

**MINUTES OF THE BOARD OF ADJUSTMENT
ON SLOW COUNTY
JACKSONVILLE, NORTH CAROLINA
March 12, 2019**

I. CALL TO ORDER: Christina Asbury called the Onslow County Board of Adjustment meeting to order at 6:30 pm.

II. ELECTION OF CHAIR:

In the absence of the Chair and Vice Chair, Ms. Asbury moved to nominate Marilyn Bunce as Chairman for this meeting. Ms. Buchanan seconded. The motion passed by unanimous vote.

III. INVOCATION: Marilyn Bunce pronounced the invocation.

IV. PLEDGE OF ALLEGIANCE: Marilyn Bunce led all present in the Pledge of Allegiance.

V. ROLL CALL:

Roger Brown
Christina Asbury
Marilyn Bunce
Jeff Brown
Amy Buchanan

Staff Members Present:

Jennifer Ansell, Chief Zoning and Environmental Officer
Angie Manning, Land Use Administrator
Benjamin Warren, Assistant County Manager
Kourtney Powell, Administrative Assistant

VI. NEW BUSINESS:

A. SUP-2019-00004 – Joseph Bjornas is requesting a Special Use Permit to set up a single Recreational Vehicle (RV) at 168 Old Folkstone Road in Sneads Ferry, NC, Parcel ID 746-47.3:

Ms. Ansell provided an overview of the application SUP-2019-00004.

Applicant: Joseph Bjornas

Summary of proposal: Mr. Bjornas is requesting a Special Use Permit to set-up a single RV on the property located at 168 Old Folkstone Road in Sneads Ferry, NC. The property is within the Residential 8M (R-8M) zoning district and consists of approximately 3.93 acres. The property is identified as tax map number 746-47.3. There are no regulated wetlands and the property is not located within the special flood hazard area.

Staff Recommended Conditions: A TRC was held on February 19, 2019 and staff is recommending the following conditions if the application is approved:

- 1) The RV should be identified with an address number for emergency response.

Additional Information: The property is not located within the Flight Path Overlay District.

Zoning District Summary: The property is in the Residential 8M (R-8M) Zoning District.

Access/Traffic: The 2016 NCDOT Annual Average Daily Traffic (AADT) counts show 3,000 vehicle trips per day along Old Folkstone Road (SR 1518) and between 18,000 and 21,000 vehicle trips per day along Wilmington Highway within the vicinity of this site.

Comprehensive Plan (CAMA Core Land Use Plan): The Comprehensive Plan, Future Land Use Map shows the property as Medium-Density Residential.

Forrest Bjornas, 168 Old Folkstone Road, Sneads Ferry, NC.

Mr. Forrest Bjornas, the applicant's father, was available for any questions. He stated that he is currently living in the RV.

First General Conclusion: That the special use, if approved, will not materially endanger the public health or safety, if located where proposed according to the plan submitted and approved. Ms. Buchanan made the motion to approve the finding per the ordinance requirements. Ms. Asbury seconded the motion. Ms. Buchanan stated that it seems to be in compliance with emergency responders and the neighborhood. The motion passed by unanimous vote.

Second General Conclusion: That the use meets all special uses and specifications. Mr. Jeff Brown made the motion to approve. Mr. Roger Brown seconded the motion. Mr. Jeff Brown stated that it appears the application is compliant with the standards. The motion passed by unanimous vote.

Third General Conclusion: That the use would not substantially injure the value of the adjoining or abutting property, or that the use is a public necessity. Mr. Jeff Brown made the motion to approve the finding. Mr. Roger Brown seconded the motion. Mr. Jeff Brown stated that there is no evidence that it will lessen the value of property around it. The motion passed by unanimous vote.

Fourth General Conclusion: That the location and character of the use, if developed according with the plan as submitted and approved, will be in harmony with the area in which it was to be located and in general conformity with the Onslow County Comprehensive Plan and other Onslow County Ordinances. Mr. Roger Brown made the motion to approve. Ms. Asbury seconded the motion. Mr. Roger Brown stated that it seems to meet the zoning requirements.

Ms. Bunce announced to the applicant that the Special Use request had been approved.

B. VAR-2019-00001 – Larry and Charlene Strickland are requesting a Variance from the rear setback requirements of Article X, Section 1008, Golden Acres Subdivision at 289 Waterway Drive in Sneads Ferry, NC, Parcel ID 774E-13:

Ms. Manning provided an overview of the application VAR-2019-00001.

Applicants: Larry and Charlene Strickland

Summary of proposal: Mr. and Mrs. Strickland are requesting a Variance from the rear setback requirements of Article X, Section 1008, Golden Acres Subdivision at 289 Waterway Drive in Sneads Ferry, NC. The property is located in the Residential 15 (R-15) zoning district and consists of approximately 0.42 acres. The property is surrounded by properties zoned for medium-residential use. There are regulated wetlands on the property and the property is located within the AE special flood hazard area.

