

**CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA  
NORTH MYRTLE BEACH CITY HALL  
BOARD OF ZONING APPEALS MEETING  
Thursday, February 9, 2023  
5:00 PM**

**MINUTES**

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

City Staff:  
Ben Caldwell, Zoning Administrator  
Elton Farmer, Zoning Technician  
Chris Noury, City Attorney  
Angel Cox, Permit Clerk

- 1. CALL TO ORDER & ROLL CALL:** Chairman McGonigal called the meeting to order at 5:00 PM.
- 2. APPROVAL OF MEETING MINUTES:** Chairman McGonigal called for a motion to approve the minutes of the December 8, 2022 meeting. The motion was made by Mr. Bell and seconded by Mr. Reaves. The motion passed 6-0. Chairman McGonigal called for a motion to approve the minutes of the January 12, 2023 meeting. The motion was made by Mr. Reaves seconded by Mr. Thomas. The motion passed 6-0.
- 3. COMMUNICATION:** None
- 4. SWEAR IN THOSE PERSONS TO SPEAK:** Mrs. Cox swore in persons to speak at the meeting.
- 5. OLD BUSINESS:** None
- 6. NEW BUSINESS:**
  - A. VARIANCE #V03-23:** Application by Annas Development + Building, Inc. to reduce the front yard setback from 25' to 20' at 109 Palmetto Harbor Drive zoned R1-B, Single Family Low-Medium Density Residential District. Jeff Annas, developer, stated they had tried to design the home so that an additional variance would not be needed, but nearly every home along the waterway in that neighborhood required a variance. In response to Ms. Lover's questions, the applicant clarified the hardship as the lot was narrow and had a sharp drop off limiting the buildable area. Ms. Lover confirmed this property was originally platted in Horry County, not the City.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Ms. Lover confirmed with Mr. Caldwell that the setbacks for the County as originally platted were 20' (front) and 10' (side). Chairman McGonigal commented that stair placement and parking had presented an encroachment issue on similar lots. The applicant shared a house plan and a site plan to confirm there would be ample parking and the stairs would not encroach.

Chairman McGonigal called for a motion. Mr. Reaves motioned to approve Variance #V03-23. The applicant had demonstrated an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property was the slope of the lot, the inability to build on that slope, and the inability use the entire lot. 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. Wise. The motion passed 6-0.

- B. VARIANCE #V04-23:** Application by Wayne King for a request to reduce the minimum front yard setback requirement from 25' to 8' for a proposed lot at 213 56<sup>th</sup> Avenue North zoned Mid-Rise, Multifamily, Residential R-2A District. Wayne King, owner, stated the property had been in his family since 1954; family purchased vacant adjacent lot in early 80's. Original lot contained two houses, one house had been removed. Mr. King asked for a reconfiguration of the lots to have two lots with Nixon Street access, one being 65'x100' and the other being 85'x100'. The existing house would not be moved and the egress for that existing house would remain on Nixon Street.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal confirmed that the applicant was asking to flip the lot lines to make the lot lines run perpendicular to Nixon. Mr. Bell asked if the applicant was asking for a variance for both the existing house and the vacant lot closest to the corner of Nixon Street and 56<sup>th</sup> Avenue North. The applicant requested the lot on the corner have a setback that would maintain the setback continuity of the existing houses on Nixon Street. Chairman McGonigal stated he understood the need for a variance to the setback for the existing house, but did not acknowledge a hardship for the adjacent lot. The applicant asked if aesthetics would be considered as a hardship. Chairman McGonigal confirmed that all future builds would need to be raised as these lots were located in the flood zone. Mr. Bell commented that flipping the lot lines would not restrict the utilization of the vacant lot and would not constitute a hardship for the corner lot (closest to Nixon/56<sup>th</sup>). Ms. Lover confirmed that denying this variance would not restrict the applicant from building on the vacant lot. Mr. Caldwell confirmed that the variance request as advertised could include the vacant lot. Mr. Bell confirmed that a second structure could not be rebuilt on the lot as had previously existed; only one primary structure was allowed per lot. Mr. Noury stated that applicants must exhibit a hardship and aesthetics are not typically considered a hardship. Mr. Noury confirmed that determination of hardship was left to the Board.

