

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46

**NEW BERN BOARD OF ADJUSTMENT  
MINUTES**

**January, 28 2019**

The New Bern Board of Adjustment held a regular meeting on Monday, January 28, 2019 at 5:30 p.m. in the City Hall Courtroom, 2<sup>nd</sup> floor, 300 Pollock Street.

**Full Members Present:** Kenneth “Kip” Peregoy, Chair  
Dorethea White  
Jim Morrison  
John E. Murrell  
John Riggs  
Richard Parsons

**Alternate Members Present:** Anne Schout  
Edward Bellis  
Ross Beebe

**Members Excused:** Alfred Barfield  
Tripp Eure

**Staff Present:** Bradleigh Sceviour, Land & Community Development Administrator; Jennifer Mayo, Administrative Assistant

**Others Present:** Jennifer Campbell, Recording Secretary

**Call to Order**

Chair Kip Peregoy called the meeting to order at 5:29 p.m. At that time Staff Member Jennifer Mayo was on hand to swear in new Board Members. Board Members Jim Morrison and Anne Schout took the following oath:

“I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will faithfully discharge the duties of my office as a member of the Redevelopment Commission of the City of New Bern, so help me God.”

**Roll Call**

At this time Staff Member Bradleigh Sceviour proceeded with the roll call and quorum was declared.

Chair Peregoy explained the Board of Adjustment and the quasi-judicial process. He then swore in all persons who wished to speak at the meeting.

93 **Requirements:**

- 94  
95 **1. The variance creates unnecessary hardship would result from the strict application**  
96 **of the ordinance, it shall not be necessary to demonstrate in the absence of the**  
97 **variance no reasonable use will be made of the property.**

98  
99 **Applicant Comment:**

100  
101 No comment was made.

102  
103 **Public Comment:**

104  
105 No public comment at this time.

106  
107 Chair Peregoy entertained a motion to close public comment. **Board Member Jim Morrison**  
108 **made a motion to close public comment. Board Member Ross Beebe seconded the motion.**  
109 The motion passed unanimously.

110  
111 Public Comment was closed.

- 112  
113 **2. The Hardship results from the conditions that are peculiar to the property, such as**  
114 **location, size of the property. Hardships from personal circumstances, as well as,**  
115 **hardships resulting from conditions that are common to the neighborhood within the**  
116 **general public may not be basis for granting forbearance.**

117  
118 **Applicant Comment:**

119  
120 No comment at this time.

121  
122 **Public Comment:**

123  
124 No comment was made.

125  
126 Chair Peregoy entertained a motion to close public comment. **Board Member Richard Parsons**  
127 **made a motion to close public comment. Board Member Anne Schout seconded the motion.**  
128 The motion passed unanimously.

129  
130 Public comment was closed.

- 131  
132 **3. The hardship did not result from actions taken by the applicant or the property**  
133 **owner. The act of purchasing property acknowledge that circumstances that exist**  
134 **may justify the granting of a variance should not be regarded as a self created**  
135 **hardship.**

136  
137 **Applicant Comment:**

138

139 No comment was made at this time.

140

141 **Public Comment:**

142

143 No comment was made at this time.

144

145 Chair Peregoy entertained a motion to close public comment. **Board Member Anne Schout made**

146 **a motion to close public comment. Board Member Richard Parsons seconded the motion.**

147 The motion passed unanimously.

148

149 Public comment was closed.

150

151 **4. The requested variance is consistent with the spirit, purpose, and intent of the**

152 **ordinance, such that public safety is secured and substantial justice is achieved.**

153

154 **Applicant Comments:**

155

156 No comment was made at this time.

157

158 **Public Comment:**

159

160 No comment was made at this time.

161

162 Chair Peregoy entertained a motion to close public comment. **Board Member Edward Bellis**

163 **made a motion to close public comment. Board Member Ross Beebe seconded the motion.**

164 The motion passed unanimously.

165

166 Public comment was closed.

167

168 **Finding of Fact and Board Discussion:**

169

170 **1. The variance creates unnecessary hardship would result from the strict application**

171 **of the ordinance, it shall not be necessary to demonstrate in the absence of the**

