

CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA
NORTH MYRTLE BEACH CITY HALL
BOARD OF ZONING APPEALS MEETING
Thursday, July 9, 2020
5:00 PM

MINUTES

Dan Moore, Chairman
Cynthia Lover
Ricky Martin, Absent
William McGonigal, Absent
Roger Quinn, Absent
Trey Skidmore
Andy Thomas

City Staff:
Ben Caldwell
Chris Noury
Allison K. Galbreath, City Clerk

- 1. CALL TO ORDER & ROLL CALL:** Chairman Moore called the meeting to order at 5:01 PM.
- 2. SWEAR IN THOSE PERSONS TO SPEAK:** Mrs. Galbreath swore in persons to speak.
- 3. APPROVAL OF MEETING MINUTES:** Chairman Moore called for a motion to approve the minutes of the June 11, 2020 meeting. The motion was made by Ms. Lover and seconded by Mr. Thomas. The motion passed 4-0.
- 4. COMMUNICATIONS:** Ben Caldwell, Interim Zoning Administrator, stated under New Business, Item B, Variance #V19-20, Mrs. Jackie Sherrill had withdrawn her request for a variance.
- 5. OLD BUSINESS:** None
- 6. NEW BUSINESS:**
 - A. SWEAR IN THOSE PERSONS TO SPEAK:** Mrs. Galbreath swore in persons to speak at the beginning of the meeting.
 - B. VARIANCE #V19-20:** Mrs. Jackie Sherrill had made an application for a variance to leave an existing pool pump located in the required side yard setback at 323 47th Avenue North zoned R-1, Single Family Low Density Residential. Mr. Caldwell stated Mrs. Sherrill had withdrawn her request for a variance.
 - C. VARIANCE #V20-20:** Petitioners Trent and Jessica Heafner had made an application for a variance to reduce the required rear yard setback for an addition to the home at 905 Emanon Street located in the R-2 Medium Density Residential District. Mrs. Heafner stated they moved to the area in September. She reached out to the City to find out what the setbacks were for their property. Based on this information, she had a survey done on the property, plans drawn up, and started a building permit process. The information they had been told in January of the setback dimensions were incorrect. She stated she spoke with Paul Blust, former Zoning Administrator, and he indicated they needed to retain letters from their neighbors stating they don't have a problem with the addition to the

home, as well as pictures of others that have moved buildings directly on the property line. Mrs. Heafner passed those items around to the Board. Chairman Moore inquired who the authority was that told them the original setback dimension. Mrs. Heafner stated John Hill. She explained they called the City number directly and was transferred to him. Mr. Caldwell stated Mr. Hill's title was the Deputy Building Official. Chairman Moore stated their claim was due to the incorrect information received by the City. Ms. Lover asked if they had a survey done when the property was bought or if the lender required one. Mrs. Heafner stated a survey was not done and the lender did not require one. Ms. Lover asked if they had inquired about setbacks when the property was purchased. Mrs. Heafner stated they did not, because at the time, they didn't know if it was going to be a permanent residence. She stated they have downsized from a 1,800 square foot home to a 1,000 square foot home. Mr. Skidmore clarified this was an addition to the home. Mrs. Heafner stated most people in the neighborhood have placed storage buildings in the yard, but some of their things cannot be placed outside and therefore, needed the addition to the home.

