



The Town of Fenwick Island

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BOARD OF ADJUSTMENT NOVEMBER 13, 2019 AT 9:30 AM

MINUTES

In Attendance

Tim Collins, Linda Bunting, Craig Lambertson, Nancy Merritt, Jim Yori

Staff in Attendance

Terry Tieman, Pat Schuchman, Linda Martin

Also in Attendance

Mary Schrider-Fox, Robin Green (owner of 1706 Bunting Avenue), Keith Cherry (contractor of Cherry Innovations)

Tim called the meeting to order at 9:32 AM.

Review Session with Town Solicitor

Mary reviewed the handout she provided. There are Federal and State laws in regards to those with disabilities (Fair Housing Act and American's with Disabilities). She noted that special conditions must be taken into consideration, in particular if the request is medical-related, if the person is disabled as defined by law, and if the denial of the request for the accommodation could possibly affect them.

Mary also noted when voting, each member must give the reasons why they are voting for or against the request.

Public Hearing

The Public Hearing began at 10:01 AM with introductions of the members of the Board of Adjustment. Tim noted that the request for variance is to enlarge and enclose a portion of the existing deck. The building permit application was denied by the Building Official.

Pat read into record the denial letter. The existing deck already encroaches 7.3' into the setback but is permitted by Chapter 160-8A(1)(c). The permit application was denied per Chapter 160-4C(4)(a) – Building Limit Line.

Pat also read into record all the exhibits that were provided to the Board.

Tim asked if any neighbors responded for or against the variance request. Pat replied that no letters or phone calls were received.

Robin Green was sworn in. She stated her request to have the sauna and equipment outside her master bedroom. She noted that she has had several back surgeries due to an accident and another surgery has been scheduled. She also noted that she is requesting the enclosure since she would like to have everything under cover instead of in the open.

Tim commented that her request is a significant encroachment into the setback and in the past, variance requests have been only minor adjustments. He did add that he is sympathetic to her condition but noted that other alternate locations should be taken into consideration along with the reason why it can't be located anywhere else in the house.

Ms. Green commented that she did consider the 1st living level, which consists of 4 bedrooms. One of the bedrooms currently houses her traction unit. She is planning on moving her mother and her mother's nurses aid in 2 of the bedrooms. The other 2 bedrooms belong to her children.

Keith Cherry, the contractor for Ms. Green, added that there are no other spaces available in the home to put the equipment that Ms. Green wants to use. The 2nd floor deck already extends 2' beyond the 1st floor deck. The proposed addition is for a 12' x 17.4' enlargement of the master bedroom.

Tim noted that the plans show the master bedroom, two walk-in closets, and an adjoining bathroom. He questioned if there was a practical way to redesign the west end of the bedroom where one of the walk-in closets is located. Ms. Green replied no, since her home has no storage area other than the one walk-in closet; the other closet is used for her clothing.

Tim questioned what is on the common wall with the master bathroom. Mr. Cherry replied that is where the entrance to the master bedroom is located, along with a hall closet. Ms. Green added that there also is the elevator entrance and the HVAC unit in that area.

Tim asked why on the plans is there space between the inner wall and outer wall. Ms. Green replied that the space is just a small wall with a mirror on it.

Tim then asked about the rest of the house, noting that on the 2nd living level there is the kitchen/dining area and on the 1st living level there is a kid's lounge area. Ms. Green confirmed the information was correct and added that the lounge area on the 1st floor consists of a sofa and a television.

Mr. Cherry noted that the sauna unit that Ms. Green would like to add is a corner unit that is approximately 71". A big area is needed to house the sauna. Craig asked if there were smaller units available. Mr. Cherry replied no. Ms. Green added that the unit needs to be that size to accommodate her traction unit that she needs to lay on.

Jim asked if the entrance to the sauna would be located where the existing tub is on the plans. Ms. Green confirmed that the tub would be removed and the entrance would be at that location. Jim commented that it is more conducive to have it outside of the bathroom for privacy.

