



Minutes
Town of Atlantic Beach
Board of Adjustment Meeting
125 West Fort Macon Road
Monday, September 18, 2023 at 6:00pm

Members Present

Michael Bosse, Chair
Harrison Smith, Co-Chair
Bradley Jones
Bonnie Pitts
Stephen Rea, Alternate

Members Absent

Tony Engrassia
Kathy McGehee, Alternate
Shannon Vance, Alternate

Others Present

Derek Taylor, Town Attorney
Jennifer Ansell, Planning Director
Elisabeth Webster, Planner
Joyce Livengood, Alternate
Katrina Tyer, Town Clerk

Katrina administered oaths to regular member Harrison Smith and Alternate member Stephen Rea.

CALL TO ORDER

EXCUSE ABSENT MEMBERS

APPROVAL OF MINUTES

Smith made a motion *to approve* the April 25, 2023, May 15, 2023, and June 8, 2023 Training Minutes. Seconded by Pitts. Vote was unanimous, 5-0. Motion carried.

VAR-23-05: 100 CLUB COLONY

Opening remarks and swearing in of witnesses

Josh Johnson of Stroud Engineering, PA, applied for a variance to allow an additional 184 square feet of impervious surface, over the allowed 40%, at 100 Club Colony Drive.

Attorney Taylor confirmed with the board members that no one had a conflict, financial or personal interest, conversation, or special knowledge about the case. Each confirmed no, they did not. The applicant confirmed he had no objections to the board seated to hear the case.

Katrina administered oaths to Josh Johnson, Stroud Engineering; Property Owner Trent Morning; and Planner Elisabeth Webster.

Public Hearing

Chairman Bosse opened the public hearing at 6:06pm.

Presentation by Town Staff

The Lot in question was platted in 1944. According to the Carteret County Tax Card, the house located at 100 Club Colony Drive was built in 1940. A Building Permit was issued on August 31, 2022, to raise the existing structure and build an addition within the same footprint.

The Residential Single-Family Wide Yard district establishes the maximum impervious allowable is 40% of the entire lot. The property is currently 184 feet over the 40% allowable impervious surface.

The application was submitted on August 22, 2023. The public hearing notice was posted on site and adjoining property owners were sent notification letters on September 8, 2023.

Presentation by Parties in Favor

Engineer Josh Johnson spoke on behalf of the applicant. The existing survey of the lot shows portions of the western house are on the property line. A portion of the driveway was reconfigured and decreased the amount of impervious for the driveway, it was at 37% before. When they reconfigured to move parking away from the driveway the impervious was over. The issue was not identified at first because of the survey. There is not a turnaround at the end of the street so cars were turning around at his driveway. They thought it would be best to reconfigure the driveway allowing for a safer turnaround area, but they did not anticipate it being over the allowable area. The property owner's purpose is to maintain the beach house feel, not to negatively

impact anyone on the street. The surveyor could not complete the survey because of a utility pole and live wires. Only one survey stake was found and it was near the pole.

The board asked and the brick pavers are mortar so not pervious. The new brick area is probably 200-300 feet smaller than the previous entry to the property.

Trent Morning 100 Club Colony Drive. He and his wife bought the house when they only had one child, now they have three. They loved the old-school character of the home and reused everything on the inside. They wanted to reconfigure the front driveway and area so children were not in danger when people would drive in to turn around.

Johnson read through the findings from the application and added some more information:

- a. *Will unnecessary hardship result from the strict application of the Ordinance?*
The owner has already decreased the amount of impervious area at the end of Club Colony Drive. It would be a hardship not to protect his personal property from vehicles turning around and he wants to protect the historical feel of the home.
- b. *Does the hardship result from conditions that are peculiar to the property, such as location, size, or topography?*
There is not adequate room to turn around in the right-of-way.
- c. *Did the hardship result from actions taken by the applicant or the property owner?*
The owner was not aware of the reconfiguration.
- 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?*
Public safety is unaffected. No one is in opposition. The owner has gone above and beyond to maintain the look at feel of the 1940s home.

He asked the board to accept the application as testimony. Board agreed.

Presentation by Parties in Opposition

None.

BOARD OF ADJUSTMENT DISCUSSION AND EVALUATION

Pitts asked how mortar affected the property as a pervious material, could another material be used? Elisabeth stated a general answer is if it will not grow grass, it is not pervious.

Attorney Taylor reminded the board they have to decide if what the property owner has already done is permissible. The UDO does not allow them to count the right-of-way as their impervious. Per Josh Johnson's testimony, we can assume that 12-15 feet of the brick area is in the right-of-way.

Bosse closed the public hearing at 6:33pm.

Pursuant to Section 18.2.4.X.3, Variance Review Standards, a variance shall be approved on finding the applicant demonstrates all of the following, Chairman Bosse polled each member.

- 1) *Unnecessary hardship would result from the strict application of the Ordinance.*
Bosse: Yes, the property owner decreased the driveway size and stayed within the footprint of the home. Decreasing the driveway size by 180 feet would be a hardship.
Jones: Yes, he wants to know the hardship in removing the 180 feet but thinks at this point tearing out the 180 feet would be an unnecessary hardship.
Rea: Yes, agrees.
Smith: They decreased imperviousness in the right-of-way that they are not getting credit for. It would cause unnecessary hardship to decrease parking when they were not aware of the need for a variance when they made these modifications to their site plan.
Pitts: Agrees.
- 2) *The hardship results from conditions that are peculiar to the property, such as location, size, or topography.*
Bosse: Yes, based on testimony and evidence given. The home was built in the 1940s and based on a 2021 survey the existing home is non-conforming with the current ordinance, but the homeowner already decreased impervious. Also, it is peculiar due to being the last lot on the street and the existing footprint.
Smith: Yes, the house was developed before the UDO, it abuts up to the end of a road and has a turnaround issue. The property owner tried to fix those issues but created this issue.

Pitts: Yes, because they were unable to find markers during the survey process.

Jones: Any property pre-UDO is usually peculiar. They have a turnaround at the end of the road they did not create.

Rea: Yes.

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

Bosse: This was not a result of action taken by the applicant or the property owner. He stated he was trying to maintain the beach house and footprint of the home. By reducing the size of the driveway, the increased impervious area is in the right-of-way.

Jones: No. Johnson's testimony could not find markers for the survey; this was not an action of the owner. He tried to keep the home the same and decreased the size of the driveway.

Rea: Agree.

Smith: Agree.

Pitts Agree.

- 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, the homeowner did everything to maintain the feel of the property. He decreased the size of the entrance driveway and did not get credit for that. Any dead-end street is subject to traffic, so he understands trying to close off the driveway to prevent vehicles from entering. This enhances public safety.

Smith: This driveway is much safer than the previous one based on testimony regarding turnarounds. The intent of the ordinance is to keep the pervious surface and the owner did that but did not get credit.

Pitts: Yes.

Rea: Yes, agrees with Smith.

Jones: This does not affect the adjacent property owner. They are trying to keep it the same.

Rea made a motion *to grant* the Variance Request from Josh Johnson, PE, Stroud Engineering on behalf of property owner Stephen B Hill, Trustee, to allow an additional 184 square feet of impervious surface (41.8%) over the allowed 40% at 100 Club Colony Drive. Seconded by Jones. Vote was 5-0.

OTHER BUSINESS

None.

ADJOURNMENT

There being no further business the meeting adjourned. The time was 6:48 p.m.

These minutes were approved at the October 16, 2023 meeting of the Atlantic Beach Board of Adjustment.

Approved by:


Mike Bosse, Chair


Katrina Tyer, Clerk

