

**CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA
NORTH MYRTLE BEACH CITY HALL
BOARD OF ZONING APPEALS MEETING
Thursday, January 12, 2023
5:00 PM**

MINUTES

William McGonigal, Chairman
Mendel Bell
Cynthia Lover
Joe Reaves
Andy Thomas
Wyman Wise, Absent

City Staff:
Ben Caldwell, Zoning Administrator
Elton Farmer, Zoning Technician
Chris Noury, City Attorney
Allison Galbreath, City Clerk

- 1. CALL TO ORDER & ROLL CALL:** Chairman McGonigal called the meeting to order at 5:00 PM.
- 2. APPROVAL OF MEETING MINUTES:** None
- 3. COMMUNICATION:** None
- 4. SWEAR IN THOSE PERSONS TO SPEAK:** Mrs. Galbreath swore in persons to speak at the meeting.
- 5. OLD BUSINESS:** None
- 6. NEW BUSINESS:**
 - A. VARIANCE #V40-22:** Application by Mark and Cheryl Bradley to reduce the front yard setback from 25' to 20' at 189 Palmetto Harbour Drive zoned R1-B, Single Family Low-Medium Density Residential District. Megan Helms, general contractor for Mr. and Mrs. Bradley, distributed the survey for the Board to see the property. She stated when Mr. and Mrs. Bradley bought the property the setback was 20' and when it was annexed into the City, the setback became 25'. They could not move the home back because of the steep drop off on the back of the property, which could not be built on. Ms. Lover confirmed she considered it to be a hardship.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal stated they had seen this a few times.

Chairman McGonigal called for a motion. Mr. Bell motioned to approve Variance #40-22. The applicant had shown an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property was the slope and grade of the back of the property. These conditions did generally apply to other properties in the vicinity. The application of the ordinance to the particular piece of property would effectively prohibit the utilization of the property. The authorization of the variance would not be of substantial detriment to adjacent properties or to the public good, and the character of the district would not be harmed by the granting of the variance. The motion was seconded by Mr. Reaves. The motion passed 5-0.

- B. VARIANCE #V43-22:** Application by Amber Wall for a request to remove fourteen (14) trees in excess of 24 caliper inches at PIN #35700000006 at the corner of Tom E. Chestnut

and Ridgewood Drive zoned Single Family, Low-Medium Density, Residential R-1A District. Clint Richardson, agent for Beverly Homes, represented Ms. Wall. Mr. Richardson stated when the land was purchased it was in the county and then annexed into the city. The plans were put together and they had spent 1-2 years of going through entitlements. It wasn't until then that they found out they needed to go in front of the Planning Commission for tree removal. He stated Beverly Homes knew how to incorporate natural features, but this site didn't lean toward that. Mr. Richardson explained the property and the trees he would like to remove. He stated the property needed a clean slate. Chairman McGonigal asked if he had brought them a plan to see. He did not bring it but had it on his phone. He showed the plans from his phone. Ms. Lover asked what the total number of trees they were removing and keeping. Mr. Richardson stated they couldn't leave the trees because it didn't jive with the design. He was clearing 19 acres out of the 20 acres of the property. It was agreed that there had been multiple communication breakdowns. Mr. Caldwell stated in the application, he was going to remove only 9 trees now. Chairman McGonigal had Mr. Richardson go lot by lot to determine where the 9 trees were located on the property and the dimensions of each. The Board, staff, and Mr. Richardson had a lengthy discussion regarding the specific removal of the 9 trees. It was determined 7 out of the 9 trees would be removed and 2 remain.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance.

Chairman McGonigal called for a motion. Ms. Lover motioned to approve Variance #43-22. The applicant would be allowed to remove 7 out of the 9 trees. The 2 trees that would remain would be one of the sycamores on Lot 5 and the 48" cedar on Lot 22 on the higher level. The variance would be granted to remove the other 7 trees. The applicant would be required to replant 100" of trees in addition to the other trees they were leaving. The trees should be sycamores, poplars, or cedars. The motion was seconded by Mr. Bell. The motion to approve passed 5-0.

- C. VARIANCE #V45-22:** Application by Brian Bayley for a request to keep multiple storage containers on the lot where his business is located at 900 Hwy. 17 North zoned highway commercial, HC District. Mr. Caldwell stated Mr. Bayley brought in proof that the original complainant withdrew his complaint. The complainant asked that the storage containers be painted the same color as the back of the building, locks put on Mr. Bolli's dumpsters, and have the debris removed from the area. All of these had been accomplished. Mr. Caldwell stated he removed the case. Ms. Lover questioned the decision and asked Mr. Noury that the issue was 7 storage containers were on the same property and only one was allowed. At the previous meeting, the Board discussed if the complaint was withdrawn, did that mean the City could overlook breaking the law. Mr. Noury stated if the complaint was withdrawn, then there was no issue because the department was complaint driven. Mr. Noury stated that was their practice, but it was not codified. Ms. Lover stated she found it distasteful that the City would look the other way just because no one would complain about it. Mr. Noury and Ms. Lover discussed the legitimacy of withdrawing the complaint and not addressing the violation that existed.

Chairman McGonigal called for a motion. Mr. Thomas motioned to remove Variance #45-22 from the agenda and was seconded by Mr. Reeves. The motion to remove passed 4-1. Ms. Lover voted nay.

- D. VARIANCE #V46-22:** Application by Ted Bolli for a request to keep multiple storage containers on the lot where his business is located at 900 Hwy. 17 North zoned highway commercial, HC District. Mr. Bolli asked to withdraw his request for a variance.

