



Minutes
Town of Atlantic Beach
Board of Adjustment Meeting
125 West Fort Macon Road
December 12, 2022

Members Present

Eddie Briley, Chair
Vada Palma, Vice Chair
Bradley Jones
Harrison Smith
Kathy McGehee, Alternate

Members Absent

Michael Bosse

Others Present

Derek Taylor, Town Attorney
Jennifer Ansell, Planning Director
Elisabeth Webster, Planner
Katrina Tyer, Clerk
Neil Whitford, Attorney for Applicant
Bill Stafford, Applicant
Bonnie Pitts, Alternate
Michael Mortali, Alternate

CALL TO ORDER AND ROLL CALL

EXCUSE ABSENT MEMBERS

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

APPROVAL OF MINUTES

Jones made a motion *to approve* the August 15, 2022 Minutes. Seconded by Smith. Vote was unanimous, 5-0. Motion carried.

PALM SUITES VARIANCE REQUEST (602 WEST FORT MACON ROAD) VAR-22-3

Opening remarks and swearing in of witnesses

Attorney Taylor began by confirming with the board members that none of them had a conflict, financial or personal interest, conversation or special knowledge about the case. Each confirmed no, they did not. Attorney Whitford confirmed he nor the applicant have any objections to the board seated to hear the case.

The remaining alternates were given the opportunity to leave the meeting, they stayed.

Katrina administered oaths to Neil Whitford and Jennifer Ansell.

Chairman Briley stated tonight we will hear Variance Request VAR-22-3 from Palm Suites Owners Association, 602 West Fort Macon Road, for a variance to allow a 22.3' x 33' addition to the existing laundry and utility room which would encroach further into the required 20 feet side setback and result in the enlargement of a nonconforming structure.

Chairman Briley opened the Public Hearing at 6:12pm

Town Staff Presentation

The Palm Suites Owners Association submitted an application on November 21, 2022 for a variance to allow a 22.3' x 33' addition to the existing laundry and utility room which would encroach further into the required 20 foot side setback and result in the enlargement of a nonconforming structure. Palm Suites is an existing 90-unit condotel property located at 602 West Fort Macon Road, constructed in 1988 per tax records. The structure is in the Mixed-Use High Intensity (MHI) zoning district, and the required side setback is 20 feet due to the adjacent Residential Single-Family and Conservation (RSC) zoning district (when adjacent to residential, the setback is doubled). The addition is proposed to be located approximately 4 feet from the side property line. Pursuant to Section 18.8.3 of the Unified Development Ordinance, Nonconforming Structures, no nonconforming structure may be enlarged or altered in any way which increases its nonconformity. Additionally, any enlargement of a nonconforming structure shall be configured so as to not increase the degree of nonconformity.

Staff recommends the following based on the Variance questions:

- a. *Will unnecessary hardship result from strict application of the ordinance?*

The existing structure is located 8.54 feet from the side property line. Due to existing site constraints, a hardship would result from the application of the 20-foot side setback.

b. Does the hardship result from conditions that are peculiar to the property?

The structure is situated in coastal wetlands; therefore, the addition will be required to be pile-supported. The location of the addition in the front as shown is preferable but will be subject to additional permitting from CAMA and the USACE.

c. Did the hardship result from actions taken by the applicant or the property owner?

The structure was constructed in 1988 according to Carteret County Tax records, therefore is existing-nonconforming. The hardship is not self-induced.

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 of the Ordinance.

There were no questions from the applicant.

Applicant Presentation – Applicant and/or Agent

Attorney Neil Whitford provided a statement of no objection from adjacent property owners and pictures of the existing utility room conditions. (included in the minutes)

Attorney Whitford, 710 Arendell Street, introduced Bill Stafford and proceeded to ask him the series of questions required to grant the variance.

Bill Stafford Jr., 2001 Club House Drive, New Bern and 602 W. Fort Macon Road, President of Palm Suites Unit Owners Assoc. (since 2015) and Hotel LLC. Palm Suites was built as 90 units in 1988. From 1988 to 2005 it operated under Comfort Suites and a Days Inn. Around 2005, it was converted into a condominium hotel and the units were sold by local developers. Since then, it has operated as a hotel 24/7. The HOA engaged with Crown Hotel Management in Wilmington in January 2018 to manage the hotel, prior to that it was Bluewater from Emerald Isle. In the offseason they maintain 8 employees, 17 in the busy season. Their occupancy rate is around 79%.

The work room is the same footprint as built in 1988 and was built at a slight angle not parallel to the western boundary line. The current northwest corner of the work room is 11.72 feet from the boundary line and 8.54 feet from the southwest corner. It is a combined utility, laundry storage and work room located on the west end of the property. The work room is not adequate for today. They need the extra space to construct an actual mechanical room, add a new commercial washer, create safe air quality, control temperature, and make the space safe for staff. They have looked at other options, but due to parking, a State drain line under the property and the live oaks along Fort Macon Road, the proposed location is the best option. They are requesting a variance to extend the western wall of the existing work room southward towards Fort Macon Road by 33 feet. The additional space will have little visual changes seen from Fort Macon Road.

