

CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA
NORTH MYRTLE BEACH CITY HALL
BOARD OF ZONING APPEALS MEETING
Thursday, June 8, 2023
5:00 PM

MINUTES

William McGonigal, Chairman
Roger Quinn, Vice-Chairman
Mendel Bell
Cynthia Lover
Joe Reaves, Absent
Andy Thomas
Wyman Wise

City Staff:
Ben Caldwell, Zoning Administrator
Elton Farmer, Zoning Technician
Chris Noury, City Attorney
Alexandra Smith, Administrative Asst II

- 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. Smith swore in persons to speak at the meeting.
- 5. OLD BUSINESS:** None
- 6. NEW BUSINESS:**
 - A. VARIANCE #V12-23:** Application by Nancy Rector for a request to remove a tree exceeding 24 caliper inches at 405 26th Avenue South. Chairman McGonigal asked Mrs. Rector if the tree was inspected and if she had received any new information. Mrs. Rector stated a city staff member examined the tree. Chairman McGonigal asked Mr. Noury for a recommendation. Mr. Noury asked Mrs. Rector if she would like to withdraw the variance. She restated her concerns and desire to remove the large tree. Ms. Lover asked Mrs. Rector to state her hardship as it related to the land.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Ms. Lover confirmed with Mr. Caldwell that Suzanne Pritchard, Senior Planner and Certified Arborist, had examined the tree. Chairman McGonigal asked Mr. Noury for a recommendation. Mr. Noury stated unless the Board needed additional information from the applicant regarding the hardship, the Board would decide whether the applicant had presented a hardship satisfactory to the Board that would merit the variance or not. Chairman McGonigal stated it was a healthy tree. Mr. Wise assured the applicant would not be held liable for a live tree. Mrs. Rector expressed her desire to remove the tree. Vice-Chairman Quinn stated the hardship must be related to the land.

Chairman McGonigal called for a motion. Mr. Wise motioned to deny Variance #V12-23. The applicant failed to demonstrate an unnecessary hardship. There were no extraordinary and exceptional conditions pertaining to this particular piece of property that would merit a variance from the application of the zoning code. The motion was seconded by Ms. Lover. The motion to deny passed 6-0. Mrs. Rector asked if she could cut back the tree. Chairman

McGonigal stated she could not cut back the tree. Mr. Elton stated she could not completely remove the vegetation from the tree, but limb it up.

- B. VARIANCE #V20-23:** Application by Pools Plus of the Carolinas to reduce the required side yard setback for proposed pool equipment at 1805 Holly Drive zoned Mid-Rise Multifamily, R-2A District. Mr. Caldwell stated he informed Pools Plus that staff initiated an amendment to the zoning ordinance to allow pool equipment in the side yard setback. Mr. Noury stated the Board should call for a motion to postpone the variance to the next meeting.

Chairman McGonigal called for a motion. Mr. Bell motioned to postpone Variance #V20-23. The motion was seconded by Vice Chairman Quinn. The motion to postpone passed 6-0.

- C. VARIANCE #V23-23:** Application by Jeffery Kent for variance to allow a swimming pool to be located in the side yard of a residence at 5313 Heritage Drive located in the R-1 (Single-Family, Low Density Residential) district. Mr. Kent presented a plot plan. He stated a swimming pool could not be placed in the rear yard due to the waterway. He would like to place the swimming pool in the side yard on the vacant lot. Ms. Lover asked if lots 6 and 7 were combined. Mr. Caldwell confirmed the combination had not been executed. The swimming pool would have to be approved prior to combining the lots.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Mr. Bell asked Mr. Caldwell if current zoning codes would allow part of a 10,000 square foot lot to be in the water. Mr. Caldwell stated it would still count as lot area and there was a variance for lots that back up to the water. Mr. Bell asked if a variance would be required for the pool equipment located in the side yard. Mr. Caldwell stated the code section was being revised to allow certain encroachments. Ms. Lover suggested building a shed around the pool equipment. Ms. Lover asked for clarification on the lots shown on the plot plan. Mr. Kent clarified his vacant lot (lot 7) was beside another vacant lot. Ms. Lover expressed her concern of allowing the pool in the side yard and possibly interfering with the neighbors' peaceful enjoyment of their property. Ms. Lover asked the applicant if he had any drawings showing the proposed pool location. Mr. Kent mentioned Lux pools and Rocky Bryant were working on the drawings. The pool equipment would be enclosed to contain the noise and protect it from the weather. Chairman McGonigal confirmed the applicant was restricted due to the lot size. Mr. Noury stated the Board could place conditions on the variance. Chairman McGonigal asked the Board if they would feel comfortable with placing conditions without a plan. The Board, staff, and Mr. Kent had a lengthy discussion regarding the location of the pool, setbacks, landscaping, and fence. Mr. Noury suggested the Board place a condition on the variance that the property would be recombined prior to the variance becoming effective.

Chairman McGonigal called for a motion. Mr. Bell motioned to approve Variance #V23-23. The applicant had demonstrated an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property was the lot size being smaller than the current minimum zoning requirement which was 10,000 square feet. 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 lots must be combined, 10' right setback, and 17' front setback. The motion was seconded by Vice-Chairman Quinn. The motion to approve passed 6-0.

