



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 - Held via Zoom 6:00 PM Monday, October 26, 2020 - Held via Zoom due to the COVID-19 Pandemic Monthly Meeting

Call to Order

1. Call to Order

Roll Call

1. Roll Call

Agenda Approval

1. Agenda Approval

Minutes Approval

1. Minutes Approval from the September 28, 2020 Meeting

Calendar

1. Calendar Approval for 2021

Public Comment

Commission / Board Comments

Staff Comments

Adjourn



Town of Beaufort, NC

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Town of Beaufort Board of Adjustment Regular Meeting 6:00 PM, Monday, September 28, 2020 - Held via Zoom due to the COVID-19 Pandemic Minutes

Call to Order

1. Call to Order

Chair Davis called the meeting to order.

Roll Call

2. Roll Call for the Meeting on September 28, 2020

Present for the meeting were Chuck Davis, Pete Evans, Bob Terwilliger, Wendi Oliver and Virginia Cuthrell.

Also present for the meeting were Kyle Garner, Denice Winn, Kate Allen, and Town Attorney Jill Quattlebaum. Fire Chief Tony Ray was also present and was a late addition to the meeting.

Agenda Approval

3. Agenda Approval for the September 28, 2020 Meeting

Chair Davis asked for a motion to approve the Agenda. Board Member Evans made a motion to approve the Agenda as it was presented. Vice Chair Terwilliger made the second. Chair Davis conducted a roll call vote and the vote was unanimous to approve the Agenda as presented.

Minutes Approval

4. Minutes Approval for the August 24, 2020 Meeting

Chair Davis asked for a motion to approve the Minutes. Vice Chair Terwilliger made a motion to approve the Minutes as they were presented. Board Member Evans made the second. Chair Davis conducted a roll call vote and it was unanimous to approve the Minutes as they were presented.

Administration of Oaths

Kyle Garner was sworn for testimony.

Old Business

5. Variance Request for 111 Moore Street

Chair Davis opened case 20-02. Town Attorney Quattlebaum stated that a motion was needed to re-open the matter since new information was going to be considered.

Chair Davis asked for a motion to re-open this hearing. Vice Chair Terwilliger made the motion, Board Member Evans made the second. Chair Davis conducted a roll call vote that was unanimous to re-open the hearing.

Mr. Garner thanked everyone for being present and stated that staff had additional information to present. Mr. Garner went over the rules for a Public Hearing and who has standing. Mr. Garner then went into the Variance Request for 111 Moore Street. Mr. Garner went through his power point presentation containing the vicinity maps, photos of the property and adjacent properties, the survey map, a map showing the setbacks, a map showing the requested setbacks, a proposed footprint of a structure that would be located on this site, and the proposed footprint on the survey map. Mr. Garner stated that the proposed footprint is 1,260 square feet and the total lot area is 4,361 square feet and that puts the building footprint at 28.8% on the property. Mr. Garner stated that Town staff posted flags on the property as an example. Mr. Garner presented a slide that had the facts about the property and what is allowed for this property from the Land Development Ordinance (LDO).

Board Member Evans asked Mr. Garner about the setback on the front of the property due to the adjacent properties and if Mr. Garner knew what it would be. Mr. Garner stated no, that a survey would be needed for that but it did not matter due to the property owner asking for 4 feet. Board Member Evans wanted to know if anyone had spoken with the Fire Department or the Police Department. Mr. Garner stated yes, that he had as well as some of the residents. Board Member Evans wanted to know what the outcome of those discussions were and Mr. Garner stated he could not say due to that being hear-say.

Board Member Oliver had a question for Mr. Garner concerning the easement and the property line being over that easement. Mr. Garner stated that the property line is to the North and is almost to the side of the house and where the driveway is, it is not totally in that 10 foot easement.

Chair Davis asked if any member had any ex-parte communications or conflicts. After a poll of each member they all stated no.

The following people were affirmed for testimony, John Duncan, Applicant, Doug Townsend, of 121 Front Street, Allen Paul, of 117 Moore Street. The following people were sworn for testimony, Mike LaVoy, Resident of the Bradley House and Anne Lanteri, of 119 Front Street.

John Duncan, applicant provided testimony. Mr. Duncan stated that he had lived on Moore Street for 25 years and knew that this lot was always a lot of record. He stated that the original owner owned the house on Front Street as well as this lot. He stated

that he didn't think it was fair to have a lot of record and not be able to build on it. He stated he wanted to be reasonable and just put a small home on it.

