

**MINUTES OF THE
BOARD OF ZONING APPEALS
SEPTEMBER 9, 2021 AT 7:00 P.M.**

Members Present:

Robert Cherrix, Chairman
Mike McGee
David Landsberger
Ernest W. Smith, Jr.
Stacy Hart

Members Absent:

Donald Thornton
Jack Gillis

Call to Order

Chairman Cherrix called the meeting to order at 7:00 p.m.

Pledge of Allegiance

Chairman Cherrix led in the Pledge of Allegiance.

1. Public Participation

Chairman Cherrix opened the floor for public participation.

2. Agenda Adoption

3. Approval of Minutes of the June 28, 2021 meeting.

Mr. Smith advised that he had an addition to the last meeting minutes. He stated that he spoke with the contractor and confirmed that no new bedrooms would be added to the property.

Mr. Landsberger motioned, seconded by Seconded by Mr. Smith and Mr. McGee to approve the minutes of the February 11, 2021 meeting as corrected. Unanimously approved.

4. Appeal 210810-1

Chairman Cherrix advised that there must be 4 affirmative votes regardless of the number of members present for the appeal to be approved. The petitioners have a right to appeal any decision to the Circuit Court within 30 days.

Building and Zoning Administrator Bowden read the appeal:

Appeal #210810-1: A request from Mr. Peter Becker & Ms. Kathleen Becker of 6024 Lewis Street, Parcel 30A7-A-58, for a variance from Article III, Section 3.9.3 (2) of the Zoning Ordinance of the Town of Chincoteague. The applicant wishes to construct a 12' x 12' porch and a 1 story 24' x 24' 2 bedrooms and a 3' x 25' 6" back deck with a 3' x 14' off the bedroom on the sub-parcel. The new addition would be placed 8' from the rear property line. Current Zoning requires a minimum of 25' rear setback. The property is zoned R-3.

Ms. Laura Lintz, Architect, explained the logistical information of the site and why they are requesting the variance. She explained the setbacks and the lot is 64' in the back and 72' in the front. The total distance doesn't give you room to build much. The house was moved on this lot

in 1984. The house was placed sideways on the lot and is currently a 1-bedroom, and they have a request for a new septic design as the existing septic is where the owners propose to build a 1-bedroom and 1 bath on the 1st floor. She explained further the current location of the old septic and the location of the new septic which is designed for a 2-bedroom next to the property line. She added that they would like to be able to use the backyard. She stated that the historic aspect matters as it is a value to the Town. There is a functional issue about aging in place. They want to keep it in the way it's valued and built. She stated that the house was placed in an unfortunate position.

Mr. Smith asked about the notifications to 6 of the surrounding property owners and only receiving responses from 4.

Building and Zoning Administrator Bowden advised 6 property owners were issued certified letters and only 4 returned responses.

They discussed the new owners who were sent letters by certified mail.

There was discussion about the house being handicapped accessible, the location of the front door. There were suggested changes to make it conforming and discussion continued about the narrow staircase to the upstairs bedroom and the accessibility,

Mr. Smith asked what hardship it would be by encroaching on the setbacks for the screened porch.

Ms. Lintz responded that it's about sitting and enjoying their back yard.

Mr. Smith stated that there really is no hardship. He understands wanting to sit outside and enjoy the property, but it's the extra 6' is what they're asking.

Ms. Lintz stated that it is having a screened porch at the same level as the rest of the house and accessible off of the bedroom.

There was discussion about the septic location and Health Department approval.

Mr. Becker stated that they requested a variance and has owned the property since 2012. The residence is a fisherman's cottage with historic value. The location of the house is not in compliance with the current zoning laws with the 25' front and rear setbacks. The only bedroom is barely accessible with a very narrow stairway. They are in their 60s and the access has become challenging. They will have a bathroom with a walk-in shower and basic functionality. They would like to extend the porch to the existing deck to create a screened porch that is architecturally designed that adds to the design of the house. They also sent certified letters to the adjoining property owners. He added that a new septic system will also allow them to enjoy the property and protect the environment. He thanked them for allowing his request.

