



Town of Sunset Beach  
Board of Adjustment

Meeting Minutes of May 5, 2015

9:00 am

**DRAFT**

**Members Present:** Robert Forrester, Chairperson; Gene Allen, Pete Larkin, James Strandquist

**Members Absent:** Leon August, Peter Scott, Lawrence Sweeny

**Staff Present:** Rawls Howard, Director of Planning and Inspections; Grady Richardson-Town Attorney; Cindy Nelson, Secretary

Quorum present, Chairman Robert Forrester read a Chairman's Welcome, the Pledge of Allegiance recited by all in attendance, and Rawls Howard Planning Director sworn in.

**Consideration of Approval of Minutes:** CHAIRPERSON ROBERT FORRESTER ENTERTAINED A MOTION TO APPROVE THE MINUTES WRITTEN FROM APRIL 15, 2015. THE MINUTES WERE ADOPTED NOTING ONE CHANGE. MOTION MOVED BY PETER LARKIN. SECOND WAS MADE BY JAMES STRANDQUIST. MINUTES ADOPTED BY UNANIMOUS VOTE.

**Continuances or Withdrawals:** None

**Old Business:** None

**New Business:** Variance Request-BOA-15-02; Lance and Lou Ann Jackson, 304 North Shore Drive East/ seeks a variance of 5 ft. for the rear 5ft. setback requirement for property located at 304 North Shore Drive E.

Rawls Howard gave a power point presentation of the case, highlighting the property boundaries with setback lines, measurements and a verbal report with case specifics:

- Applicant wants to remove existing porch, decking, and stairs in the back of the house which extends into the adjacent property.
- The request is to rebuild the deck into the 5 foot setback.
- A covered porch wraps around with an open deck that extends into the other property.
- Applicant wants to rebuild it to meet the 12' corner setback.

- Home is older, built in or about 1968, and predates our zoning ordinance, it is believed that the adjacent rear lot (#24) was in common ownership and was used as a septic field. Both lot's #23 and #24 can be built upon with the availability of public sewer service.
- The house is addressed off of North Shore Drive with the adjacent lot #24 being the rear lot.
- The applicant is in attendance for any questions by the Board.

Pete Larkin: Rawls what is Town's position on the front and rear setbacks per Article 6 of the UDO.

Rawls Howard: The setbacks would be determined at the time of permit issuance. So, if your building a house on a corner lot the setbacks would require a 25' front setback, the side set back (on 3<sup>rd</sup> Street) would not have the normal 5' setback, but a 12' foot setback. He continued to say the applicant would still meet the side yard setback for his corner lot with his 12' to rebuild the deck.

James Strandquist: If the variance were granted, what happens to the vacant lot if someone wanted to build and meet the 5' side setback?

Rawls Howard: They could build and meet the 5' foot setback. After conferring with the Building Inspector the new home would have to be constructed with a fire wall separation in the wall that faces the house at 304 North Shore Drive E.

Pete Larkin: I have calculated the covered porch and it would encroach onto lot #23 encroaches by 6" with the deck being at least 6' wide.

Rawls Howard: That is correct. The applicant does have an option to recombine the two properties.

Gene Allen: As it stands now, the adjacent lot, #23, could not be built upon with the open deck?

Rawls Howard: No, he could not; he would have to recombine the lots.

Grady Richardson: We have two lots owned by the same person, and that person is applying for a variance. The current owner gets his variance today and then sells lot #23. Does the new owner realize that this variance has been granted, that he will have to fire rate his structure, or ask for variance to fire rate the structure if that's possible, or look at moving the structure 10 feet instead of the required 5 feet. Can we assume that a potential new owner will be made aware of this variance if granted today?

James Strandquist: I see the application is dated 2013, is this correct?

Rawls Howard: Yes, that is correct. This is a carryover application from my predecessor.

Robert Forrester: If an owner wants to build and has to move his house 10 feet, would that impact the square footage of the house?