D. VARIANCE #V24-23: Application by Joe Beaty for variance to allow a swimming pool to be located in the side yard of a residence at 4523 Woodland Drive located in the R-1 (Single-Family, Low Density Residential) district. Mrs. Beaty stated the property was oddly shaped. They would like to install a custom pool that would be smaller than normal. Ms. Lover asked for clarification on the pool location. She also asked if the dwelling was a duplex. She stated the property was in an R-1 neighborhood and two units were not allowed. Mr. Beaty confirmed they rented the units. Ms. Lover stated the pool would be very close to the neighbor's window and it would disturb the neighbor. Mr. Beaty stated there was no place to install a pool on the property. Ms. Lover asked for the square footage of the lot to determine if the lot was undersized. Mr. Caldwell stated the lot was 6,979 square feet. It did not have the minimum lot width required in R-1 for the current standard, which was 80' wide. Ms. Lover asked Mr. Caldwell if he was aware two units existed and that they were being rented. Mr. Caldwell stated he was not aware, but it could be grandfathered non-conforming. Mr. Thomas asked for the pool placement. Ms. Lover asked for the setbacks required for a pool. Mr. Caldwell stated 5' from the edge of the water to the property line. Chairman McGonigal confirmed the property had two frontages and no side yard. Ms. Lover expressed her concerns.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal stated it was a double frontage lot. He asked Mr. Caldwell about the setbacks. Mr. Caldwell stated it was 5' from the side and rear property lines. Mr. Bell added the property was undersized.

Chairman McGonigal called for a motion. Mr. Wise motioned to approve Variance #V24-23. The applicant had shown an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property was the undersized, double frontage 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. Mr. Bell added there must be a privacy fence, landscaping, and lighting restrictions. The motion was seconded by Mr. Bell. The motion to approve passed 5-1. Mrs. Lover voted nay. Mrs. Lover requested Mr. Caldwell to verify if the dwelling was approved as a duplex.

E. VARIANCE #V25-23: Application by Kirk Wolf for variance of ocean front fencing requirements at 210 North Ocean Blvd. located in the Coastal Protection Overlay Zone. Mr. Wolf stated he would like to replace the fencing on 210 N. Ocean Boulevard and 3rd Avenue North public parking lot. He stated during hurricane Ian, their 6' wood board on board fence came down. He would like to install a 6' black aluminum fence with 6' post spacing within the property line. He expressed his concerns regarding the change of elevations on the property. Ms. Lover asked for clarification on the type of fence being requested. A picture of the fence was passed out for the Board to see. Vice-Chairman Quinn asked clarification on the requested variance.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal confirmed there was a change in elevation and a taller fence would protect the public and property. Mr. Bell asked Mr. Noury if the change in elevation of the lot would be considered a hardship. Mr. Noury stated the Board could consider it to be a hardship because it's circumstantial regarding the land that may not be

typical of the other lots in the area. The Board asked if the fence would meet the requirements for fencing around a pool. Mr. Caldwell confirmed the fence would be allowed.

Chairman McGonigal called for a motion. Mr. Thomas motioned to approve Variance #V25-23. The applicant had shown an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property were the changes in elevation and topography of the 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. Mr. Bell added the fence would remain at 50% opacity and post spacing would be greater than 50% opacity or higher. He requested the applicant to receive a copy of the conditions. The motion was seconded by Mr. Bell. The motion to approve passed 6-0.

F. VARIANCE #V26-23: Application by Bobby Yonker for variance of the residential accessory structure requirements at 2414 Hilton Drive located in the R-1 (Single-Family, Low Density Residential) district. Mr. Yonker stated the property was purchased online during the covid pandemic. He was unaware there was an easement on the property that would restrict them from using their land. He replaced the shed that was previously installed by the former property owner. In response to Ms. Lover's questions, the applicant clarified a permit was obtained for a 10'x16' shed only. The lean-to was not included and inspections could not be performed due to failure to meet the setbacks. Ms. Lover stated the shed was allowed without the roof. A variance would not be needed if the roof was removed.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal asked if a 150 square foot structure required a permit. Mr. Caldwell confirmed a permit would be required, but it would have reduced setbacks. He clarified the applicant obtained a permit for the lean-to after it was constructed and didn't meet setbacks. Ms. Lover reaffirmed the additional 8'x14' was the issue. Mrs. Yonker expressed her desire to keep the structure. Kirk Bruder, neighbor, expressed his fear of hurricane season approaching and the possibility of the shed's roof hitting his house. He requested the Board to deny the variance. Mr. Bell asked if the roof would be inspected. Mr. Farmer ensured a final inspection would be performed to make sure the roof was properly built to code. Chairman McGonigal asked for the distance from the shed to the rear property line. Mr. Caldwell stated the shed was 6' off the side and rear property lines. Mr. Bell stated in the past, the Board had allowed construction in an easement with Santee Cooper's approval. Mr. Caldwell stated in this instance, Santee Cooper determined the easement to be defunct. Mr. Noury stated the applicant could approach the owner of the easement to see if they would terminate the easement or provide access that wouldn't interfere with the easement. Mr. Yonker informed the Board that Santee Cooper would not lift the easement due to the type of pole on the property. Mr. Bell suggested a privacy fence be installed on the rear property line. Chairman McGonigal confirmed the applicant was impacted by the easement.

Chairman McGonigal called for a motion. Mr. Bell motioned to approve Variance #V26-23. The applicant had shown an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property was the Santee Cooper easement on the back of the property. 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 asked for the applicant to provide a 6' privacy fence on the back property line. Ms. Lover added the privacy fence must be the same on both sides. 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 Mr. Bell and was seconded by Mr. Thomas. The motion passed 6-0. The meeting adjourned at 6:38 PM.

Respectfully submitted,

Alexandra Smith
Administrative Assistant II

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.