

CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA
NORTH MYRTLE BEACH CITY HALL
BOARD OF ZONING APPEALS MEETING
Thursday, July 13, 2023
5:00 PM

MINUTES

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

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:** Chairman McGonigal called for a motion to approve the minutes of the June 8, 2023 meeting. The motion was made by Mr. Thomas and seconded by Ms. Lover. The motion passed 4-0.
- 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 #V17-23:** Application by The Earthworks Group to remove a tree exceeding 24 caliper inches at 1716 24th Avenue North. Mr. Park, representing the applicants, stated he was seeking approval to remove a tree located within the footprint of a house. Chairman McGonigal requested a survey of the property and clarification on the lot and tree. Mr. Caldwell clarified it was Lot 21.

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 #V17-23. The applicant would be allowed to remove the 26" hickory. The applicant would be required to replace it with 13" hickory trees in addition to any other trees. Mr. Caldwell asked if the condition could be met by using several trees. Ms. Lover confirmed several hickory trees could be used. Mr. Park stated a grove of trees were being preserved. Chairman McGonigal requested the location of the preserved trees. Mr. Park presented a plat plan. He asked if the existing preserved trees would satisfy the condition or would an excess of trees be required. Ms. Lover clarified additional trees would be required. Mr. Park agreed to the condition. The motion was seconded by Joe Reaves. The motion to approve passed 4-0.

- 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. Joyner, representing the applicants, stated once the pool was installed, it no longer depicted what was on the initial approved site map. The approved drawing showed there was sufficient footage for the pool equipment pad. Ms. Lover asked if the applicant measured before installment. Mr. Joyner explained the installation crew did not measure. Ms. Lover asked who provided the site map and if they were aware the pool equipment would be encroaching into the setback. Mr. Joyner stated he had provided the site map using Horry County's GIS application. He was not aware the house was closer to the property line than what was approved. He clarified initial measuring was done, but not on the equipment pad. He specified there was nowhere else to locate the pool equipment. Ms. Lover stated it was the applicant's responsibility to know the location of the property lines.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Ms. Lover asked if the staff approved the site map. Mr. Farmer stated the site map depicted the pool located 6' from the property line. He notified the pool contractor that pool equipment could not encroach into the side setback. Mr. Reaves asked for the distance of the pool equipment encroaching into the setback. Mr. Joyner clarified it was encroaching 1' into the setback. Ms. Lover asked Mr. Farmer if he agreed with the assessment. Mr. Farmer confirmed he did not assess the pool equipment. Ms. Lover suggested placing the pool equipment at the rear of the property. Mr. Joyner stated 6' from the water's edge to the property line must be maintained. The only location would be the front yard, but it would not be feasible. Chairman McGonigal agreed with the applicant. Ms. Lover enumerated several preventative measures Mr. Joyner could have taken to avoid the need for a variance. She asked if there was another location for the pool equipment. Mr. Farmer stated there was sufficient space in the backyard. Mr. Caldwell disagreed. There would not be sufficient space due to electrical meeting a 10' separation from the water. He stated there was not another location for the pool equipment. Chairman McGonigal stated the pool equipment should be placed on the side yard due to traffic. Mr. Noury stated the Board would have to decide if the applicant presented a hardship related to the land. The Board and staff discussed what the site map depicted and setback requirements. Mr. Farmer stated a survey was not required and pool equipment was not measured prior to installment. It was the applicant's responsibility to prove that they met the requirements. Mr. Thomas asked what the hardship would be. Mr. Joyner stated there was nowhere else to place the pool equipment.

Chairman McGonigal called for a motion. Mr. Thomas motioned to approve Variance #V20-23. The applicant had demonstrated an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property were the safety hazards created by the pool equipment. 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. Reaves. The motion to approve passed 3-1. Ms. Lover voted nay.

C. VARIANCE #V21-23: Application by Troy Payne to reduce the required building setback for a proposed lift at 322 46th Avenue North zoned Single-Family, Low Density Residential, R-1 District. Mr. Payne stated his wife had health conditions that made it very difficult to access the house. He was seeking approval to install a lift on the side of the property behind the existing stairs. He explained the lift would not be aesthetically pleasing in front of the house. The air conditioners and pool area were in the back yard. A screened porch and a set of stairs were located on the right side. He was unaware the stairs were built without a permit. Ms. Lover clarified the stairs weren't allowed to be there. She stated various locations

