



Town of Beaufort, NC

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

Town of Beaufort Board of Adjustment Regular Meeting 6:00 PM Monday, March 28, 2022 - Train Depot, 614 Broad Street, Beaufort, NC 28516 Monthly Meeting

Call to Order

Roll Call

Agenda Approval

Minutes Approval

- [1.](#) BOA Draft Minutes for 2.28.22

Administration of Oaths

New Business

- [1.](#) Variance Request for 204 2nd Street

Public Comment

Commission / Board Comments

Staff Comments

Adjourn



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**Town of Beaufort Board of Adjustment Regular Meeting
6:00 PM Monday, February 28, 2022 - Virtual Via Zoom
Minutes**

Call to Order

Town Attorney Quattlebaum called the February 28, 2022 Board of Adjustment regular meeting to order at 6:00 pm.

Roll Call

Board Secretary Anderson took roll call and the following members were present: Ann Carter, Virginia Cuthrell, Barry Evans, Wendi Oliver, and Cathy Reeve. She declared a quorum with five members present.

Also present for the meeting were Town Attorney Jill Quattlebaum, Kyle Garner, and Laurel Anderson.

Nomination of Temporary Chair

Attorney Quattlebaum asked for a nomination for a temporary Chair.

Member Evans made the motion to nominate Member Oliver and Member Reeve made the second. Secretary Anderson took a roll call vote that was unanimous.

Voting yea: Member Carter, Member Cuthrell, Member Evans, Member Oliver, Member Reeve

Agenda Approval

Chair Oliver asked if there were any changes to the Agenda and hearing none, the Chair asked for a motion.

Member Reeve made the motion to approve the Agenda and Member Evans made the second. Chair Oliver took a roll call vote that was unanimous.

Voting yea: Chair Oliver, Member Carter, Member Cuthrell, Member Evans, Member Reeve

Minutes Approval

- 1. BOA Draft Minutes for 11.22.21

Chair Oliver asked if there were any changes to the January 24, 2022 Meeting Minutes and hearing none, the Chair asked for a motion. Member Carter excused herself from the vote as she had not been at the meeting.

Member Reeve made the motion to approve the Minutes and Member Evans made the second. Secretary Anderson took a roll call vote that was unanimous. 1.

Voting yea: Chair Oliver, Member Cuthrell, Member Evans, Member Oliver, Member Reeve

Election of Officers

Chair Oliver asked for a motion to turn the meeting over to Attorney Quattlebaum in order to vote for Chair and Vice-Chair.

Member Carter made the motion and Member Evans made the second. Secretary Anderson took a roll call vote that was unanimous.

Voting yea: Chair Oliver, Member Carter, Member Cuthrell, Member Evans, Member Reeve

Attorney Quattlebaum opened up nominations for the position of Chair.

Member Evans nominated Member Oliver and Member Reeve seconded. Member Carter moved to close the nominations.

Voting yea: Chair Oliver, Member Carter, Member Cuthrell, Member Evans, Member Reeve

Board Secretary Anderson called the role for a vote for Member Oliver for Chair of the Board of Adjustment.

Voting yea: Chair Oliver, Member Carter, Member Cuthrell, Member Evans, Member Reeve

Attorney Quattlebaum opened up nominations for the position of Vice-Chair.

Member Evans nominated Member Reeve and Member Cuthrell seconded. Member Oliver moved to close the nominations and Member Cuthrell seconded.

Voting yea: Chair Oliver, Member Carter, Member Cuthrell, Member Evans, Member Reeve

Board Secretary Anderson called the role for a vote for Member Reeve for Vice-Chair of the Board of Adjustment.

Voting yea: Chair Oliver, Member Carter, Member Cuthrell, Member Evans, Member Reeve

Attorney Quattlebaum then turned the meeting over to Chair Oliver.

New Business

Member Carter recused herself from voting on the approval of the Order for 302 Cedar Street Variance as she had not been at that meeting.

Chair Oliver made the motion to recuse Member Carter and Member Evans made the second. Secretary Anderson took a roll call vote that was unanimous.

Voting yea: Chair Oliver, Member Cuthrell, Member Evans, Member Reeve

1. Approval of the Order for 204 Turner Street Variance

Member Reeve made the motion to approve the Order for 302 Cedar Street Variance and Member Evans made the second. Secretary Anderson took a roll call vote that was unanimous.

Voting yea: Chair Oliver, Vice-Chair Reeve, Member Cuthrell, Member Evans

Public Comment

There was no public comment.

