

Board of Adjustment  
June 25, 2009  
Minutes

The Morehead City Board of Adjustment conducted a regular monthly meeting on Thursday, June 25, 2009, in the Municipal Building Auditorium, 202 South Eighth Street, which started at 5:30 p.m. The following were present:

**MEMBERS:** Chairman James Walker  
Laura Drewyor, Dick Gambill, Tripp Mudge, Beth Taylor, and Bill Ward

**ABSENT:** Holly Briggs, Dave Robertson, and Joe Green

**OTHERS PRESENT:** Zoning Enforcement Officer Joyce Veltman, Secretary Jeannie Vaughan, City Attorney Derek Taylor, Mike Shutak of the Carteret News-Times, Ila Walker of The Gam, David Rockwell, David Britton, Dick Scibeck, Doug Bell, and Nancy Bell.

Chairman James Walker called the meeting to order and gave the invocation.

The roll was called and Bill Ward made **MOTION**, seconded by Dick Gambill, to excuse the called-in absences (Holly Briggs, Dave Robertson, and Joe Green). The motion carried unanimously.

**MINUTES:** *January 22, 2009*

Chairman Walker called for changes or amendments to the minutes. Bill Ward made **MOTION**, seconded by Laura Drewyor, to adopt the minutes as submitted and dispense with the reading. The motion carried unanimously.

**BUSINESS:**

**A. Request submitted by David Allen Rockwell for a variance from Article 14-1 of the Unified Development Ordinance (UDO) to allow a fence taller than 4' in a front setback at 4101 Sound Drive (Tax PIN 637617021223000), which is zoned R10 (Residential) District.**

Laura Drewyor made **MOTION**, seconded by Beth Taylor, to open the public hearing. The motion carried unanimously. Tripp Mudge was excused from voting on this case as only five members were needed.

Those wishing to give testimony were sworn in (Joyce Veltman, David Rockwell, David Britton, Dick Scibeck, Doug Bell, and Nancy Bell).

Zoning Enforcement Officer Joyce Veltman introduced the case by reviewing the Fence Ordinance. The lot at 4101 Sound Drive is a corner lot; therefore, there are two fronts and two sides for zoning purposes. The two fronts are along Sound Drive and Oaksmith Boulevard. The UDO limits the fence height to four feet in the front setback. The applicant would like a variance from the four-foot maximum height requirement in a front setback so that he can replace the existing, deteriorating, five-foot-high chain-link fence along Oaksmith Boulevard.

Staff has no objections to the granting of the variance. The hearing has been advertised, and notices were mailed to property owners within 100' to notify them of the request.

The applicant, David Rockwell, requested approval of the variance. He wants to replace his existing five-foot fence along Oaksmith Boulevard with a new five-foot chain-link fence. He will apply for a CAMA Permit if approval is granted by the Board of Adjustment.

Mr. Rockwell reviewed the variance criteria under Article 5-3.2:

**A. Special conditions and circumstances must exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.** Special conditions and circumstances exist which are peculiar to the land: 1) it borders a public access area; 2) the property slopes down towards

the water with a vacant, overgrown lot to the east; and 3) the access area is very secluded which has invited illegal drug activity in the past.

B. *Literal interpretation of the provisions of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.* The Oaksmith Boulevard side of the property is the applicant's side yard. A six-foot fence would be allowed in any other residential side yard.

C. *Special conditions and circumstances do not result from the actions of the applicant.* The special conditions and circumstances are not from the actions of the applicant, they are geographical.

D. *The hardship is of a physical nature and not economic.* The hardship is of a physical nature.

E. *Granting of the variance will not confer upon the applicant any special privilege to use the applicant's property in a manner that is denied to other owner's of land, structures or buildings within the same zoning district.* Granting the variance will not confer upon the applicant any special privilege.

David Britton of Fences Unlimited, 410 Arendell Street, testified that it will cost more than fifty percent of the value of the existing fence to repair it. He said that the fence needs to be replaced.

Dick Scibeck of 4105 Sound Drive testified that he supports the variance request. He stated that Mr. Rockwell needs a substantial fence to keep people off of his property which includes a two-hundred-foot pier.

Nancy Bell of 4100 Sound Drive testified that she supports the variance request. She added that she and her family are very interested in assisting the City in efforts to seek out funds to improve the Oaksmith Boulevard street end. Some suggestions were a deck, trash cans, and a pier. Ms. Bell advised that she was quoted a fee of \$10,004 to construct a 4' x 60' deck over the marsh with rails and steps for people to access the beach and launch kayaks. She offered both support and money, at least \$2,000 in her mother's honor. City Attorney Derek Taylor referred her to City Manager Randy Martin to discuss her suggestion/offer.

No one spoke in opposition to the variance.

Bill Ward made **MOTION**, seconded by Laura Drewyor, to close the public hearing. The motion carried unanimously.

#### ***CONSIDERATION AND DETERMINATION OF CASE HEARD:***

Dick Gambill commented that Oaksmith Boulevard has been a public access area for many years and a new fence would limit people to the public access area and off of private property. He stated his support of the request.

The Board discussed the variance criteria:

A. *Special conditions and circumstances must exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.* The Board Members all agreed that special conditions and circumstances exist.

B. *Literal interpretation of the provisions of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.* The Board Members all agreed that a six-foot fence would be allowed in any other residential side yard.

C. *Special conditions and circumstances do not result from the actions of the applicant.* The Board Members all agreed that the applicant did not cause the special conditions and circumstances.

D. *The hardship is of a physical nature and not economic.* The Board Members all agreed that the hardship is of a physical nature.

E. *Granting of the variance will not confer upon the applicant any special privilege to use the applicant's property in a manner that is denied to other owner's of land, structures or buildings within the same zoning district.* The Board Members all agreed that a special privilege would not be conferred upon the applicant should the variance request be granted.

Bill Ward made **MOTION**, seconded by Beth Taylor, to grant the variance request. The motion carried unanimously.

***NEW BUSINESS:***

No new business was discussed.

Laura Drewyor made **MOTION**, seconded by Bill Ward, to adjourn the meeting. The motion carried unanimously and the meeting was adjourned at 6:15 p.m.

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Jeannie Vaughan  
Secretary