

Town of Beverly Shores
BOARD OF ZONING APPEALS MEETING MINUTES –September 9,2021
Administration Building

The meeting was called to order by Donna Norkus, Chair at 6:30 p.m followed by the pledge of allegiance.

Roll Call - Board Members: Mary Fulghum, Linda Kurtos, David Phelps and Donna Norkus, Virtual Meeting Facilitator Ellen Hundt and Town Attorney Connor Nolan were present. Board Member Greg Lyman was absent.

Title VI Survey availability was mentioned.

Approval of Minutes

Linda Kurtos moved to approve August 12, 2021 minutes, Mary Fulghum seconded. Passed unanimously.

New Business – Public Hearing Brandstrader/Griggs – 2 West Ripplewater variance request.

Rules for conduct of virtual meeting were read.

Review and verification of submitted documents was completed:

Surrounding Property Owner list and notification
Applicant's Affidavit of Notice
Publication Notice

Board Chair Norkus opened the public hearing.

Fred Brandstrader presented on behalf of Petitioner.

Board Chair Norkus questioned the relevance of additional allowable square footage per calculation if front setback were on Broadway rather than Ripplewater. Petitioner Brandstrader acknowledged no intent to re-site the house so no relevance.

Board Member Fulghum questioned whether the proposed addition described as a “sunroom” meets the town code §155.003 definition of “porch, enclosed.” Petitioner Brandstrader responded that the proposed sunroom will be a four-season room and therefore fits the definition and adds to the calculated square footage of the structure.

Board Member Phelps inquired whether Petitioner had explored purchase of neighboring unbuildable lot which would increase square footage of building parcel. Petitioner Brandstrader indicated he had not.

Discussion ensued about phantom floor area calculation. It was concluded that the calculation was not clear so the total amount of square footage allowable per Building Code calculation is not verifiable. It was also indicated that the maximum floor area calculation on submitted architect's plans was off by 10 s.f. Petitioner will confirm with architect.

Board Chair Norkus indicated that while the square footage of the proposed addition will not change, the square footage of the existing non-conformity cannot be determined with certainty and therefore the resulting total non-conformity not known. As this may be relevant to decisionmakers, Petitioner was asked whether they preferred to continue with present hearing or return with additional calculation information and continue the hearing then. Petitioner Brandstrader chose to continue present hearing.

Board Chair Norkus inquired as to whether a building permit had been applied for. Petitioner Brandstrader responded no.

Board Member Kurtos asked whether there would be a change to the existing outdoor stairs to the existing upper deck. Petitioner Brandstrader responded that there is no change to stairs or upper deck other than that deck will be removed and reinstalled with walls of addition serving as support for the portion of the deck above it.

Members of the public were invited to speak in support of the petition. Curt Kendall, 4 W. Ripplewater, the closest neighboring property, spoke in favor of the petition in that it is a small addition that will add to the value of the home and therefore the neighborhood.

No remonstrations were presented. Members of the public were invited to speak in opposition to the petition. There were no speakers and therefore no rebuttal presented by Petitioner.

Referring to the proposed findings of fact, Board Member Fulghum asked what "extend the ability of the owners to stay there" meant. Petitioner Brandstrader responded that future needs may involve an inability to take stairs and therefore provide ground-level accommodations to homeowners. Board member Kurtos inquired whether there would be direct access to outside. Petitioner responded in the affirmative.

Board Chair Norkus asked whether the needed enhanced livability as described in submitted documents was known at the time of purchase 3-4 months prior. Petitioner Brandstrader responded that needed improvements were anticipated. Board Member Kurtos asked whether representations had been made as to the ability to expand square footage. Petitioner responded they had not.

Board Chair Norkus reminded Petitioner that section 155.082(C) of the Town Code requires a minimum zoning parcel size of 20,000 square feet with at least 15,000 square feet of moderately well drained or better drained soil, as determined by a soil scientist licensed by the State of Indiana. Town Attorney Nolan indicated that a grant of the requested variance would most likely overcome the 15,000 square foot requirement but not necessarily the need for a soil scientist to make a determination. That would be decided by the Building Committee.

Petitioner Brandstrader corrected the record to indicate that a building permit had been formally applied for, then denied by the Building Commissioner so that a variance could be obtained prior to formal presentation to the Building Committee.

Referring to the submitted Description of Project, Board Chair Norkus questioned relevance of "the home will still be 300 SF less than would be allowed on a minimally conforming lot." Petitioner retracted statement. Also questioned was the statement on resulting practical difficulties in the use of the property in the Proposed Findings of Fact #3.

Board Member Phelps asked whether Petitioner knew of any previous variance granted as the relevant ordinances were adopted in 1983 and the house built in 1988, presumably on a non-conforming lot. Petitioner is not aware of any prior variance.

Board Member Fulghum asked whether the addition would expand the existing footprint. Petitioner Brandstrader responded yes. Discussion ensued regarding the unknown accuracy of the square foot calculation with the conclusion being that the difference between 260 and 320 square feet was fairly immaterial to the decision before the Board.

Board Member Fulghum moved to approve the variance with modification of the Findings of Facts. Board Member Phelps seconded. Ensuing discussion as to modifications resulted in agreement on #1 and 2 however

the Board did not find in the evidence presented that the burden was met for #3. The motion was unanimously defeated.

Board Member Phelps moved to continue the public hearing to October 14, 2021 at 6:30 p.m. to allow petitioner to amend the proposed Findings of Fact and to submit additional evidence after which public comment will be reopened. Board Member Kurtos seconded. The motion passed unanimously.

Discussion on the BZA packet revisions will take place at the October meeting.