172 **variance no reasonable use will be made of the property.**

173

174 Board Member Dorothea White requested that staff give an explanation. Staff Sceviour stated that

175 this particular neighborhood is a very old neighborhood and broadly the city has rules that help

176 mitigate the impacts of older, more established neighborhoods not necessarily having the lot

177 dimensions that a newer neighborhood would have, that would accommodate our wide front

178 setbacks. He went on to explain that in this neighborhood along Howard Street, where the city uses

179 block averaging to accommodate these older neighborhoods, the residents line their house up with

180 the way setbacks work along that side of the block of Howard Street. He stated that unfortunately

181 because of the short length of Cypress Street, the block on this street doesn't give any averaging

182 to work with. He stated that the intent of the ordinance is essentially written so that older lots like

183 this will be mitigated and 99% of the time they are and the setbacks work just fine, but in this case

184 where there is nothing to average it out against, the strict application of that front setback would  
185 create a reasonably unworkable situation for them to build on.

186  
187 Chair Peregoy also questioned that with the strict application of the setbacks there would be an 8-  
188 foot wide house with a total of a 300 square foot house. Staff Sceviour confirmed that he was  
189 correct.

190  
191 Another question was asked regarding the zoning and whether this lot was R-6. Staff Sceviour  
192 confirmed that it was R-6. This was followed by the question if the lot was big enough otherwise  
193 to build on. Staff Sceviour stated that it was not deficient in any way except for the practical sense  
194 with this setback.

195  
196 Chair Peregoy referenced the map and stated that from the property line there was an additional  
197 15 feet of grass area before you hit the pavement, and even if the board grants the variance the  
198 property will look different the property. He stated there would still be a fairly wide swath of grass  
199 next to the house, even though it's sitting back 8 feet off the property line. Staff Sceviour agreed  
200 with Chair Peregoy's statement.

201  
202 There was no further questions or discussion so Chair Peregoy entertained a motion for this  
203 requirement. **Board Member Ross Beebe made a motion affirming that unnecessary hardship**  
204 **would result from the strict application of the ordinance. Board Member Richard Parsons**  
205 **seconded the motion.** The motion passed unanimously. (9-0)

206  
207 **2. The Hardship results from the conditions that are peculiar to the property, such as**  
208 **location, size of the property. Hardships from personal circumstances, as well as,**  
209 **hardships resulting from conditions that are common to the neighborhood within the**  
210 **general public may not be basis for granting forbearance.**

211  
212 There was no further board discussion or questions to staff, so Chair Peregoy entertained a motion  
213 for this requirement. **Board Member Richard Parsons made a motion to find that based on**  
214 **evidence submitted, the hardship results from conditions peculiar to the property. Board**  
215 **Member Dorothea White seconded that motion.** The motion passed unanimously. (9-0)

216  
217 **3. The hardship did not result from actions taken by the applicant or the property**  
218 **owner. The act of purchasing property acknowledge that circumstances that exist**  
219 **may justify the granting of a variance should not be regarded as a self created**  
220 **hardship.**

221  
222 Mr. Parsons asked if the building was in process and the applicant verified that it was currently a  
223 vacant lot. Chair Peregoy stated that the applicant cannot begin construction on the property until  
224 the variance is approved. Staff Sceviour gave explanation to it not being a self-imposed hardship.  
225 He stated that the organization, Habitat for Humanity, is given properties by the City of New Bern  
226 and told to build on them. Staff Sceviour went on to explain that the conditions of the lot were not  
227 really favorable to constructing a house, so essentially it is not the fault of the property owner, but  
228 mostly the city for not catching it on the front end.

229

230 Mrs. White asked if the City of New Bern would ensure that something like this issue would not  
231 happen again, since this issue requires the Board to grant a variance. She stated that if the City  
232 knew the lot couldn't hold a certain type of house, the City should have told Habitat for Humanity  
233 before they began. Staff Sceviour agreed with her statement and said that the city would endeavor  
234 not to make the same mistake in the future.

235  
236 Chair Peregoy asked staff if, without the Board of Adjustment could the City disregard the  
237 ordinance themselves. Staff Sceviour said no. This was followed by the question if the previous  
238 question was a no, then this variance would, at some point, come before the Board of Adjustment.  
239 Staff Sceviour stated that at some point for this lot to be used, it would need to come before this  
240 board, with a more general solution would be to gift it to the neighbor, but currently this is where  
241 we are.

