



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, February 28, 2022 - Virtually Via Zoom Monthly Meeting

Call to Order

Roll Call

Agenda Approval

Minutes Approval

- [1.](#) BOA Draft Minutes for 1.24.22

Election of Officers

Items for Discussion and Consideration

- [1.](#) Approval of the Order for 302 Cedar Street Variance

Public Comment

Commission / Board Comments

Staff Comments

Adjourn

DRAFT



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**Town of Beaufort Board of Adjustment Regular Meeting
6:00 PM Tuesday, January 24, 2022 - Held via Zoom due to the COVID-19 Pandemic
Minutes**

Call to Order

Town Attorney Quattlebaum called the January 24, 2022 Board of Adjustment regular meeting to order at 6:00 pm.

Roll Call

Board Secretary Anderson took roll call and the following members were present: Virginia Cuthrell, Barry Evans, Wendi Oliver, and Cathy Reeve. Attorney Quattlebaum declared a quorum with four members present.

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

Nomination of Temporary Chair

Attorney Quattlebaum asked for a nomination for a temporary Chair as Chair Davis was not present.

Member Evans made the motion to nominate Member Oliver and Member Reeve made the second. Secretary Anderson took a roll call vote that was unanimous.

Voting yea: Member Cuthrell, Member Evans, Member Oliver, Member Reeve

Agenda Approval

Chair Oliver asked if there were any changes to the Agenda and hearing none, the Chair asked for a motion.

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

Voting yea: Chair Oliver, Member Cuthrell, Member Evans, Member Oliver, Member Reeve

Minutes Approval

Chair Oliver asked if there were any changes to the November 22, 2021 Meeting Minutes and hearing none, the Chair asked for a motion.

Member Reeve made the motion to approve the Minutes and Member Evans made the second. Secretary Anderson took a roll call vote that was unanimous.

Voting yea: Chair Oliver, Member Cuthrell, Member Evans, Member Oliver, Member Reeve

Administration of Oaths

Secretary Anderson administered the Oath to Mr. Garner. She then administered the affirmation to applicants Porter Casey, Timpla Casey, and witness Dick DeButts.

New Business

- 1. Case #22-01, 302 Cedar Street – Variance Request

Chair Oliver read a statement regarding how quasi decisions are made and who had standing and could participate. She opened the hearing and asked Mr. Garner to give an overview of the request.

Mr. Garner stated that the applicants had submitted a request to reduce the northwest side setback from 5 feet to 1 foot and the southwest rear setbacks from 25 feet to 8.18 feet. He then shared his computer screen and showed a vicinity map and stated that the lot is in the R-8 zoning district. The property and structure have been in existence since the late 1800's and prior to the adoption of any zoning or land use standards. Mr. Garner then showed surveys of the existing structure and the requested changes to the structure.

Chair Oliver asked the board if they had any questions for Mr. Garner; there being none she then asked the applicants for their testimony.

Applicant Timpla Casey introduced herself and her husband and gave an overview of their request. She stated that their goal is to restore the historic home on its existing footprint and bring the interior up to current building code and standards for livability, and the hardship incurred by strict adherence to the current setback requirements would prevent this type of restoration due to the unique nature of the property. Ms. Casey stated that they wanted to improve the overall safety of the home. Building an upstairs addition over the existing footprint will allow them to build the staircase to code, improve the safety of the upstairs bathroom by relocating its entrance, and bring ceiling heights for the upstairs bathroom and downstairs kitchen area to current standards. The current bathroom height is 6'4" and the kitchen height is 6'10", and the doorway into the bathroom is located directly off the stairwell. Ms. Casey then explained her interpretation of the four Findings of Fact as they pertained to the request. She thanked Mr. DeButts for supporting them and coming to the meeting.

Chair Oliver asked if there were any witness statements. Mr. DeButts spoke and stated that most buildings in that area of Cedar Street were non-conforming and the Caseys were trying to bring their home up to current standards and making it livable. They were not increasing the footprint and would not affect the watershed. He asked the Board to approve the Casey's request.

Chair Oliver then asked the Board to deliberate. All Members spoke up in support of the request.

Chair Oliver then closed the hearing and asked for motions for the four Findings of Fact.

Member Reeve made the motion for the first Finding of Fact and Member Evans made the second. Secretary Anderson took a roll call vote that was unanimous.

- a) Unnecessary hardship would result from the strict application of the Land Development Ordinance since the house was built in the 1880's, at which time there were no zoning requirements to restrict the size; the applicants are building vertically; and there will be both structural and code improvements made if the variance is granted.

Voting yea: Chair Oliver, Member Cuthrell, Member Evans, Member Reeve

Member Reeve made the motion for the second Finding of Fact and Member Evans made the second. Secretary Anderson took a roll call vote that was unanimous.

