



## **Town of Beaufort, NC**

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516  
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

### **Town of Beaufort Board of Adjustment Regular Meeting 6:00 PM Monday, July 22, 2024 Minutes**

#### **Call to Order**

Chair Oliver called the July 7, 2024 Board of Adjustment regular meeting to order at 6:00 pm.

#### **Roll Call**

Members Present: Wendi Oliver, Chair; Cathy Reeve, Vice-Chair; Ann Carter, Clark Patton, and Charles Harrell, Alternate

Members Absent: Nick Wilson and Bruce Sheldon, Alternate

A quorum was declared with five members present.

Staff Present: Ms. Michelle Eitner, Town Planner, Ms. Jill Quattlebaum, Town Attorney; Ms. Laurel Anderson, Board Secretary

#### **Agenda Approval**

Chair Oliver asked if there were any changes to the Agenda.

*Member Carter made the motion to approve the Agenda and Vice-Chair Reeve made the second. Chair Oliver took a vote that was unanimous.*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Harrell, Member Patton*

#### **Minutes Approval**

Chair Oliver asked if there were any changes to the March 25, 2024 Meeting Minutes.

*Member Patton made the motion to approve the Minutes and Member Sheldon made the second. Temporary Chair Carter took a vote that was unanimous.*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Harrell, Member Patton*

#### **Board Training – Provided by Legal Council**

Ms. Quattlebaum gave a short PowerPoint training presentation and gave a brief overview of Board of Adjustment responsibilities.

### **Administration of Oaths**

Chair Oliver gave the Quasi-Judicial Statement as follows: This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decision. The board must base its decision upon competent, relevant and substantial evidence in the record. It is a decision constrained by the standards in the ordinance and based on the facts presented. All applications for variances must be consistent with the Town of Beaufort's Land Development Ordinance. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion. Participation is limited. This meeting is open to the public. Everyone is welcome to watch. Parties with standing have rights to participate fully. Parties may present evidence, call witnesses and make legal arguments. Parties are limited to the applicant, the local government and individuals who can show they will suffer special damages. Other individuals may serve as witnesses when called by the board. For certain topics, this board may hear opinion testimony from expert witnesses. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion. Witnesses must swear or affirm their testimony. At this time, we will administer the oath for all individuals who intend to provide witness testimony.

Secretary Anderson administered the Oath to Ms. Eitner and Mr. Greg Gough, applicant for 121 Olga Road.

Chair Oliver requested the Board disclose any ex-parte communications regarding the application and there were none.

There were no other witnesses.

### **Quasi-Judicial Proceeding**

#### **1. Variance Request for 121 Olga Road**

Ms. Eitner gave the Staff Report. She explained that the applicants have requested a variance to build a garage (over 16-feet tall) up to 15-feet from the rear property line rather than a 25-foot rear setback required by the Land Development Ordinance (LDO) Section 7.A.3. The application narrative and plan propose to remove the existing accessory structures and pool to make room for the requested garage. No details have been shared as to the anticipated dimensions of the garage – only that it will be greater than 16-feet in height, and as such does not qualify for a reduced five-foot setback as allowed in Section 2.F. Proposed structures would be required to maintain a five-foot distance from the 50-foot by 50-foot septic field, and only one accessory structure would be allowed.

The Board noted no site plan was included in the application.

Mr. Gough then spoke and stated that he had no hardships. He had hired Stroud Engineering to locate where the 30-foot by 50-foot garage could be placed on the property correctly as there was a septic tank nearby. He also requested more usable yard from the Board for landscaping. He explained the height of the building needed to be around 18-feet in height to accommodate heavy duty car lifts.

The Board discussed the setbacks, height requirements, seeing more information for a design build,

Ms. Quattlebaum clarified the two issues; the first of which was the Board seeing a design for the building, and the second being the variance for a building over 16-feet.

*Member Carter gave the motion to close the hearing and Member Patton gave the second. Chair Oliver took a vote:*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Harrell, Member Patton*

There were no other witnesses who sought to testify.

*Chair Oliver requested a motion and the Board voted on the following Findings of Fact:*

- a. Unnecessary hardship would result from the strict application of this Chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.*

*Member Carter made the motion to deny Finding of Fact #1 as it would exceed allowable building height, and Member Harrell made the second. Chair Oliver took a vote that was unanimous:*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Harrell, Member Patton*

- b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.*

*Member Carter made the motion to deny Finding of Fact #2 as all nearby properties are in the same situation, and Vice-Chair Reeve made the second. Chair Oliver took a vote that was unanimous:*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Harrell, Member Patton*

- c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*

*Member Carter made the motion to deny Finding of Fact #3 as the homeowner's actions would result in the hardship, and Vice-Chair Reeve made the second. Chair Oliver took a vote that was unanimous:*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Harrell, Member Patton*

- d. Based on the neighbors being consulted and testimony of the applicant the spirit of the ordinance was being upheld. The requested variance is consistent with the spirit, purpose, and intent of this Chapter, such that public safety is secured, and substantial justice is achieved.*

*Member Carter made the motion for Finding of Fact #4 because the variance does not meet the spirit, purpose, and intent of the LDO, and Member Harrell made the second. Chair Oliver took a vote that was unanimous:*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Harrell, Member Patton*

Chair Oliver then asked for a motion for the denial of the variance.

*Member Carter made the motion for the denial of the variance as the application did not meet any of the four criteria granting the variance and Vice-Chair Reeve made the second.*

*Chair Oliver took a vote that was unanimous.*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Harrell, Member Patton*

Ms. Quattlebaum informed the applicant that the variance application was denied and the Order would be issued during the next regularly scheduled meeting.

**New Business**

1. Discussion of Proposed Revised Meeting Schedule for the Board of Adjustment

Ms. Eitner explained that due to conflict with Board of Commissioners' work session meetings Staff recommended moving the Board of Adjustment meeting days to the fourth Tuesdays of the month at 4:00 p.m.

Ms. Quattlebaum noted that due to a conflict in August 2024 she requested starting the new schedule in September if approved.

*Member Harrell made the motion to revise the Calendar to begin in September 2024 and Vice-Chair Reeve made the second. Chair Oliver took a vote that was unanimous.*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Harrell, Member Patton*

**Commission / Board Comments**

There were no Board comments.

**Staff Comments**

There were no Staff comments.

**Adjourn**

*Chair Oliver made the motion to adjourn and Member Carter made the second. Chair Oliver took a vote that was unanimous.*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Harrell, Member Patton*

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**Wendi Oliver, Chair**

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**Laurel Anderson, Board Secretary**