

**Smithfield Board of Adjustment  
Minutes  
Thursday, September 24, 2020  
6:00 P.M.,  
Town Hall, Council Chambers**

**Members Present:**

Stephen Upton, Chairman  
Mark Lane, Vice Chairman  
David Johnson  
Sarah Edwards

**Members Absent:**

Keith Dimsdale

**Staff Present:**

Mark Helmer, Senior Planner  
Julie Edmonds, Administrative Support Specialist

**Staff Absent:**

Stephen Wensman, Planning Director

**CALL TO ORDER**

**Approval of minutes from August 27, 2020**

Mark Lane made a motion, seconded by Sarah Edwards to approve the minutes as written. Unanimously Approved

**Open Public Hearing**

David Johnson made a motion to open BA-20-06, seconded by Sarah Edwards. Unanimously Approved

**BA-20-06 Historic Smithfield Foundation:**

Mark Helmer said the Historic Smithfield Foundation is requesting a 23-foot variance from the minimum 30-foot front building setback for the addition of a vestibule and staircase to an existing structure located within a R-8 (Residential) zoning district. The Historic Smithfield Foundation is rehabilitating the Historic Freedman School House with plans to use the structure for a public use. The Smithfield Town Council, at their June 6, 2020 meeting issued a special use permit for a public use. The Smithfield Board of Adjustment, at their January 31, 2019 meeting, issued a 6' 9" variance from a 10' side yard setback, a 5' 8" variance from a 10' side yard setback and an 1,888 square foot variance from the 8000 squares foot minimum lot size for the creation of an individual lot of record in preparation for the transfer of ownership of the Freedman School House to the Historic Smithfield Foundation. The most recent site plan indicates the removal of an enclosed front porch that was constructed in the recent past and has outlasted its usefulness.

The Historic Smithfield Foundation is proposing to reconstruct the vestibule that would typically be found on a Freedman School House. The addition of the vestibule will be sensitive to the architectural history of the structure and serve as a value-added feature to building and community. The proposed site plan indicates that the existing structure, minus the demolished front porch, encroaches 10 feet into the required 30-foot building setback from North Fourth Street and the proposed vestibule with staircase will encroach an additional 13 feet into the required 30-foot building setback. Therefore a 23-foot variance will be required for the construction of the proposed vestibule and staircase. The

following Unified Development Ordinance section highlights the dimensional requirements for lots located within the R-8 (Residential) zoning district.

As part of a complete variance application, the applicant has submitted a surveyed plot plan indicating the vestibule and staircase will be approximately 7 feet from the public right-of-way of North Third Street.

#### **FINDINGS OF VARIANCE APPROVAL:**

In order to approval a variance, the Board of Adjustments shall find all of the following provisions must be met (Staff's findings are in ***bold/italic***):

***4.10.2.2.1.*** Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. ***Unnecessary hardship will occur, because the existing structure predates modern zoning and cannot meet the minimum building setbacks of the R-8 (Residential) zoning district. If the variance is not granted, any effort to return the structure to its historic form would require moving the entire structure from its current location.***

***4.10.2.2.2.*** The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. ***The existing structure was constructed before modern zoning and the historical significance of the structure results in a peculiar situation where preservation of the structure will be impossible to perform if a variance from the front building setback is not granted.***

***4.10.2.2.3.*** The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. ***The existing structure not meeting current building setbacks is a nonconformity that was not originally created by the applicant. Returning the structure to a more accurate historical form is not a self-created hardship.***

***4.10.2.2.4.*** The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved. ***The variance is in keeping with the spirit, purpose, and intent of the Ordinance. The variance will serve to protect and preserve the fabric and history of the district in which this historic structure is located.***

Mark Lane said we've already issued a 10-foot variance on this same property. He asked if it was allowable to issue another variance on the same property.

Mark Helmer said yes.

Mark Lane said so this will give them a 7-foot setback.

Mark Helmer said yes, it will be a little closer than what it was before demolition.

Mark Lane asked if adjacent property owners were notified.

Mark Helmer said yes absolutely, by First Class Mail.

Mark Lane said he didn't mind granting the applicant the variance, he agrees it is needed. He just feels like the by granting a 23-foot variance the board would be setting a precedence.

Mark Helmer said there wouldn't be a precedence set because every case is based on facts of that case not something previously before.

Mark Lane asked if a house that is currently in the setback being lived in wants to remodel or rebuild a burnt front porch; would they have to come back before to BOA to get approval?

Mark Helmer said you will find in Historic neighborhoods that it is more common to meet setbacks.

David Johnson made a motion to approve finding of fact; seconded by Sarah Edwards. Unanimously Approved.

Sarah Edwards made a motion to approve variance BA-20-06 based on the finding of fact found in the staff report to allow for a 23-foot variance from the 30-foot front building setback for the addition of a vestibule and staircase to an existing historic structure located within a R-8 (Residential) zoning district; seconded by David Johnson. Unanimously approved

Sarah Edwards made a motion to close BA-20-06; seconded by David Johnson. Unanimously approved.

The next BOA meeting will take place on Thursday, October 22<sup>nd</sup>, 2020 at 6pm.

Old Business

None

New Business

None

Mark Lane made a motion to adjourn, seconded by Sarah Edwards. Unanimously Approved

Julie Edmonds



Administrative Support Specialist  
Town of Smithfield Planning Department