Commission / Board Comments

Member Oliver thanked the Board for voting for her as Chair and she welcomed Member Carter to the Board.

Staff Comments

Mr. Garner congratulated Chair Oliver and welcomed Member Carter to the Board. He stated that starting with the next meeting, future meetings would be held at the Train Depot.

Adjourn

Chair Oliver asked for a motion to adjourn the meeting.

Member Cuthrell made the motion to adjourn and Member Reeve made the second. Secretary Anderson took a roll call vote that was unanimous.

Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Cuthrell, Member Evans

Chair

Board Secretary



Town of Beaufort, NC

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**Town of Beaufort Board of Adjustment Regular Meeting
6:00 P.M. March 28, 2022 – 614 Broad Street – Train Depot**

AGENDA CATEGORY: New Business
SUBJECT: Variance Request for 204 2nd Street

BRIEF SUMMARY:

Jonathan & Robin Sprowl are requesting a variance to allow for:

- ◆ A reduction of southwestern rear setback from 25 feet to 23 feet (for a 2 foot encroachment) and a reduction of the southeastern rear setback from 25’ feet to 12 feet (for a 13 foot encroachment) a total area of 136 sq. ft.

REQUESTED ACTION:

Conduct Evidentiary Hearing
Decision on Request

EXPECTED LENGTH OF PRESENTATION:

15 Minutes (Presentation From Staff)

SUBMITTED BY:

Kyle Garner, AICP Planning Director

BUDGET AMENDMENT REQUIRED:

N/A

SECTION 8. TABLE OF AREA, YARD, AND HEIGHT REQUIREMENTS

| District and Use | Minimum Lot Area (sq.ft.) | Minimum Lot Width (ft.) | Minimum Yards (ft.) Including Corner Lots | | | Maximum Building Height (ft) |
|------------------|---------------------------|-------------------------|--|------|-------|------------------------------|
| | | | Front | Side | Rear | |
| R-8 | 8,000 sq. ft. | 60 ft. | 25ft. 20ft. | 8ft. | 25ft. | 35ft. |

Facts:

- The property is zoned R-8 (Residential 8).
- The property and structure have been in existence prior to adoption of any zoning standards.
- The lot is non-conforming as it is less than 8,000 sq. ft. (6,870 sq. ft.)
- This lot is of odd shape in the rear.

Case # 22-02 - Variance Request - 204 2nd Street

1.



8



APPLICATION FOR A VARIANCE OF LAND DEVELOPMENT STANDARDS FOR THE TOWN OF BEAUFORT

Instructions:

Please complete the application below, include all the required attachments, and the application fee of \$300.00 and return to the Beaufort Town Hall, 701 Front Street or P.O. Box 390, Beaufort, N.C., 28516. Incomplete applications will not be processed but will be returned to the applicant. Please contact Planning and Inspections at 252-728-2142 with any questions.

APPLICANT INFORMATION

Applicant Name: Jonathan and Robin Sprowl
Applicant Address: 204 2nd street
Phone Number: (919) 830-8984 Email: jsprowl28@gmail.com

Property Owner Name: Jonathan and Robin Sprowl
Address of Property Owner: 204 2nd Street, Beaufort NC 28516
Phone Number: (919) 830-8984 Email: jsprowl28@gmail.com

PROPERTY INFORMATION

Property Address: 204 2nd street
15-Digit PIN: 730619516016000 Lot/Block Number: NA
Size of Property (in square feet or acres): 6,870 sqft 0.1577 acres
Current Zoning: R-8 Is the property in the Historic District? No

Current Use of Property: Residential Vacant Commercial Other: _____
[Signature] [Signature] 2/28/2022
Applicant Signature Date of Signature

Property Owner Signature (if different than above) Date of Signature

An application fee of \$300.00, is to be paid by either cash, money order, or check made payable to the "Town of Beaufort" and must accompany this application. The complete application, payment, and supporting material must be received by Town Staff at least 15 working days prior to a regularly scheduled Board of Adjustment meeting date.

Please refer to the Town's **Land Development Ordinance, Section 3** and all other pertinent sections, for the information required to accompany this application.
The Town's website address is www.beaufortnc.com.

