



Board of Adjustment Regular Meeting

September 27, 2022

Call to order

Chairman Neil Gurney called the Board of Adjustment regular meeting to order at 1:00 p.m.

I. Roll Call

Board Members Present:

Mr. Neil Gurney, Chairman

Mr. Wyn Hardy, Vice Chairman

Mr. Melvin Owensby

Mr. Greg Gardner

Mrs. Kimberly Sayles, Alternate Serving on Board

Mr. Rick Spruill, Alternate Serving on Board (following Board member recusal)

Absent:

Mr. Al Joyner

Mr. Mark Windfeldt, Alternate

Town Council Members and Town Representatives present:

Commissioner David DiOrio, Council Liaison

Michael Williams, Community Development Director

Richard Carpenter, Development and Environmental Review Specialist

II. Approval of Agenda

The agenda for the September 27, 2022 Board Meeting was reviewed. **Vice Chairman Wyn Hardy moved to approve the agenda, as presented. Mr. Greg Gardner seconded. All present members voted in favor.**

III. Approval of Minutes

The minutes from the August 23, 2022 Board meeting were reviewed. Mrs. Kimberly Sayles made a motion to approve the August 23, 2022 meeting minutes, as presented. Mr. Melvin Owensby seconded and all voted in favor.

IV. Public Comments

There were no comments from the public.

V. Old Business

Chair Gurney explained the quasi-judicial hearing process.

A. *Zoning Variance #2022005: request for variance to keep stairs that were rebuilt as an encroachment into the street front yard. Property address: 2367 Buffalo Shoals Road. Continued from August 23, 2022 meeting.*

Development and Environmental Review Specialist Richard Carpenter and property owner Daryl Whiteside were sworn in.

There were no conflicts of interest.

Specialist Carpenter explained that the project was permitted for home renovation, but additional features were constructed that were not permitted. Specialist Carpenter noted expanded that the concrete stairs, that were built and as an encroachment into the street front yard, were not permitted. It was noted that stairs can be in a front setback as an access structure, but there is a 48" limit in which Mr. Whiteside exceed. Specialist Carpenter provided the Board with visuals and explained logistics of the stairs.

Mr. Owensby asked if the stair railing is out of compliance as well, since the steps are not in compliance. Specialist Carpenter answered that the Town measures the tread, so railing is indifferent.

Specialist Carpenter noted that most of the steps are compliant, but not the steps between the parking and front of the stairs.

Mr. Gurney asked why the variance is for the setback rather than for the 48" limit exceeded. Specialist Carpenter explained that a setback variance is more feasible.

Mr. Whiteside noted that the 17 ft. measurements were per the centerlines on the road which he measured himself. Mr. Whiteside also noted that the right

side near the railing was matched with walkway that was previously there, but was removed due to safety concerns.

Chair Gurney closed the hearing.

Chair Gurney expressed support for granted the variance for convenience and safety reasons. Mr. Gardner expressed no issues. Mr. Owensby disapproved of the lack of permitting obtaining. Mrs. Sayles expressed no issues with approving the variance.

Mr. Gardner made a motion to grant Zoning Variance #2022005 request for variance to keep stairs that were rebuilt as an encroachment into the street front yard. Property address: 2367 Buffalo Shoals Road. Mrs. Sayles seconded. The motion carried with a 4-1 vote. Chair Gurney, Vice Chair Hardy, Mr. Gardner, and Mr. Sayles voted in favor. Mr. Owensby was opposed.

B. Zoning Variance #2022006: request for 3.17' reduction of the side yard setback for a house that was built within the 10' side yard setback. Property address: 139 Pier Point Road. Continued from August 23, 2022 meeting.

Vice Chair Hardy opened the hearing.

Specialist Carpenter and Mr. Jake Johnson were sworn in.

There were no conflicts of interest.

Specialist Carpenter refreshed the board on the case, which was reviewed the previous meeting. Specialist Carpenter reported no changes from Community Development, but noted that a letter from the northern property owner was received.

Mr. Johnson reiterated his concerns with moving the structure.

Mr. Owensby asked how moving the structure would negatively affect other properties. Mr. Johnson stated that the real estate commission would have to disclose the move of the structure as a material fact in the MLS which could reduce property value.

Specialist Carpenter asked if any moving permits had been received by the County and Mr. Johnson answered no. Specialist Carpenter noted that because

of State separation rules, moving the structure might not be permitted and the structure would have to be cut.

Mr. Hardy closed the hearing.

Chair Gurney noted appreciation for the letter from the adjacent property owner, but noted that it does not qualify in accordance with a variance. Chair Gurney expressed concern regarding making the property owner move structure, but the structure should not be allowed according to the regulations. Mr. Owensby expressed that he does not support granting the variance. Mr. Gardner agreed with Chair Gurney in regard to disapproval of missteps by the property owners, but expressed that requiring the structure to be moved seemed extreme. Mrs. Sayles noted that it is hard to find any hardships in this case and that the Board must use common sense. Mrs. Sayles also agreed with Mr. Gardner and Chair Gurney. Vice Chair Hardy expressed that there are no hardships, but not granting the variance brings hardships to adjacent property owner.

