

TOWN OF SOUTH BETHANY
BOARD OF ADJUSTMENT PUBLIC HEARING MINUTES

Friday, February 17, 2023, 1:00 p.m.

This meeting/hearing was conducted electronically.

PRESENT: Chairman Steve Bunoski; Charlene Sturbitts; Martha Fields; Al Rae; Jimmy Oliver and Barrett Edwards
TOWN STAFF: Joe Hinks, Code Enforcement Officer; and Brittany Sneeringer, Administrative Assistant
APPLICANT: **Ray and Anette Saunders**, 204 W 11th Street
ATTENDENCE: Ray Saunders, Anette Saunders, Jim Parker, Jeffrey Haines, Joan Maruskin, Augusto Tono, and Fernando Garavito

Chairman Bunoski called the Meeting to order at 1:00 p.m. 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 and 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 variance of encroachment into the rear yard setbacks.

BOA Member Martha Fields approved the meeting minutes from the previous BOA meetings that were held on November 18, 2022. BOA Member Jim Oliver seconded the motion. Motion carried 5-0.

Administrative Assistant Brittany Sneeringer stated the public hearing notice for this meeting was posted on the property (204 W 11th Street) on January 13, 2023; the notice was published in the *Coastal Point* newspaper on January 13, 2023; it was posted at Town Hall and on four (4) other locations within Town on January 13, 2023; and was sent via mail to the property owner and owners of property within a radius of two-hundred (200) feet of the property on January 13, 2023.

Town Code Enforcement Constable Joseph Hinks gave an overview of the application. Testifying that plans showed the desired deck being located 25.1 feet from the rear yard setback. However, once constructed, the deck steps were actually situated 24.2 feet from the rear yard setback. Therefore, warranting a variance of 0.8 feet.

Mr. Saunders, of 204 W 11th Street, testified that original plans call for the deck steps to be 4 feet wide. However, plans were revised when the setback violation was discovered. These new plans moved the steps back to a width of 3.5 feet wide. Unfortunately, due to a construction error, the steps were built resembling the original width of 4 feet. Due to the error, it became apparent to Mr. Saunders that the width of 4 feet was preferred for several reasons. In order to maintain the desired width of four feet, the entire stairway would have to be pushed back into the deck area. This would require a costly relocation of existing pilings. To remove only a portion of the steps to comply with the setback, would still result in an appropriate cost of \$3,500.

Jim Parker, the contractor, testified that even though the survey was modified to reflect the revised width of the steps, changes were never made to the construction plans. Stating that this was the first time he has been in a position like this and the parallelogram shape of the lot created some unique issues.

Therefore, resulting in an error made by his foreman. Mr. Parker was confident that while removing 6 inches from the steps would not be overly costly or difficult, relocating the steps to keep the desired four feet wide would be.

Jeffrey Hains was sworn in and testified that he lives directly across the street. Stating that the mistake was unintentional, the requested variance was insignificant, and the overall integrity of the setback was being maintained. Concluding that the variance would have minimal impact on the neighbors.

Joan Maruskin, Augusto Tono, and Fernando Garavito were all individually sworn in and all testified that they had no objection to the variance request.

Martha Fields motioned to grant the variance of 0.8 feet from the rear yard setback. The Board finds that special conditions or exceptional situations exist given the fact that the steps were inadvertently constructed on the Property. Therefore, resulting in a minimal and reasonable request.

By a vote of 5 yeas and 0 nays, the Board concludes that the Applicants have met the standards necessary to demonstrate that an exceptional practical difficulty.

The hearing was adjourned at 1:40 p.m.