

TOWN OF SOUTH BETHANY
BOARD OF ADJUSTMENT PUBLIC HEARING MINUTES
Friday, December 6, 2024, 1:00 p.m.

This meeting/hearing was conducted both in-person and electronically.

PRESENT: Steve Bunoski, Charlene Sturbitts, Al Rae, Patty Jaicks, and Barrett Edwards
TOWN STAFF: Joe Hinks, Code Enforcement Officer; and Brittany Hollis, Administrative Assistant
APPLICANT: **Lynne S. Hagen, Trustee of the Robert E. Schultz Trust**, 315 York Road
ATTENDENCE: Gino Rinaldi, Clarksville Construction Project Manager

Chairman Bunoski called the Meeting to order at 1:00 p.m. All parties were sworn in who requested testimony during the hearing.

The annual election was held to appoint the new Chairperson and Secretary. Al Rae, board member, nominated Chairman Bunoski to continue as Chair. Seconded by Charlene Sturbitts, board member. Chairman Bunoski nominated BOA member Charlene to remain as Secretary. Second, by Al Rae, board member.

Chairman Bunoski approved the meeting minutes from the previous BOA meetings that were held on November 18, 2024. BOA Member Patty Jaicks seconded the motion. Motion carried 4-0.

PURSUANT TO 22 DEL.C. SECTION 327 (a) AND ARTICLE XI, Section 145-38(D)(2), of the Zoning Code establishes a required 20-foot minimum rear yard setback for the Property. The Applicants are requesting the following variances from the rear yard setback to allow an existing deck to be rebuilt within its existing location: (1) a variance ranging from 4.7 feet to 4.9 feet for the deck and (2) a variance of 10.5 feet for the deck steps, as more particularly identified in the application materials submitted by the Applicant.

Administrative Assistant Brittany Hollis stated the public hearing notice for this meeting was posted on the property (315 York Road) October 25, 2024; the notice was published in the *Coastal Point* newspaper on October 25, 2024; it was posted at Town Hall and on four (4) other locations within Town on October 25, 2024; 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 October 25, 2024.

Building Official Joseph Hinks was sworn in and gave an overview of the application. Testifying that the rear deck and stairs were situated in the rear setback. Therefore, requiring the Applicant to come before the Board. The dwelling on the Property was built prior to the Zoning Code and was originally under Sussex County regulations. With little changes being made to the Property over the years, Mr. Hinks had no reason to believe the deck was constructed out of compliance with the regulations in place at the time of construction.

Lynne Hagen, owner of the Property, was sworn in and supported the testimony of Mr. Hinks. With her father having built the home over 50 years ago, the deck is in need of repair. In order to do so, a variance is needed.

Gino Rinaldi, project manager for Clarksville Construction Services, was sworn in. He gave testimony stating that the deck encroaches between 4.7 feet and 4.9 feet into the setback. The stairs themselves encroach about 10.5 feet into the rear yard setback. The home is also being raised a few inches to meet FEMA regulations. Mr. Rinaldi testified that the goal is to tear down the existing deck and rebuild while keeping the same footprint that currently exists. Discussion on relocating the stairs to another location on the property brought raised benefits and drawbacks. After consulting with Ms. Hagen, Mr. Rinaldi indicated that they would be able to relocate the deck steps to the west side of the deck. The steps would now face York Road and be placed within the existing footprint. With this solution, the variance requested for the steps would be significantly reduced.

Charles and Shari Maun, owners of 403 Bristol Road, submitted a letter in support of the requested variance. No one provided testimony in opposition to the application.

Steve Bunoski, chairman, motioned to approve the request for a variance of 4.7 feet to 4.9 feet from the 20-foot rear yard setback to rebuild the deck within the existing footprint. However, the motion did not include a variance for the replacement of the steps within the existing location but included the relocation of the deck steps to anywhere within the footprint of the existing deck.

By vote of 4 yeas and 0 nays, the Board concludes that the Applicant met the standards necessary to demonstrate an exceptional practical difficulty. Therefore, **GRANTING** the Applicant's request for a variance of 4.7 feet to 4.9 feet from the 20-foot rear yard setback to rebuild the deck within the existing footprint, with the deck steps being removed and reconstructed within the footprint of the existing deck.

The hearing was adjourned at 2:08 p.m.