- b) The hardship results from conditions that are peculiar to the property, such as locations, size, or topography based on the small size of the lot and setbacks created when the house was originally built.

Voting yea: Chair Oliver, Member Cuthrell, Member Evans, Member Reeve

Member Cuthrell made the motion for the third Finding of Fact and Member Evans made the second. Secretary Anderson took a roll call vote that was unanimous

- c) The hardship did not result from actions taken by the applicant or the property owner.

Voting yea: Chair Oliver, Member Cuthrell, Member Evans, Member Reeve

Member Cuthrell made the motion for the fourth Finding of Fact and Member Evans made the second. Secretary Anderson took a roll call vote that was unanimous

- d) 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 as the proposed changes would make the property safer and bring the property into compliance with current building codes.

Voting yea: Chair Oliver, Member Cuthrell, Member Evans, Member Reeve

Chair Oliver then asked for a motion to approve the variance.

Member Evans made the motion to approve Case 22-01, and Member Reeve made the Second. Secretary Anderson took a roll call vote that was unanimous.

Voting yea: Chair Oliver, Member Cuthrell, Member Evans, Member Reeve

Chair Oliver congratulated the applicants. Attorney Quattlebaum explained to the applicants that because of new state legislation, the proposed order would have to be reviewed and approved by the Board before they received a signed order.

2. Approval of the Order for 204 Turner Street Variance

Chair Oliver asked if there were any questions, additions, or deletions to the Order, and asked for a motion.

Member Evans made the motion to approve the Order for 204 Street Variance, and Member Reeve made the second. Secretary Anderson took a roll call vote that was unanimous.

Voting yea: Chair Oliver, Member Cuthrell, Member Evans, Member Reeve

Public Comment

There was no public comment.

Commission / Board Comments

Member Reeve asked a procedural question: if no meeting is scheduled would order approvals have to wait until the next meeting. Mr. Garner answered that if there were orders to vote on, the Board would meet that month to vote.

Staff Comments

Mr. Garner stated that the attorneys were working on training for all the Boards. Staff had no further comments.

Adjourn

Chair Oliver asked for a motion to adjourn the meeting.

Member Evans made the motion to adjourn and Member Oliver made the second. Secretary Anderson took a roll call vote that was unanimous.

Voting yea: Chair Oliver, Member Cuthrell, Member Evans, Member Reeve

Wendi Oliver, Chair

Laurel Anderson, Board Secretary



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**Town of Beaufort Board of Adjustment Regular Meeting
6:00 P.M. February 28, 2022 – Via Zoom**

AGENDA CATEGORY: New Business
SUBJECT: Approval of the Order for 302 Cedar Street Variance

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

Conduct Evidentiary Hearing

EXPECTED LENGTH OF PRESENTATION:

5 Minutes (Presentation From Staff)

SUBMITTED BY:

Kyle Garner, AICP Planning Director

BUDGET AMENDMENT REQUIRED:

N/A



TOWN OF BEAUFORT ORDER APPROVING A VARIANCE

The Board of Adjustment for the Town of Beaufort, having held an evidentiary hearing on January 24, 2022, to consider Case # 22-01, submitted by Porter and Timpla Casey, a request for a reduction of the southwest rear setback from 25 feet to 8.18 feet, and a reduction of the side setback for the northwest side setback from 5 feet to 1 foot, to build an upstairs addition to the property located at 302 Cedar Street, PIN # 730617117684000, 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** result in an unnecessary hardship due to the inability to bring the structure up to current building codes and safety standards, which were not in existence when the structure was built.
2. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the hardship of which the applicant complains **does** result from conditions peculiar to the applicant’s property, including existing setbacks; difficulty in bringing the existing structure into compliance with current building codes and safety standards; the small size of the lot; and an existing, non-conforming structure, built before the implementation of current code and zoning requirements, the footprint of which will not be altered by the variance.
3. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the applicant purchased the property in its present configuration and therefore the hardship of which the applicant complains **did not** result from the applicant’s own actions.
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** be consistent with the general spirit, purpose and intent of the *Ordinance*, such that public safety is secured, and substantial justice achieved, the variance as granted will not increase the footprint of the existing non-conforming structure, and will allow the existing historic structure located on the property to be brought into compliance with current building codes and safety standards.

Therefore, on the basis of all the foregoing, **IT IS ORDERED** that the application for a **VARIANCE** be **APPROVED TO ALLOW A REDUCTION OF THE NORTHWEST SIDE SETBACK FROM 5 FEET TO 1 FOOT AND A REDUCTION TO THE SOUTHWEST REAR SETBACK FROM 25 FEET TO 8.18 FEET.**

Ordered this 28th day of February, 2022.

Wendi Oliver
Acting 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 7 order is served on you. See Section 21-M of the Town of Beaufort’s *Land Development Ordinance*.