where the lift could be installed. Mr. Payne expressed his desire to locate the lift at the proposed location. It would be a vast amount of work to install the lift through the bottom floor due to the air conditioning units. Chairman McGonigal requested a drawing depicting the proposed lift. Mr. Payne presented a drawing. Chairman McGonigal asked if the stairs were in the setback. Mr. Payne stated the stairs were 5'9" from the house to the property line. Chairman McGonigal asked if the lift would be placed out further than the stairs. Mr. Payne confirmed the lift would be within the area. If he went through the floor, it would go through the kitchen and a bedroom. Ms. Lover suggested installing the lift inside the stairs and the porch. Mr. Payne expressed it would not look aesthetically pleasing. Ms. Lover explained the applicant must demonstrate a hardship related to the land. Mr. Payne stated the lift would be very close to the pool. Mr. Thomas asked if the variance included the stairs. Mr. Caldwell confirmed it did. Chairman McGonigal stated the applicant would have to utilize the many options available to him. There were multiple locations where the lift could be installed.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Ms. Lover asked the applicant why his wife's health was not taken into consideration prior to purchasing a 2-story house. Mr. Payne stated his wife chose the house. Ms. Lover stated a hardship could not be self-imposed, it had to be related to the land. Mr. Thomas stated a conforming R-1 lot was 10,000 square feet. He mentioned the Board in the past had been forgiving to nonconforming lots. Ms. Lover explained the ordinance. Mr. Thomas clarified nonconforming lots were considered a hardship. Chairman McGonigal confirmed it would be a hardship. Ms. Lover stated the applicant would block the side of the property. Chairman McGonigal explained the applicant had multiple options. The fire department would not be able to access the back of the property in case of an emergency. Mr. Payne requested the side setback. Mr. Farmer specified it was 5'. Mr. Payne explained he would not be encroaching into the setback because the lift would be installed behind the existing stairs. Ms. Lover advised the applicant to revise the variance request to include the stairs per the city's request. Chairman McGonigal recommended to postpone the variance.

Chairman McGonigal called for a motion. Mr. Reaves motioned to postpone Variance #V21-23. The motion was seconded by Ms. Lover. The motion to postpone passed 4-0.

- D. VARIANCE #V27-23:** Application by Rick Asher to reduce the required rear yard setback for a proposed home at 885 Cardinal Place zoned Medium Density Residential, R-2 District. Mr. Asher presented a drawing of the property. Mr. Asher stated prior to purchasing the lot he contacted Mr. Caldwell. Mr. Caldwell redefined the 3-sided lot as a 4-sided lot. The City and himself were unaware of a 13' utility easement on the right side, making the 5' right setback to 20'. Another limitation was the stop sign. The driveway could not be located 50' within the stop sign. Mr. Asher stated he would like to construct a garage. If he reconfigured the house and installed the garage in the front yard (Arbor Ln), he would lose the trees. He would like to preserve the trees. Mr. Reaves requested a site map depicting the location of the proposed house. Mr. Asher confirmed he had a plan, but not with the garage. Mr. Reaves asked if the applicant had knowledge of how much of a variance he was requesting. Mr. Asher stated the garage would be 5' from the side like the other houses in the neighborhood. He suggested another option would be to redefine the lot to 3 sides and change the front setback from 25' to 13'. Ms. Lover asked if the applicant was requesting a variance for a 15' rear setback. Mr. Caldwell clarified a reduction of the rear yard setback was advertised. He explained the requested 5' rear yard was the neighbor's side yard, and it would be the same separation from the property line.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal asked if the applicant's front yard was Cardinal Pl, would the front setback be 13' instead of 25'. Mr. Caldwell stated it could have been requested, but the applicant would require two variances. He believed the requested variance was the best option. Chairman McGonigal requested clarification of the lot's orientation and dimensions.