Board Member Evans had questions for Mr. Duncan concerning the request for a 2 foot setback at the rear of the property and how it is reasonable to construct something back there. Mr. Duncan stated that it is an easement that is 10 feet wide and then there is 2 feet from the home. Mr. Duncan stated he was willing to go 4 feet off the back and 2 feet off of the front. He stated that there are a lot of homes in Beaufort right on the sidewalk. Board Member Evans asked Mr. Duncan if the easement was for him or the condo owners. Mr. Duncan stated that it was a drive that goes all the way to Front Street.

Chair Davis opened comment from residents in the neighborhood. Mike LaVoy, President of the Bradley House Condominium Association, was first and he read a statement that he had prepared. He stated that he was representing the residents of the Bradley House and their concern was the safety aspect of this. He requested that his statement be a part of the minutes. He stated that they were requesting a 4 foot setback on the back and that the height of the house be no more than 18 feet.

Doug Townsend, 121 Front Street, stated that he spends approximately 10 months of the year at his home in Beaufort. He stated that he felt Mr. Duncan was being responsible in what he is asking for. He stated that his main concern was the storm water run off and how that was going to be handled. He stated he was requesting some type of guttering system and possible drain system.

Paul Allen, 117 Moore Street, stated that he agreed with both Mr. Lavoy and Mr. Townsend and that he did not oppose to the house being built but just the way that the variance has been submitted. He stated that he felt the 2 foot set back was not appropriate and that a 4 foot set back would be better for the rear property line and it would be consistent with the area properties.

Anne Lanteri, 119 Front Street, spoke and stated that her concern was also for the safety aspect of fire and EMS being able to gain access to the properties in an emergency.

Attorney Quattlebaum stated that Mr. Duncan could ask questions of those opposing his application. Mr. Duncan stated that he wanted everyone to be safe and if the Town needs the lot for Fire and EMS then they could buy the lot from him. He stated he didn't understand how a lot of record could be made useless. He stated he was trying to accommodate the best that he could.

Board Member Terwilliger stated that there are two main issues, 1) is safety and 2) is drainage. Board Member Terwilliger stated that it was good that the Chief had talked with the residents but he felt that the Chief needed to make a statement concerning the safety. He stated that the drainage was the other issue and who could come talk about that.

Attorney Quattlebaum stated that the opposing parties could also ask questions of Mr. Duncan. Chair Davis asked if anyone had questions for Mr. Duncan.

Allen Paul asked Mr. Duncan if he had considered reducing the depth of the building from 24 feet to 22 feet and leaving the front set back where it is. Mr. Duncan stated he could live with that and that he is trying to be as easy going as he could be. Mr. Paul stated that the Bradley house is asking that it not exceed one story, thus 18 feet to the peak of the roof. Mr. Duncan stated that would work, all he wants to put there is a small home.

Doug Goines, attorney for Mr. Duncan spoke and stated that Mr. Duncan had already stated that he was willing to amend his request to 4 feet from the front and 4 feet from the back and there is no problem with the 18 feet maximum height. These changes more than meet what is being requested.

Doug Townsend stated that he didn't want to lose sight of the storm water issue. Mr. Garner stated that due to the structure not being built at this time it would be hard to look at that issue but a condition could be included that an engineer look at that before anything was built. Mr. Garner stated that part would go before the Historic Preservation Commission (HPC).

Vice Chair Terwilliger stated he sees both sides of the discussion and the overriding concern is the safety issue. We need the Chief to make an official statement to ease everyone's minds. Vice Chair Terwilliger stated that he needs the Chief to go on the record with a thumbs up or down and that he really wanted to get to a yes on this request.

Board Member Evans stated that he supports Mr. Duncan's request. He stated he sees both sides of the safety and storm water. He also stated that this has been a lot of record and it is of no fault of the applicant that it is this way. Board Member Evans stated that it has been suggested to do a 4 foot set back on the back and he is in favor of a motion with conditions.

Board Member Oliver stated that her concerns are also with the safety and storm water.

Board Member Cuthrell stated that she is in support of building and that she has full faith in the Fire Department and their capabilities.

Chair Davis stated he is in agreement with Board Member Evans.

Board Member Evans stated that he was in favor to approve with the conditions but he didn't feel that they could get the full vote. Chair Davis asked about tabling the request again. Board Member Evans stated he didn't want to but didn't think they could get the full vote.

Mr. Garner stated that he had contacted the Fire Chief and that he was going to be joining the meeting.

