



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 4:00 PM Tuesday, January 28, 2025 - Train Depot, 614 Broad Street, Beaufort, NC 28516 Monthly Meeting

Call to Order

Roll Call

Agenda Approval

Minutes Approval

- [1.](#) BOA Draft Minutes for 112624

Items of Consent

- [1.](#) Approval of the Order to Deny a Variance for 133 Holly Lane

Commission / Board Comments

Staff Comments

Adjourn



Town of Beaufort, NC

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**Town of Beaufort Board of Adjustment Regular Meeting
4:00 PM Monday, November 26, 2024
Minutes**

Call to Order

Chair Oliver called the November 26, 2024 Board of Adjustment regular meeting to order at 4:00 pm.

Roll Call

Members Present: Wendi Oliver, Chair; Ann Carter, Charles Harrell, Bruce Sheldon, and Nick Wilson

Members Absent: Cathy Reeve, Vice-Chair; Clark Patton

A quorum was declared with five members present.

Staff Present: Mr. Kyle Garner, Planning Director, Mrs. Michelle Eitner, Town Planner, Ms. Jill Quattlebaum, Town Attorney; Ms. Laurel Anderson, Board Secretary

Agenda Approval

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

Voting yea: Chair Oliver, Member Carter, Member Harrell, Member Sheldon, Member Wilson

Minutes Approval

Chair Oliver asked if there were any changes to the August 26, 2024 Meeting Minutes.

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

Voting yea: Chair Oliver, Member Carter, Member Harrell, Member Sheldon, Member Wilson

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 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 Mrs. Eitner and Ms. Christy Maroules, applicant for 133 Holly Lane.

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 133 Holly Lane

Mrs. Eitner gave the Staff Report, stating that Christy Maroules, property owner of 133 Holly Lane, has requested a variance to maintain a wooden fence along the western property line that is up to four-and-a-half feet taller than the height limitation of six feet required in Land Development Ordinance (LDO) Section 19.E. The fence is already installed and is approximately eight-and-a-half feet tall as measured by the applicant and staff. LDO requirements in residential areas state that fences may not exceed than six feet in height.

Ms. Maroules stated she was requesting a variance for the fence she had installed by Seagar’s Fence Company in November 2019 and repaired by Triple H Carpentry in May 2024. She stated her natural buffer had been removed by her former neighbor, so she decided to install a seven foot fence to regain privacy. The neighbor’s house was sold in 2020 and Ms. Maroules claimed the new neighbor cut her fence height down by two feet. She then contacted a new contractor to install a two-foot lattice topper the length of the fence. Ms. Maroules discussed many interactions with her neighbor including with their dog, stating the unleashed dog came onto her property many times. She also stated that her own fence measurements were not correct and she was requesting a two-foot five-inch or two-foot six-inch variance instead of the four-foot five-inch variance in the original request.

Member Sheldon asked if the neighbor’s dog walked around the fence and Ms. Maroules stated the dog did not come into her yard any more and the fence panels were keeping the dog out. After further discussion Member Sheldon then asked what she was gaining with the extra two feet in height of the fence and Ms. Maroules stated she was gaining privacy and security. Member Sheldon noted that the top two feet was lattice fencing and was not security fencing.

Member Harrell asked about a photo showing the fence and newer lattice topping and verified that Ms. Maroules was asking for a two-and-a-half-foot variance to make the fence total height of eight-and-a-half feet total, and Ms. Maroules agreed.

There being no further questions from the Board and no other materials not in evidence that would prevent the Board from determining the case, Chair Oliver asked if there were any other witnesses. There were no other witnesses.

Member Carter stated the applicant had a legitimate concern but it was a neighborhood concern and the Board was focused on property issues, not personal issues, and she did not see where it met the criteria for a variance.

Member Sheldon stated that he had looked at the subdivision’s HOA and there were no rules regarding fences, but the Town of Beaufort and Extraterritorial Jurisdiction does have an ordinance.

Member Carter made the motion to close the hearing and Member Wilson made the second. Chair Oliver took a vote that was unanimous.

