

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: **Nathan Thompson**, 108 Brandywine Drive, Lot 7
ATTENDANCE: Nathan Thompson; Brad Davies, applicant's contractor; Carole Kadan, 105 Brandywine Drive
ABSENT: BOA Members Martha Fields and Jimmy Oliver

Chairman Bunoski called the Meeting to order at 1:29 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.

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)(2), TWENTY-FIVE (25) FT rear 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 porch encroaching five feet (5') into the front yard setback, as well as a landing and steps encroaching one foot, eight inches (1'8") into the rear yard setback on the existing home.

Town Clerk Matt Amerling stated the public hearing notice for this meeting was posted on the property (108 Brandywine Drive) 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 applicant is requesting a variance from the front yard setback to replace existing steps with a front porch and steps that will encroach five feet (5') into the setback; as well as a variance from the rear yard setback to install a landing and steps that will encroach one foot eight inches (1'8") into the rear yard setback. Mr. Hinks stated the dwelling was built right up to the front setback line, so any steps leading to the front door would necessarily be situated within the front setback. Mr. Hinks stated there were some side yard steps also encroaching into the setback, but they were being removed.

Brad Davies, the applicant's contractor, stated the current steps leading to the front door encroach about eight-and-a-half (8 ½) feet into the setback, so vehicles parking in front of those steps often have to park so close to the steps in order to get out of the right-of-way that the steps are nearly blocked by the vehicle. Mr. Davies stated the plan was to install a deck and landing that would instead run adjacent to and parallel with the dwelling. BOA Member Al Rae asked about the reason for the need of a five-foot (5') wide deck and landing in the front. Mr. Davies stated there was not anything special about five feet (5') and four feet (4') could also work; and they were just trying to improve the appearance of the house and prevent parked vehicles from sticking out into the road. Mr. Nathan Thompson, of 108 Brandywine Drive, stated he only asked for five feet (5') because it would make it easier by having more room for when he has family come visit and they bring their bags and suitcases up and into the front door. Mr. Thompson stated he was aware of the setback issue at the time he purchased the property. Ms. Carole Kadan, of 105 Brandywine Drive, stated she lives directly in front of the property, and, after asking some questions, stated she had no objection to the requested variances. Letters from Matthew and Tracy Katz, of 105 Henlopen Drive,

and E.J. and Rick Braida, of 111 Brandywine Drive, both in opposition to the request were submitted to the Board for review and entered into the record as exhibit C.

The Board finds that special conditions or exceptional situations exist because the house was built right up to the front setback line, and the owners need a means to enter and exit the dwelling, which creates a difficulty. The Board decided by reducing the requested variance and the size of the deck from five feet (5') to four feet (4'), the minimum variance was being granted. By removing the existing stairway within the side yard setback, the side yard encroachment was eliminated. The Board heard no testimony indicating that the granting of the variance would cause substantial detriment to the public good or otherwise substantially impair the intent of the Zoning Code. The Board finds that an exceptional practical difficulty exists because the minimum variance is being granted for the decks 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.

Chairman Bunoski motioned to approve a five-foot (5') by twelve-foot (12') variance for the front deck and steps as requested by the applicant. Mr. Rae seconded the motion. Motion denied 3-0.

Chairman Bunoski motioned to grant a variance of four feet (4') from the front yard setback to install a deck and stairs that would be four feet (4') by twelve feet (12'); and for a variance of one foot, eight inches (1'8") from the rear yard setback to install a rear deck that will be a total of four feet (4') by twelve feet (12'). Mr. Rae seconded the motion. Motion carried 3-0. The hearing was adjourned at 2:06 p.m.

Exhibit A	Town public hearing notice from the Feb. 18, 2022, <i>Coastal Point</i> newspaper
Exhibit B	Variance application package including letter, plat survey and photos
Exhibit C	Two letters from neighbors in opposition to the variance