Rawls Howard: Yes, potentially, although he could apply for a variance. However I could not determine the needed setbacks without seeing a building plan.

Grady Richardson addressed Rawls Howard: Is the applicant aware that this only a 4 member quorum today, and not a full board? Rawls: Yes, the applicant has been informed.

Lance Jackson, applicant and property owner was sworn in for questioning.

Lance Jackson explained that he purchased the property four years ago and has been actively restoring it. So far it has been an ordeal to get this point. He proceeded to inform the Board that Lot #23 is 33' x 59.5' which gives about 1963 square feet for home, with setbacks of 25' from 3<sup>rd</sup> Street, 5' on the rear, and 5' on the side, and then 5' that faces the house at 304 North Shore. The deck supports on the property line of lot #24, we would extend the deck to 12' from 3<sup>rd</sup> Street. The deck is about to fall down, the inspectors will not walk on it. Then he asked, now would you include the overhang in the setback? Rawls answered that it would be included.

Lance Jackson continued, then I made the setback at 5', however if your including the overhang, then we need a 7' setback variance.

Robert Forrester: Your setback has to be 5 feet from your property line. You're encroaching over your own property line. This approval would be to change the property line.

Lance Jackson: If we change the property line than lot #23 would be out of compliance as the lot will not meet the minimum lot size requirement. We could have made it one lot. However, a future option for my wife and I will be to build a Charleston Style home on lot #23. We have had a long wait with this situation. I travel extensively with my job and it will be before September until I can come back for another meeting.

Grady Richardson: If the variance is granted today, how much of your roof overhang for lot #24 is going to remain on lot #23?

Lance Jackson: About 18".

Grady Richardson: What would happen if lot 23 were to change hands? What will be done to ensure potential buyers of the 18" encroachment?

Lance Jackson: We would have to provide a drawing that shows the setbacks.

Grady Richardson: In order to avoid having a fire wall, the new owners would have to be 10' from the 18" mark, so it would be like 11.5'.

Jim Strandquist: There are other homes on the island where they are placed over property lines. If this variance were granted would it set precedence?

Robert Forrester: No, it would not set a precedence as each property is unique and different and site specific.

Pete Larkin: Our apologies to Mr. Jackson for the length of time it has taken to get his case to the Board of Adjustment. He asked Mr. Jackson if sewer assessments were paid for each lot and if there was intention to build on lot #23.

Lance Jackson: Yes, both sewer assessments were paid in cash and I do plan to build on lot #23.

Grady Richardson: Were there any objections from property owners that were notified?

Rawls Howard: No, there were no objections.

CHAIRPERSON ROBERT FORRESTER ENTERTAINED A MOTION TO OPEN THE PUBLIC HEARING. MOTION MOVED BY PETE LARKIN. SECOND WAS MADE BY GENE ALLEN. MOTION CARRIED UNANIMOUSLY BY ROLL CALL:

JAMES STRANDQUIST: YES

ROBERT FORRESTER: YES

PETE LARKIN: YES

GENE ALLEN: YES

THERE BEING NO PUBLIC COMMENT, CHAIRPERSON ROBERT FORRESTER ENTERTAINED A MOTION TO CLOSE THE PUBLIC HEARING. MOTION CARRIED BY JAMES STRANDQUIST. SECOND MADE BY GENE ALLEN. MOTION CARRIED UNANIMOUSLY BY ROLL CALL:

JAMES STRANDQUIST: YES

ROBERT FORRESTER: YES

PETE LARKIN: YES

GENE ALLEN: YES

At this time the Board of Adjustment began its deliberation on the application:

Chairperson Robert Forrester stated that this was a unique situation with platted lots, at the time the house was built, the second lot held the septic system and there has not been any concern for an overhang. The applicant is addressing the situation now. I am not sure how I would deal with the situation if I were to consider purchasing lot #23.