OFFICE USE ONLY

Revised 8/2020

Received by: _____ Reviewed for Completeness By: _____
Date: _____ Date Deemed Complete and Accepted: _____

REQUIRED ATTACHMENTS FOR A VARIANCE TO THE BEAUFORT ZONING REGULATIONS

Please provide the following as attachments to the variance request form:

- 1. A statement explaining the following:
 - The **specific requirements** of the Town of Beaufort that the applicant is asking to be varied (for example: the number of required parking spaces, any yard setbacks, height of a structure etc.) Please reference the exact chapter and section of the Land Development Ordinance (LDO) in question.
 - The **EXACT amount** of variance that is being requested. For example, the reduction of a placement of a structure by 5 feet within a setback area; a reduction of parking spaces by 7; or an increase in the amount of permitted signage by 16 square feet, etc.
 - The **reason for requesting the Variance**, including an explanation of why the Variance should be considered based on the criteria outlined in Section 21-I (1) of the LDO and any other relevant Sections of the Ordinance that may specifically pertain to the project (see attached excerpts of the code).

- 2. A site plan of the property drawn to scale and includes:
 - A North Arrow;
 - All property lines and accurate property line dimensions;
 - The adjacent streets and names;
 - The location of all easements (if applicable);
 - The location of all existing structures (if applicable);
 - The proposed location of new or expanded structures;
 - The current and proposed building setbacks from all property lines; and,
 - All parking areas, landscaping, and any other requirements of the zoning regulations.

- 3. A TYPED list all property owners (with addresses) within 100 feet of the boundary lines of all properties requesting the variance (notification of adjacent property owners by the Town is required by North Carolina law).

- 4. Any additional materials such as photographs of the surrounding properties, elevations of proposed structures or information that the applicant would like to present to the Board of Adjustment relevant to the requested variance.

- 5. Plans or other documents submitted for the Variance should be in an electronic/digital method as well as one paper copy.

APPLICATIONS ARE DUE 15 WORKING DAYS BEFORE A REGULAR BOARD MEETING.

204 2nd Street LDO variance application explanations

Statement of Explanation:

- 1) We are asking for relief of the LDO rear property set backs which currently require a 25’ set back from the rear of the structure.
- 2) The exact amount is a reduction of the setback from 25’ to 12’ at the east end of the planned addition, and at the west end of the planned addition the amount is from 25’ to 23’, approximately 136 sqft – see drawings.
- 3) Reason for requesting the variance

Section 21 I (2)

2) Findings of the Variance. When practical difficulties or unnecessary hardships would result from carrying out the strict letter of the LDO, the BOA shall have the power to vary or modify any of the regulations or provisions of the Ordinance so the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted only upon affirmative finding of the following:

- a) Unnecessary hardship would result from the strict application of this Chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;

Explanation:

The size and shape of the lot is the cause of the unnecessary hardship. We were able to acquire 10’ of additional land (approx. 720sqft) from 214 1st street. This was the maximum land that could be acquired and still leave 214 1st street with the minimum sqft lot size of 8,000sqft. We were not able to acquire any additional land from 106 Carteret as this lot is already under the required 8,000 sqft. Even with acquiring this extra land the 25’ set back from the rear property line does not allow for the needed space for the planned 18x20’ addition. Additionally, our lot is also bound by the 20’ set back in the front (2nd street) which would only allow for a 5’ addition to the front of the house. To the west the set back is 6’ and would allow for a 7’ addition along the length of the house. This would however mean added structural support and removing the entire roof. On the East side there is room for a reasonably sized addition however due to the angle of the existing structure to the lot line the shape of the addition would need to be an irregular shape without any one side being the same length. Allowing for the requested variance in the rear of the house would allow for reasonably sized addition at a reasonable cost and esthetically consistent with current homestyle.

b) 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;

Explanation:

The size and shape of the lot as well as the placement of the existing dwelling are unique to this property. Neighboring lots are rectangular in shape and most would allow for additions to the rear of the existing structures. This lot, being a corner lot, is irregular in shape and is only 6,870 sqft, including acquired land. For these reasons an addition is not possible without relief from the LDO.

c) 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; and,

Explanation:

The lot size and shape was not a result of any action taken by us. We actually have tried to improve this pre existing condition by acquiring land from 214 1st street.

d) The requested variance is consistent with the spirit, purpose, and intent of this Chapter, such that public safety is secured and substantial justice is achieved.

Explanation:

The only neighbor directly impacted by this variance would be 214 1st street. We have spoken with 6 neighbors including all that directly border out property to ensure they have been informed of our intentions and to listen to any objections. All other neighbor lot lines and required set backs are adhered to. As shown on the attached drawings the size of the variance area is approximately 136 sqft. At the east the requested reduction of the set back is 12' and on the west the set back would be 23'. This still allows for reasonable space between structures in the area for privacy and any potential emergency services, consistent with the spirit and intent of the LDO and safety of others. Additionally the planned use is consistent with the CAMA land use plan.