Voting yea: Chair Oliver, Member Carter, Member Harrell, Member Sheldon, Member Wilson

Member Carter made the motion to approve the variance and Member Sheldon made the second.

Town Attorney Quattlebaum explained that the correct procedure for an affirmative finding is that all four findings of fact must be required.

Member Carter made the motion to withdraw her motion and Member Wilson made the second. Chair Oliver took a vote that was unanimous.

Voting yea: Chair Oliver, Member Carter, Member Harrell, Member Sheldon, Member Wilson

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 Sheldon made the motion to deny Finding of Fact #1 because there are no conditions peculiar to the property and nor would granting the requested variance resolve alleged problems with her neighbor's dog and lack of privacy. Member Carter made the second. Chair Oliver took a vote that was unanimous:

Voting yea: Chair Oliver, Member Carter, Member Harrell, Member Sheldon, 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 as there is no hardship resulting from conditions peculiar to the property, and Member Sheldon made the second. Chair Oliver took a vote that was unanimous:

Voting yea: Chair Oliver, Member Carter, Member Harrell, Member Sheldon, 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 as the homeowner's actions in constructing the fence in violation of the standards of the Land Development Ordinance did result in the hardship, and Member Harrell made the second. Chair Oliver took a vote that was unanimous:

Voting yea: Chair Oliver, Member Carter, Member Harrell, Member Sheldon, 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 because the variance does not meet the spirit, purpose, and intent of the LDO as it is in excess of the height permitted by the ordinance, and Member Wilson made the second. Chair Oliver took a vote that was unanimous:

Voting yea: Chair Oliver, Member Carter, Member Harrell, Member Sheldon, Member Wilson

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 Member Sheldon made the second.

New Business

- 1. 2025 Planning Board Meeting and Submittal Calendar

Mrs. Eitner presented the 2025 Planning Board Meeting and Submittal Calendar.

Member Harrell made the motion to approve the Calendar as presented and Chair Oliver made the second. Chair Oliver took a vote that was unanimous.

Voting yea: Chair Oliver, Member Carter, Member Harrell, Member Sheldon, Member Wilson

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, Member Carter, Member Harrell, Member Sheldon, Member Wilson

Wendi Oliver, Chair

Laurel Anderson, Board Secretary



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**Town of Beaufort Board of Adjustment Regular Meeting
4:00 P.M. January 28, 2025 – 614 Broad Street – Train Depot**

AGENDA CATEGORY: Consent
SUBJECT: Approval of the Order to Deny a Variance for 133 Holly Lane

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:

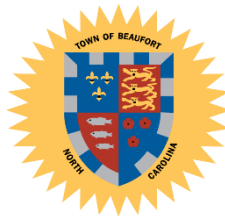
0 Minutes (Presentation From Staff)

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 November 26, 2024, to consider Case # 24-03, submitted by Christy Maroules, a request for a variance to maintain a wooden fence along the western property line that is approximately 2 feet 6 inches taller than the height limitation of 6 feet required in Section 19.E of the *Land Development Ordinance* (hereby known as “the *Ordinance*”) on the property located at 133 Holly Lane, PIN # 731610360250000, Beaufort, NC, in a manner not permissible under the literal terms of the Town’s *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 because it would not negatively impact the applicant’s use of her property, nor would granting the requested variance to allow the existing lattice topper exceeding 6 feet in height to remain resolve the problems of which the applicant complains, which include alleged problems with her neighbor’s dog and lack of privacy, which have arisen from personal circumstances related to negative interactions between the applicant and her neighbors.
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 applicant’s property such as location, size or topography, but results from personal circumstances related to negative interactions between the property owner and her neighbors.
3. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the alleged hardship of which the applicant complains **resulted** from the applicant’s own actions in constructing a fence which exceeds and violates the height limitations in the *Ordinance*.
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 height requirements for fences in Section 19.E of the *Ordinance* and would therefore be inconsistent with the intent of the *Ordinance* to limit fence height. Furthermore, the requested variance would have no impact on securing public safety.

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

Ordered this 28th day of January, 2025.

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*.