



**Minutes  
Town of Atlantic Beach  
Board of Adjustment Meeting  
February 21, 2022**

**Members Present**

Eddie Briley, Chair  
Vada Palma, Vice Chair  
Harrison Smith  
Curt Winbourne, Alternate

**Members Absent**

Michael Bosse

**Others Present**

Derek Taylor, Town Attorney  
Michelle Eitner, Planner  
Elisabeth Webster, Planner  
Katrina Tyer, Clerk

**CALL TO ORDER AND ROLL CALL**

After waiting for members to arrive, Chairman Briley called the meeting to order at 6:22 pm. Katrina Tyer, Town Clerk called the roll and noted Michael Bosse was absent. \*Clerk's note: Norman Livengood passed away on October 25, 2021 and Alternate Fred Joey Dean was elected to Council. Attorney Taylor inquired with the applicants about their desire to proceed with only four board members, understanding they need all board members to vote affirmatively, they confirmed they would like to continue.

**EXCUSE ABSENT MEMBERS**

Winbourne made a motion *to excuse* Bosse. Seconded by Palma. Vote was unanimous, 4-0.

**ELECTION OF BOARD CHAIR AND VICE CHAIR**

Smith made a motion *to re-elect* Eddie Briley as Chairman of the Board of Adjustment for 2022. Seconded by Winbourne. Vote was unanimous 4-0. Motion carried.

Winbourne made a motion *to re-elect* Vada Palma as Vice-Chairman of the Board of Adjustment for 2022. Seconded by Smith. Vote was unanimous 4-0. Motion carried.

**APPROVAL OF MINUTES**

Palma made a motion *to approve* the April 19, 2021 Minutes. Seconded by Smith. Vote was unanimous, 4-0. Motion carried.

**VAR-22-1: 101 SEA DREAMS - VARIANCE**

**Opening remarks and swearing in of witnesses**

Michelle began by confirming with the board members none of them had a conflict, conversations or special knowledge about the case. Each confirmed no, they had none.

The parties associated with the case confirmed they did not have any objections to the board seated to hear the case.

Katrina administered an oath to Allen Fisher and Susan Fisher, applicants, and Michelle Eitner, Planner.

Chairman Briley stated tonight will hear case VAR-22-1. Allen & Susan Fisher of 101 Sea Dreams Drive have applied for a variance from the 20 foot rear setback per Section 18.3.3.C. in order to add a garage to their home in the RSW zoning district. He opened the Public Hearing at 6:32pm.

**Public Hearing**

Allen and Susan Fisher are the owners of 101 Sea Dreams Drive, the first home in the Sea Dreams subdivision. It has a bridge over the road to a "lighthouse". They purchased the home in 2020 and now desire to build a garage with bonus room on top as an addition. All other dimensional requirements: front and side setbacks, impervious coverage, height, etc. would be compliant for the project, except for the 20 foot rear setback. Applicant submitted their application on January 24, 2022 and letters were sent to abutting properties and the site posted on January 31, 2022.

Most lots in the Planned Unit Development of Sea Dreams are oddly shaped and smaller than what the UDO now requires for lots in the RSW district. The subject lot is split in half by the winding public street, so while the lot is 10,000sf, much of it is unusable due to setbacks. Due to the odd configuration of the lot, the functional front, rear, and sides of the house do not match the front, rear, and side setbacks of the lot. The UDO sets out rules of measurement to describe what are considered the street (“front”) side, and rear setbacks on a lot. Based on staff’s interpretation of the application of these rules to 101 Sea Dreams Drive, the rear setback prohibits the construction of the proposed garage on the side of the house.

This lot is oddly shaped and application of the setbacks renders much of the lot with a front or rear setback. The buildable area (square footage between the setbacks) is small, even though the lot is large. If the 10 foot setback used with the originally developed Planned Unit Development plat is applied, there is sufficient area to construct the addition.

Allowing a reduction in this setback will allow better use of this residential lot which would otherwise not be possible. Staff recommends allowing at 10 foot reduction in the rear setback to match the 10 foot setback applied at establishment of the PUD. This would allow for the proposed addition and maintain consistency with the remainder of the neighborhood.

Staff recommends the following based on the Variance questions:

- a. *Will unnecessary hardship result from strict application of the ordinance?*  
Strict application of the ordinance would preclude the construction of an addition onto this single-family home, which would include a garage and bonus room above. Indoor storage of vehicles is important in this harsh, salty environment, and it is not provided at this home. There is significant square footage on the lot, the available land is just sitting inside of unusual setbacks.
- b. *Does the hardship result from conditions that are peculiar to the property?*  
The hardship results from lot shape and configuration of the road through the Planned Unit Development.
- c. *Did the hardship result from actions taken by the applicant or the property owner?*  
The property owners/applicants did not create the oddly shaped lot with a street running through it.
- d. *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?*  
Staff believes the requested variance is consistent with the spirit, purpose, and intent of the Ordinance.