Chairman Moore asked if the information could be collaborated. Mr. Caldwell stated that Mr. Hill cannot recall the conversation. Ms. Lover asked Mrs. Heafner what the hardship was to the property. Mrs. Heafner stated she had never heard of this until Ms. Lover came to their home at 3:30 PM that afternoon. She stated that Mr. Blust explained to them to complete the variance form and provide any support for their request. She stated she also had the HOA letter, which stated the HOA did not have a problem with their request. She apologized for not knowing this information. Chairman Moore stated the information was specified in the variance application. She stated the hardship was storage. Chairman Moore inquired again about the conversation with Mr. Hill at the City. Mr. Heafner stated he was the one to speak with Mr. Hill. He asked about the setback and Mr. Hill stated the setback was 5 feet for that neighborhood. Mr. Heafner had the survey done and bought flooring. He stated they would have never proceeded if it was a 10 foot setback. Mrs. Heafner stated they also had an email from Mr. Hill stating the plans for the addition looked great, provided an address was added to them. Chairman Moore asked for a copy of the email, which was on Mrs. Heafner's phone. Ms. Lover stated the email was not relevant, because it did not change the statute. Mr. Skidmore stated he would like to see the email. Mrs. Heafner showed the Board the email on her phone. Chris Noury, City Attorney, stated the email should be read to enter in record. Ms. Lover stated the email was from jwhill@nmb.us. The Heafner's wrote to find the attached plans for the home and the addition renovations. Mr. Hill wrote that looked good, just needed to add the address to the plans.

Mr. Noury advised the Board they were tasked with determining whether the applicant has demonstrated the hardship to the land, not anything outside of it. Ms. Lover stated she was concerned that someone would give the go ahead on a project and not be correct. However, people were tasked with knowing their lot sizes and setbacks. The applicant had not proven hardship on the land, as related to the code, but was one that was self-created. The lot size was small when they bought the land. Mrs. Heafner stated there were only four homes in the neighborhood that were not on a cul-de-sac, which provided the other homes with greater land. Their property was one of those four homes, which created a small area in the back. They did not want to obstruct the view of their neighbors by putting a storage unit on the property. Mrs. Heafner showed a picture of the lots to the Board. Ms. Lover stated their lot was square, as compared to the others that were pie shaped and narrow.

Chairman Moore called for a motion. Ms. Lover motioned to deny Variance #V20-20 based on the fact the applicant failed to prove an unnecessary hardship on the property. The need for storage was not a hardship to the land. Mr. Skidmore seconded the motion. The motion to deny passed 3-1.

- D. VARIANCE #V21-20:** Petitioners Tonya and Dan Fitzgerald had made an application for a variance of the required front yard setback at 227 Palmetto Harbor Drive located in the R-1B, Single-Family Low-Medium Density District. Mr. & Mrs. Fitzgerald had their builder represent them in the meeting. They were requesting a variance of five feet to move the home forward into the setback. The lots are shallow with a drop off of a 45 degree angle to the waterway, which was hard to fit steps to the home. When the home was purchased in 2017, the setback was 20 feet and then the property was annexed by the City, which made the setbacks 25 feet. The drop off prevents a larger retaining wall. Chairman Moore requested to look at the survey and asked if there were other schematics of existing lots. Chairman Moore inquired what the hardship was to the land. The applicant's builder stated the hardship was to fit a functional home with steps on the lot and the retaining wall may not fill because of the soil density. Ms. Lover inquired again why he would not be able to build a home on this lot. He stated because of the slope of the lot and the change of the setback minimums when the property was annexed. Mr. Caldwell read the description of the request and stated the applicant's builder was accurate in the setback dimensions, both before and after the property was annexed by the City.

Chairman Moore called for a motion. Mr. Thomas motioned to approve Variance #V21-20 based on slop of the land, causing a hardship and was seconded by Ms. Lover. The motion passed 4-0.

- E. VARIANCE #V17-20:** Petitioners Jerry and Brenda Stancil had made an application for a variance of the front and/or rear yard setbacks at 734 Ashland Avenue located within the R-2, Medium Density Residential District. Mr. Stancil stated they bought the lot in 2014 and the developer gave them a set of plans for the lot. They have since retired and had a survey done. Due to the curvature of the property, the home would have to be setback further reducing the home size to 1,180 square feet, instead of 1,600 square feet. Chairman Moore stated they had a lot that was handicap and stated the hardship was the contour of the property. Mr. Stancil stated their lot was the only one in the neighborhood with this curvature. Ms. Lover inquired if they were trying to build the house in which the developer gave them the plans. Mr. Stancil stated it was similar in size, but a different style. Chairman Moore stated Mr. Stancil needed to speak to the irregular shape of the lot. Mr. Caldwell read the description of the request.

