

TOWN OF EMERALD ISLE
BOARD OF ADJUSTMENT
REGULAR MEETING
WEDNESDAY, APRIL 13, 2011

The meeting was called to order at 9:00 AM by Chairman Mark Brennesholtz. Members present were: Mark Brennesholtz, Russell Adams, John Kilgore, Jim Normile and Sally Waters. Also attending was Planning Director, Kevin Reed. Also in attendance were the applicants, Donald Moore and Billy Graves. There were several citizens and property owners also in attendance.

The first order of business was the approval of the minutes for the Board's March 9, 2011 meeting. Russell Adams made a motion to approve the minutes as presented. The motion was seconded by Jim Normile and passed unanimously (5 to 0).

The second order of business on the agenda was case number 11-V-02. A request submitted by Donald W. Moore on behalf of Judith Browning for a variance to Chapter 5, Table 5.1 "Table of Dimensional Standards", of the Town's Unified Development Ordinance. The request is for a variance to the required minimum front yard setback of 30-feet and the minimum side yard setback of 20-feet in order to allow for the construction decks that would extend into the required setbacks. The property is located at 8702 Ocean View Drive. Mr. Moore indicated that the building in question contained four units. He further stated that three of the units were rented to tenants and one was reserved for use by the owner, Mrs. Browning. He further indicated that the house was constructed in a manner which did not meet the building setbacks on three sides. It is suspected that these encroachments were a result of the building being constructed prior to the establishment of development regulations in the Town and before the adjacent streets were improved. Mr. Moore indicated that he had previously re-built a rear deck serving the structure and that they now wished to replace the front decks due to their deteriorated condition. He stated the decks would be re-built in their existing footprint and that no expansion or enlargement of the decks was requested. Mr. Moore concluded by stating that the current owners were the ones who originally constructed the building. Mr. Kilgore asked if was possible to reconfigure the decks to meet code and Mr. Moore replied that was not possible. Mrs. Waters asked Town staff how other non-conforming structures are treated when they are repaired or replaced. Mr. Reed indicated that non-conforming structures can be repaired provided the cost of repair did not exceed 50% of the value of the structure. Since the decks are to be removed and replaced, the 50% rule would be exceeded and the new decks would have to comply with setback requirements. Mr. Moore indicated that repair was not an option since the current decks did not meet building code requirements. Mr. Normile indicated that the decks appeared to be seriously deteriorated and a safety concern in their current condition. Mr. Brennesholtz indicated that it would appear that some decks could be rebuilt that would meet setback requirements. Mr. Moore indicated that by doing so there would be very little useful space on the decks. There was further discussion by the Board and following that discussion, the Chairman called for a vote on the request. The vote of the Board was five (5) votes to approve the request and one (1) vote to deny. The variance was granted by a 4 to 1 vote of the Board.

The third order of business on the agenda was case number V-11-03. A request submitted by Billy Graves for a variance to Chapter 5, Table 5.1 "Table of Dimensional Standards", of the Town's Unified Development Ordinance. The request is for a variance to the required minimum side yard setback of 10-feet in order to allow for a roof to be constructed over an existing deck

that extends 1.44 feet into the required setback. The property is located at 123 Live Oak Street. Mr. Graves presented his request and indicated that he had an existing deck on the southern side of his dwelling what was located 8.46 feet from the property line. Since uncovered decks and steps can project a maximum of three feet into the setback, the existing deck was in compliance. However, Mr. Graves indicated that he wished to cover the existing deck which would require a variance of 3-feet. Mr. Adams indicated that the variance appeared to be for cosmetic and convenience purposes only and was not necessary for the owner to be able to use and enjoy his property. Mr. Kilgore noted that the covering of the entire deck and an overhang appeared necessary to make the covered deck practical and functional. Ms. Barbara Morgan (211 Cedar Street) read a letter into the record from Hazel Foster (201 Cedar Street) indicating she was opposed to the variance request. Mrs. Jane Allen (121 Cedar Street) stated that she did not believe that the variance was warranted since Mr. Graves was not being denied a reasonable use of his property without the variance. Mr. Mike Conner (218 Cedar Street) indicated that he would like to see more concrete plans for the project before he indicated whether he was opposed to the request or not. There was further discussion by the Board and following that discussion, the Chairman called for a vote on the request. The vote of the Board was five (5) votes to deny the request and none (0) vote to approve. The variance was denied by a 5 to 0 vote of the Board.

There being no further business to come before the Board, a motion to adjourn was made by Russell Adams. The motion was seconded by Jim Normile and passed unanimously (5 to 0). The meeting was adjourned at 10:11 AM.

Respectfully submitted by,

A handwritten signature in cursive script that reads "Kevin B. Reed". The signature is written in black ink and is positioned below the text "Respectfully submitted by,".

Kevin B. Reed, Secretary
Town of Emerald Isle Board of Adjustment