



**Minutes
Town of Atlantic Beach
Board of Adjustment Meeting
May 1, 2017**

Members Present

John Kurek, Chair
John Lotspih
Vada Palma
Gary Plough
Curt Winbourne, Alternate

Members Absent

David Cox

Others Present

David Walker, Town Manager
Derek Taylor, Town Attorney
Katrina Tyer, Clerk
John Harrell, Inspector
Arrington Moore, Management Assistant
Councilmember Harry Archer
Fred Dean, Alternate
Rich Johnson, Alternate

CALL TO ORDER

Chairman Kurek called the meeting to order at 7:00pm.

Michelle Shreve, Planner, was in school at UNC Chapel Hill. Mr. Walker presented the case on her behalf.

ADMINISTRATION OF OATHS

Oaths of Office were administered by Katrina Tyer, Town Clerk, to Alternates Fred Dean, Richard Johnson and Curt Winbourne.

APPROVAL OF MINUTES

Plough made a motion to approve the February 21, 2017 and April 17, 2017 Minutes. Seconded by Lotspih. Vote was unanimous. Motion carried.

David Cox was absent from the meeting. Curt Winbourne was asked to join the board.

CASE VAR-17-02

Chairman Kurek introduced the request for a variance by Brian Deanhardt of BRIMCO Builders, agent for Cheryl Hamilton Johnson. He has requested a variance from Section 5.6 of the UDO to reduce the front setback to 10 feet at 110 Pond Drive. Clerk's Note: At the time the application was filed, Cheryl Hamilton Johnson and husband Richard Johnson were owners of the lot at 110 Pond Drive. The lot was sold to David Johnson (Rich's brother) and wife Colleen to build a home.

There were not any conflicts or objections from the seated members on the Board. Curt Winbourne reminded the board he serves on the Planning Board with Rich Johnson, but does not see this case as a conflict.

The following were sworn in by Chairman Kurek:

David Walker, Town Manager, 4110 Sound Drive, Morehead City

David Johnson, 4209 Lassiter Mill Road, Raleigh NC and property owner at 110 Pond Drive

Chairman Kurek opened the public hearing. The time was 7:09pm.

Staff Presentation

This case, VAR-17-02, is a request for a variance by Brian Deanhardt of BRIMCO Builders, agent for the property owner, for a 10 foot front setback at 110 Pond Drive, which is 23 feet less than would be required by

Section 5.6 of the Unified Development Ordinance. This lot has been vacant since 2014, when the single-family home on this lot was demolished.

Under the current UDO, front setbacks for single-family residences in this zoning district are measured as the average of the front setbacks of the two adjacent structures along the street-side property lines. The front, or street-side setback, is 33 feet. The applicant is requesting a 10 foot front setback, which would allow the construction of a single-family home on this lot. The right-of-way ends about 10 feet from the pavement. With a 10 foot front setback, the stairs to the main living story will come right down to the front setback. The actual wall of the structure will be about 25 feet from the front property line, which, again, is about 10 feet from the actual road pavement. The former single-family residence was about 15 feet from the front property line. The structure wall of this residence will be about 10 feet farther back off the road than the prior home.

The lot has a septic field and repair field, which is required by the Carteret County Health Department. These areas have been identified as the hardship, in addition to lot shape and front setback of the adjacent structure to the west.

This current building envelope is approximately 2,183 square feet total. The entranceway and stairs for the house would not fit within this envelope. With the proposed front setback, the building envelope would be approximately 3,241 square feet total.

Staff confirms the following based on the Variance Check List:

- 1) Proper notice was given to adjoining property owners of the public hearing to consider the variance. Letters notifying the 22 property owners within 150 feet of the subject property were sent on March 28 and a sign notifying the public of this hearing was posted on the property March 29. Due to the continuation of this case, 22 more letters were sent to the same property owners on April 20, and a sign notifying the public of this hearing was posted on the property on the same day.
- 2) The variance does not result in the extension of a nonconforming situation in, or authorize the initiation of a nonconforming use of land. This is a residential zoning district allowing single-family homes.
- 3) If the applicant complies strictly with the provisions of the Ordinance, he will suffer substantial hardship.
- 4) The hardship relates to the applicant's land, rather than personal circumstances, such as shape, size, or unusual characteristics. The parcel is oddly shaped and has a septic repair area that reduces the building area.
- 5) The hardship is not a result of the applicant's own actions. Staff is not aware of any action the applicant or property owner could have taken to create the hardship.
- 6) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. Staff confirms that granting this variance would not adversely affect public safety and would be consistent with the spirit, purpose, and intent of the UDO.

Planner Shreve stated she received a call from one citizen, but they didn't have any objections after she explained this request.

There were no objections to admitting Planner Shreve's statement into evidence.

Applicant Presentation

David Johnson, property owner, presented his case and stated the following:

- 1) Proper notice was given.
- 2) The plan conforms with the use of the land and does not present a hardship to his knowledge.
- 3) A hardship would be created to the applicant. They have worked diligently to abide by the ordinances.
- 4) This hardship relates to the land, mainly due to the septic area.

- 5) This will not be a hardship on the adjacent property owner or neighbors on Pond Drive.
- 6) The hardship is not a result of the applicant's own action.

All septic encroachments, etc. are in place and will follow the land. The house he would like to construct is 2,100 square feet; the one to the right of his lot is 1,600 square feet and the one on the left is 2,200 square feet.

Public Hearing

No comments. No opposition from audience.

Closed Public Hearing at 7:32pm.

Board Discussion and Evaluation

Chairman Kurek polled the board members and each agreed the following criteria have been met:

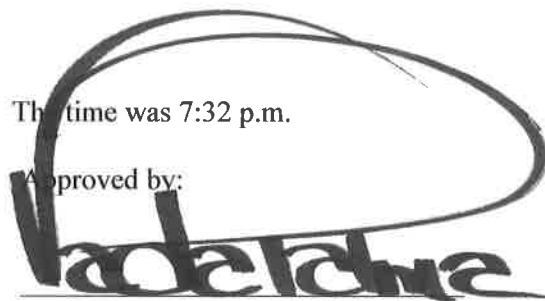
- 1) Proper notice was given to adjoining property owners of the holding of the public hearing to consider the variance, pursuant to Planner Shreve and applicant testimony. Vote was unanimous, 5-0.
- 2) The variance does not result in the extension of a non-conforming situation in, or authorize the ignition of a non-conforming use of land, pursuant to Planner Shreve and applicant's testimony. Vote was unanimous, 5-0.
- 3) If the applicant complies strictly with the Ordinance, they will suffer substantial hardship. Vote was unanimous, 5-0.
- 4) The hardship relates to the applicant's land, rather than personal circumstances. Vote was unanimous, 5-0.
Attorney Taylor stated for the record: The hardship relates to issues regarding septic placement and configuration of the lot.
- 5) The hardship is a result of personal circumstances suffered only by the applicant, rather than neighbors or the general public. Vote was unanimous, 5-0.
- 6) The hardship is not a result of the applicant's own actions. Vote was unanimous, 5-0.
- 7) The variance is consistent with the spirit, purpose and intent of the ordinance, such as public safety is secured, and substantial justice is achieved. Vote was unanimous, 5-0.

The Board has found all of the requirements for a Variance have been met. Palma made a motion to grant the Variance Request for a ten-foot side setback for a new home at 110 Pond Drive. Seconded by Lotspih. Vote was unanimous, 5-0. Motion carried.

ADJOURNMENT

There being no further business the meeting adjourned. The time was 7:32 p.m.

Approved by:



Vada Palma, Acting Chair



Katrina Tyer, Town Clerk