Chairman Moore called for a motion. Mr. Skidmore motioned to approve Variance #V17-20 due to the uniqueness of the property as demonstrated by the homeowner. The curvature of the property made it harder to build upon and was unusual as compared to the other lots in the area. The motion was seconded by Mr. Thomas. The motion passed 4-0.

- F. VARIANCE #V23-20:** Mrs. Caressa Marchisotto had made an application for a determination of suitable penalty for having a tree exceeding 24" removed without BZA approval. Mr. Marchisotto stated they bought the property 1 1/2 years ago, as a second home. They had a tree on the property that was decaying and dying. They hired a company to remove the tree. The company damaged the property a little bit, as well as didn't clean up the work site. Mrs. Marchisotto stated they assumed the company would

obtain the permit to take down the tree. Ms. Lover inquired the name of the company. Mrs. Marchisotto stated it was Ronald Ward with B & C Landscaping and Tree Service. She also stated she had letters from neighbors, which attested to the condition of the dying tree. Chairman Moore asked for pictures of the tree before removal. Mr. Marchisotto stated he did not have pictures. Ms. Lover asked for the diameter of the tree. He did not know the dimension. Mr. Caldwell stated the base was 25 feet. Ms. Lover stated the statute states if it is impossible to determine the size of the tree, replacement is 160 caliper inches per acre. Ms. Lover asked how big the property was, in order to determine the replacement. Mr. Caldwell stated the lots are approximately 5,000 square feet. Mr. Marchisotto stated he believed it would be 5,000-5,500 square feet. Chairman Moore stated that was a reasonable estimate. Ms. Lover stated the calculation would be 1/7th of an acre, so the replacement would be 23 inches of trees, either one tree or multiple trees anywhere on the lot. Ms. Lover inquired where the Board of Zoning Appeals sign was in their lot. When she went to their home, it had been removed. Mr. Marchisotto stated it was in the house and he took it down when they arrived at the property. Ms. Lover stated the purpose of the sign was to give notice to other people. Mr. Caldwell stated it would have been up for two weeks.

Mr. Caldwell stated the Board was tasked with determining the replacement value for the improper removal of a 25" tree and the City received a complaint that the tree had been cut without a permit. Ms. Lover stated this came to the City based on a complaint. Mr. Caldwell affirmed it was because the company did not clean up and debris was dispersed over the yard. Ms. Lover asked if B & C Landscaping had a license. Mrs. Marchisotto stated they were licensed.

Chairman Moore called for a motion. Ms. Lover motioned that the replacement value for the removal of a 25 inch tree would be to replace 23 inches of oak trees, not palm trees, pay \$2300 to the Tree Bank, or a combination of the two. This was based on statute 23-70, with lot size approximately 5,000 square feet or 1/7th of an acre. Mr. Thomas seconded the motion. The Board and Staff clarified to Mr. and Mrs. Marchisotto the requirements and time frame in which to complete. The motion passed 4-0.

Chairman Moore inquired if there was any further business to come before the Board. Mike Todd stated he wanted to have public input. Chairman Moore asked if he was on the agenda. Mr. Todd stated he signed to have public input. Chairman Moore stated the Board does not have public input at hearings and the meeting was concluded. Mr. Todd stated he wanted to give the Board correct information. Chairman Moore stated Mr. Todd's next step was 15th Judicial Circuit Court. Chairman Moore asked for a motion to adjourn. Mr. Thomas motioned to adjourn and was seconded by Ms. Lover. The motion passed 4-0. The meeting adjourned at 5:56 PM.

Respectfully submitted,

Allison K. Galbreath
City Clerk

NOTE: BE ADVISED THAT THESE MINUTES REPRESENT A SUMMARY OF THE BOARD OF ZONING APPEALS MEETING AND ARE NOT INTENDED TO REPRESENT A FULL TRANSCRIPT OF THE MEETING.