



**Minutes
Town of Atlantic Beach
Board of Adjustment Meeting
July 16, 2018**

Members Present

John Kurek, Chair
Vada Palma
Michael Bosse, Alternate
Curt Winbourne, Alternate

Members Absent

Gary Plough, Vice Chair
Eddie Briley
Fred Dean
David Cox, Alternate

Others Present

Derek Taylor, Town Attorney
Michelle Shreve, Planner
Katrina Tyer, Clerk
Brian Deanhardt, Applicant

CALL TO ORDER

Kurek called the meeting to order at 7:00 pm and introduced those seated on the board. He notified the applicant, due to absences, the board only consisted of four members and asked if he wished to proceed with the understanding he needed four affirmative votes for the variance to be granted. Mr. Deanhardt confirmed he did not wish to have the case continued and would proceed on this matter with only the four members present.

EXCUSE ABSENT MEMBERS

Winbourne made a motion *to excuse* Gary Plough, Eddie Briley and Fred Dean. Seconded by Bosse. Vote was unanimous, 4-0. Motion carried.

APPROVAL OF MINUTES

Palma made a motion *to approve* the June 18, 2018 Minutes. Seconded by Winbourne. Vote was unanimous, 4-0. Motion carried.

CASE VAR-18-04: 127 Sound Drive

Opening remarks and swearing in of witnesses

Brian Deanhardt of BRIMCO Builders, agent for property owner Gary Bridges, applied for a variance to build a house with stairs that encroach 48 inches into the street setback, which is 30 inches too close to the street-side property line as required by Section 18.10.2.D.1.b. of the UDO.

There were not any conflicts or objections from the seated members on the board. Each board member confirmed individually they did not have a financial interest, personal interest, business interest, fixed opinion, previous conversations or correspondence, or have any information or special knowledge in the case.

The applicant confirmed he did not have any objections to any of the seated board members.

The following were sworn in by Katrina:

Brian Deanhardt, Agent
Michelle Shreve, Town Planner

Opened public hearing at 7:10pm.

Staff Presentation – Michelle Shreve

This is a request by Licensed General Contractor Brian Deanhardt of BRIMCO Builders to build front porch uncovered steps 30 inches into the street setback at 127 Sound Drive. This property is in the RSW zoning district.

This property has never been developed. The current house was permitted with a set of front steps that turn instead of going straight. The steps terminate in the driveway, which eliminates the ability for a vehicle to park under the house. Two off-street parking spaces are required by the UDO, which are provided in this design, but only just barely. The intended design was for the steps to come straight down, rather than turning, so that a car can park under the house. That would provide three off-street parking spaces. The straight forward steps are noncompliant by encroaching into the street setback 30 inches more than allowed.

In order for the project to move forward, Deanhardt applied for permits using the setback-compliant turned stair design, then applied for this variance requesting the originally intended straight stair design with hope that the variance would be granted and the permits could be modified to reflect that change. The building permit was issued on June 25, 2018.

Staff responses to the items on the variance evaluation form:

1. Proper notice was given to adjoining property owners of the holding of the public hearing. Letters notifying the five property owners abutting the subject property and the owner of the subject property were sent on June 25. A sign notifying the public of this hearing was posted on the property the same day.
2. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. Under strict application of the Ordinance, the steps will not be able to be built as originally intended. The original steps are compliant with the Ordinance, but block access to the parking area under the house.
3. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardship resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This lot is subject to the 30' buffer landward of the Normal High Water line at the bulkhead, as well as a street setback to match the neighboring structures. The street setback, and in some cases, the CAMA buffer, differ property to property.
4. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of the variance shall not be regarded as a self-created hardship. Staff is unaware of actions taken by the applicant or property owner that would result in a hardship.
5. 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 agrees that granting this variance would not adversely affect public safety and would likely be consistent with the spirit, purpose, and intent of the UDO.

Applicant Presentation

Deanhardt reviewed the plans for the house and stated for aesthetics and additional parking the owners would like to construct the steps straight in front of the home. The requested encroachment will place three steps into the setback area.

Response to the variance requirements:

- 1) Will unnecessary hardship result from strict application of the ordinance?
Yes – strict application of the ordinance would block entrance to the garage and parking area.
- 2) Does the hardship result from conditions that are peculiar to the property?
Yes – because of the location of the adjacent homes, the steps are not allowed in the setback.
- 3) Did the hardship result from actions taken by the applicant or the property owner?
No – would like permission to construct straight steps
- 4) Is the requested variance consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved?
Yes – it would be architecturally correct to have the steps extend out the front of the home.

Attorney Taylor confirmed the base of the steps will fall 38 feet from the street and inquired if other homes in the neighborhood had done this. It was noted that the last variance granted was on the same street and that applicant produced evidence of other homes in the area encroaching in the setback.

Public Hearing/Comments

No public comment. No one was present in opposition.

Closed the public hearing at 7:24 pm.

Board of Adjustment Discussion and Evaluation

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.** Yes, pursuant to Michelle's testimony. Vote was 4-0.
- 2) **Unnecessary hardship would result from the strict application of the ordinance.** Yes, access to the garage and parking would be blocked. Vote was 4-0.
- 3) **The hardship does not result from conditions that are peculiar to the property, such as location, size or topography.** Yes, based on evidence presented, the steps should be constructed in the front of the house for architecture and aesthetic reasons. There is no other way to position the home. Vote was 4-0.
- 4) **The hardship is a result of personal circumstances suffered only by the applicant, rather than neighbors or the general public.** Yes, based on evidence in the application, the layout of the home, step setback, stormwater, septic system and elevation requirements are all specific to this property. Vote was 4-0.
- 5) **The hardship does not result from actions taken by the applicant.** No, vote was 4-0.
- 6) **The variance is consistent with the spirit, purpose and intent of the ordinance, such as public safety is secured, and substantial justice is achieved.** Yes, based on testimony, there were not any comments from adjoining neighbors in opposition. Vote was 4-0.
- 7) **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.** Yes, vote was 4-0.

Winbourne made a motion *to grant* the Variance Request to build a stairs from a house that encroach 48 inches into the street setback, which is 30 inches too close to the street-side property line than would be allowed as measured according to Section 18.10.2.D.1.b of the UDO at 127 Sound Drive. The site plan by Surveyor Vernon Wayne Johnson dated June 17, 2018 will be incorporated with the Variance Order for recording. Seconded by Bosse. Vote was unanimous, 4-0.

OTHER BUSINESS

There was discussion among the board regarding changing the meeting time.

Palma made a motion *to change* the regular meeting time from 7:00pm to 6:00pm. Seconded by Kurek. Vote was unanimous, 4-0.


An amended 2018 Schedule of Meetings will be presented to Council at the July 23 regular meeting.

ADJOURNMENT

There being no further business the meeting adjourned. The time was 7:33 p.m.

These minutes were approved at the August 20, 2018 meeting of the Atlantic Beach Board of Adjustment.

Approved by:


Chair


Katrina Tyer, Clerk