Adjacent Residents within 100' radius

1. Canosa, Christopher
 106 Carteret, Ave
 Beaufort, NC 28516
 Mailing address:
 2 Anthony Dr.
 New Paltz, NY 12561

2. Connie Follum
214 1st Street
Beaufort, NC 28516

3. Abraham, Joseph
212 1st Street
Beaufort, NC 28516
Mailing address:
Joseph Abraham
2231 N. Long Lake Rd
Fenton, MI 48430

4. Kimberly Mullins
206 2nd Street
Beaufort, NC 28516
Mailing address:
9366 Skipwith Rd
Skipwith, VA 23968

5. Nancy Rains
202 2nd street
Beaufort, NC 28516

6. David Pope
1305 Fayetteville St.
Knightdale, NC 27545

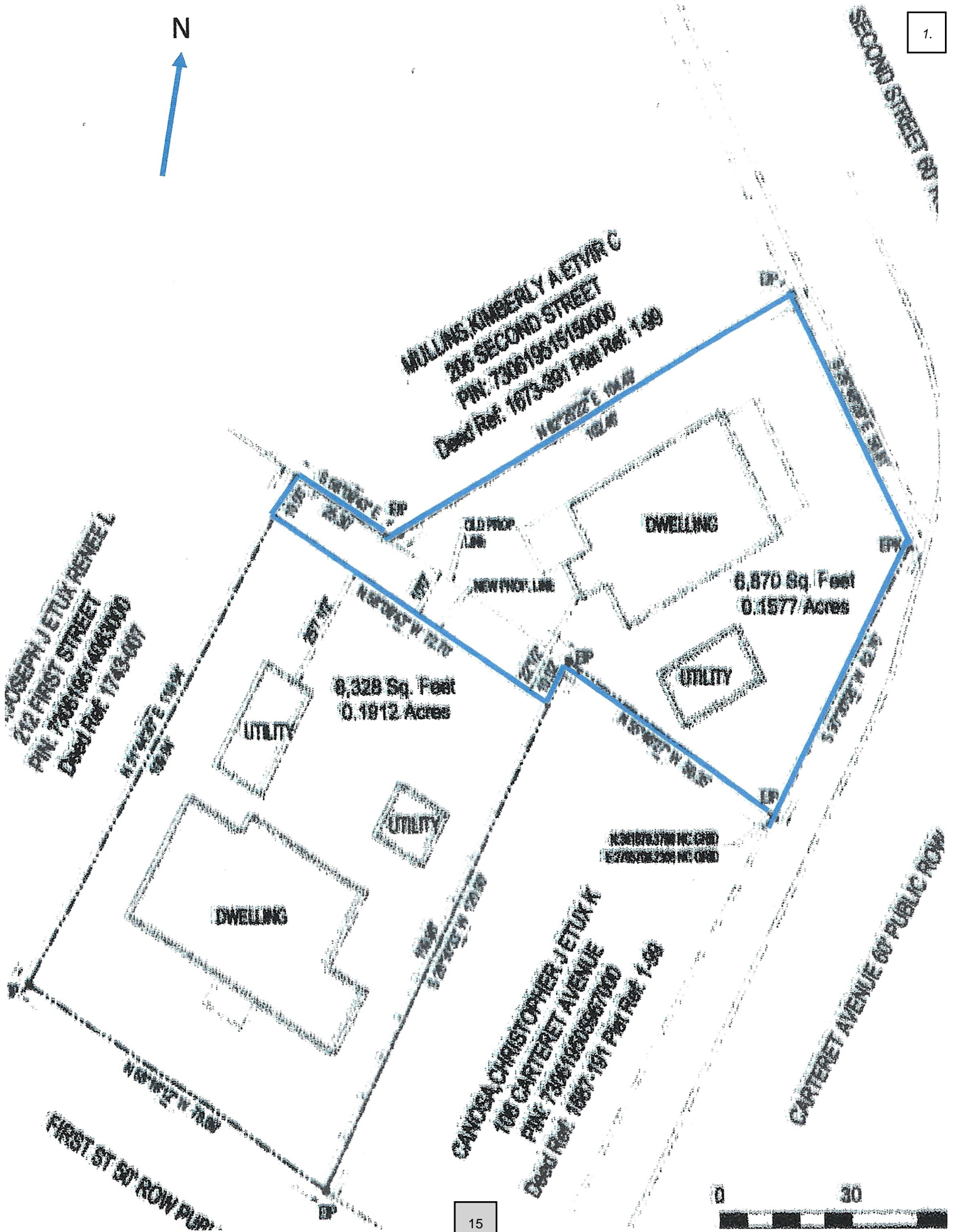
7. Patricia Taheri
109 Carteret Ave.
Beaufort, NC 28516
Mailing address:
1519 Ann St.
Beaufort, NC 28516