Board Member Phelps moved to adjourn, Kurtos seconded. Passed unanimously. Meeting adjourned at 8:25pm.



Board of Zoning Appeals Chair: Donna Norkus

Town of Beverly Shores
BOARD OF ZONING APPEALS MEETING MINUTES –October 14,2021
Administration Building with Virtual Access through Teams Software

The meeting was called to order by Donna Norkus, Chair at 6:30 p.m followed by the pledge of allegiance.

Roll Call - Board Members: Mary Fulghum, Linda Kurtos, Greg Lyman, David Phelps and Donna Norkus, Virtual Meeting Facilitator Ellen Hundt and Town Attorney Connor Nolan were present.

Title VI Survey availability was mentioned.

Approval of Minutes

Board Member Fulghum moved to approve September 9, 2021 minutes, Board Member Phelps seconded. Passed unanimously.

Public Hearing Continuation Brandstrader/Griggs – 2 West Ripplewater variance request.

Board Chair Norkus reopened public hearing

Fred Brandstrader presented revised documentation and testimony on behalf of Petitioner including present intent to periodically host elderly family member with eventual intent for parent to move in, needing sitting or sleeping accommodations without having to negotiate stairs.

Public comment was invited for support or remonstrations. No comment was offered.

Board Member Lyman asked Petitioner to elaborate on meeting needs of parent as there was no prior testimony to that effect. Petitioner responded that having a sitting room at ground level would allow hosting family member without having to negotiate stairs. Board member Kurtos asked whether parent had current mobility issues. Petitioner responded no.

Board Chair Norkus referred to revised materials presented: max floor area calculation previously stated as 2,386 is revised to 2,409, existing max floor area exceeds allowable by 51 square feet rather than 18, proposed addition results in a 284 square foot total variance request, the 233 square foot addition plus the current coverage.

Board Member Lyman questioned the width of the upper deck. Petitioner responded ten feet and confirmed that is the same width of the proposed addition. Board Chair Norkus pointed out that prior testimony was that the second story deck would be rebuilt with no change other than the support on which it rests, also evidenced by provided pictures while architectural drawings and new testimony show deck extended to the end of the house, the full length of the addition. However, the upper deck size is not to be determined by the BZA.

Board Member Phelps asked about the existing room at grade level behind the garage. Petitioner indicated it is currently used as a laundry room.

Board discussion on proposed findings of fact ensued. Board Member Phelps found proposed finding #3 to not indicate practical difficulties in the use of the property as required for grant of a variance.

Discussion ensued about the proposed addition being considered a bedroom which would require county involvement with increased septic requirements. However, the petition before the Board is for a sunroom, not a bedroom so consideration need not be given. Board Member Lyman referred to the potential for the house to have been considered to front on Broadway which would reduce the size of the variance request as to square footage because of the allowable square footage calculation with additional front yard setback. The house sits on a corner lot with frontage determined to be Ripplewater due to the length of frontage being one foot longer

Town of Beverly Shores
BOARD OF ZONING APPEALS MEETING MINUTES –December 3,2021
Administration Building

The meeting was called to order by Donna Norkus, Chair at 3:00 p.m

Roll Call - Board Members: Mary Fulghum, Linda Kurtos, Greg Lyman, David Phelps and Donna Norkus, Secretary Ellen Hundt were present.

Title VI Survey availability was mentioned.

Approval of Minutes

Board Member Lyman moved to approve October 14, 2021 minutes, Board Member Phelps seconded. Passed unanimously.

Electronic Participation Policy for Public Meetings

Board member Lyman moved to approve, Board Member Kurtos seconded. Passed unanimously.

Review of BZA Application Packet

BZA proposed revised application packet was thoroughly reviewed with revisions discussed and agreed to by members. Chairperson Norkus will incorporate the revisions into the proposed packet and circulate among board members with the intent to consider adoption at January organizational meeting which will be virtual. Additionally, advice of council will be sought regarding variance expiration and recording of variance with possible additions to the By-Laws (expected to be renamed Rules of Practice and Procedure)..

Board Member Lyman moved to adjourn. Board Member Kurtos seconded. Passed unanimously. Meeting adjourned at 4:31 p.m.

Board of Zoning Appeals Chair: Donna Norkus

Town of Beverly Shores
BOARD OF ZONING APPEALS MEETING MINUTES –December 3, 2021
Administration Building

The meeting was called to order by Donna Norkus, Chair at 3:00 p.m

Roll Call - Board Members: Mary Fulghum, Linda Kurtos, Greg Lyman, David Phelps and Donna Norkus, Secretary Ellen Hundt were present.

Title VI Survey availability was mentioned.

Approval of Minutes

Board Member Lyman moved to approve October 14, 2021 minutes, Board Member Phelps seconded. Passed unanimously.

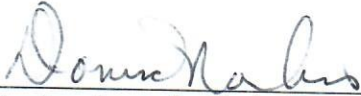
Electronic Participation Policy for Public Meetings

Board member Lyman moved to approve; Board Member Kurtos seconded. Passed unanimously.

Review of BZA Application Packet

BZA proposed revised application packet was thoroughly reviewed with revisions discussed and agreed to by members. Chairperson Norkus will incorporate the revisions into the proposed packet and circulate among board members with the intent to consider adoption at January organizational meeting which will be virtual. Additionally, advice of counsel will be sought regarding variance expiration and recording of variance with possible additions to the By-Laws (expected to be renamed Rules of Practice and Procedure).

Board Member Lyman moved to adjourn. Board Member Kurtos seconded. Passed unanimously. Meeting adjourned at 4:31 p.m.



Board of Zoning Appeals Chair: Donna Norkus