the Land Development Code <u>would deprive</u> the applicant of rights enjoyed by other properties in the same zoning district. This is a commercially zoned parcel and due to the location (S. Fletcher), lot combination of greater than 100 feet is not permissible and thus opportunities for commercial redevelopment are significantly limited due to requirements such as commercial parking standards, etc.	☒ Yes ☐ No
<u>4. Minimum Variance</u> The variance requested is the minimum variance needed that will make possible the reasonable use of the land, structure, or building.	No. The variance requested <u>is not the minimum</u> variance needed to make possible the reasonable use of the land, structure, or building. Reasonable use of the land (although limited) is possible without the need for a variance.	☐ Yes ☒ No

5. General Harmony Granting the variance will be in harmony with the general intent and purpose of the Land Development Code and Comprehensive Plan.	Yes. Granting the variance <u>will be in harmony</u> with the general intent and purpose of Land Development Code and Comprehensive Plan. Lodging accommodations/hotel/motel are permissible within this zoning district and the request is consistent with the Comprehensive Plan's objectives for sustainable redevelopment of properties with the "Job Opportunity Area".	☒ Yes ☐ No
6. Public Interest Granting the variance is compatible with surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.	Yes. Granting the variance <u>is compatible</u> with the surrounding properties. The proposed repurposing of this structure has no significant increase in footprint (with the exception of porch additions at the south and east of the structure) and would not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.	☒ Yes ☐ No

STAFF RECOMMENDATION:

The variance requested is consistent/inconsistent with the criteria for granting a variance as follows:

	Consistent	Inconsistent
1. Special Conditions	X	
2. Special Privilege		X
3. Literal Interpretations	X	
4. Minimum Variance		X
5. General Harmony	X	
6. Public Interest	X	

Staff finds that the requested action, as presented, does not meet criteria 2 OR 4 and as such, must recommend denial.

Staff recommends:

DENIAL of BOA 2021-06

MOTION TO CONSIDER

I move to **approve or deny** BOA case number 2021-06;

AND I move that the BOA make the following findings of fact and conclusions of law part of the record:

That BOA case 2021-06, item, as presented, **is or is not** substantially compliant with the Comprehensive Plan and Land Development Code to warrant approval at this time;

AND that BOA case number 2021-06 **meets or does not meet** the following criteria for granting a variance:

LIST OF EXHIBITS:

EXHIBIT A – SITE PLAN

EXHIBIT B – SURVEY

Respectfully Submitted,



**Daphne Forehand
Planner I**