



TOWN OF PAWLEYS ISLAND ZONING BOARD OF APPEALS MINUTES

Town Hall – Conference Room | 323 Myrtle Ave | Pawleys Island SC 29585
2-23-2023 – 3:30 pm

PRESENT: Harold Wyatt, Heide Johnson, Peter Fawcett (virtual), Byron York (virtual)

ABSENT: At the time of this meeting, there was a vacancy on the Zoning Board of Appeals

STAFF PRESENT: Daniel O’Hara (Town Clerk), Woody Durant (Town Attorney), Daniel Newquist (Town Administrator).

Additional Present: Dan Stacy (Counsel for the Applicant at 114 Atlantic Ave.), Whitney Newman (Architect for the Applicant at 114 Atlantic Ave.), Jeff Dave (Adjacent neighbor of 114 Atlantic Ave), Mark Hawn (Adjacent neighbor of 114 Atlantic), Robert and Sharon Moser (Adjacent neighbor of 114 Atlantic), Charles Swenson (Coastal Observer)

1. CALL TO ORDER

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

2. DETERMINATION OF A QUORUM – AGENDA

A. Daniel O’Hara took attendance and confirmed that there was a quorum.

3. APPROVAL OF 10-27-2022 ZBA Minutes

A. **Chairman Harold Wyatt asked if there were any questions or clarifications regarding the draft minutes from the October 27, 2022, ZBA meeting. Peter Fawcett made a motion to approve the minutes as presented. Byron York seconded. All voted in favor of approving the 10-27-2022 meeting minutes as presented.**

4. NEW BUSINESS

A. Appointment of Chairperson and Vice-Chairperson

I. Chairman Wyatt explained that the ZBA needed to determine Chairman and Vice-Chairman appointments for 2023. Chairman Wyatt confirmed that currently, he serves as the Chair and that Heide Johnson serves as the Vice-Chair. Heide Johnson made a motion to appoint Harold Wyatt to continue serving as Chair of the ZBA. Byron York seconded. All voted in favor of having Harold Wyatt continue serving as Chair of the ZBA. Peter Fawcett made a motion to appoint Heide Johnson to continue serving in the role of Vice-Chair of the ZBA. Byron York seconded. All voted in favor of having Heide Johnson continue in her role as Vice Chair of the ZBA.

B. VAR2023-00001: A request for a variance to Article 3-2.2: Low-Density Residential District (R-1), Section (E): Minimum Required Yard. The applicant is requesting a one (1) foot variance to the side yard setback requirements to build a new home. The property is located at 114 Atlantic Avenue in Pawleys Island.

Tax Map Number 42-0159-039-00- 00

- I. Chairman Wyatt acknowledged Daniel Newquist to provide an overview of a request from Dan Stacy, as agent for Milt Childress for a variance to Article 3-2.2: Low-Density Residential District (R-1) Section E: Minimum Required Yard. The applicant is requesting a one (1) ft variance to the side yard setback requirements to build a new home. The property is located at 114 Atlantic Avenue in Pawleys Island. Tax Map Number 42-0159-039-00-00 After reviewing the specifics of the proposed variance, Mr. Newquist shared that the property was purchased from the previous owner in 2022 and then the existing structure was demolished to build a new home site on the property. The property owners have presented their design plans to the Architectural Review Board at their December 5, 2022, meeting. The ARB recommended the design proposal pending approval of the variance that is being requested today. Mr. Newquist explained that as the architect, Whitney Newman, was preparing the design for the house the plat for the lot showed a 60-foot frontage on Atlantic Ave. A follow-up survey determined that the actual lot width is 59 ft 5in wide. Hence the need for a one-foot variance from the side yard setback requirements. Dan Stacy then answered questions from the BZA members regarding the previous survey record on the lot. Mr. York asked whether the 10 ft walkway that is shown in the survey is public beach access. Mr. Stacy clarified that it is not a public beach access but has been historically utilized by nearby property owners on the creek side of Atlantic Ave. Mr. Stacy confirmed that the Childress family is willing to formalize the easement for the beach access point. Ms. Johnson asked if it is a better protocol to survey at the front end of the design process. The Town Administrator Dan Newquist indicated that he would look into this. Neighbors on the creekside of Atlantic that were in attendance did share their continued desire to have this beach access available for their use. Jeff Dave, the adjacent neighbor to the North stated that he did not see in the meeting packet whether the one-foot variance would apply to one side yard or split evenly between the two side yards. Mr. Newman confirmed that his current plans do show that the variance would be applied to both side yards and that this one-foot variance is only being requested to provide a margin of error to ensure that the home is being constructed within the buildable area of the lot. Chairman Wyatt asked if there was any thought into shifting the entire one-foot variance request to the Southern side yard to preserve enough width for the beach access point on the side yard of