Chairman McGonigal called for a motion. Mr. Reaves motioned to remove Variance #46-22 from the agenda and was seconded by Mr. Thomas. The motion to remove passed 4-1. Ms. Lover voted nay.

- E. VARIANCE #V01-23:** Application by Thomas and Michelle Carter to reduce the rear yard setback from 20' to 5' for a proposed porch addition at 1020 Mount Vernon Drive zoned Medium Density, R-2 District. Mr. Carter stated he was asking for only a 10' variance and not a 20'. He passed out a picture of the property for the Board to see. They would like to have an attached porch that would cover the footprint of the current slab. He stated his lot size was smaller than others in the neighborhood. Ms. Lover asked what his hardship was. Mr. Carter stated the smaller lot was a hardship and if he wasn't granted the variance, it would prohibit him from utilizing the property.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal asked what the lot size was to be in the R-2 district. Mr. Caldwell stated it was 5,000 square feet. Mr. Bell asked if the setbacks were changed after the creation of the neighborhood. Mr. Caldwell stated he didn't believe it had, but there were several variances that had been granted over the years and there were a number of odd and wedge shaped lots in the neighborhood. Mr. Caldwell stated this would be considered a substandard lot. Ms. Lover stated the lot size was 16% smaller and she would like to make the variance correspond with that percentage. She stated the developer fit as many houses as he could on the property. The city approved the setbacks and the odd shaped lots and the developer built it. She did not believe the builder was allowed to put on a porch and was not approved for that when the subdivision was built. She asked why we would grant something that the builder was not allowed to build. Mr. Caldwell stated he could do some research on the subdivision. Mr. Bell stated he still had a hardship with a smaller sized lot.

Chairman McGonigal called for a motion. Mr. Bell motioned to approve Variance #V01-23. The applicant had shown an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property was the smaller lot size compared to the lots in the vicinity. These conditions did not generally apply to other properties in the vicinity. The application of the ordinance to the particular piece of property would effectively prohibit the utilization of the property. The authorization of the variance would not be of substantial detriment to adjacent properties or to the public good, and the character of the district would not be harmed by the granting of the variance. Mr. Bell added he would be given a 10' variance. The motion was seconded by Mr. Thomas. The motion to approve passed 4-1. Ms. Lover voted nay.

- F. VARIANCE #V02-23:** Application by Charles and Marion Ashley to construct a garage that would exceed the maximum height and size allowance for accessory structures or to seek a variance of the minimum lot size at 2701 Nixon Street zoned Single Family, Low Density Residential, R-1 District. Ken Moss, attorney for Mr. & Mrs. Ashley represented them for the variance. Mr. Moss stated the owners bought the lot next to them to combine the lots which created an L-shaped lot, making a non-conforming lot and less than the square footage for the R-1 District. Mr. Moss explained the history and the issues that arose. Mr. and Mrs. Ashley would like to build an attached garage, which was going to be taller than 15'. The ordinance limits the height to 15' for accessory uses. Mr. Caldwell stated if they attached the garage, it would not be considered an accessory use. The building code officials had a problem with the design. They were seeking a variance because they had under utilized the lot.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. He stated they were no longer requesting the square footage allowance for the lot. The proposed garage would be approximately 30' tall and 1,500 square feet. Ms. Lover pointed out if the building department would approve it, they would not need a variance from the Board. She believed they should go through the building department first and if they turned it down, he could come back for a variance to the Board. Chairman McGonigal stated they had seen this several times. Mr. Moss clarified the building department had turned them down. The Board, staff, and Mr. Moss discussed the different plans and utilizing their L-shaped lot. Ms. Lover asked why they couldn't build a 15' garage. Mr. Moss stated they wanted more space and it was not going to be used as rental property. Mr. Noury stated the Board would need to decide if the applicant had presented a hardship that would justify granting the variance. Mr. Caldwell deemed it as an accessory building due to some redesigns done of the building. He stated he believed the issue with the building department was that the structure was on the ground floor in the flood zone, and they were capped as to how much they could renovate and that was 50% of the value. Mr. Bell stated that was a hardship by being in the flood zone. Chairman McGonigal asked what the hardship would be. Mr. Moss stated it was the ability not to maximize the property's uses and rules that didn't apply to them. Chairman McGonigal stated it was the shape of the lot and being in the flood zone. Mr. Bell added another hardship was the amount of money that was capped for renovations. Ms. Lover stated this was a self-imposed hardship and they shouldn't have built in the flood zone. Chairman McGonigal stated they would be paying insurance for it.

Chairman McGonigal called for a motion. Mr. Thomas motioned to approve Variance #V02-23. The applicant had shown an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property was the irregular shaped lot. These conditions did not generally apply to other properties in the vicinity. The application of the ordinance to the particular piece of property would effectively prohibit the utilization of the property. The authorization of the variance would not be of substantial detriment to adjacent properties or to the public good, and the character of the district would not be harmed by the granting of the variance. The motion was seconded by Mr. Bell. The motion to approve passed 4-1. Ms. Lover voted nay.

Mr. Noury wanted to go back to the discussion about a complaint being withdrawn. He stated Section 23-161 referenced that the Board's function was to grant variances. Since the complaint was withdrawn, there would not be a variance to act on. Ms. Lover stated the City still knew the violation existed and were turning a blind eye. They discussed the violation and the difference of opinions on the interpretation of the complaint being withdrawn.

Chairman McGonigal called for a motion to adjourn. The motion to adjourn was made by Mr. Bell and was seconded by Mr. Reaves. The motion passed 5-0. The meeting adjourned at 6:40 PM.

Respectfully submitted,

Allison 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.