Chairman McGonigal opened the floor for public comment. Mr. O'Donohue, former president of Windy Hill Woods Property Association and neighbor, stated he understood a variance was required, but that was not part of the original plan. He requested to view a site map showing the footprint of the house. Mr. Asher presented the house plan. Ms. Lover requested the location of the garage. Mr. Asher showed the proposed location of the garage. Ms. Lover asked if he would need an additional variance. Mr. Asher confirmed 5' would be enough and the house design would be consistent with the other homes in the neighborhood. Mr. Neff, neighbor, asked the applicant to demonstrate the streets and location of the garage on the plan. He stated his concerns regarding the proximity of the proposed garage to the neighbors' patios and windows. He requested the square footage of the house. Mr. Asher clarified the house would be 1,220 square feet, not including the garage. Mr. Neff suggested the applicant construct a smaller house with a different garage. Mr. Asher stated there was a minimum of 1,200 square foot requirement. Ms. Farace, neighbor, expressed her concerns regarding the driveway located in front of her window. Chairman McGonigal clarified all the driveways were 5' from the neighboring properties. Mr. Caldwell asserted the garage would be enclosed. Ms. Farace asked if the applicant still planned to construct a brick wall. Mr. Asher stated he was going to have an enclosed courtyard, but the brick wall would be 20' away. Ms. Lover asked if the garage would be past the front corner of Ms. Farace's house. Mr. Asher stated the garage would not block her window. Mr. Neff asked for clarification on the variance being requested. Mr. Caldwell clarified the variance would be to reduce the rear setback from 20' to 5', which would be the side closest to Ms. Farace's property. Mr. Neff asked if a 10' separation would remain between the properties. Chairman McGonigal restated everybody had 5' side setbacks.

Chairman McGonigal called for a motion. Ms. Lover motioned to approve Variance #V27-23. The petitioner had shown multiple hardships associated with the property such as the oddly shaped lot, potential for resizing as 3-sided versus 4-sided, curvature of the frontage, proximity to the stop sign, and utility easement. Granting the variance would allow the applicant to reasonably use his property. The variance would not be a conflict or damage to any other surrounding properties. It would be in harmony with the properties in the neighborhood. Mr. Noury suggested the Board place special conditions on the variance that the home be oriented as depicted at the meeting and the garage to be enclosed to keep the harmony in the neighborhood. Ms. Lover motioned to include the requirement that the house be situated as it was presented, and the garage would be enclosed. Chairman McGonigal requested to keep the plans for the record. The motion was seconded by Mr. Reaves. The motion to approve passed 4-0.

- E. VARIANCE #V28-23:** Application by William Junker Carolinas to reduce the required side yard setback for proposed pool equipment at 348 52nd Avenue North zoned Single-Family, Low Density Residential R-1 District. Mr. Junker stated the front of his home faced the City's boat landing. The swimming pool was located on the side of the home. He presented several images of his property. He requested a variance to place the pool equipment at the back of the house, aligned with the neighbor's pool equipment. He would build a narrow platform in the 10' space against the home. He informed the Board the pool equipment ranged from 50.7 to 69.5 decibels. Ms. Lover requested to see the photo. Mr. Reaves asked if the pool

was located where the palm trees were. Mr. Junker confirmed the pool's location. He stated the boat ramp was no longer there. Mr. Reaves asked if the boat ramp was filled in. Mr. Junker clarified he obtained a permit from the City and DHEC to remove and fill in the boat ramp.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Ms. Lover requested clarification on the orientation of the property. Mr. Caldwell clarified that the orientation of the property, by code, was different than the orientation of the house. Ms. Lover asked if the pool equipment would be installed in the side yard. Mr. Caldwell confirmed it would be in the side yard. Mr. Reaves asked if the applicant was requesting a variance for the pool equipment. Mr. Caldwell confirmed the variance was for the pool equipment.

Chairman McGonigal opened the floor for public comment. Mr. Bryant, neighbor, stated he was in favor of the proposed location for the pool equipment. Ms. Lover asked staff for the distance between the side of the house and the side property line. Mr. Caldwell stated it was 6'. Ms. Lover asked for the width of the pool equipment. Mr. Caldwell stated it was approximately 2.5' wide. Ms. Lover mentioned the area appeared too narrow to place pool equipment there. She stated the applicant had a very large backyard to accommodate the pool and equipment. Mr. Junker stated the pool was too large. He would have to remove the palm trees to locate the equipment in the rear yard. Ms. Lover explained the ordinance, the Board's duties, and hardships. She stated the applicant had other alternatives. Mr. Junker expressed his desire to locate the pool equipment in the side yard. Chairman McGonigal explained the number of votes required to grant the variance. Ms. Lover read the Board's mission from the training manual. Mr. Thomas explained the hardship had to be related to the land. Chairman McGonigal notified the applicant that the ordinance was being revised. Mr. Caldwell clarified that it would be three months before the ordinance was approved. Chairman McGonigal suggested the applicant postpone the variance. Mr. Noury stated if the variance was denied, the applicant would have to wait six months to come before the Board again. Mr. Junker agreed to postpone the variance to next month.

Chairman McGonigal called for a motion. Mr. Thomas motioned to postpone Variance #V28-23. The motion was seconded by Mr. Reaves. The motion to postpone passed 4-0.

