



## **Town of Beaufort, NC**

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### **Town of Beaufort Board of Adjustment Regular Meeting 6:00 PM Monday, May 23, 2022 Minutes**

#### **Call to Order**

Chair Oliver called the May 23, 2022 Board of Adjustment regular meeting to order at 6:00 pm.

#### **Roll Call**

Board Secretary Anderson took roll and the following members were present: Wendi Oliver, Cathy Reeve, Ann Carter, and Nick Wilson. A quorum was declared with four members present.

Also present for the meeting were Town Attorney Jill Quattlebaum, Kyle Garner, and Laurel Anderson.

#### **Agenda Approval**

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

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

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

#### **Minutes Approval**

Chair Oliver asked if there were any changes to the March 28, 2022 Meeting Minutes.

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

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

#### **Items of Consent**

1. Approval of the Order for 204 Second Street Variance

Chair Oliver asked for a motion to approve the Order for 204 Second Street Variance.

*Member Reeve made the motion to approve the Order and Member Wilson made the second. Chair Oliver took a vote that was unanimous.*

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

## **New Business**

Chair Oliver informed the applicants that all four Board members would have to vote unanimously for the requests for the variance requests and Findings of Fact as there were only four members present, and asked the applicants if they would like their applications tabled until more members were present to vote. Both applicants declined the offer and decided for their applications to be heard at the current meeting.

Chair Oliver read a statement regarding how quasi decisions are made and who had standing and could participate and then asked Ms. Anderson to swear in Kyle Garner and the first applicant, Bradley Cummins.

### **1. Variance Request for 1314 Ann Street**

Chair Oliver opened the hearing and Mr. Garner presented on behalf of staff. The lot is non-conforming in that it does not meet the required square footage in the R-8 district. The property has approximately 4,965 square feet and needs 8,000 square feet. The applicants requested a variance to increase encroachment 6'2" extending northerly from the NW corner of their home for a porch depth of 10', 4' 6" extending northerly from NE corner of home for a porch depth of 10', totaling 24'6" wide & 127.5 sq ft, and there would be no eve overhang on the porch.

Member Carter clarified that extending the variance would increase the encroachment.

The applicant, Mr. Cummins, testified that the vegetation around the house would not be impacted, and if the variance were granted the porch would still be 38 feet from Ann Street. He added that the property was unique in that the 1914 plat showed the lot was not initially slated for development but was planned to be part of Park Street. Park Street was not constructed and the lot was fashioned out of what was left over to the east of lot 37 and lot 38, which is referenced in the deed, Instrument #1716103 which accounts for the reduced size and uncharacteristic shape of the lot as compared to adjacent properties.

Vice-Chair Reeve clarified that Mr. Cummins wanted to align the deck with the house.

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 and Member Wilson made the second. Chair Oliver took a vote:*

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

- 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 for Finding of Fact #2 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 Carter, Member Wilson*

- 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 and Member Wilson made the second. Chair Oliver took a vote:*

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

- 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 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 Wilson*

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

*Member Carter made the motion for the denial of the variance and Member Wilson made the second.*

*Chair Oliver took a vote that was unanimous.*

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

## 2. Variance Request for 215 Turner Street

Chair Oliver opened the hearing and requested all parties with standing to be sworn in for their testimony. Secretary Anderson administered the Oath to the following:

John Griffin, 215 Turner St

Jane Gordon, Morehead City

Isaac Adams, 209 Turner St

Jon Haas, 217 Turner St

Town Attorney Jill Quattlebaum asked the parties to testify as to whether they could show special damages if the variance were approved and if they had standing to be heard in the matter. Jane Gordon stated that she represented Ike Adams of 211 Turner St, Jon Haas and Kim Bell of 217 Turner St, and Charles and Sharon Kralick of 312 Broad St. Isaac Adams testified that his concerns included stormwater runoff and permeable surface being eliminated by a home being built on the lot owned by Mr. Griffin. Ms. Gordon testified that 217 Turner St was a home and an inn, and a home being built two feet closer on the adjoining lot owned by Mr. Griffin could negatively impact that business. Ms. Gordon stated that she had no expert witness to testify regarding their stormwater concerns. Member Reeve stated that, regarding their stormwater and permeable surface concerns, the Town of Beaufort has ordinances and guidelines regulating these issues to mitigate impact on surrounding areas, and that Ms. Gordon had not provided an expert witness to show data outside the normal scope.

Mr. Garner then presented an overview of the request on behalf of staff. Mr. Griffin was requesting a reduction of the northeastern side yard setback from 5 feet to 3 feet (for a 2-foot encroachment) for a total area of 218 sq. ft. He stated that Staff had been working with the applicant since he purchased the property and was looking to apply for a Certificate of Appropriateness from the Historic Commission. When the applicant did submit for the COA, staff noticed that a survey/site plan was missing. It was then that the applicant found out through an updated survey that the property was actually 5 feet narrower than what the deed stated. Mr. Garner stated that the property is zoned TR (Transitional), it is a vacant lot of record, and the lot is non-conforming as it is less than 8,000 sq. ft. (approximately 5,300 sq. ft.) This lot was almost 55

feet wide and 6,000 sq. ft. in 2018 per survey; the deed of the applicant indicates a 55 foot wide lot, but a recent 2021 survey shows a 49 foot wide lot. Based on the more recent survey the property has lost approximately 700 sq. ft. of lot area. The Applicant will have to go before the Historic Commission for a Certificate of Appropriateness prior to construction of any structure.

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 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 Wilson*

- 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 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 Wilson*

- 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.

*Vice-Chair Reeve made the motion for Finding of Fact #3 and Member Wilson made the second. Chair Oliver took a vote that was unanimous:*

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

- 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 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 Wilson*

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

*Member Carter made the motion for the denial of the variance and Vice-Chair Reeve made the second.*

*Secretary Anderson took a vote:*

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

Chair Oliver closed the variance request for 215 Turner Street.

**Commission / Board Comments**

There were no Board comments.

**Staff Comments**

There were no Staff comments.

**Adjourn**

Chair Oliver asked for a motion to adjourn the meeting.

*Chair Oliver made the motion to adjourn 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 Wilson*

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**Wendi Oliver**, Chair

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**Laurel Anderson**, Board Secretary