

**TOWN OF SOUTH BETHANY
BOARD OF ADJUSTMENT PUBLIC HEARING MINUTES**

Wednesday, June 9, 2021, 1:00 p.m.

**This meeting/hearing was conducted electronically pursuant to
Governor Carney's State of Emergency Declaration effective March 13, 2020.**

PRESENT: Chairman Steve Bunoski; Charlene Sturbitts; Martha Fields; Al Rae; Jimmy Oliver; Barrett Edwards

TOWN STAFF: Joe Hinks, Code Enforcement Officer; and Matt Amerling, Town Clerk

APPLICANT: **Britta Luhde Battaile, Friedrich & Ingeborg Luhde**, 310 York Road, Lot 6

ATTENDANCE: Britta Luhde Battaile
Josh Chandlee, builder for 310 York Road

Chairman Bunoski called the Meeting to order at 1:00 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(D)(2), TWENTY (20) FT rear yard setback requirements of the Code of South Bethany. The Board of Adjustment will hold a virtual Public Hearing to consider the homeowner's request to allow for a bottom step of the outdoor deck to encroach six inches into the rear yard setback of the existing home.

Town Clerk Matt Amerling stated the public hearing notice for this meeting was posted on the property (310 York Road) on May 5, 2021; the notice was published in the *Coastal Point* newspaper on May 7, 2021; it was posted at Town Hall and on four (4) other locations within Town on May 5, 2021; and was sent via certified mail to the property owner and owners of property within a radius of two-hundred (200) feet of the property on May 5, 2021.

Town Code Enforcement Constable Joseph Hinks stated there was a permit issue for the property for the lawful construction of a new deck and stairs, and, as part of that property review, there is always a plot survey. Mr. Hinks stated this is a very unusual structure in that the house is round, and there is a round deck around it; and at the tail end of the project, there was a matter of six (6) inches for a portion of steps which went over the rear setback line. Mr. Hinks stated because the Code as it's written – with stairs being considered an accessory structure – he cannot close out the permit as lawfully compliant, which is why it has come before the Board, even though it is less than one (1) foot. Mr. Hinks stated the original stairs went up to the setback line but they had to be reconstructed because it was unsafe; and when it was reconstructed, there was a tiny corner going over the setback line.

Ms. Britta Luhde Battaile, of 310 York Road, stated she and her parents needed to replace the deck and stairs to make it as safe – and as to Code – as possible. Mr. Josh Chandlee, of Chandlee Projects LLC, stated the existing stairway they tore down was in the setback; however, that stairway did not meet the tread depths or the stairway width requirements to the current Town Code. Mr. Chandlee stated in order to comply with the stair requirements, they needed to widen the stairway and also increase the length of the stairway to get a deeper tread depth, and also the thirty-six (36)-inch width required. Mr. Barrett Edwards, of Hudson, Jones, Jaywork & Fisher, asked what about this property makes it unique and difficult to comply with the setback in this situation. Mr. Chandlee stated it is somewhat of a round house but has twelve (12) sides, and originally, the stairway was much steeper than it currently is, and not as wide.

BOA Member Martha Fields motioned to approve the variance for 310 York Road as the structure is unique, the request is very minimal, and the variance has the support of neighbors. BOA Member Charlene Sturbitts seconded the motion. Motion carried 5-0 in favor of the variance request stating Exceptional Practical Difficulty. The hearing was adjourned at 1:24 p.m.

Exhibit A Variance application package including letter, plat survey and photos
Exhibit B Correspondence from Lynne Hagen & Robert Schulz, 315 York Road
Exhibit C Correspondence from James & Karen Kohler, 213 Carlisle Road