- F. VARIANCE #V29-23:** Application by Tommy West to reduce the required rear yard for a proposed deck at 1500 Havens Drive zoned Medium Density Residential, R-2 District. Mr. West stated he replaced a 37-year-old rear deck without a permit. When he applied for the permit, he discovered there was a 20' rear setback. He only had 15' from the rear deck to the property line. The new deck would be the same footprint and size as the existing deck. Chairman McGonigal asked for the orientation of the property. Mr. West clarified 15th Avenue South was the side of the property. Ms. Lover asked for clarification on the requested variance and the width of the deck. Mr. West clarified the variance was for the rear deck. He stated the deck was 8' wide. If he lost 5', there would be 3' remaining. Ms. Lover informed the applicant a variance would not be required if the deck was less than a foot high. Mr. West stated the deck was 24" high. Ms. Lover suggested the option of making a step-down deck. Mr. Caldwell confirmed a step-down deck would not require a variance. Mr. West stated there was a patio door that faced 15th Avenue South and it walked out to the deck. Mr. Thomas asked if the step would alleviate the patio door. Mr. West mentioned it would, but he had started work. Ms. Lover asked if the applicant was within the setbacks on 15th Avenue South. Mr. Farmer confirmed the applicant met the setbacks. Ms. Lover asked if the deck could be

on 15th Avenue South. Mr. Farmer stated it could, but a variance would be required for the rear. The applicant would like to continue replacing the rear deck.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal stated the work being performed would be a repair. Mr. Farmer stated the deck was torn down and it was nonconforming. The deck would have to meet the current district's setbacks. Chairman McGonigal asked if the setbacks or height was the concern. Mr. Farmer stated the height determined the setbacks. Mr. Caldwell stated the deck would not have to meet setbacks if the floor of the deck was less than a foot off the ground. If the floor of the deck was more than 12" off the ground, it would have to meet the 20' setback. Mr. Thomas asked for the square footage for a minimum lot size. Mr. Caldwell stated MR-2 was 5,000 square feet and the applicant's lot was 5,516 square feet. Mrs. West expressed her desire to reconstruct the deck at the existing location. Chairman McGonigal suggested changing the orientation of the lot. Mr. Caldwell stated if 15th Avenue South was the front, the applicant would not meet the rear setback. Mr. Vincent, neighbor, expressed his support for the deck replacement. Mr. Reaves asked for clarification on the difference between repairing and replacing a deck. Mr. Caldwell explained new construction had to meet today's requirements. A structure must retain some elements to be considered a repair.

Ms. Lover made a motion to deny the variance. The Board did not take action on this motion. Mr. Reaves asked if the applicant could enter the house with a 1' tall deck. Ms. Lover suggested the deck on 15th Avenue South to remain the same height, but 12" high on the rear. The Board, staff, and applicants had a lengthy discussion regarding alternative options that would meet the setbacks. The Board asked Mr. Noury for a recommendation. Mr. Noury stated the applicant could postpone or withdraw the variance. Chairman McGonigal suggested the applicant withdraw the variance. Mrs. West agreed to withdraw the variance.

Chairman McGonigal called for a motion. Mr. Reaves motioned to withdraw Variance #V29-23. The motion was seconded by Mr. Thomas. The motion to withdraw passed 4-0.

- G. VARIANCE #V30-23:** Application by Clay Nesmith for a variance to allow more signage that permitted by ordinance at 2100 Firetower Road zoned Highway Commercial, HC District. Mr. Nesmith was seeking approval for a 400 square foot monument sign located along Robert Edge Parkway. He explained the sign would not be legible if it was installed at the allowance square footage due to the setback. The 60-acre lot was similar to a campus rather than a commercial center. Ms. Lover asked if the applicant was seeking a 250 square foot variance. Mr. Nesmith confirmed the requested variance. He stated there were several restrictions such as a retention pond, a Grand Strand Water and Sewer Authority easement, and a 20' easement for a forthcoming sidewalk. Ms. Lover requested a rendering of the proposed sign. Mr. Nesmith presented the sign plans. Ms. Lover requested clarification on the sign's height and lighting.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Ms. Lover stated the property was larger compared to normal highway commercial properties. Mr. Caldwell stated commercial centers over 150,000 square feet were allowed up to 350 square feet of signage, but a church was not a commercial center. The ordinance did not state if that particular use would allow a large sign. Churches were not in the same commercial grouping as retail and restaurants. Mr. Reaves asked what a church would be classified as. Mr. Caldwell stated a religious institution. The minimum lot size for highway commercial was 10,000 square feet. Chairman McGonigal asked Mr. Noury for a recommendation. Mr. Noury stated the applicant was required to demonstrate a

hardship. The large parcel could be a reversed hardship. Ms. Lover stated a property of such size should be allowed to have a 350 square foot sign equivalent to a commercial building. Mr. Caldwell asserted when the sign ordinance changed, the structure had to be measured in entirety. Chairman McGonigal suggested the applicant to modify the lower part of the sign.