the Northern lot boundary. Mr. Hawn, an adjacent neighbor to the South of 114 Atlantic commented that while he understands that the variance request is only for a few inches, he felt like the setback should be applied equally to both sides. There should be no preferential treatment to the beach access easement for neighbors who don't own that property and only utilize the beach access periodically versus those who own and lives at the residence south of 114 Atlantic. Ms. Johnson asked if there were any comments regarding the proposed variance request during the public notice period. Mr. Newquist verified the public notice procedures and noted that other than a few questions in advance of the meeting there were no formal comments submitted.

- C. VAR2023-00002: A request for a variance to Article 3-4.12: Fences, Section (D): The applicant is requesting a variance to the allowable building materials for fences in AE Flood Zones. The applicant is seeking to install a privacy fence on the property. The property is located at 226 Myrtle Ave in Pawleys Island. Tax Map Number 42- 0163-051-00-00.

- I. Chairman Wyatt then asked Town Administrator, Daniel Newquist to review a variance request submitted by Lisa Frey property owner at 226 Myrtle Ave. Tax Map Number 42-0163-051-00-00. Mr. Newquist explained that Ms. Frey is requesting a variance to Article 3-4.12: Fences, Section (D). Ms. Frey is in the process of constructing an outdoor kitchen patio area. She would like to erect a fence to prevent unauthorized access. Her preferred fence material would be a metal fence that is only allowable to enclose backyard swimming pool areas. Mr. Newquist referenced the type of material Ms. Frey is considering that was included in the meeting packet. Mr. Newquist explained that he has advised Ms. Frey on all of the other fence requirements in the Unified Development Code including the height restrictions, flood mitigation specifications, etc. Mr. York commented that he has spoken to the applicant and has no problem with the proposed variance at this site. Mr. Newquist explained that there was only one inquiry during the public notice period from a neighboring property. Upon explanation of the proposal, that neighbor had no issue with the proposed variance.

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

- A. Following the presentation of the variance requests VAR2023-00001 and VAR2023-00002, **Harold Wyatt asked for a motion to move into the executive session to obtain legal advice from the Town Attorney regarding the proposed variance requests at 114 Atlantic Ave and 226 Myrtle Ave. Heide Johnson started**

a motion to move into the executive session. Peter Fawcett seconded the motion. All voted in favor.

B. After the Executive Session, **Chairman Wyatt requested a motion to close the executive session and return to the regular meeting. Peter Fawcett made a motion to close the executive session and return to the regular meeting. Heide Johnson seconded.**

6. ZBA DECISION

A. Chairman Wyatt then called the Board to vote on VAR2023-00001- the proposed one-foot side yard variance for the property at 114 Atlantic. **Heide Johnson made a motion to approve the variance request as presented. Peter Fawcett seconded the motion. All voted to approve the variance request.**

B. Chairman Wyatt then called the Board to vote on VAR 2023- 00002- the proposed variance to allow for alternative fence materials allowed on the property at 226 Myrtle Ave. **Peter Fawcett proceeded to make a motion to approve the proposed variance. Heide Johnson seconded. All voted in favor of approving the variance request.**

7. ADJOURNMENT

A. Chairman Wyatt then reminded the Board that the next meeting is scheduled for May 24, 2023, and then called for a motion for adjournment.

APPROVED

DATE

ATTEST

DATE