Staff asked that the full Staff Report and entire Agenda Packet be entered into evidence. Granted.

#### **Applicant Presentation – Applicant and/or Agent**

Applicant Alan Fisher, introduced Lewis Penny as his contractor and neighbor at Sea Dreams. He is also working with the architect of the original development. Mr. Fisher would like to add on a garage and live here full-time.

Lewis Penny, 229 Sea Dreams Drive. Has lived in Sea Dreams for 25 years and is a board member of Sea Dreams. He does not see this addition as a hardship on Seas Dreams, they have looked at every aspect including streetscapes, it does not adversely affect the adjacent property or impede traffic or views. He thinks it would actually enhance the property and entrance to Sea Dreams.

Briley asked about drainage on the east side and Mr. Penny noted the lot is fairly flat so it should not change any drainage. There will not be any grade change. The addition will be lower than the main house and consistent with the other homes in the subdivision.

Winbourne asked for confirmation this had been discussed with the Sea Dreams board and there were not any objections. Mr. Penny confirmed.

Palma verified with Michelle none of the adjacent property owners responded to their letters and that she did not receive any comments.

Winbourne confirmed again the original setback was 10 feet. Michelle confirmed yes, the original development was built as a PUD, explaining the small lot sizes and setbacks. Which is why now applying current UDO setback rules is problematic.

Attorney Taylor reminded the applicant it was his responsibility to prove the requirements for a variance and asked the applicant if he adopted as his testimony the same information that has been presented by the Town. Mr. Fisher confirmed he adopts staff's report as the basis for his request for a Variance.

### **Presentation by Parties in Opposition**

No comments.

Briley closed the public hearing at 6:47 pm.

### **Board of Adjustment Discussion and Evaluation**

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

- 1) *Unnecessary hardship would result from the strict application of the Ordinance.*

Smith: Yes, due to the size of the lot and application of the original ordinance.

Palma: Yes, they have plenty of space and that space was originally designed to have a garage. The addition will not hurt anything over there.

Winbourne: Yes, due to size of the lot and the change in setback.

Briley: Yes, agrees with the information staff has presented.

Vote was 4-0.

Attorney Taylor wanted the record to reflect that the Town had presented that most of the properties, if not all of the homes, in the neighborhood have garages and this one being singled out because of its weird shape.

- 2) *The hardship results from conditions that are peculiar to the property, such as location, size, or topography.*

Palma: Yes, because this is a peculiar lot. We love our knolls here on the beach and that is a beautiful spot as you come in and I think they are preserving it very well and it's a great addition to it.

Smith: Yes, the conditions of the property with the setbacks from the road and sides creates a hardship.

Winbourne: Yes, it is a very weird and peculiar lot.

Briley: Yes, because it meets the requirements requested and has to be in the setback to be built.

Vote was 4-0.

- 3) *The hardship did not result from actions taken by the applicant or the property owner.*

Palma: No, they did not create this lot and they are obviously trying to improve the property. Agrees completely they had nothing to do with the hardship of the property.

Smith: No, they originally purchased the lot and did not create the hardship. They are just trying to improve their property.

Winbourne: No, there were not actions taken by the applicant that resulted in a hardship.

Briley: No, they had nothing to do with causing the hardship.

Vote was 4-0.

- 4) *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.*

Palma: Yes, it is within the rules we have had on other properties not as complicated as this.

Smith: Yes, because of the intent of the ordinance. Given the reflection that the entire neighborhood had different setbacks when it was originated and changed with the new UDO.

Winbourne: Yes, it is consistent with the spirit of the ordinance and justice would be achieved to grant this.

Briley: Yes, a lot of times when we make changes to the UDO we know that things like this will come up.

Vote was 4-0.

With all conditions being met, Winbourne made a motion *to grant* the Variance from the 20-foot rear setback in order to build an addition (garage and bedroom) to the home at 101 Sea Dreams Drive. Seconded by Palma. Vote was 4-0.

### **OTHER BUSINESS**

Harrison would like to see appointment of members to the board accelerated. The other members agreed.

**ADJOURNMENT**

There being no further business the meeting adjourned. The time was 6:55 p.m.

These minutes were approved at the June 20, 2022 meeting of the Atlantic Beach Board of Adjustment.

Approved by:



Chair



Katrina Tyer, Clerk

