

**TOWN OF SOUTH BETHANY
BOARD OF ADJUSTMENT
MINUTES AND PUBLIC HEARING
FRIDAY, SEPTEMBER 6, 2019**

PRESENT: Chairman Steve Bunoski, Al Rae, Martha Fields, Peter Bogatti, Charlene Sturbitts
TOWN STAFF: Joe Hinks, Code Enforcement Constable
Janet Powell, Town Clerk/Recording Secretary
APPLICANT: Mark Hardt, Contractor and Kevin Juhring, homeowner
103 Petherton Drive, South Bethany, DE

Chairman Bunoski called the Meeting to order at 1:20 p.m.

Approval of Minutes

Steve Bunoski motioned the approval and Martha Fields seconded the May 17, 2019 Minutes for Gallagher/Kehoe. The ORDER had been created by Attorney Tomasetti representing Gallagher/Kehoe; with Chairman Bunoski finalizing the ORDER and sending the ORDER back to Tomasetti for his final review.

Annual Vote of the Board of Adjustment Chairman & Secretary effective August 1, 2019

Martha Fields moved to elect Steve Bunoski as Chairman, Charlene Sturbitts seconded the nomination. Al Rae and Peter Bogetti also voted, making it a 4-1 vote. Bunoski accepted the position as Chairman.

Reappointment of members

Chairman Bunoski announced that on August 9, 2019, the Town Council approved Mr. Al Rae, Mr. Peter Bogetti and Mr. Steve Bunoski as members of the Board of Adjustment for 3 more years.

Chairman Bunoski called the Hearing to order at 1:30 pm

All parties were sworn in who requested testimony during the hearing PURSUANT TO 22 DEL.C. SECTION 327 (a) AND ARTICLE XI, SECTION 145-38 A (3) 8 FT. side yard setback requirements of the Code of South Bethany. The Board of Adjustment will hold a Public Hearing to consider the request of the owners at 103 Petherton Drive, South Bethany, for a variance request to install a spiral staircase in the side setback as a second exit from the home for safety reasons; to allow access in the event of an emergency.

Builder Mark Hardt explained that during the new construction, he raised the house and made all the compliant setbacks. Upon completing the project, they were aware that they only had one exit in the home, near the utility room. Homeowner Mr. Juhring's concern was if the only exit is near the dryer, and if a fire would happen (especially from the dryer) there would be no way out of the house. Mr. Hardt explained that there is a vertical 6' window on the second floor that they could cut and replace with a door as a second exit door to an outside spiral staircase on the side of the house. Other places were discussed to place the door and spiral staircase, including the back of the home on the patio. Mr. Hardt explained the staircase would not be feasible to exit in the back of the home due to rising water in the canal during flooding, hurricane or nor'easter storms.

A letter from Mr. Keith Angerman, 100 Petherton was reviewed regarding the terminology of the variance - as an emergency safety reason should not be used. He didn't oppose the variance; but felt it is not an emergency safety reason and should just be a variance request. Upon discussion the Board agreed to call this request a variance request; not an emergency safety variance request.

Inspector Joe Hinks quoted from Town Code regarding the variance request could be satisfied referring to Chapter 145-38(F)

Existing dwellings raised to meet BFE or to provide freeboard in the R-1 District on lots west of Ocean Drive and east of Delaware Route No. 1, or abutting Sea Side Drive may include steps, a ramp, or platform in the setback area, provided that each of the following are satisfied:

[Added 5-13-2016 by Ord. No. 180-16[1]]

- (1) No other reasonable alternative is possible, such as, but not limited to, changing the direction of the steps, a ramp, or platform;
- (2) No step, ramp or platform shall be wider than four feet or longer than five feet extending toward the property line;
- (3) The top of the step, ramp, or platform shall be no higher than the elevation of the first livable floor of the dwelling;
- (4) Such structures must otherwise be in compliance with the International Codes, IBC/IRC, as specified by the Sussex County Building Department and Coastal Floodplain Regulations, as amended; and
- (5) Off-street parking requirements of Article XIII, § 145-41A, are satisfied.

Charlene Sturbitts stated it was a homeowner's error, his afterthought. Considering the homeowner mentioned his concern over safety, his elderly parents and family escaping during a fire; Charlene found this variance request as an afterthought. Therefore, Charlene opposed of the variance. The remaining board approved the variance; a 4-1 vote.

The hearing was adjourned at 2:35 p.m.

Attachments:

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| Exhibit 1 | Variance Request Application |
| Exhibit 2 | M.C. Hardt survey of the home |
| Exhibit 3 | Homeowner's letter, Keith Angerman |
| Exhibit 4 | Town Code Chapter 145-38(F) |