



**BOARD OF ADJUSTMENT
APRIL 4, 2019
ASSEMBLY HALL
395 MAGNOLIA RD.
PINEHURST, NORTH CAROLINA
4:30 PM**

The Board of Adjustment held a Meeting at 4:30 p.m., Thursday, April 4, 2019, in the Assembly Hall, at 395 Magnolia Road, Pinehurst, North Carolina. The following Board members were in attendance:

Julia Latham, Chair
Leo Santowasso, BOA Member
David Kelley, BOA Member
Mike Marsh, BOA Member
Joel Shriberg, BOA Member

Staff in Attendance:

Alex Cameron, Senior Planner
Gwendy Hutchinson, Planning Administrative Assistant

There were six attendees, including staff.

I. Call to Order

Chair Julia Latham confirmed that a quorum was present and called the meeting to order.

II. Approval of Minutes

October 4, 2018 Draft Minutes

Upon a motion by Leo Santowasso and seconded by David Kelley, the Board unanimously approved the October 4, 2018 Draft Minutes.

III. Public Hearing

Upon a motion by Leo Santowasso, seconded by David Kelley, the Board unanimously voted to close the Regular Meeting and enter into the Public Hearing.

Sworn in:

*The following were sworn in:
Alex Cameron, Senior Planner; Robert and Pamela Babcock, Property Owners.*

The purpose of this public hearing is to receive testimony for a variance request from section 9.2a Tables of Dimensional Requirements for the property at 22 Beasley Drive, further identified by Moore County PID # 00035877. This property is located within the R-10 (High Density Residential) Zoning District. Specifically, the applicant and owners, Robert and Pamela Babcock are requesting a variance from the 30' Lakefront/Golf Course Setback from the Property Line to allow for the construction of an addition that will encroach approximately 3 feet 8 inches into the required setback.

Chair Latham asked if any of the Board members had any conflicts of interest or have had ex parte communications with the applicant before us. Leo Santowasso stated that he had spoken with the applicants concerning the location of the proposed patio, where the steps will be located and what were the conditions of the area where the patio will be built. Chair Latham asked Leo Santowasso if he felt that this communication would affect his decision for this case. Leo Santowasso replied no, it would not.

Chair Julia Latham reminded the Board that the Board's decision must be based on competent material and substantial evidence that comes before the Board.

Alex Cameron, Senior Planner, read portions of the staff report into the record. Alex Cameron, Senior Planner, stated that Robert and Pamela Babcock had provided additional materials for the Board to review.

Robert and Pamela Babcock, applicants and property owners were present to answer any questions or address any concerns of the Board.

Julia Latham, Chair, reminded the Board that the Board's decision is based on "evidence that is competent," if it is sufficiently trustworthy and reliable, that is, legally fit and acceptable for consideration by the Board. Evidence is "material" if it shows that one of the Standards of Review to be applied will or will not be met. Julia Latham, Chair, stated there are (4) four standards the Board has to reach a decision. Evidence is substantial if it is relevant and something a reasonable mind would regard as sufficient to support a specific conclusion. Julia Latham, Chair proposed to the Board that some of the evidence heard should be excluded and some of the evidence should be admitted.

Testimony not to be admitted:

- 1. The Babcock's shared with the Board that their neighbors do not have any objection to the patio. Julia Latham stated that the neighbors are not here to provide testimony and should not be admitted.*
- 2. Medical information does not have any pertinence to the property, just to the applicant and should not be admitted.*

Testimony that should be admitted:

- 1. Letter from Dick Higginbotham, CFO Pinehurst Resorts, Inc., as it appears to be trustworthy.*

Upon a motion by David Kelley to close the Public Hearing and re-enter into the regular meeting, seconded by Leo Santowasso, the Board unanimously voted to close the Public Hearing.

David Kelley asked Chair Latham if he could ask a question of the applicant. Chair Latham stated that the board would need to re-open the public hearing in order to consider any further facts to help the board makes its decision.

Upon a motion by David Kelley to close the Regular Meeting and reopen the Public Hearing to ask a question; seconded by Leo Santowasso, the Board voted unanimously to approve the motion to reopen the Public Hearing.

David Kelley confirmed with the property owners that the patio is currently 6' 6" wide and they wish to make it 13' wide. David Kelley asked why they wished to have 13'. Robert Babcock responded that the measurement of 13' came from their designer. Pamela Babcock stated that the 10' would be too small to have a dining table.

Alex Cameron, Senior Planner, stated that the Village's ordinance would require a survey to ensure the correct setbacks are met.

Upon a motion by David Kelley to close the Public Hearing, seconded by Leo Santowasso, the board voted unanimously to close the Public Hearing and re-enter the Regular Meeting.

Leo Santowasso made a motion to approve the variance request for the property at 22 Beasley Drive, with the condition that a signed, sealed survey showing the area of encroachment be provided and to adopt the following required findings of fact:

- 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;*
- 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;*
- 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;*
- 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.*

Joel Shriberg seconded the motion. Chair Latham polled the Board:

<i>David Kelley</i>	<i>Yes</i>
<i>Leo Santowasso</i>	<i>Yes</i>
<i>Joel Shriberg</i>	<i>Yes</i>
<i>Mike Marsh</i>	<i>Yes</i>
<i>Julia Latham</i>	<i>Yes</i>

The Board voted (5-0) to approve the variance with the condition as stated.

IV. General Business

Alex Cameron, Senior Planner, informed the Board that they would meet on May 2, 2019.

V. Next Meeting Date

May 2, 2019

VI. Motion to Adjourn

Upon a motion by Joel Shriberg and seconded by David Kelley, the board unanimously approved the motion to adjourn. The meeting adjourned at 5:16 pm.

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

Respectfully Submitted

A handwritten signature in black ink, appearing to read "G. Hutchinson", written in a cursive style.

*Gwendy Hutchinson
Planning Administrative Assistant
Village of Pinehurst*

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.