

CAROLINA BEACH

Board of Adjustment Meeting

Monday, April 22, 2024 - 6:00 PM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



MINUTES

CALL TO ORDER

Chairman Hartsell called the meeting to order at 6:00 PM.

PRESENT

Chairman Wayne Hartsell

Board Member Jullena Shelley

Board Member Ken Thompson

Board Member Tim Howard

ABSENT

Vice Chairman Patrick Boykin

Board Member Paul Levy

ALSO PRESENT

Planning Director Jeremy Hardison

Senior Planner Gloria Abbotts

Planner Haley Moccia

APPROVAL OF MINUTES

1. January 22, 2024 – Board of Adjustment Minutes

ACTION: Motion to approve the minutes

Motion made by Board Member Thompson, seconded by Board Member Shelley

Voting Yea: Chairman Hartsell, Board Member Shelley, Board Member Thompson, Board Member Howard

Motion passed 4-0

PUBLIC HEARING

2. Variance to Building Setbacks – Section 40-74 Dimensional Standards for Lots and Principal Structures

The applicant is Chiaki Ito, the property owner of 307 Florida Avenue. The subject property is located on the northern end of the peninsula that juts out from Canal Drive. The parcel is in the R-1B zoning district, which supports single-family and allows a density of 8.7 units per acre. The property consists of 0.24 acres from the high-water line, which makes this a large enough lot to allow up to 2 living units on the property.

The property is a sound-side-facing property and is bordered by single-family homes. The property has a main single-family house and a detached garage with a single-family unit. The main house was built in 1947, before flood maps and zoning setbacks were established. Because of this, it was built encroaching into the right-side setback. The front of the house currently meets the 20-foot front setback requirements, but the current front staircase encroaches 4 feet into the front setback. The termination of a staircase (the last two steps) is the only part of a staircase that the ordinance allows to encroach into a building setback. The ordinance allows the last 2.5 feet of the end of a staircase to encroach over the setback line, but this does not include any stair landings or any other part of the staircase column except the bottom termination.

The Town applied for a Federal Emergency Management Agency (FEMA) Flood Mitigation Assistance grant on the property owner's behalf. The grant funds are for the raising of houses to bring them into flood compliance to meet the current flood elevation requirements established by the 2018 Flood Insurance Rate Map (FIRM). The Town was awarded the grant, and Ms. Ito's house was among 6 others on the island approved by the grant to be elevated to meet base flood elevation (BFE). Houses accepted into the grant program are evaluated by an engineer, and the engineer determines if the house is structurally strong enough to be lifted. The engineer determined the house could be lifted but confirmed the house could not be moved back from the front property line because the structure was located too close to the detached garage for it to be safe to move.

When houses are raised, they require new staircase access. Due to the house's close proximity to the front building setback line, any new access added to the front of the building would encroach into the front setback. Many different designs were proposed by the engineer and Town staff, but none were able to meet the Town setback ordinance requirements. A front staircase access to the existing front door is required by N.C. Building Code, which is why Ms. Ito is seeking a variance to allow the new staircase to encroach into the front setback. Without the variance, the house will not be able to be lifted and it would continue to pose potential flood damage risks to itself and surrounding properties.

Ms. Ito is seeking a variance to allow a front staircase and staircase landing encroachment into the 20-foot front building setback. The variance would allow a new staircase landing and staircase column to encroach into the front setback up to 1 foot and 10 inches or have a front setback of 18 feet and 2 inches.

Individuals planning to speak on the matter were sworn in.

Ms. Moccia presented the details. She said approvals for variances require a 4/5 majority to pass, and because there are only 4 Board Members present tonight each finding of fact would have to pass unanimously for the variance to be granted. Ms. Moccia also reviewed the house's background, reasons for the variance request, and four required findings that must be met for approval:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. 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.

3. 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.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

Ms. Ito said she has owned the house since 1998. She said they have done everything possible to figure out how to move the house to fall into the setback, but there is not a lot of space to consider.

No one else requested to speak.

Chairman Hartsell summarized the request, and Board Members went through each required finding for the variance request.

Regarding finding 1, the following agreed: Chairman Hartsell, Board Member Thompson, Board Member Shelley, and Board Member Howard. Therefore, finding 1 passed 4-0.

Regarding finding 2, the following agreed: Chairman Hartsell, Board Member Thompson, Board Member Shelley, and Board Member Howard. Therefore, finding 2 passed 4-0.

Regarding finding 3, the following agreed: Chairman Hartsell, Board Member Thompson, Board Member Shelley, and Board Member Howard. Therefore, finding 3 passed 4-0.

Regarding finding 4, the following agreed: Chairman Hartsell, Board Member Thompson, Board Member Shelley, and Board Member Howard. Therefore, finding 4 passed 4-0.

ACTION: Motion to approve

Motion made by Board Member Thompson, seconded by Board Member Shelley

Voting Yea: Chairman Hartsell, Board Member Shelley, Board Member Thompson, Board Member Howard

Motion passed 4-0

NON-AGENDA ITEMS

Mr. Hardison said there are a couple of pending appeal applications, so there will be meetings in May and June and dates will be confirmed based on Board Member availability.

Mr. Hardison also said Board Member Howard is stepping down, which creates an opening on the Board. He said Council will appoint a new member at tomorrow's workshop. Mr. Hardison said one alternate remains following Board Member Howard's departure. Chairman Hartsell thanked Board Member Howard for serving.

ADJOURNMENT

ACTION: Motion to adjourn

Motion made by Board Member Thompson

Voting Yea: Chairman Hartsell, Board Member Shelley, Board Member Thompson, Board Member Howard

Motion passed 4-0

The meeting adjourned at 6:22 PM.