242  
243 At this time Chair Peregoy entertained a motion for this requirement. **For this finding of fact**  
244 **Board Member Ross Beebe made a motion that the hardship was not created by the**  
245 **applicant. Richard Parsons seconded that motion.** The motion passed unanimously. (9-0)

246  
247 **4. The requested variance is consistent with the spirit, purpose, and intent of the**  
248 **ordinance, such that public safety is secured and substantial justice is achieved.**

249  
250 Clarification was requested for this requirement. Staff Sceviour stated that there is language  
251 written in the ordinance to attempt to mitigate the impacts for older lots not fitting our modern  
252 dimensional requirements. He went on to state that this is an outlier case with a double frontage  
253 and the way it came to this board was that it fit into the intent of the language, but wasn't quite  
254 broad enough to capture it with the way that it was written. Staff Sceviour finished by stating that  
255 he believes that it does conform very much to the spirit of the law.

256  
257 There was no further questions or discussion from the board. **Chair Peregoy entertained a**  
258 **motion on item number 4 that requested variance is consistant with spirit, purpose, and**  
259 **intent of the ordinance, such that public safety is secured and substantial justice is achieved.**  
260 **Board Member Edward Bellis made motion and Board Member Anne Schout seconded the**  
261 **motion. The motion passed unanimously. (9-0)**

262  
263 At this time since all four requirements for the granting of the variance have been approved by the  
264 board, so Chair Peregoy entertained a motion to grant the requested variance. **Board member**  
265 **Richard Parsons made the motion to approve the variance. Board Member Ross Beebe**  
266 **seconded the motion. The motion passed unanimously. (9-0)**

267  
268 **Approval of 2019 Board Schedule**

269  
270 A question was asked as to an alternate date for the May submission and meeting dates and it was  
271 clarified that this meeting was adjusted a week so as not to conflict with Memorial Day.

272  
273 Chair Peregoy entertained a motion on this issue. **Board Member Jim Morrison made a motion**  
274 **to approve the 2019 Board of Adjustment Schedule. Board Member Richard Parsons**  
275 **seconded that motion. The motion passed unanimously.**

276 **Election of Officers**

277  
278 Chair Peregoy explained that Steve Strickland was vice-chair and has since then resigned from  
279 this board. He went on to state that since he would not be present for the June meeting, there would  
280 need to be a vice-chair in place. Chair Peregoy stated that right now the appropriate thing to do  
281 would be nominate a vice-chair.

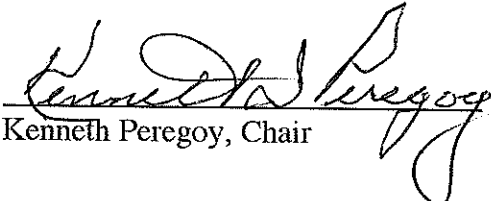
282  
283 Staff Sceviour asked if the board would like to accept nominations. Chair Peregoy stated that the  
284 board would now accept nominations. **Board Member Richard Parsons moved to nominate**  
285 **Trip Eure to serve as Vice-Chairman. Board Member Jim Morrison seconded the motion.**  
286 **The motion passed unanimously.**

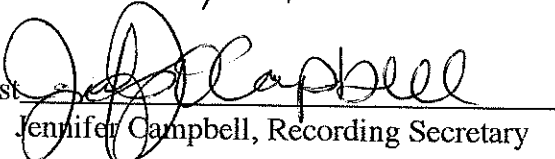
287  
288 **Adjourn**

289  
290 There was no further business to discuss so Chair Peregoy entertained a motion to adjourn. **Board**  
291 **Member Dorothea White made a motion to adjourn. Board Member Richard Parsons**  
292 **seconded the motion. The motion passed unanimously.**

293  
294 The meeting was adjourned at 6:01 p.m.

295  
296  
297 Date Approved: 4/29/2019

  
Kenneth Peregoy, Chair

298  
299  
300 Attest   
301 Jennifer Campbell, Recording Secretary

302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315