



# TOWN OF PAWLEYS ISLAND ZONING BOARD OF APPEALS MINUTES

Town Hall – Conference Room | 323 Myrtle Ave | Pawleys Island SC 29585  
10-27-2022 – 3:30 pm

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**PRESENT:** Harold Wyatt, Matt Ellis, Peter Fawcett, Byron York (virtual)

**ABSENT:** Hiede Johnson

**STAFF PRESENT:** Daniel O’Hara (Town Clerk), David Durant (Attorney), Kristal Infinger (Georgetown County Zoning Administrator).

Additional Present: Dan Stacy (Counsel for the Applicant), Evelyn Lineberger (Applicant)

## 1. DETERMINATION OF A QUORUM – AGENDA

A. Chairman Harold Wyatt called the meeting to order at 3:30.

## 2. NEW BUSINESS

A. A request from Dan Stacy, as agent for Evelyn Welborn Lineberger for a variance to Article 3-2.2: Low-Density Residential District (R-1), Section (E): Minimum Required Yards. This request involves the new construction of a single-family dwelling. The residential lot is currently vacant. The property is located at 607 Myrtle Avenue in Pawleys Island. Tax Map Number 42-0174-048-00-00. VAR2022-00022.

I. Kristal Infinger gave a brief recap of the 7-13-2022 meeting. Kristal stated the board had deferred the decision for more information from the applicant. The board requested that the applicant confirm the decision of the OCRM on the delineation of the critical line on the property. The OCRM maintained the existing critical line boundary. The ZBA also requested the applicant to provide a site plan without any variance granted. Kristal continued to review the applicant’s variance requests on the OCRM critical line, and the front yard setback requirements. Kristal stated that the owner previously received information from the Town Administrator in 2016 regarding setback requirements, in which it was concluded that the lot was buildable. The applicant currently is requesting a 10-foot variance on the 20-foot front yard setback. The applicant is also requesting a 10-foot variance to the OCRM critical line 10-foot setback. The 10-foot critical line setback is enforced by the town, not the OCRM. The applicant has not provided a site plan for a home under the current restrictions. Kristal gave an overview of her staff report included in the packet. Kristal highlighted the following:

i. There are extraordinary and exceptional conditions pertaining to the particular piece of property. The lot is

oddly shaped, with the southern side property line being approximately 34' shorter than the northern side property line. The salt marsh critical line was previously located in the area designated for the expansion of Scarborough Avenue. The existing salt marsh critical line is now located further landward on this parcel and restricts the buildable area of the lot on the rear and both sides of the property.

- ii. The conditions of this parcel do not apply to the surrounding parcels. The other buildable parcels in the area appear to be of a more normal shape and contain a more buildable area. The surrounding lots do not appear to be as greatly affected by the salt marsh critical line. Most of the occupied lots appear to have installed retaining walls to protect their properties from erosion and the encroachment of the salt marsh.
  - iii. The application of this ordinance would effectively prohibit or unreasonably restrict the use of this parcel. Enforcing the 20-foot front setback and the 10 setbacks from the salt marsh critical line restricts the buildable area of this lot by approximately 50% or more. The proposed dwelling will not encroach into the salt marsh critical line.
  - iv. The authorization of this variance request would not be a substantial detriment to the adjacent property owners or the public good.
- b. Chairman Harold Wyatt asked if the applicant had anything to add to Kristal's comments and report. Dan Stacy presented a larger image of the maps provided in the packet for the Board's inspection. Dan Stacy showed and explained the position of the home according to a survey conducted in 2007. Dan Stacy continued to explain a few points of emphasis to the board. Dan started by mentioning to the board he had made a petition to the OCRM to re-delineate the property. Dan stated that OCRM said that the delineation was accurate and would not redo it. Dan referenced Kristal Infinger's report mentioning that this is an eligible variance to grant based on the four key factors. Dan Stacy stated while he was not present at the previous meeting, he mentioned that there was a previous discussion on setting a

precedent. Dan Stacy stated he believes that every property is unique. He continued to explain that what the board decides on this property or any other property is not precedential and therefore unique and should be looked at that way. Dan Stacy continued to explain that this is not a self-created hardship, and that Mrs. Lineberger took all the proper steps to make sure she would be in compliance. Dan Stacy explained that perhaps she should have checked with OCRM, but she did not know she needed to. Dan Stacy stated that in regard to precedent, if his home on the Island were to burn down, he would not be able to rebuild it to its current footprint, he pointed out that there were many homes on the island in this situation. Dan continued to explain that the applicant would accept a condition to help mitigate the disruption to the marsh. Dan Stacy opened for questions from the board. Peter Fawcett asked if there were currently any plans for a house. Evelyn Lineberger said that it is hard to make plans when you do not know what you can build. Dan Stacy stated that the house would be built to the Town of Pawleys Island standard if allowed. Matt Ellis asked whether the gentleman that was present at the previous meeting was still involved with the property or if this was a planned home for the applicant. She stated that she is the only one involved with the lot. Byron York asked a few questions of Dan Stacy and Kristal Infinger regarding the square footage of the home and when were the setback requirements created. Byron asked for clarification of the critical line requirements and the shift that has occurred. Byron stated that the applicant was basing the requirements of the lot on a survey conducted in 2007. Dan Stacy referenced that the OCRM critical line on the ocean side is redrawn over time while the marsh side is handled case by case. Byron asked Kristal whether there has been a variance given before on a similar issue. Kristal stated not to her knowledge has that occurred. Byron followed up by asking whether there had been variances granted on the front setback of 20 ft. Kristal stated that she has granted variances on the front yard setback for various reasons. Chairman Wyatt opened the floor to the public to comment or ask questions. Douglas Shanks addressed the board, and Douglas shared his thoughts about the ruling, and other properties he stated that residents do pay attention to the decision that the board makes.

Dan Stacy thanked Mr. Shanks for his comments and shared his appreciation for them. Dan Stacy referred to a previous statement about a self-created hardship. Stating that this situation is not the case and that the board should consider the facts and circumstances revolving around the property. Evelyn Lineberger stated to the board that she feels like she has lost half of her home due to these setback requirements.

II. **Executive Session - S.C. Code 1976, 30-4-70(a)(2)**

- i. **Harold Wyatt asked for a motion to move into the executive session. Peter Fawcett started a motion to move into executive session. Matt Ellis seconded the motion. All voted in favor.**
- ii. Following the Executive session, Harold Wyatt opened the floor to any discussion. No discussion was made. **Chairman Harold Wyatt requested for a motion to either approve or deny the variance request on the 0' setback from the critical line setback requirement. Peter Fawcett motioned to deny the request. Byron York seconded the motion to deny. All voted in favor, and none opposed. Chairman Wyatt requested a motion to either approve or deny the variance request on the 10' setback from the 20' front setback requirement. Peter Fawcett made a motion to deny the request. Byron York seconded the motion to deny. All voted in favor, and none opposed.**

3. **APPROVAL OF MINUTES**

A. 07-13-22 MINUTES

- i. **Chairman Wyatt requested a motion to approve the previous meeting minutes and for adjournment. Peter Fawcett started the motion to approve the previous meeting minutes and for adjournment. Matt Ellis seconded the motion. All voted in favor, and none opposed.**

4. **OTHER BUSINESS**

5. **ADJOURNMENT**

- A. See in action item 3-A.

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**APPROVED**

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**DATE**

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**ATTEST**

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**DATE**