Grady Richardson said he wanted to be sure of what the Board is being asked to do. We have a nonconforming structure on setbacks and nonconformity is being addressed with this variance request on the setbacks. The 18" overhang encroachment is not a part of the application request. Procedurally can we move forward with this request? My concern is with future owners of lot

#23. Make it a condition that this encroachment for lot #23 is filed with the Register of Deeds or some other memorandum to make it known.

Rawls: There are two options; the lots can be combined or keep the overhang within the setbacks.

Grady Richardson: The cleanest way to deal with this is to amend the plot plan by reconfiguring the lots where lot #24 takes in the 18" overhang, wraps into the setback requirement being waived and allows for a variance to the minimum lot size for a buildable envelope for lot #23. As well as meet the current UDO standards.

Chairperson Robert Forrester asked if re-notification would need to be given. Grady Richardson said he believed that would be the case as this was not a part of the original application.

Chairperson Robert Forrester addressed the applicant as to his schedule. When could he come back to the Board? Mr. Jackson stated that he could not be present until the September meeting, However if he could send someone on his behalf, this could be heard again at the July Board of Adjustment meeting.

Mr. Jackson was instructed to amend his application and bring a survey that reconfigures both lots to address the current setback concern and changes the lot line for lot #23 to make it a buildable lot without the 18" encroachment.

After more discussion it was noted that adjacent property owners for both lots #23 and #24, would have to be re-notified and the next meeting would have to be a date certain.

Chairperson Robert Forrester asked for a poll (not a vote) from the Board:

James Strandquist was in favor to move the property line 18" to accommodate the overhang. The applicant will need to start over, and notification will need to be made to the relevant adjacent property owners.

Pete Larkin said granting the variance is appropriate, but, the property line for lot #23 would need to be relocated. And, I do not think that re-notification would be necessary.

Gene Allen said the variance should be granted.

Robert Forrester is in favor of granting the current request; and to re-notify adjacent property owners for both lots.

CHAIRPERSON ROBERT FORRESTER MADE A MOTION TO CARRY THIS APPLICATION TO THE SEPTEMBER 9, 2015 MEETING WITH A REQUIREMENT FOR RE-NOTIFICATION. MOTION WAS CARRIED BY JIM STRANDQUIST. SECOND WAS MADE BY PETE LARKIN. MOTION CARRIED UNANIMOUSLY BY ROLL CALL:

JAMES STRANDQUIST: YES

ROBERT FORRESTER: YES  
PETE LARKIN: YES  
GENE ALLEN: YES

### **Rules of Procedure; Review and Discussion**

There was considerable discussion in relation to the number of members required for a quorum, split votes, simple majority, and how those types of votes affect an approval or denial of an application. Conversation continued on various topics, it was determined that more research was needed to properly address concerns.

CHAIRPERSON ROBERT FORRESTER MADE A MOTION TO CARRY THIS TO THE NEXT MEETING PENDING FURTHER RESEARCH. GENE ALLEN MOVED TO TABLE THIS TO THE NEXT MEETING. A SECOND WAS MADE. MOTION WAS CARRIED UNANIMOUSLY.

### **Administrative Items**

Director and Staff Comments: Rawls Howard let the Board members know that a schedule for the Board Adjustment has been created to reflect meeting dates for the second Wednesday of every month. The schedule includes a deadline date for an applicant to submit application. This will allow time for staff review and to be able meet publication notification requirements. The schedule will be distributed to the Board members, posted on the Town's website, and advertised in the The Brunswick Beacon.

The May 13<sup>th</sup> meeting was canceled as there is no business before the Board and no other work items for consideration.

### **Board Member Comments and Request for Future Agenda Items-None**

**Adjournment:** 10:45 am. CHAIRPERSON ROBERT FORRESTER ENTERTAINED A MOTION TO ADJOURN. MOTION WAS CARRIED BY PETE LARKIN. SECOND WAS MADE BY GENE ALLEN. MOTION WAS CARRIED UNANIMOUSLY.

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Chairperson Robert Forrester

Submitted by:

Cindy Nelson Board of Adjustment Secretary