



Town of Sunset Beach  
Board of Adjustment

**Meeting Minutes September 9, 2015**

**9:00 am**

**DRAFT**

**Members Present:** Chairperson; Robert Forrester, Gene Allen, Leon August, Peter Larkin, Peter Scott, Lawrence Sweeney.

**Members Absent:** Jim Strandquist

**Staff Present:** Rawls Howard, Director of Planning and Inspections; Susan Renton-An attorney from the office of the Town Attorney Grady Richardson; Cindy Nelson, Secretary

Chairperson Robert Forrester called the meeting to order, established that a quorum was present, and read a prepared welcome statement. The Pledge of Allegiance was recited by all in attendance.

**Consideration of Approval of Minutes:** FROM THE JULY 8, 2015 MEETING. CHAIRPERSON ROBERT FORRESTER ENTERTAINED A MOTION TO APPROVE THE JULY 8 MINUTES WITH CORRECTIONS. MOTION WAS MOVED BY PETER SCOTT. SECOND WAS MADE BY LEON AUGUST. MOTION CARRIED UNANIMOUSLY.

**Swearing in of Staff:** Rawls Howard, Director of Planning and Inspections was sworn in.

**Continuances or Withdrawal's**-None

Rawls introduced a new staff member of the Planning and Inspections Department: Richard Hathcock; GIS Planner and CAMA permitting officer.

**Old Business:**

BOA-15-02; Lance and Lou Ann Jackson, 304 North Shore Dr. East; seeks:

1. A variance of 300 sq. ft. for the minimum 4,500 minimum lot size requirement in the BR-2 zoning district for subdividing Lot 23, Block 4.
2. a variance of 5 ft. for the side 5ft. setback requirement for property located at 304 North Shore Dr. East (Lot 24, Block 4), and
3. A variance of 13ft. for the front 25 ft. setback requirement for property located at 304 North Shore Dr. East. (Lot 24, Block 4); for the renovation and addition to a single family home.

Rawls briefly recapped the last meeting in which the applicant Lance Jackson applied for a variance. He proceeded with a power point presentation which describes the variance request:

1. Owner/applicant Lance Jackson has an option to combine his two lots -#23 & #24 of which he owns both.
2. Lot 23 was used as a septic field when the house on lot 24 was originally built in 1968, which predates the town zoning code. The septic system is no longer required as public sewer is now available.
3. Lot 24 is a corner lot and the front yard faces 3<sup>rd</sup> Street, but was considered the side yard.
4. Mr. Jackson would like to remove the deck facing 3<sup>rd</sup> Street. And rebuild it to face along lot #23. If the deck is rebuilt than it would encroach 13 feet onto lot 23.
5. There is a new survey showing a property line between lots 23 and 24.
6. Lot 23 is now a legal lot of record and no longer meets the minimum lot size of 4,500 square feet; it is now a 4,200 square foot lot.

Discussion as follows:

Peter Scott: What is the Town's recommendation?

Rawls: The Town cannot make a recommendation as this is a quasi-judicial hearing. However, the applicant has other options if the variance is not granted. Lots 23 and 24 could be combined to make one lot.

Chairman Forrester: The building envelope for lot 23 would be 10 feet from lot 24 where there is an existing house.

Rawls: A new home on lot 23 would have to be fire rated on the side that faces the existing home on lot 24.

Peter Scott: Then two homes would be 5 feet from each other.

Rawls: Yes, if you grant the variance, and the two lots are treated as two different lots of legal record.

Susan Renton: The variance follows the land regardless if one person owns them both and should be treated as two different variance requests.

Peter Scott: How can a future property owner become aware that a variance has been granted for a smaller lot size and that a home would need to be constructed with a fire rated wall?

Rawls: North Carolina is a buyers beware state. It's encouraged to have this type of variance recorded with the Register of Deeds, however, that is not a requirement. The new owner would not be aware of issues with the property until building permits were applied for.

Peter Larkin: According to my calculations the square footage for lot 24 on the most recent survey is incorrect.

Rawls: I would have to rely on the surveyors experience and certification that the lot meets current standards.

Peter Larkin: The new survey shows the size of lot 24 as having 4678 square feet; my calculation shows it is a 4437 square foot lot, making this a substandard lot. Any new building or renovation would fall under current building codes. Moving these lot lines will not allow building to code.

Rawls: I would have to defer to the survey at hand and accept this with some margin of error.

Chairperson Forrester: Could a structure be built on lot 23 to meet the minimum house size for that area.

Rawls: The minimum house size required for that zone is 1000 square feet. Reasonably a home that size could be constructed on that property.

The Board of Adjustment expressed concern that a potential buyer may not be aware that a variance exists for this property. How to best inform them? Chairperson Forrester said it would be up to the buyer to do “due diligence” before purchasing the property. And, a condition could be placed on the approval to enter a subdivision note on the plat that a variance has been granted for this property.

Gene Allen: Are there any safety issues with sight visibility on the corner of 3<sup>rd</sup> Street for the existing home.

Rawls: There is room for sight visibility with the way the house is sitting back on the property away from 3<sup>rd</sup> Street.

Susan Renton: Facing what is the front of the property on 3<sup>rd</sup> Street, a condition could be placed on the variance that he could not extend any building into the sight visibility area.