Fire Chief Tony Ray was sworn for his testimony. Board Member Terwilliger asked Chief Ray about his safety concerns and talks with the residents. Chief Ray stated that he had met with the residents on several occasions and that whether there was a structure on the lot or not it would not change their tactics for fighting a fire. Vice Chair Terwilliger stated they had talked about a 4 foot set back off of the rear, it would be a one story house and wanted to know if that would be a challenge. Chief Ray wanted to know about the 4x4 and rope barrier and if that was going to be removed. Mr. Duncan stated that it would be removed. Chief Ray stated with what they are proposing it would not change their tactics in fighting a fire or his opinion.

Attorney Quattlebaum stated that the parties who have testified could also ask questions of the Chief.

Mike Lavoy, stated that they are going to be surrounded on four sides and it won't be any easier for the fire department to get to us. We want to be safe and cautious. Mr. Lavoy asked the members of the board if they had looked at the lot. Each member stated that they had and they had come individually. Mr. Lavoy asked Chief Ray if he would feel comfortable living there. Chief Ray stated that his tactics would not change.

Anne Lanteri, stated to the Chief that when we met the other day you told me it would be more challenging and I would like you to say that. Chief Ray stated that it is challenging in the Historic District.

Allen Paul, asked Chief Ray if giving an additional 2 feet setback and it being more helpful. Chief Ray stated that he was going to stand on his statement that it would not change their strategy or tactics.

Chair Davis closed discussion and asked for a Finding of Facts.

Board Member Evans made the following Finding of Facts:

- 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: Insufficient depth of property, that is front to rear, necessitates a variance in order to construct a dwelling practical to inhabitation. Vice Chair Terwilliger made the second and it was a unanimous by a roll call vote.
- 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 the variance: unlike neighboring properties, this subject property offers minimal depth, approximately 36 to 38 feet in depth, note that R8 sets backs are 25 feet in front and 25 feet in the rear. It is zoned R8 but it has minimal depth. Vice Chair Terwilliger made the second and it was a unanimous by a roll call vote.
- 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: evidence has been presented that indicates that the applicant/owner purchased the property in its present configuration. Vice Chair Terwilliger made the second and it was a unanimous by a roll call vote.
- 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: granting this variance would enable the property to be used for what it is presently zoned, ie. residential. Vice Chair Terwilliger made the second and it was a unanimous by a roll call vote.

Board Member Evans made the motion to approve the variance request with the change from the original. The rear set back, the encroachment is reduced from 23 feet to 21 feet which is essentially a 4 foot set back off the rear. The front set back remains the same, 21 foot encroachment which is 4 feet off the front. Board Member Oliver made the second and it was a unanimous roll call vote.

Public Comment

No public comments.

Commission / Board Comments

No Board Member comments.

Staff Comments

Mr. Garner thanked the Board for their time and efforts on this request. Chair Davis thanked Mr. Garner for his efforts as well.

Adjourn

Vice Chair Terwilliger made the motion to adjourn. Board Member Oliver made the second. By a roll call vote the decision was unanimous to adjourn the meeting.

Charles Davis, Chair

Denice Winn, Board Secretary

Town of Beaufort Board of Adjustment

Monday, September 28, 2020

Variance Request For 111 Moore Street

Remarks by Mike Lovoy, Resident and President of Bradley House COA

Mr. Chairman, Board Members, and Mr. Garner:

My name is Mike Lovoy and I am the President of the Bradley House Condominium Owners Association I am representing the entire group after much discussion among our members. My wife, Anne, and I have happily been permanent residents here since March of 2015.

There are seven units in the Bradley House. Three of the units have permanent residents. The other four units are owned by families from different parts of the state that enjoy their condos mostly as getaways.

With talk of requesting variances on the lot at 111 Moore Street, our minds immediately turn to safety.

At this point, Moore Street is the only easy access for fire and EMT equipment to reach the Bradley House. The Wordsworth development is to the west, on Sunset Lane. Front Street is to the South with no access to the Bradley House. To the north is a narrow gravel lane that runs east to west from Moore Street to Sunset Lane. This lane provides the only access to the Bradley House parking area. It is very narrow and has many low hanging live oak branches which deter tall equipment from accessing that throughway.

Another neighborly concern is that Anne Lanteri's residence in the Davis House has no Front Street entrance. The only entrance to that residence faces east, directly towards Ed Norment and Judy Adams residence. That adds complexity to an emergency situation. The variance requested would encroach to the gravel driveway, that runs north to south and would certainly restrict access this unit as well as the other units in the Davis House.

