



**BOARD OF ADJUSTMENT
SPECIAL MEETING
THURSDAY, APRIL 30, 2020
ZOOM ELECTRONIC MEETING &
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:00 PM**

Board Members Present:
Julia Latham, Chair
Leo Santowasso, Vice Chair
David Kelley
Cyndie Burnett
Joel Shriberg
*Philip Shumaker, Alternate

Board Members Absent:
None

Staff Present:
Alex Cameron, Senior Planner
Kelly Brown, Administrative
Specialist

I. Call to Order

Chair Latham confirmed that a quorum was present and called the meeting to order at 4:00 pm.

Mr. Santowasso was physically present; Ms. Latham, Mr. Kelley, Ms. Burnett and Mr. Shriberg participated electronically via the Zoom meeting platform. *Mr. Shumaker participated electronically as an alternate on standby.

II. Approval of Minutes

A. February 6, 2020 Regular Meeting Minutes

Mr. Santowasso moved to approve the February 6, 2020 regular meeting minutes. Seconded by Ms. Burnett. Motion carried by a vote of 5-0.

III. Public Hearings

A. Public Hearing No. 1

Mr. Kelley moved to recess the regular meeting and enter into Public Meeting No. 1. Seconded by Mr. Santowasso. Motion carried by a vote of 5-0.

Ms. Latham stated this hearing was previously scheduled for the regular BOA meeting on April 2nd, 2020. It was cancelled in order to comply with Governor Cooper's Executive Order 121 to address the COVID-19 public health emergency.

Mr. Shriberg disclosed a social relationship with the applicants. He stated he did not feel the need to recuse himself. Mr. Santowasso disclosed a site visit, but did not have ex parte communication with the applicants.

Senior Planner Alex Cameron was sworn into the meeting by Ms. Latham.

Mr. Cameron stated the purpose of the public hearing was to receive testimony for a variance request from section 9.2a Tables of Dimensional Requirements for the property at 1 Inverrary Road, further identified by Moore County PID # 00013958. The property is located within the R-30 (Medium Density Residential) Zoning District. Specifically, the applicant and owners, Thomas and Joan Moynihan, were requesting a variance to encroach approximate 3' 3 3/4" into the 60' lakefront/golf course setback to allow for the addition of a screened-in porch.

Mr. Cameron provided background information on the property and the request from his staff report. He entered the following documents into the record: staff report (exhibit A), application for variance (exhibit B), site plan (exhibit C), porch elevation (exhibit D), deed (exhibit E), release of utility easement (exhibit F), letter from Pinehurst LLC (exhibit G), original subdivision plat (exhibit H), and the draft board decision letter.

Mr. Kelley asked if the property lines extended into the lake, and where setbacks are measured from. Mr. Cameron stated the property lines could be, but that the setbacks are determined from the physical property line, not the lake itself.

Upon question by Ms. Latham, Mr. Cameron stated he reached out to Mr. Higgenbotham of Pinehurst LLC to confirm that he did author the letter (exhibit G).

Applicant and owner Thomas Moynihan was sworn into the meeting by Ms. Latham.

Mr. Moynihan submitted a letter authored by himself and a site plan from designer Mark Wesley Parson. These additional exhibits are located within the meeting case file at Pinehurst Village Hall. He stated that the hardship is not self-imposed, his lot is unique, is consistent with the spirit and intent of the ordinance, will not affect other properties, and has approval from Pinehurst LLC.

Upon question by Mr. Kelley, Mr. Moynihan stated there is an existing deck that will be extended and screened in.

Upon question by Ms. Burnett, Mr. Moynihan stated that the proposed porch would align with the main structure roofline. He stated they had to wait for the sewer line that ran through the property to be decommissioned before starting the proposed porch project.

Mr. Santowasso discussed Exhibit C, which showed surveyed property lines not in the lake, and the main house sited within the building envelope with a 30 foot setback.

Ms. Latham stated there were hearsay concerns with Exhibit G, Mr. Higginbotham's letter, since he was not present to verify it, but felt comfortable enough to consider the letter as evidence as Mr. Cameron verified it.

Mr. Santowasso moved to close Public Hearing No. 1 and re-enter the regular meeting. Seconded by Mr. Kelley. Motion carried by a vote of 5-0.

Ms. Burnett moved to approve the variance request for the property at 1 Inverrary Road with the following findings of fact and conclusions of law:

- A. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;

The lot and the home are already existing legal non-conformities relative to golf course setbacks and minimum lot size.

- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;

The lot is triangular and the location of wetlands on the property lead to and impacted the location of the home on the lot.

- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;

The lot was platted in 1985 prior to the current zoning ordinance and was built in 2003 with an applicable 30' setback at the time. The current owner purchased the home in 2005 after the house was built.

- D. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

The request is consistent with the spirit, purpose and intent of the ordinance as the lot and home are already existing legal non-conformities and there is no impact on public safety.

Seconded by Mr. Kelley. Motion carried by a vote of 5-0.

Roll Call

Shriberg	<i>Aye</i>
Santowasso	<i>Aye</i>
Burnett	<i>Aye</i>
Shumaker	<i>Aye</i>
Latham	<i>Aye</i>

IV. General Business

The Board thanked Mr. Kelley for his six years of service on the Planning & Zoning Board/BOA.

V. Next Meeting Date

A. Regular Meeting on May 7, 2020

Mr. Cameron stated there would be business for the Board.

VI. Motion to Adjourn

Mr. Shriberg moved to adjourn the meeting. Seconded Mr. Kelley. Motion carried by a vote of 5-0 at 5:58 pm.

Respectfully Submitted,

A handwritten signature in black ink that reads "Kelly Brown". The signature is fluid and cursive, with the first name "Kelly" and last name "Brown" clearly distinguishable.

Kelly Brown
Administrative Specialist
Village of Pinehurst

A recording and videotape of this meeting are located on the Village website: www.vopnc.org.

The Village of Pinehurst is a charming, vibrant community which reflects our rich history and traditions. Mission: Promote, enhance, and sustain the quality of life for residents, businesses, and visitors. Values: Service, Initiative, Teamwork, and Improvement.