



Minutes
Town of Atlantic Beach
Board of Adjustment Meeting
125 West Fort Macon Road
August 15, 2022

Members Present

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

Members Absent

Michael Bosse

Others Present

Derek Taylor, Town Attorney
Elisabeth Webster, Planner
Katrina Tyer, Clerk
Joseph Starling, Councilmember
Marc Shulze, Public Works Director

Prior to the meeting starting Katrina Tyer administered an oath to Bradley Jones.

CALL TO ORDER AND ROLL CALL

Elisabeth called the roll and introduced the alternates present in the audience: Bonnie Pitts, Kathy McGehee and Curt Winbourne.

EXCUSE ABSENT MEMBERS

Palma made a motion *to excuse* Bosse due to travel. Seconded by Harrison. Vote was unanimous, 4-0. Chairman Briley asked Winbourne to sit in Bosse seat.

APPROVAL OF MINUTES

Smith made a motion *to approve* the June 22, 2022 Minutes. Seconded by Winbourne. Vote was unanimous, 5-0. Motion carried.

PIRATE'S DEN CONDO ASSOCIATION RIGHT OF WAY ENCROACHMENT REQUEST (127 Old Causeway Road)

Opening remarks and swearing in of witnesses

Attorney Taylor began by confirming with the board members that none of them had a conflict, conversation or special knowledge about the case. Each confirmed no, they had not. The representative from Pirate's Den confirmed they did not have any objections to the board seated to hear the case.

Katrina administered oaths to Applicant Robin Haddock, Public Works Director Marc Shulze and Planner Elisabeth Webster.

Elisabeth explained in April of 2022, the Public Works Department began installing a sidewalk along Old Causeway Road, from Pond Drive to AB Causeway. During installation, staff realized the dumpster for Pirate's Den had been moved in the Town's right-of-way along Old Causeway Road.

At the May 23, 2022 Council Meeting, a homeowner from Pirate's Den spoke about the dumpster's location and requested a resolution for its location. Council suggested Pirate's Den apply for a formal Right-of-Way Encroachment Agreement from the Town with the condition that Pirate's Den Condo Association pay for the concrete pad and enclosure for the dumpster.

On June 13, 2022, Pirate's Den Condo Association, 127 Old Causeway Road, applied for a right-of-way encroachment to allow their dumpster and enclosure to be placed within the Town's right-of-way along Old Causeway Road, and paid the \$500 application fee.

Due to the location of the old bridge, Old Causeway Road has a right-of-way of 100 feet, unlike other areas in town which are 45-60 ft. Staff agrees this is the best location for the dumpster due to the parking lot flooding from the canal, especially during king tides and this location is easier for trucks to access. The enclosure is not in violation of any Town codes.

Public Hearing Applicant Presentation

Mrs. Haddock explained they moved the dumpster from the canal side due to environmental concerns with tidal flooding. It has been on the side of Old Causeway Road as long as she has been there, at least 1.5 years. Due to miscommunication, the elevated concrete pad and wooden enclosure have already been constructed. The location does not pose any issues for the truck to empty.

Attorney Taylor asked Marc to confirm the location of the dumpster does not interfere with any utilities. Marc stated the town's waterline is under the sidewalk, but the dumpster will not have an effect any different than a driveway. There are not any issues with drainage. The sidewalk was poured thicker in that area due to the trash truck driving over it.

Chairman Briley wanted to make sure Pirate's Den understands that if the Town needs access for any reason or asks for the dumpster to be removed it will most likely be at the expense of Pirate's Den.

Attorney Taylor will draft the Engagement Agreement after Pirate's Den provides a survey or legal description. Mrs. Haddock stated she could provide an old survey and identify the exact location of the dumpster.

Presentation by Parties in Opposition

No comments.

Briley closed the public hearing at 6:23 pm.

Board of Adjustment Discussion and Evaluation

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

1. Is the encroachment necessary for the applicant's reasonable use of their property and no reasonable alternative is available?
 - Jones: Yes, the residents need the dumpster and they do not want it near the canal.
 - Smith: Yes, they need a dumpster.
 - Winbourne: Yes, that is the best location on the property and they are avoiding environmental issues near the water.
 - Palma: Yes, she recalls it being there many years without a problem. We do not need a canal problem.
 - Briley: Yes, it looks better than before and understands why there is no other alternative.
2. The encroachment agreement will not interfere with the public's use of the affected right-of-way and is not in violation of any State, federal, or local regulation?
 - Jones: Yes, the town has indicated it does not violate any regulations.
 - Smith: Yes, they worked with the town to get this done. It does not affect the public's use.
 - Winbourne: Yes, it does not affect the right-of-way and is not in violation of any regulations.
 - Palma: Yes, it is not going to interfere or impede traffic.
 - Briley: Yes, as Vada stated, it is not going to interfere or impede traffic.
3. The encroachment agreement will not interfere with any Town service or service from any public service company, including but not limitation: provision of water, sewer, electricity, telephone, cable, drainage, garbage collection, or emergency services.
 - Jones: Yes, the town provided reliable testimony that it is not going to affect any services.
 - Smith: Yes, as we have read and listened to town testimony, there is not an impact.
 - Winbourne: Yes, Marc's testimony was clear it would not interfere with any services
 - Palma: Yes, she agrees with Marc's testimony.
 - Briley: Yes, as the others have stated.

The Board found that all of the requirements have been met. Winbourne made a motion to approve the Right-of-Way Encroachment Agreement between the Town of Atlantic Beach and Pirate's Den Homeowners Association, Inc. for the installation of a dumpster, concrete pad and fencing enclosure located at 127 Old Causeway Road. Seconded by Smith. Vote was unanimous, 5-0. Motion carried.

OTHER BUSINESS

None.


ADJOURNMENT

There being no further business the meeting adjourned. The time was 6:31 p.m.

These minutes were approved at the December 12, 2022 meeting of the Atlantic Beach Board of Adjustment.

Approved by:


Chair


Katrina Tyer, Clerk