Chief Ray and Fire Marshall Lovick were gracious enough to meet with Darrell Welborn and myself on Thursday, September 10 at the subject lot and Bradley House. Darrell is retired from the High Point Fire Department. He and his wife, Lynn, own one of the units in the Bradley House.

The chief had concerns that an additional structure to the east of Bradley House would hinder accessibility.

Again, during the September 24th and 25th Chief Ray brought his entire 3 shifts out to observe and discuss the scenario, from a fire situation. For that, we as a group are grateful.

I, of course, am no expert in these situations, but it stands to reason that additional mass in already tight parameters is not going to make matters better in a life/property saving situation.

Under the Land Development Ordinance Provisions

Section 1 A) Title, purpose, and Intent of the Ordinance, 3 Intent, c, i, states.

Require safety from fire, flooding, panic, and other dangers.

Under the definitions of terms in the ordinances section, an excerpt states. A variance must be in harmony with the intent of this Ordinance, assure public safety, and welfare, and be just.

We as a group believe these items to be crystal clear.

Our first choice a group is to deny any variance, in the name of our safe being.

If the Board of adjustment does see fit to allow variance(s), we would suggest, that the requested variance (on the gravel driveway between the subject lot, and the Bradley House, which runs north to south) be adjusted (denied) to be a 4 foot setback, as opposed to the 2 foot setback requested. This does at least provide a little more maneuvering room for emergency equipment to enter the vicinity.

Secondly, the maximum height, of any structure built there be 18 feet or less.

Also, no structure could be built any closer, than 64 feet, from the northern property line.

Again, this is all in the name of safety.

Thank you for the opportunity to express the concerns of the Bradley House owners.

Respectfully,

Mike Lovoy
103 Moore Street
Unit 3
Beaufort, NC 28516
252-725-9012
Mikel_rib@yahoo.com

BOA Proposed Meeting Dates for 2021 (Fourth Monday of the Month)

Submission Deadline	Meeting Date
1/4/2021	1/25/2021
2/1/2021	2/22/2021
3/1/2021	3/22/2021
4/5/2021	4/26/2021
5/3/2021	5/24/2021
6/7/2021	6/28/2021
7/6/2021	7/26/2021
8/2/2021	8/23/2021
9/7/2021	9/27/2021
10/4/2021	10/25/2021
11/1/2021	11/22/2021
12/7/2021	12/28/2021*
1/3/2022	1/24/2022

*Held on Tuesday, 12/28/2021
due to 12/27/2021 being a
Holiday

Potential 2021 Board Calendars

1.

Month	Historic Preservation Commission			Planning Board			Board of Adjustment	
	Submission Deadline	Meeting Date		Submission Deadline	Meeting Date		Submission Deadline	Meeting Date
January 21	12/15/2020	1/5/2021		12/29/2020	1/19/2021*		1/4/2021	1/25/2021
February	1/12/2021	2/2/2021		1/25/2021	2/15/2021		2/1/2021	2/22/2021
March	2/9/2021	3/2/2021		2/22/2021	3/15/2021		3/1/2021	3/22/2021
April	3/16/2021	4/6/2021		3/29/2021	4/19/2021		4/5/2021	4/26/2021
May	4/13/2021	5/4/2021		4/26/2021	5/17/2021		5/3/2021	5/24/2021
June	5/11/2021	6/1/2021		6/1/2021	6/21/2021		6/7/2021	6/28/2021
July	6/15/2021	7/6/2021		6/28/2021	7/19/2021		7/6/2021	7/26/2021
August	7/13/2021	8/3/2021		7/26/2021	8/16/2021		8/2/2021	8/23/2021
September	8/17/2021	9/7/2021		8/30/2021	9/20/2021		9/7/2021	9/27/2021
October	9/14/2021	10/5/2021		9/27/2021	10/18/2021		10/4/2021	10/25/2021
November	10/12/2021	11/2/2021		10/25/2021	11/15/2021		11/1/2021	11/22/2021
December	11/16/2021	12/7/2021		11/29/2021	12/20/2021		12/7/2021	12/28/2021*
January 22	12/14/2021	1/4/2022		12/28/2021	1/18/2022*		1/3/2022	1/24/2022
				*On Tuesday, 1/19/2021 due to 1/18/2021 being a Holiday *On Tuesday, 1/18/2022 due to 1/17/2022 being a Holiday			*On Tuesday, 12/28/2021 due to 12/27/2021 being a Holiday	