Crown Hotel Management provided a letter addressing the need for the facility, which is included in the application. Crown Management has Hilton affiliates, and they want to meet Hilton standards. Palm Suites strives to be a good clean place to stay and a good Atlantic Beach location.

a. Will unnecessary hardship result from strict application of the ordinance?

Yes, the proposed addition is solely on the Applicant's property. At common law, the Applicant could build to the property line. The strict application of the Ordinance is all that prevents the Applicant from constructing the addition.

b. Does the hardship result from conditions that are peculiar to the property?

Yes, the hardship results from conditions peculiar to the property. In the late 1980s when the hotel was built, its footprint and the location of the west side of the building relative to the western boundary line set its compliance with future changes in zoning setbacks. The plumbing and gas lines were installed to serve the laundry and utility room on the west side of the building. The structure and permanent improvements become a part of the real property under NC property law, and therefore a part of the topography of the lot. The peculiar conditions are the location of the west wall of the existing building and the plumbing and gas lines installed to the west side of the building - encroaching at least partially in the UDO setback.

c. *Did the hardship result from actions taken by the applicant or the property owner?*

No, the hardship results from the original hotel developer, not the Applicant, building the hotel on an angle to the western boundary line rather than parallel to the western line, and the Town adopting setbacks that made the structure nonconforming.

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?*

Yes, there are no adverse public safety concerns that would result from granting this variance, in fact, the public safety will be promoted by allowing the addition so that the laundry and utility room can be separated from the storage and staff work area. Land use ordinances are designed to promote planned development consistent with community standards. The subject property is zoned for a hotel and has been operated as a hotel for approximately 35 years, all consistent with community zoning standards. The proposed addition changes none of this - and considering the size of the hotel building, this is a minimal expansion.

Jones commented Palm Suites is a much better place than it was in 2005 and this would be a good addition and upgrade. He asked if the building plans could be revised to meet the ordinance. Mr. Stafford stated the current design is 4,800sqft, if revised to meet the ordinance, it would be under 4,000sqft. Palma remembers when it was built it was cutting edge and is thankful they have not had any accidents or fires to date. Stafford stated they added a new fire system within the last 6 months. Palma wanted to ensure they preserve any of the natural vegetation on the lot that they can. Stafford stated their intent is not to disturb the land other than for a single lane driveway and septic. McGehee appreciates this presentation and thinks this will be a great facility. Harrison also appreciates the clear presentation. There was open discussion regarding the makeup of the Homeowner's Association and the LLC.

Presentation by Parties in Opposition

No comments.

Chairman Briley closed the public hearing at 6:56pm.

Board of Adjustment Discussion and Evaluation

Chairman 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.*

Jones: Yes, without this they cannot improve the utility room.

Palma: Yes, many years ago this would not have been a problem but because our UDO has stricter requirements it cannot happen now.

McGehee: Yes, they need to improve.

Harrison: Yes, due to the need for parking and the other property restrictions.

Briley: Yes, for the same reasons.

Vote was 5-0.

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

Jones: Yes, the footprint of the building on the west side, the gas lines and the way the building is set up.

Palma: Yes, the building fits on the west side, and that is where it needs to be.

McGehee: Yes.

Smith: Yes, the area of the property creates a hardship.

Briley: Yes, for the same reasons.

Vote was 5-0.

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

Jones: No, the hardship is not from their actions, it is the way the building was built.

Palma: No, the current building was built a little askew. It is not the fault of the current owners.

McGehee: No, pleased to see the letter of support from adjacent homeowners.

Harrison: No, the hardship is due to the original property owner.

Briley: No, he is satisfied.

Vote was 5-0.

- 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.*

Jones: Yes, what we are looking for is a safer, temperature controlled better space for workers to avoid workers injury.

Palma: Yes, safety is the highest priority on the beach. With 90 units they could use more space.

McGehee: Yes, for the safety of employees.

Harrison: Yes, for the safety of employees and the property.

Briley: Yes, for the same reasons.

Palma made a motion *to grant* the Variance Request from the Palm Suites of Atlantic Beach Owners Association, Inc. to allow a 22.3' x 33' addition to the existing laundry and utility room which would encroach further into the required 20' side setback and result in the enlargement of a nonconforming structure at 602 West Fort Macon Road. Seconded by Jones. Vote was 5-0.

OTHER BUSINESS

No other business.

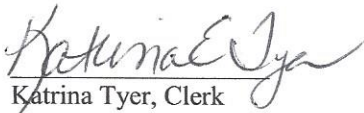
ADJOURNMENT

There being no further business the meeting adjourned. The time was 7:05 p.m.

These minutes were approved at the March 20, 2023 meeting of the Atlantic Beach Board of Adjustment.

Approved by:


Chair


Katrina Tyer, Clerk