Chairman McGonigal called for a motion. Mr. Bell motioned to approve Variance #V04-23. The applicant had demonstrated an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property was the fact that a previous home on the lot had to be demolished and could not be rebuilt. 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 the Board would grant the lot with the existing house the 8' variance to the front yard, and that lot would conform to all other required setbacks on the property. The corner lot closest to 56<sup>th</sup> Avenue North would have to conform to all current codes and setbacks within the City. The motion was seconded by Mr. Reaves. The motion to approve passed 5-1. Mr. Thomas voted nay.

- C. VARIANCE #V05-23:** Application by Stephen Johnston for a request to reduce the required side yard setback for a proposed deck at 409 31<sup>st</sup> Avenue North zoned Single Family Low Density Residential, R-1 District. Mr Johnston, owner, stated the home was severely damaged in the last hurricane and the applicant planned to raise the house to be classified as low flood zone. The home was currently at ground level and raising the home would eliminate access

to the current side entrance. Ms. Lover voiced concern that a deck situated in the marsh would be subject to erosion. The applicant stated that the deck will not be touching the marsh and that all support piers would be 10' or more from the marsh. In addition, all piers would be reinforced concrete. The applicant confirmed that the requested deck would be essentially a 5' landing with steps to give access to a needed second exit from the home.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Mr. Wise asked if a one entrance house met current code. Mr. Caldwell could not speak on specific building codes. Chairman McGonigal mentioned that a ground level house would have secondary egress through windows. Ms. Lover asked if the Army Corps of Engineers or any other governing body would need to be consulted regarding the proximity to the marsh.

Chairman McGonigal called for a motion. Ms. Lover motioned to approve Variance #05-23. The applicant had demonstrated an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property is the size of the lot and the need for a second entrance. 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. Thomas. The motion to approve passed 6-0.

- D. VARIANCE #V06-23:** Application by Tom Baker for a request to place a swimming pool in an area of the yard that is not the rear yard at 4600 Marion Circle zoned Single Family, Low Density, R-1 District. Mr. Baker did not appear.

Chairman McGonigal called for a motion. Ms. Lover motioned to postpone the discussion of Variance #V06-23 one (1) time to the next scheduled meeting. At that time, if the applicant failed to appear again, the Board shall dismiss. The motion was seconded by Mr. Reaves. The motion to postpone passed 6-0.

- E. VARIANCE #V07-23:** Application by Roger P. Roy for a request to replace a non-conforming fence at 1709 South Ocean Boulevard zoned Resort Residential, R-4 District. Mr. Roy, agent, shared pictures to show wind damage to the fence around the pool. The fence abuts a public walkway and the applicant is requesting a variance in order to restrict pool access. Ms. Lover asked if the variance requested was solely limited to height. Chuck McGann, president of San A Bel Towers HOA, agreed to conform to all other ordinances regarding oceanfront fences.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal asked about the requirements for fence replacements and the setback restrictions. Mr. Caldwell stated that pool code requirements dictated a minimum 4' height, and setback requirements were eliminated when the City instituted a 50% maximum opacity for oceanfront fences.

Chairman McGonigal called for a motion. Ms. Lover motioned to approve Variance #V07-23. The applicant had shown an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property was that the pool fence ran along a public walkway and for safety purposes to keep people from jumping the fence. 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. Ms. Lover added the applicant must comply with all other oceanfront fence code requirements as to material and opacity. The motion was seconded by Mr. Wise. The motion to approve passed 6-0.

Chairman McGonigal called for a motion to adjourn. The motion to adjourn was made by Ms. Lover and was seconded by Mr. Reaves. The motion passed 6-0. The meeting adjourned at 6:06 PM.

Respectfully submitted,

Angelia Cox  
Permit 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.