



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, August 26, 2024 - Town Hall, 701 Front Street, Beaufort, NC 28516 Monthly Meeting

Call to Order

Roll Call

Agenda Approval

Minutes Approval

- [1.](#) BOA Draft Minutes for 072224

Items of Consent

- [1.](#) Approval of the Order to Deny a Variance for 307 Front Street

Commission / Board Comments

Staff Comments

Adjourn



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**Town of Beaufort Board of Adjustment Regular Meeting
6:00 PM Monday, July 7, 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

Wendi Oliver, Chair

Laurel Anderson, Board Secretary



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**Town of Beaufort Board of Adjustment Regular Meeting
6:00 P.M. August 26, 2024 – 701 Front Street – Town Hall**

AGENDA CATEGORY: Consent
SUBJECT: Approval of the Order to Deny a Variance for 307 Front Street

BRIEF SUMMARY:

As part of the new General Statutes (160D), prior to Evidentiary Hearing Orders being signed and sent to the applicant/property owners, the Board in which conducted the hearing is to review the order for accuracy.

Staff has consulted with the Town Attorney and now asks that the Board of Adjustment Members review the order for such accuracy and be prepared to make a motion to recommend approval of the Order or to approve with Board recommend changes.

REQUESTED ACTION:

Review the order for such accuracy and be prepared to make a motion to recommend approval of the Order or to approve with Board recommend changes

EXPECTED LENGTH OF PRESENTATION:

0 Minutes (Presentation From Staff)

SUBMITTED BY:

Kyle Garner, AICP Planning Director

BUDGET AMENDMENT REQUIRED:

N/A



TOWN OF BEAUFORT ORDER DENYING A VARIANCE

The Board of Adjustment for the Town of Beaufort, having held an evidentiary hearing on July 22, 2024, to consider Case # 24-02, submitted by Teresa Sherman-Gach and Greg Gach, a request for a reduction of the rear setback in the R-20 zoning district from 25 feet to 15 feet on the property located at 121 Olga Road, PIN # 731703228234000, Beaufort, NC, in a manner not permissible under the literal terms of the Town’s *Land Development Ordinance* (hereby known as “the *Ordinance*”), and having heard all of the evidence and arguments presented at the hearing, makes the following **FINDINGS OF FACT** and draws the following **CONCLUSIONS**:

1. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that strict application of the *Ordinance*, which would result in the denial of the requested variance, **would not** result in an unnecessary hardship due to the fact that the property owner was unable to identify a hardship, because an accessory structure may be built with a height of 16 feet or lower using an available 5 foot setback exception and based on the setbacks required by the Ordinance.
2. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the alleged hardship **does not** result from conditions peculiar to the applicants’ property as no such conditions were identified.
3. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the applicants purchased the property in its present configuration and therefore any alleged hardship **would** result from the applicant’s own actions, in seeking to reduce the required setbacks to build a garage with a height of over 16 feet.
4. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that if granted, the variance **would not** be consistent with the general spirit, purpose and intent of the *Ordinance*, such that public safety is secured, and substantial justice achieved, as it would result in violation of the setback requirements for R-20.

Therefore, on the basis of all the foregoing, **IT IS ORDERED** that the application for a **VARIANCE** be **DENIED**.

Ordered this ___ day of _____, 2024.

Wendi Oliver
Chair

Laurel Anderson
Board Secretary

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Clerk of Superior Court of Carteret County within thirty (30) days after the date this order is served on you. See Section 21-M of the Town of Beaufort’s *Land Development Ordinance*.