Additional Information: The zoning permit was mistakenly issued for the proposed home on the property without consideration of the rear setback required under Section 1008. The site plan was revised and the zoning permit was re-issued to move the home to the required 50' setback line with a 5.5' wide uncovered rear deck, which is compliant with Sections 1008 and 1009 of the ordinance.

Zoning District Summary: The property is in the Residential 15 (R-15) zoning district.

Ms. Buchanan asked if the revised site plan had to be sent back to CAMA for approval.

Ms. Manning responded that it does not have to be sent back because it does not change anything with CAMA.

Mr. Jeff Brown asked if the lots have actually been surveyed.

Ms. Manning responded that the surveyor has not surveyed the neighbor's lots, but used GIS to determine the rear setback lines for these properties.

John Pierce, 405 Johnson Blvd., Jacksonville, NC.

Mr. Pierce explained that he had originally completed the survey and map to show the home with a 55' setback and a 10' covered porch. They then discovered the restrictions zoning modified the plan to move the house 5' closer to make the front setback 50'. He expressed that this is a very unusual case and they were not aware of this restriction at first.

Larry Strickland, 1104 Country Brook Drive, Raleigh, NC.

Mr. Strickland explained that he and his wife bought this property and the modular home to live in as their retirement home. He expressed that he and his builder have done everything they were supposed to do and he expressed how this has been a hardship on him and his wife. He explained that because of what has happened, they are moving into a retirement place where some neighbors will not even speak to them. He stated that the County made an honest mistake, but he and his wife are the ones that are suffering from it.

Brian Koenig, 287 Waterway Drive, Sneads Ferry, NC.

Mr. Koenig lives nextdoor to this property and stated that he contacted Mr. Strickland when he saw the pilings being constructed to inform him of the setback requirements. He stated that they moved the front pilings back but the house is still sitting forward 5' from the original setback. He stated the back of the house is not in line with his house, it is 5' forward. Mr. Koenig expressed that as the house sits now, it is still not compliant. He stated that they have not moved any other pilings except the front pilings. Mr. Koenig brought pictures to show the Board the locations of the pilings and the house.

Mr. Pierce stated that the home was originally staked off at 55' like the permit required. The site plan was then modified to show the home at 50 feet from the Right of Way. He stated that the builder stated that they would set the house according to the revised plot plan.

Mr. Koenig stated that he was confident the pilings were not moved back. He stated that if you move one piling back then you have to move the others, and that was not done.

Donnie Pritt 22019 US Hwy 17N, Hamptead, NC.

Mr. Pritt is the owner of Custom Built of Homes of the Carolinas. He stated that the Stricklands picked out that piece of property and chose a home. They contacted Onslow County zoning to determine the setback requirements and hired John Pierce to do the survey and prepare a site plan. They then went to the property to set the pilings to begin construction. The modular home was scheduled to be delivered the following week. Angie Manning informed Mr. Pritt of the setback issues. Mr. Pritt contacted John Pierce to complete a revised site plan and he contacted Adams Engineering to complete a revised set of plans. Mr. Pritt stated that you do not have to move all of the pilings. He provided a piling diagram for the Board to see what pilings were removed and added. Mr. Pritt explained that zoning came back out to ensure that the piling locations met the requirements. The day before the home was to be delivered, Angie Manning contacted Mr. Pritt to inform him that a neighbor had called and complained that nothing had been moved. According to the revised site plan, the customer could build a 7.5' deck. Mr. Pritt explained that the Stricklands

would like to have what the County permitted them to do originally, which is a 10' covered screen in porch.

Ms. Asbury asked if Mr. Donnie Pritt was consulted with by Mr. and Mrs. Strickland while they were under contract prior to the purchase about their intended use for this property.

Mr. Pritt answered that they looked into the zoning and other factors during the due diligence period along with the realtor.

Ms. Buchanan asked if everything on this property was complete with the exception of the decision on the porch.

Mr. Pritt answered that as of now the pilings are set and the house was delivered last week. They cannot move forward with heating and air or anything else until this decision is made and there are some steps and decks constructed.

Ms. Bunce asked why they did not ask for a variance on the front set back rather than the rear setback.

Mr. Pritt explained that if they would have moved the house into the front setback, all construction would have had to stop, the house could not be delivered, and it would have been harder to meet the requirements that the Board votes on.

Ms. Bunce stated that they would have ultimately been in the same situation that they are now.

Mr. Pierce stated that they did discuss the possibility of moving the home into the front setback, but the face of the deed reads that no home should be built closer than 50'. Mr. Pierce had a concern that if the home was to ever be resold, regardless if the County granted a variance, it would be an issue because the deed would be violated.

Katherine Kellum, 287 Waterway Drive, Sneads Ferry, NC.

