



Minutes
Town of Atlantic Beach
Board of Adjustment Special Meeting
125 West Fort Macon Road
Tuesday, April 25, 2023 at 6:00pm

Members Present

Michael Bosse, Chair
Harrison Smith, Vice Chair
Eddie Briley
Vada Palma
Bonnie Pitts, Alternate

Members Absent

Bradley Jones
Michael Mortali, Alternate

Others Present

Derek Taylor, Town Attorney
Elisabeth Webster, Planner
Katrina Tyer, Clerk
Tony Engrassia, Alternate
Kathy McGehee, Alternate
Ron Cullipher, Engineer

CALL TO ORDER AND ROLL CALL

Chairman Bosse called the meeting to order at 6:00pm.

EXCUSE ABSENT MEMBERS

Smith made a motion *to excuse* Bradley Jones. Seconded by Briley. Vote was 4-0. Motion carried. Alternate Bonnie Pitts was selected to serve.

VAR-23-3: 115 WEST FORT MACON ROAD

The Cullipher Group, PA, submitted a request for a variance on behalf of the property owners to allow an increase in the required maximum 15-foot front setback, reduction in the building fenestration requirements, and exemption from the required street plantings. The property consists of 109 and 115 West Fort Macon Road has been combined into a single parcel addressed 115 West Fort Macon Road.

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. Engineer Ron Cullipher confirmed he did not 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 Planner Jennifer Ansell, Fire Chief Mike Simpson, and Engineer Ron Cullipher.

Presentation by Town Staff

Palma made a motion *to go into public hearing*. Seconded by Smith. Vote was 5-0. Motion carried.

The Commercial Circle (CDD) zoning district establishes a maximum setback from a major roadway of 15 feet. In working with the Fire Department to preserve the line of sight to the intersection from their driveway, the applicants have proposed to move the building further back, resulting in a 21-foot street setback. The CDD is also subject to specific standards, which include a minimum of 25% of the area on the ground floor level consisting of windows or doors when the side or rear of the property is adjacent to an alley. The applicant has requested a reduction in the percentage required to comply with the NC Building Code, which allows 15%. One large mature tree for every 40 linear feet is required, in this case, five would be required. The applicant has requested the exclusion of this requirement to aid in a clear sight line.

Chief Simpson explained they already have a hard time egressing on Fort Macon Road, especially with the fire building being set so far back from the street. In discussions with the property owners and Cullipher, they found that redesigning the building was too expensive for the owner. Installing a flashing light across Fort Macon Road would require NCDOT approval and cost \$150,000 which neither the Town nor the property owner wants to pay for. The best option discussed was to move the building

back on the lot. Although relocating the building on the lot presents issues with closeness to the alley, this is still the best option and one the Fire Department fully supports. He thanked Cullipher and the applicant for working with them.

Presentation by Parties in Favor

The Cullipher Group, P.A. and Coastal Architecture PLLC prepared plans for a new commercial building to be located at 109 & 115 West Fort Macon Road. Since the project is in the Circle district, it went through a Joint Town Council and Planning Board Meeting for Phase 1 Major Site Plan approval. The project was approved at that time for Phase 1. Phase 2 included a Technical Review Committee meeting and Planning Board approval. The Planning Board approved the project, but during the meeting, Fire Marshal Casey Arthur expressed concern that visibility for Fire and EMS would be hindered if built per the plan, while acknowledging that the plan met all Town requirements. After a lot of discussion, the Planning Board approved the plan with strong reservations about public safety. They asked that the applicant reach out to the Fire Department to see if some site modifications could be implemented to limit their concerns. After meeting with the Fire Department, everyone agrees requesting an increase in the required maximum 15-foot front setback, reduction in the building fenestration requirements, and exemption from the required street plantings is the best solution for everyone.

Cullipher stated they are meeting the intent of the ordinance and read the findings of facts from the application:

1. *Will unnecessary hardship result from strict application of the ordinance?*
Yes, unnecessary hardship will result to the Town of AB Fire and EMS departments which could impact the safety to staff and the traveling public.
2. *Does the hardship result from conditions that are peculiar to the property?*
Yes, our neighbor is the Town of AB Emergency Services. We fear that compliance with Town requirements will impair site visibility.
3. *Did the hardship result from actions taken by the applicant or the property owner?*
No, the hardship developed when trying to facilitate visibility needs for the Town of AB Fire and Rescue.
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, creating better sight lines for emergency responders is the primary reason for the proposed variance.

Cullipher confirmed there will be other landscaping, just not the large trees.

Bosse ordered the application be made a part of this record.

Presentation by Parties in Opposition

No objections.

The public hearing concluded at 6:21pm.

Board of Adjustment Discussion and Evaluation

Chairman Bosse 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.*
Palma: Yes, it is a great solution to a real problem. It is obvious they are neighbors with the fire department. It's important and kind of the applicant.
Briley: Yes. Agree.
Smith: Yes, public safety is important for everyone.
Pitts: Yes, unnecessary hardship for the public.
Bosse: Yes, agree with all the comments the board made .
- 2) *The hardship results from conditions that are peculiar to the property, such as location, size, or topography.*
Pitts: Yes, because it is in the Circle District and the neighboring Fire Department is peculiar to the property.
Smith: Yes, the property abuts the Fire Department.
Briley: Yes.

Palma: Yes, and it is imperative that we comply with the needs of the Fire Department.

Bosse: Yes, agrees with the comments of the Board.

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

Smith: No, the hardship was realized after they bought the property, and the Fire Department asked them to work with them.

Pitts: No, their location is what created it, not them.

Palma: No, it is a weird location that needs to be recognized.

Briley: No.

Bosse: No, for those reasons stated.

- 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.*

Bosse: Yes, we are here for that particular reason.

Pitts: Yes, to create better sight lines.

Smith: Yes, it helps with public safety, and this is exactly what we are supposed to do when considering variances.

Briley: Yes.

Palma: Yes, because of the visibility next door neighbor to the Fire Department.

Palma made a motion *to grant* the Variance Request to allow an increase in the required maximum 15-foot front setback, reduction in the building fenestration requirements, and exemption from the required street plantings at 115 West Fort Macon Road. Seconded by Briley. Vote was 5-0. Motion carried.

OTHER BUSINESS

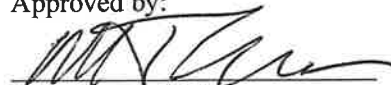
None.

ADJOURNMENT

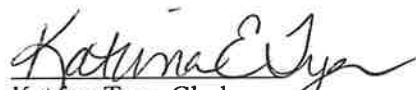
There being no further business the meeting adjourned. The time was 6:32 p.m.

These minutes were approved at the September 18, 2023 meeting of the Atlantic Beach Board of Adjustment.

Approved by:



Mike Bosse, Chair



Katrina Tyer, Clerk