



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409
302-539-3011 ~ 302-539-1305 fax
www.fenwickisland.delaware.gov

BOARD OF ADJUSTMENT DECEMBER 5, 2019 AT 10:00 AM

MINUTES

In Attendance

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

Staff in Attendance

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 10:00 AM. He noted that the Board was reconvening from the November 13, 2019 meeting that was left open for more information to be submitted in regards to the request for Ms. Green.

Pat restated the request of 1706 Bunting Avenue for a 7.3' encroachment in the rear setback. Pat also read into record the additional exhibits that were provided which consisted of letters submitted for and against the variance request.

Tim questioned about exhibit 29B. Pat responded that it was a follow-up letter to another letter Mr. Simpson submitted. She noted the three properties Mr. Simpson owns: 1 E. Lewes Street, 910 Wright Street, and 1707 Bunting Avenue.

Tim commented that at the previous hearing, an attendee brought up that plans were reviewed and an alternate location was possible. The Board visited 1706 Bunting Avenue to observe the layout of the home. The Board then suggested that Ms. Green and her contractor, Keith Cherry, return with a possible alternate location for her request.

Robin Green was sworn in. She stated that at the request of the Board, she contacted her neighbors and responses were received both for and opposed to her variance request. She spoke directly to those that were opposed to ask why they were against the request. Mr. Simpson was very upset about the request even though the only property that would be affected would be The Langan's at 5 E. King Street, who had no objections. She didn't think this would be a big problem and just a simple request of keeping in line with her other deck. Aesthetic value was not her intent and she was just trying to come up with the most logical approach.

Tim noted that although 5 E. King had no objections, a letter was received from 3 E. King Street that was opposed since they said the east side of their property would be affected. Ms. Green

commented that it would not be encroaching onto the property at 3 E. King Street and they would only be able to see the sauna.

Tim confirmed with Ms. Green that the properties that adjoins her property are 3 E. King Street, 5 E. King Street, and 2 E. Lewes Street.

Tim questioned if any other alternate plans were taking into consideration. Per the Boards suggestion, Ms. Green also met with her contractor in regards to a possible alternate location. She said that she could ask for less space then the 7.3' on the original request.

Tim asked if Ms. Green was denied on her original variance request and then alters her request would she need to resubmit her request again. Mary stated yes, although the Board could make a decision based upon a lesser rear yard setback. Tim then noted that it is Ms. Green's decision if she wants to ask for the original request or the alternate amount.

Keith Cherry, the contractor for Ms. Green, was sworn in. He noted that it is important for Ms. Green to have the sauna in a central location adjacent to her master bathroom. After talking to Ms. Green, it was decided that she could remove a portion of one of her closets in the bedroom and reconfigure the layout. This would then alter the variance request to only 2' into the setback. However, there is extra expense for Ms. Green to reconfigure her bedroom and also pilings would need to be added for support. She is also compromising by going with a smaller sauna and not putting some of her equipment into the sauna. With the reconfiguration of the closet, she will also now need two separate entrances.

Craig questioned if the alternate variance would need to be presented on paper before the Board made a decision. Mary replied that if the Board was to grant the 2' today, the new building plans would only need to be submitted to the Building Official for approval.

Pat questioned if the new request is for 2' or 2.3'. Mr. Cherry replied that it is actually 2.3'.

Jim questioned about the support issues for the alternate location. Mr. Cherry replied that in the previous submittal, there were pilings that would be supporting the weight. In the new requested location, there are no pilings so possibly 3-4 pilings would need to be installed. Craig commented that possibly the addition could cantilever out to the existing pilings. Mr. Cherry responded that it could be tied into the existing pilings, but he would have to confer with an engineer to see if that would support the weight.

Tim asked if the Board granted on the basis of 2.3' and the plans were submitted for more, would Ms. Green need to come back. Mary replied yes since the Board would only be granting the 2.3'.

Jim noted that he would not want them to limit the area to only 2.3' and that it would be to Ms. Green's benefit to do something less than the 7.3'. Mr. Cherry replied that Ms. Green is willing to compromise by removing the exercise equipment that she wanted and purchasing a smaller sauna. Mary questioned if the smaller sauna size would satisfy Ms. Green's therapy needs. Ms. Green replied that she would need to do the traction outside of the unit instead of inside. Mr.

Cherry added that with the revised location, the entrance to the sauna would be a narrow space and that Ms. Green would need to compromise by removing windows and reducing her closet size.

Tim clarified that with the new request, it is actually 2.3' x 17.4', so Ms. Green would be really encroaching around 35 sq. ft. into the setback.

Pat noted that on exhibits 10 and 11 the photos show the back of the house with the existing 2nd floor deck. To the right is where the room would be going. It would be 5' shorter than the existing deck.

Craig asked if the unit could be downsized further by placing it within the setback area and installing a sit up sauna and jacuzzi. Mr. Cherry replied no, due to the closets.

Ms. Green asked if she should ask for the original variance and then the Board decide either on the original 7.3' or the revised 2.3'. Mary responded that she could ask for the 7.3', but it was not necessary for Ms. Green to revise the request due to the factual information from today. The Board would be able to vote on either the 7.3' or the 2.3'.

Jim questioned if the equipment is needed to manage pain, then he doesn't see why Ms. Green would have to modify the equipment. Ms. Green replied that heat relaxes her back so it is better to have the heat therapy used with the traction unit. She would prefer to keep it in the sauna but with her revised request she will sit in the sauna then use the traction equipment right outside of the sauna.

Jim commented that the Board is charged with doing the minimum variance with the minimum amount of encroachment.

Nancy asked if there was any thought to put the unit anywhere else in the house. Ms. Green replied no, since the unit is preferred to be close to the tub in the bathroom. Ms. Green also looked at an outside sauna, but due to the conditions with the salt air it would deteriorate the unit.

Mary noted that the statutory appeal period is 30 days to file in Superior Court. The 30 days starts the day the written decision is filed at Town Hall.

Mary asked the audience and the Board if anyone had any final comments. With no final comments, a motion was made by Tim, seconded by Jim, to close the record. The motion passed unanimously.

A motion was made by Craig, seconded by Linda, to deny Ms. Green's variance request.

Craig noted that he was denying based upon that there are multiple options available in Ms. Green's home to put the sauna that would not encroach the setback.

Linda noted that she was denying the request since there are smaller sauna options available. Although she was conflicted, there are rules in Fenwick Island that need to be followed.

Nancy noted that she was denying the request since if it was allowed, the Board would be setting a precedent. She added that there are other spaces in the house that could accommodate the equipment.

Jim noted that he was approving Ms. Green's request based upon that she has a unique sized lot and if she had a 100' lot, she would not even need the variance. He added that due to Ms. Green's medical issues, she needs the equipment and does not see where 2.3' would affect anyone.

Tim noted that he was denying the request due to the encroachment. He commented that this is a small community and the setbacks in Fenwick Island are the fabric of the community. He added that her request does not reach the practical difficulty. There are other options and space elsewhere in the house. Tim stated that he based his vote on the best interest of the community.

The motion was approved and Ms. Green's variance request was denied.

Adjournment

A motion was made by Craig, seconded by Jim, to adjourn the meeting. The motion passed unanimously and the meeting adjourned at 11:37 AM.