Ms. Kellum stated that the sign for the Board of Adjustment meeting was posted on March 1, and the home was delivered the following week instead of waiting to see the outcome of the meeting. Ms. Kellum stated that she knows the Stricklands have suffered a lot financially, but she felt as if installing the home, prior to their rights to do so, was a hardship that was a result of their own actions. She felt like the home was installed prior to the meeting with the intention to ask for

forgiveness later. Ms. Kellum expressed that she did not feel like the Stricklands met the hardship requirements.

Marie Simmons, 285 Waterway Drive, Sneads Ferry, NC.

Ms. Simmons stated she and her husband purchased their home in August 2016 and were aware of the zoning ordinance and the setback requirements. She stated that something should be worked out to allow the Stricklands their porch but it should not block the neighbors view or interfere with the conformity of the waterway.

Mr. Strickland stated that their house is 12' high and you can see through the pilings. He stated that some 12'-14' trees block the view the most on an empty lot. He also mentioned the shed that is located on the Simmons' property that obstructs the waterway view.

Ms. Asbury asked if Mr. Strickland hired a real estate agent to handle all of his due diligence and research on the property based on his intended use for the lot prior to the purchase of the lot.

Mr. Strickland confirmed that he hired a real estate agent.

Ms. Simmons stated that the shed on her property has been there for 15-20 years and they are in the process of taking down the shed.

Thomas Rhyne II, 140 Mystwood Hollow, Holly Springs, NC.

Mr. Rhyne stated that he is speaking on behalf of his mother who owns the property at 283 Waterway Drive. Mr. Rhyne stated that the shed was erected without any County approvals. He stated that he is very happy that they are going to remove it. Mr. Rhyne stated that he finds it hard to believe the County or no one else knew about this zoning requirement. He stated that his parents knew about it when they had their final inspection in 1989 and it was one of the reasons they purchased the property. He expressed that he is hopeful that the Board can come up with a solution for this current issue.

Larry Griffin, 346 Waterway Drive, Sneads Ferry, NC.

Mr. Griffin explained that he is in a similar situation as Mr. Strickland. His property is not located on the waterfront side of the street, but he is facing similar challenges with the setback requirements. He expressed the difficulty of meeting the 50' setback on a 200' lot that has a lot of swamp land in the back of it. He stated that he hopes these issues are resolved because it has cost him a lot of money already.

Mr. Pritt came back up to state that the location of the house is compliant with the standards; they are only requesting a variance for the deck.

Ms. Buchanan asked if the County has been on the site and verified the setbacks.

Ms. Manning confirmed that a zoning officer went on site.

Ms. Asbury stated that as a real estate agent that practices in that area, she was familiar with this zoning setback requirement. She stated that this zoning ordinance is public record and other real estate agents in that area are aware of it. She expressed that she understands the concerns on both sides of this matter.

Mr. Jeff Brown stated that he feels the applicant did everything that they could do and were supposed to do by contacting the County on the requirements and applying for permits.

Ms. Bunce stated, with all comments considered, that she does not feel like a 2.5' of screened in porch is going to obstruct that much of the neighbor's waterway view but she certainly sees everyone's side in this situation.

First General Conclusion: That unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. Ms. Asbury made the motion to approve. Mr. Jeff Brown seconded the motion. The motion passed by unanimous vote.

Second General Conclusion: That the hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. Mr. Jeff Brown made the motion to approve because the conditions are peculiar to that particular property. Ms. Buchanan seconded the motion. The motion passed by unanimous vote.

Third General Conclusion: That the hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. Mr. Roger Brown made the motion to approve based on his belief that the property owner and the builder were issued permits and did everything they were supposed to do. Mr. Jeff Brown seconded the motion. The motion passed by unanimous vote.

Fourth General Conclusion: That the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. Ms. Asbury made the motion to approve with the condition that the applicants be required to build

a 10' open deck rather than a closed in screen porch to protect the view rights of the neighbors. She stated that she does not believe that an open deck is not going to have as much of an affect on blocking the view as an enclosed porch . Ms. Buchanan seconded the motion. Mr. Jeff Brown stated that he does not believe 2.5' of an enclosed porch is going to block the neighbor's view. Ms. Asbury added that she knows people buy property in that area and on that street for the widest view of the intercoastal waterway. The motion failed by a 3 to 2 vote (Brown and Brown).

A subsequent motion was made by Mr. Jeff Brown to approve without the condition. Mr. Roger Brown seconded. The motion failed by a 3 to 2 vote (Asbury and Buchanan).

Ms. Bunce suggested that the enclosed porch be constructed around to the side of the house. She asked if a 7.5' porch would be acceptable and compliant.

Ms. Manning confirmed that a 7.5' porch would be compliant with the standards in the zoning ordinance.

Ms. Bunce announced to the applicant that the Variance request had been denied.

VII. COMMENTS:


None.

VIII. ADJOURNMENT:

There being no further discussion, the meeting was adjourned at 8:03 PM.



Kourtney Powell, Administrative Assistant



Mr. Jerome Shaw, Chairman