The applicant Lance Jackson of 304 North Shore was sworn in to answer questions.

Peter Larkin: The new survey shows that the open porch encroaches in the 12 foot setback. Is it your intention to rebuild that open porch or just maintain it?

Lance Jackson: It is the main entrance to the home at this time and so it will just be maintained.

Peter Larkin: Rawls, it is allowable by ordinance to perform maintenance on a nonconforming structure? If they wanted to rebuild or expand the porch they would have to get a variance?

Rawls answered that would be correct.

WITH NO OTHER QUESTIONS FOR THE APPLICANT; CHAIRPERSON FORRESTER ENTERTAINED A MOTION FOR THE CREATION OF A FULL SIZE LOT FOR #24 AND THE UNDERSIZED LOT #23 BY A 300 SQUARE FOOT VARIANCE. MOTION MOVED BY GENE ALLEN. SECOND WAS MADE BY PETER LARKIN. MOTION CARRIED UNANIMOUSLY.

After additional discussion the following motion was made to approve granting variance #1:

***The motion is to grant the variance to create the undersized lot #23 by 300 square feet with the condition to record on the plat note that a variance has been granted for this property; and that there are setback variances granted for lot #24 that would impact development.***

Susan Renton: The UDO 4.04 (B) Variance Subsection (4) states how a variance and any conditions are recorded or enforced.

Chairperson Forrester reviewed the statutory standards and discussed the Findings of Fact as it relates to the 1<sup>st</sup> variance request.

Roll call for the approval of variance #1 as stated on the agenda:

*Chairperson Forrester-Yes*

*Peter Scott-No*

*Peter Larkin-Yes*

*Gene Allen-Yes*

*Leon August-Yes*

*4/5ths of the vote was for approval.*

After additional discussion the following motion was made to approve granting variance #2:

CHAIRPERSON FORRESTER ENTERTAINED A MOTION TO APPROVE THE VARIANCE FOR THE 5 FOOT SIDE YARD SET BACK FOR LOT #24 WITH TWO CONDITIONS; THE EXISTING PORCH SHOWN ON THOMPKINS SURVEY IS TO BE REMOVED AS IT ENCROACHES ONTO LOT #23 AND THE BUILDING OF OPEN PORCHES, COVERED PORCHES, STAIRWAYS WOULD BE ALLOWED WITHIN THE 5 FOOT SETBACK AND NO HABITABLE SPACE IS PERMITTED TO BE CONSTRUCTED WITHIN THE 5 FOOT SETBACK. MOTION MOVED BY PETER LARKIN. SECOND WAS MADE BY LEON AUGUST. MOTION CARRIED UNANIMOUSLY.

Chairperson Forrester reviewed the statutory standards and discussed the Findings of Fact as it relates to the 2nd variance request.

Roll call for the approval of variance #2 as stated on the agenda:

*Chairperson Forrester-Yes*

*Peter Scott-No*

*Peter Larkin-Yes*

*Gene Allen-Yes*

*Leon August-Yes*

*4/5ths of the vote was for approval.*

Approval for Variance #3 for the 12' setback for the front yard that faces 3<sup>rd</sup> Street:

CHAIRPERSON FORRESTER MOTIONED TO APPROVE THE VARIANCE. PETER LARKIN MOVED THE MOTION BY STATING "WITH THE PROVISION AS BROUGHT UP BY COUNCIL THAT SET BACK VARIANCE NOT EXTEND BEYOND THE FOOTPRINT SHOWN ON THE TOMPKINS SURVEY FOR A COVERED OR OPEN PORCH AND NOT EXTEND NORTHWARD TO INTERFERE WITH SIGHT DISTANCE AS REQUIRED FOR A CORNER LOT."

Two conditions were placed on the approval: first that any building is limited to open porches, covered porches, stairways and cannot be a habitable portion of the structure and second; the building cannot not extend further than the shaded area as illustrated in Thompkins' survey dated July 27<sup>th</sup>.

Chairperson Forrester reviewed the statutory standards and discussed the Findings of Fact as it relates to the 3<sup>rd</sup> variance request.

Roll call for the approval of variance #3 as stated on the agenda:

*Chairperson Forrester-Yes*

*Peter Scott-Yes*

*Peter Larkin-Yes*

*Gene Allen-Yes*

*Leon August-Yes*

*4/5ths of the vote was for approval.*

**New Business-** None

**Administrative Items:**

A. Director and Staff Comments-Rawls mentioned the Land Use Plan update kicks off at Sea Trail on September 30, 2015. He encouraged the Board members to attend.

B. Board Member Comments and Request for Future Agenda Items-None

**Adjournment-** 10:40 am. CHAIRPERSON FORRESTER MOTIONED TO ADJOURN. MOTION CARRIED BY PETE LARKIN. SECOND WAS MADE BY GENE ALLEN. MOTION CARRIED UNANIMOUSLY.

Town of Sunset Beach  
Board of Adjustment

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*Chairperson Robert Forrester*

Submitted by:

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*Cindy Nelson Board of Adjustment Secretary*

\*\*\*Minutes from July 8, 2015 meeting were approved at the September 9, 2015 meeting.