Chairman McGonigal called for a motion. Mr. Thomas motioned to approve Variance #V30-23. The applicant had demonstrated an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property was the size 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. The motion was seconded by Ms. Lover. The motion to approve passed 4-0. Mr. Nesmith requested clarification on the conditions. Chairman McGonigal explained the applicant would have to reduce the sign by 50 square feet. The applicant could modify the legs of the sign. Mr. Nesmith expressed his concerns regarding the size of the letters. Mr. Caldwell and Mr. Nesmith discussed various modifications to meet the condition.

H. VARIANCE #V31-23: Application by Richard Breeden for a variance to allow a swimming pool behind the majority of the home at 1302 Springland Drive zoned, Single Family, Low Density Residential, R-1 District. Mr. Breeden stated he ran into a hardship at the time of permit issuance for the construction of his house. Prior to the FEMA flood zone changes, his property was in a flood zone. He had to redesign his house plans due to the height. His swimming pool was not approved due to the location. He confirmed the pool was in the rear yard. Mr. Breeden requested a variance to continue building the pool. Ms. Lover asked if the utility easement restricted the applicant from shifting the pool to completely fit behind the house. Mr. Breeden stated the 20' utility easement had been abandoned and it was not being used. However, he expressed his desire to keep the pool in the same location.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Ms. Lover asked if the curvy bump out of the pool was the hinderance. Mr. Caldwell confirmed it was. Ms. Lover asked if the pool equipment would be in the side yard. Mr. Farmer confirmed the pool equipment would not be in the side yard.

Chairman McGonigal called for a motion. Ms. Lover motioned to approve Variance #V31-23. The utility easement located in the rear of the property created a hardship to locate the pool behind the house. The vast majority of the pool was located behind the house. The motion was seconded by Mr. Thomas. The motion to approve passed 4-0.

I. VARIANCE #V32-23: Application by William McGonigal for a variance to allow more signage than permitted by ordinance at 1717 South Ocean Boulevard zoned Resort Residential, R-4 District. Due to the lack of a quorum, the Board called for a motion to administratively postpone the variance to the following meeting.

J. VARIANCE #V33-23: Application by William McGonigal for a reduce the required perimeter landscaping buffer on one side at 1717 South Ocean Boulevard zoned Resort Residential, R-4 District. Due to the lack of a quorum, the Board called for a motion to administratively postpone the variance to the following meeting.

- K. VARIANCE #V34-23:** Application by William McGonigal for a variance to allow mechanical equipment in the required side yard at 1717 South Ocean Boulevard zoned Resort Residential, R-4 District. Due to the lack of a quorum, the Board called for a motion to administratively postpone the variance to the following meeting.
- L. VARIANCE #V35-23:** Application by William McGonigal for a variance to increase the percentage of mechanical features allowed to exceed the maximum building height limitation at 1717 South Ocean Boulevard zoned Resort Residential, R-4 District. Due to the lack of a quorum, the Board called for a motion to administratively postpone the variance to the following meeting.
- M. SPECIAL EXCEPTION #SE-1-23:** Application by Thomas Quattlebaum for a special exception for a proposed climate controlled self-storage facility at 3601 Hwy. 17 South (former Ryan's) zoned Highway Commercial, HC District. Mr. Quattlebaum was not present at the meeting. Mr. Noury informed the Board that it's been the Board's practice in the past, if an applicant did not appear, to postpone the variance to the following meeting to allow the applicant an opportunity to present information on their behalf.

Chairman McGonigal called for a motion. Ms. Lover motioned to postpone Special Exception #SE-1-23. The motion was seconded by Mr. Reaves. The motion to postpone passed 4-0.

Chairman McGonigal called for a motion to postpone approval of the minutes of the May 11, 2023 meeting. The motion was made by Ms. Lover and seconded by Mr. Reaves. The motion passed 4-0.

Chairman McGonigal called for a motion to adjourn. The motion to adjourn was made by Mr. Reaves and seconded by Ms. Lover. The motion passed 4-0. The meeting adjourned at 7:53 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.