There was discussion and suggestions.

Mr. Landsberger stated that he understands the need for having a first-floor bedroom. He doesn't understand why this bedroom couldn't be offset to the front. He understands it could be an architectural challenge. He asked if it would meet the setbacks off the front.

Building and Zoning Administrator Bowden advised it would meet the setbacks off of the front.

They discussed the bedroom/stairway hardship and possible changes to make this conforming.

Mr. Landsberger explained the responsibility of the BZA, which is to review the hardship that overcomes the building requirements. He doesn't feel having a prettier porch does not.

There were questions about the setbacks, the decks along with suggestions to help make this conforming.

Mr. Smith feels the bedroom is a valid hardship. He understands that they want a screeded porch, but it's not a hardship.

Mr. McGee advised he went down Lewis Street and feels the bedroom is a necessity and a hardship. He also feels that the porch and decks will only make it look better. He would like the Board to approve the variance.

Mr. Landsberger agreed that the bedroom is a hardship. He stated that they have a porch and adding a porch is not a hardship. He added that if they go with the addition, there is no reason to touch the existing porch.

Mr. Smith explained that the porch on the front of the house will be gone. They are talking about a screened porch on the rear of the property that is nonconforming. They don't have to extend it another 6.6'. They could extend it, but it isn't what Mr. & Mrs. Becker are looking for.

Chairman Cherrix closed the hearing. He asked for discussion of Board Members.

Mr. Landsberger stated that he has built a number of houses and understands the offset. He asked if there was any reason it could not be redesigned to offset to conform. He understands they would like it to be preserved differently.

Ms. Lintz responded that it is more traditional to the style, but it could be done.

Mr. Landsberger stated that he has no problem with them building a bedroom. He stated that he will approve the recommendation of the Board to offset to the left in which case they wouldn't need a variance. He understands the stairway issue. He agrees to have the bedroom and bathroom, and moving the septic. He would like to see them move it to make it conform. They had the opportunity to conform, but the architect didn't draw it that way. He suggested splitting this into 2 votes.

There were questions and discussion about the motion.

Mr. Landsberger asked how the Board feels.

Mr. McGee stated that whatever you do to that house will enhance the street. He hopes it's the pleasure of the Board to approve it.

Mr. Landsberger stated that they all agree that they should be able to build a bedroom to avoid the stairs. He asked if they would move the bedroom to the left 8' it would be within the setbacks of the property, and they wouldn't need a variance.

Chairman Cherrix stated that personally, he would want it just like it is on the drawing to keep in the style of the old homes on the Island.

Mr. Landsberger agreed.

There was discussion about the motion and clarification.

Building and Zoning Administrator Bowden explained that the motion is to approve the new bedroom in the front and not approve the addition to the back of the deck.

There were further question about the motion.

Town Manager Tolbert advised they should dispense of the first motion, if the motion passes the case is settled. If the motion does not pass, another motion can be as an alternative. There needs to be a majority of the quorum present to pass the vote.

Mr. McGee would like to postpone the vote until all Board Members are present.

Town Manager Tolbert stated that this is at the pleasure of the Board.

Mr. Smith stated that Mr. Becker has come to the Board asking for a variance, their case has been heard.

There was further discussion.

Ms. Lintz stated that she appreciates the Board trying to help. She believes that they can redesign the screened porch in various ways.

Mr. Landsberger asked further questions and made a suggestion to alter the drawings.

Mr. Landsberger motioned, seconded by Mr. Smith to approve the building of the bedroom as drawn, but not allow further encroachment into the nonconforming use for a new deck or new porch. Unanimously approved.

Mr. Smith asked if a vote for a variance should be by roll call. He stated that if there were any nays this would verify the actual vote.

Town Manager Tolbert stated that if it is not a unanimous vote and is a split decision, the Chairman has the option to have a show of hands for nay and then for nay.

5. Adjourn

Mr. Landsberger motioned, seconded by Mr. Smith to adjourn. Unanimously approved.