

**TOWN OF SOUTH BETHANY
BOARD OF ADJUSTMENT - PUBLIC HEARING
FRIDAY, JANUARY 12, 2018 1:30PM
MINUTES**

BOARD: Chairman Steve Bunoski, Al Rae, Martha Fields, Charlene Sturbitts, Peter Bogetti

TOWN STAFF: Joe Hinks, Code Enforcement Constable
Janet Powell, Town Clerk/Recording Secretary

APPLICANT: BOA Application 1-2018, Mary Beth Besosa - Lot 40, 112 Elizabeth Court

ATTENDING: Mr. Winterling, Ms. Meaghan Hudson, Esq., Benjamin Besosa
George & Katherine Way, Lenora & Geoffrey Scully

Chairman Bunoski called the hearing to order at 1:30 p.m.
All parties were sworn in who requested testimony during the hearing.

The hearing is a request for a variance of Article XI, Section 145-38 A (1) front yard setback requirement of the Code of South Bethany. Ms. Besosa is requesting a variance from the 25' front yard setback, totaling 8'(feet) 8 3/8" (inches). Ms. Besosa's plans are to raise the first floor to the second floor and create a new first floor with a garage using the existing foundation and driveway.

Ms. Besosa's contractor, Mr. Winterling, approached Mr. Hinks for a building permit. Upon reviewing the plot survey, (Exhibit 1) Mr. Hinks noticed the existing house was encroaching the setback at 8.7 feet. The house was constructed in 1984 and sits on a cul-de-sac, a curved road. Chairman Bunoski asked if the cul-de-sac was present or created after 1984. Mr. Hinks reviewed a 1985 map from the town archives and announced the cul-de-sac existed in 1985, and believes the cul-de-sac was there in 1984, and that the builder never lawfully constructed the home in compliance with Town Code.

The Board members asked if the house could be picked up and moved, or torn down and rebuilt within the setbacks. Mr. Hinks explained the house could be moved, with alterations. Attorney Meaghan Hudson explained moving the house back would encroach on the rear setback. Ms. Besosa explained moving or tearing down and rebuilding was too costly and not her intention when she purchased the home in September 2017.

Town Clerk Janet Powell received four correspondences from town residents: (Exhibit 2)

Richard & Barbara Wahlers at 107 Elizabeth Court,

Michael & Barbara Dobbs at 113 Elizabeth Court, and

Donald Sandala and Susan Jordan at 114 Elizabeth Court had no objection to the variance.

Joe Hinks received an anonymous letter stating they are opposed of the variance.

BOA member Mr. Rae questioned the anonymous letter. Mr. Hinks stated he would protect the anonymity unless the Board requests the name; which he would provide; hence, it will no longer be an anonymous letter. Mr. Rae and the other Board members agreed that knowing that a person is against the variance would be given the weight each member deemed appropriate in their individual decision(s).

Ms. Besosa presented a list with six signatures and one letter; all in favor of the variance: (Exhibit 3)
George & Katherine Way, 21 Cleveland Ave
Lawrence Gough, 121 Elizabeth Way
Walter Laderer, 16 Cleveland Ave
Lenora & Geoffrey Sculley, 20 Cleveland Ave
A letter from Bill & Denise McCormick, 311 W 8th Street

Upon discussion of substantial improvement to the home from the applicant, Mr. Hinks explained there is a request for substantial improvement to the home, but the home was never lawfully constructed and is an illegal nonconforming structure.

Surrounding homeowners voiced approval of the variance. Ms. Lenora Sculley stated the new construction will have a garage, therefore helping to elevate a parking issue on the cul-de-sac. She also expressed the house has sat vacant for the last five years and Ms. Besosa's purchasing and building improvements will be an asset to the town. Ms. Katherine Way stated no parking issue and improvements to the house were an asset to the community. Mr. George Way stated Ms. Besosa only wants to raise the house and use the existing foundation.

Ms. Besosa now understands her house was built illegally as a nonconforming structure in 1984, prior to her purchase in September 2017. She did not possess that knowledge during the purchase of her home.

Attorney Meaghen Hudson explained due to the uniqueness of the property, it would be a hardship and an exceptional and practical difficulty to move the house, which might cause another setback issue. Ms. Hudson stated that approval of this variance would promote the spirit of the Town of South Bethany Code, Section 145-2, to conserve the value of a single-family home, and year around residency. Further, no fire issues are present due to no side setback variance request. A rebuild provides for health and general welfare of the town. Raising the home helps minimize flood issues and the new rebuild would control street congestion.

Upon deliberation, Ms. Martha Fields felt that the setback is really in the cul-de-sac (not towards a neighbor) it's uniquely shaped property meets the exceptional practical difficulties standard. She felt improvements brings enhancement to the public good. Ms. Sturbitts agreed that the property and owner meet the exceptional practical difficulties standard. Chairman Bunoski felt that since Ms. Besosa did not know during the purchase of the home of the infringement, the variance could be considered. Mr. Rae stated they are not changing the existing floor plans and brings enhancement to the community. Mr. Bogetti stated he liked the fact that they were staying in the same footprint and agreed with the exceptional practical difficulties standard.

The Board voted unanimously for the Approval of the variance.

The hearing was adjourned at 2:45 p.m.

Attachment: Boundary Survey of 112 Elizabeth Court – Exhibit 1
Three correspondences in favor of the Variance – Exhibit 2
One anonymous correspondence against the Variance – Exhibit 2
A list with 6 signatures for the Variance – Exhibit 3
Letter from Bill & Denise McCormick for the Variance – Exhibit 3