Nancy questioned if the sauna could be placed where the kid's lounge is located on the 1st living level. Ms. Green replied no, since the area is not that big and she would like to keep that space for a lounge area for her mother and live-in aid.

Linda asked if Ms. Green could enclose the existing 2nd level deck. Pat replied not the entire deck and noted that on exhibit #12, there is 24.7' to the rear property line, of which 4.7' may be enclosed and meet the setback requirements. The 12' proposed enlargement would not be permitted since 7.3' encroaches beyond the 20' rear setback.

Tim questioned the size of the area marked as the kid's lounge on the 1st level. Mr. Cherry replied the room is approximately 10' x 12.5'. On the plans it looks like a bigger area but most of the area shown on the plans is a hallway.

Tim asked what equipment will be put in the sauna. Ms. Green replied a new piece of traction equipment.

Tim suggested the Board Members visit the house to look at the space she is requesting and also look to see if there is another place that can accommodate the equipment. Ms. Green responded that they could visit today. Tim commented that adding an extension of this size needs to be looked at since if the variance is granted and Ms. Green decides to move, then there would be a huge encroachment that would no longer be necessarily needed.

Ms. Green noted that if need be, she can contact neighbors to come and speak on her behalf. She added that the area she is requesting is totally open space that would not affect anyone since there is already an existing deck. Jim noted that he would find it beneficial to have either the neighbors appear or send letters stating that the variance would not affect them.

Mary noted that the record could be kept open for an additional meeting to allow the owner and contractor to find an alternative area and also have neighbors speak or submit letters. Pat added that another agenda would need to be posted along with posting the legal ad in the paper 15 days prior to the next hearing. Mary noted that Pat would not have to send notices out to the neighbors again since they received the original notice.

Jim noted that on the request the deck already encroaches the setback area. Pat responded correct, that the rear setback requirement is 20' for an enclosed structure but can encroach 10' for an open deck and steps. The 2nd level deck is requested to come out as far as the existing 2nd floor deck. 4.7' can be enclosed and Ms. Green is requesting this variance to enclose 7.3' additional.

Tim noted that during the site visit no comments can be made nor any discussions happen between Board members due to legal guidelines. Mary added that the reason is that the hearing rules state that the public can hear comments and that the hearing needs to be done in public. Jim also added that if any actions are taken outside of the hearing it could put the application in jeopardy and the decision could be appealed.

Public Comments

Bill Weistling (7 E. Indian Street) commented that since he is the Chairman of the Building Committee, he looked over the plans and observed an alternate location that the sauna could be placed, which would be on the northeast corner of the house on the 1st level. However, he

is unaware if that would interfere with living area. Mr. Cherry replied that he too is unfamiliar with the 1st level, so he would have to look at it himself to see if that area is doable. Ms. Green added that the plans were inaccurate to what is actually there, since there is no window as shown on the plans. She also added that the area Mr. Weistling is referring to is close to the location of bedroom #2, where her mother will be going. She does not want to close off that area since it would block off light, which is bad for dementia patients. Pat added that higher windows (transom windows) could be installed.

The Board recessed for the site visit at 11:17 AM.

The Board reconvened at 11:49 AM.

Linda questioned if the area behind the house is buildable. Pat replied that it was, with the rear yard backing up to the side yard of 4 E. Lewes Street, whose lot dimensions are 50' x 150'.

A motion was made by Linda, seconded by Nancy, to keep the meeting open at this time in order for the applicant to get other options for her request. The motion passed unanimously.

Jim reiterated that it would be helpful if neighbors would put something in writing or comment about the request.

Next Meeting

The next meeting will be held on December 5, 2019 at 10:00 AM.

Adjournment

A motion was made by Nancy, seconded by Jim, to adjourn the meeting. The motion passed unanimously and the meeting adjourned at 11:55 AM.