Chair Gurney made a motion to grant Zoning Variance #2022006 for 3.17' reduction of the side yard setback for a house that was built within the 10' side yard setback. Property address: 139 Pier Point Road. Mr. Gardner seconded. The motion carried with a 4-1 vote. Chair Gurney, Vice Chair Hardy, Mr. Gardner, and Mr. Sayles voted in favor. Mr. Owensby was opposed.

VI. New Business

- A. *Zoning Variance #2022008: request for 11.5' reduction of the 35' lake yard setback, to allow removal and rebuilding of dwelling that has been deemed unsafe by the County Building Inspector due to reasons other lack of repairs or maintenance. Property address: 190 Caddy Lane.***

Mr. Gardner opened the hearing.

Specialist Carpenter and property owners Nancy and Bill Abernathy sworn in.

Mr. Owensby recused himself at 1:47 p.m., Mr. Rick Spruill joined the Board. There were no conflict of interest

Specialist Carpenter explained that the property owners are requesting that the lake front setback be reduced to 23.5 ft. Specialist Carpenter provided the Board

visuals and a site plan. Specialist Carpenter noted that the Lake front setback is the only issue.

Specialist Carpenter answered questions from the Board.

Mr. Gurney asked if there were any concerns expressed by adjacent property and it was noted that one adjacent property owner was in favor.

The Abernathy's explained that that the house would be further back than original constructed, that the roof overhang would be closer to the Lake, and additional details. Mrs. Abernathy explained that if the variance is granted it would allow for available off street parking.

Mr. Gardner closed the hearing.

Chair Gurney expressed that this would be an improvement to the structure and Mr. Gardner agreed. There were no issues expressed by Board members.

Mr. Hardy made a motion to grant Zoning Variance #2022008 for 11.5' reduction of the 35' lake yard setback, to allow removal and rebuilding of dwelling that has been deemed unsafe by the County Building Inspector due to reasons other lack of repairs or maintenance. Mr. Gurney seconded. All voted in favor.

B. Zoning Variance #2022009: request for 30' reduction of the 35' lake yard setback to allow for construction of elevated deck between existing dwelling and existing boathouse. Property address: 2072 Memorial Highway.

Chair Gurney opened the hearing.

Specialist Carpenter and property owner Michael Finnern were sworn in.

There were no conflicts of interest.

Specialist Carpenter explained the property size does not allow for abundant setbacks and that the structure is currently grandfathered in with legal non-conformities. It was noted that the property owner is requesting a 30' reduction of the 35' lake yard setback to allow for construction of elevated 5 ft. deck between existing dwelling and existing boathouse. Specialist Carpenter provided the Board with visuals and a proposed building plan.

There was discussion regarding the possibility that the resident property lines interfere with Town property lines.

Mrs. Sayles asked if the deck is connected to the boathouse. It was confirmed that it is connected by a walkway.

Commissioner Diorio noted that if the variance is granted on Town property, the Town has right to inspect and remove structures if there are any issues, and noted that it would become a lake structure.

Mr. Finnern explained that the request is to add the deck with the variance to make it more useful as a structure. It was noted that there were no issues expressed by adjacent property owners. It was also expressed that there would be no significant impact aside from non-compliance.

Mrs. Sayles asked if the deck would be to be covered and it was confirmed that it would be. Mrs. Sayles asked if it could be turned into an inhabitable room at a later time. Specialist Carpenter explained that if the variance is granted, it does not have to be used for a deck specifically and could technically be a room. Commissioner Diorio explained that if a room is built on town property, it would have to conform to lake structure ordinances which would make the regulations and permitting process different.

Chair Gurney closed the hearing.

Chair Gurney expressed he is struggling to find any hardships. Mr. Gardner agreed. Mr. Hardy noted that there is no downside to granting the variance.

Mr. Hardy made a motion grant Zoning Variance #2022009 for 30' reduction of the 35' lake yard setback to allow for construction of elevated deck between existing dwelling and existing boathouse. Mr. Gardner seconded. All voted in favor.

VII. September Department Report

Director Williams provided the Board with a department report for the month of September.

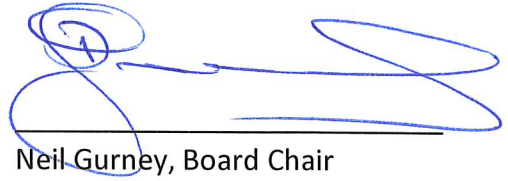
VIII. Adjournment

Chair Gurney asked for a motion to adjourn the Board of Adjustment regular meeting at 2:25 p.m. Mrs. Sayles made motion to adjourn and Mr. Hardy seconded. All members voted in favor.

ATTEST:

A handwritten signature in black ink, appearing to read 'Olivia Stewman', written over a horizontal line.

Olivia Stewman, Town Clerk

A handwritten signature in blue ink, appearing to read 'Neil Gurney', written over a horizontal line.

Neil Gurney, Board Chair