

TOWN OF SOUTH BETHANY
BOARD OF ADJUSTMENT PUBLIC HEARING MINUTES
Friday, March 25, 2022, 1:00 p.m.
This meeting/hearing was also conducted electronically.

PRESENT: Chairman Steve Bunoski; Charlene Sturbitts; Al Rae; Barrett Edwards
TOWN STAFF: Joe Hinks, Code Enforcement Officer; and Matt Amerling, Town Clerk
APPLICANT: **Robert & Patricia Lewis**, 302 Russell Road, Lot 100
ATTENDANCE: Robert & Patricia Lewis; Michael Morabito, 300 Russell Road
ABSENT: BOA Members Martha Fields and Jimmy Oliver

Chairman Bunoski called the Meeting to order at 1:00 pm, citing Ms. Martha Fields and Mr. Jim Oliver as the only Board members absent. All parties were sworn in who requested testimony during the hearing. Chairman Bunoski stated due to BOA members present during the previous meeting being absent, the approval of minutes from the February 25, 2022, BOA meeting will be tabled until the next BOA meeting.

PURSUANT TO 22 DEL.C. SECTION 327 (a) AND ARTICLE XI, SECTIONS 145-38(A)(1), TWENTY-FIVE (25) FT front yard setback requirements, & 145-38(A)(3), EIGHT (8) FT side yard setback requirements of the Code of South Bethany. The Board of Adjustment will hold a Public Hearing to consider the homeowner's request for a front deck encroaching two feet, six inches (2'6") into the front yard setback, as well as existing steps and an outside shower encroaching three feet, six inches (3'6") into the right side yard setback on the existing home.

Town Clerk Matt Amerling stated the public hearing notice for this meeting was posted on the property (302 Russell Road) on February 18, 2022; the notice was published in the *Coastal Point* newspaper on February 18, 2022; it was posted at Town Hall and on four (4) other locations within Town on February 18, 2022; 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 February 18, 2022.

Town Code Enforcement Constable Joseph Hinks stated the homeowners are requesting a variance from the front yard setback for an existing front deck encroaching between ten inches and two feet, six inches into the front yard setback and for an existing stairway and outdoor shower that extend approximately three feet, six inches (3'6") from the house, with some or all of that encroaching into the side yard setback. Mr. Hinks stated no changes are being proposed for the stairway or front deck, but the applicants are proposing to replace and enlarge the shower without causing any additional setback encroachment.

Ms. Patricia Lewis, of 302 Russell Road, stated the shower was dry rotting and had outdated plumbing that needed to be modernized. Ms. Lewis stated the stairway near the shower would not be changing at all, but they would be looking to replace the shower with a new shower that would have the same encroachment into the setback as currently exists; so while the setback encroachment would remain the same, the length of the shower would be extended by about another two (2') feet towards the rear of the dwelling. Mr. Lewis stated the neighbor owning property adjacent to the shower had no objection to the shower, at least in part because her air conditioning unit was situated near the shower. The Board clarified that no changes were being proposed to the front deck, and the variance was being requested to create a legal justification for location of the deck.

Mr. Hinks testified that the lot was irregularly shaped, which created a strange angle for the front yard setback line, which made it difficult for the existing deck to be completely situated within the setback line.

Mr. Michael Morabito, of 300 Russell Road, stated he lived next door to the property, on the opposite side of the proposed shower location, and he had no objection to the application.

The Board finds that special conditions or exceptional situations exist because of the irregular shape of the lot and the existing conditions on the property. The applicants were making minimal changes to the property, and there was a clear exceptional difficulty since the applicants need a way to enter and exit the property. Additionally, there were no objections from the neighbors, and the expansion of the shower would be in a minimally intrusive manner towards the rear of the property. The Board heard no testimony that the granting of the variances would cause substantial detriment to the public good or would otherwise substantially impair the intent of the Zoning Code. The Board finds that an exceptional practical difficulty exists because the minimum variances are being granted and the benefit to the applicant from receiving the variances will be greater than the probable effect on the neighboring properties if the variances are granted.

Mr. Rae motioned to approve the following variance for 302 Russell Road: (1) a variance from the front yard setback to allow the existing deck to remain in place, which deck encroaches between ten inches (10") and two feet, six inches (2'6") into the front yard setback; (2) a variance from the side yard setback to allow the existing stairway to remain in the same location, which stairway encroaches approximately three feet, six inches (3'6") into the side yard setback; and (3) a variance to allow the replacement of the existing shower, including the expansion of the shower two feet (2') towards the rear of the property, all having the same side yard setback encroachment that presently exists of approximately three feet, six inches (3'6"). Chairman Bunoski seconded the motion. Motion carried 3-0 to approve the variance request. The hearing was adjourned at 1:28 p.m.

Exhibit A Town public hearing notice from the Feb. 18, 2022, *Coastal Point* newspaper
Exhibit B Variance application package including letter, plat survey and photos