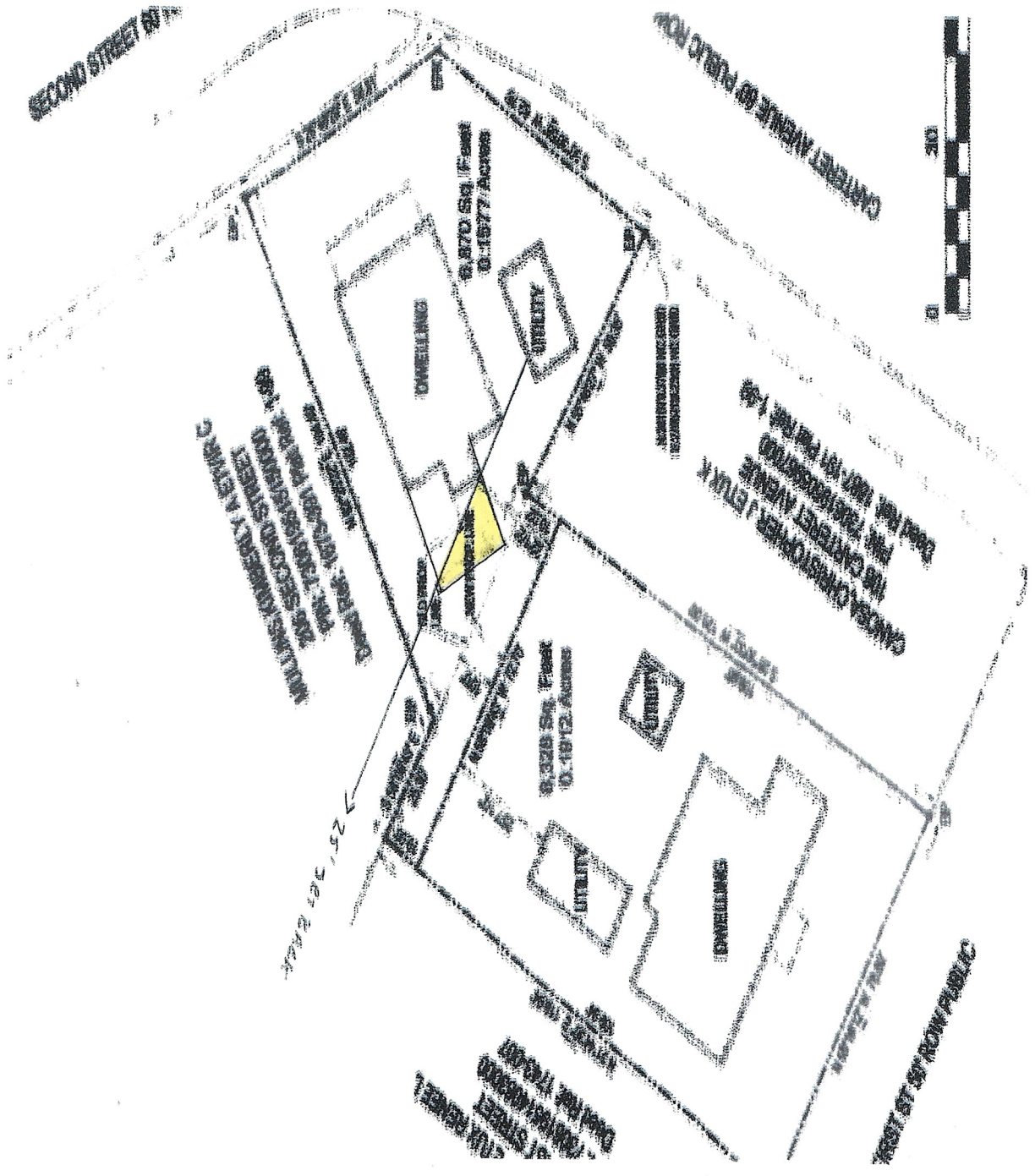
8. Emily Christiansen
115 Carteret Ave
Beaufort, NC 28516

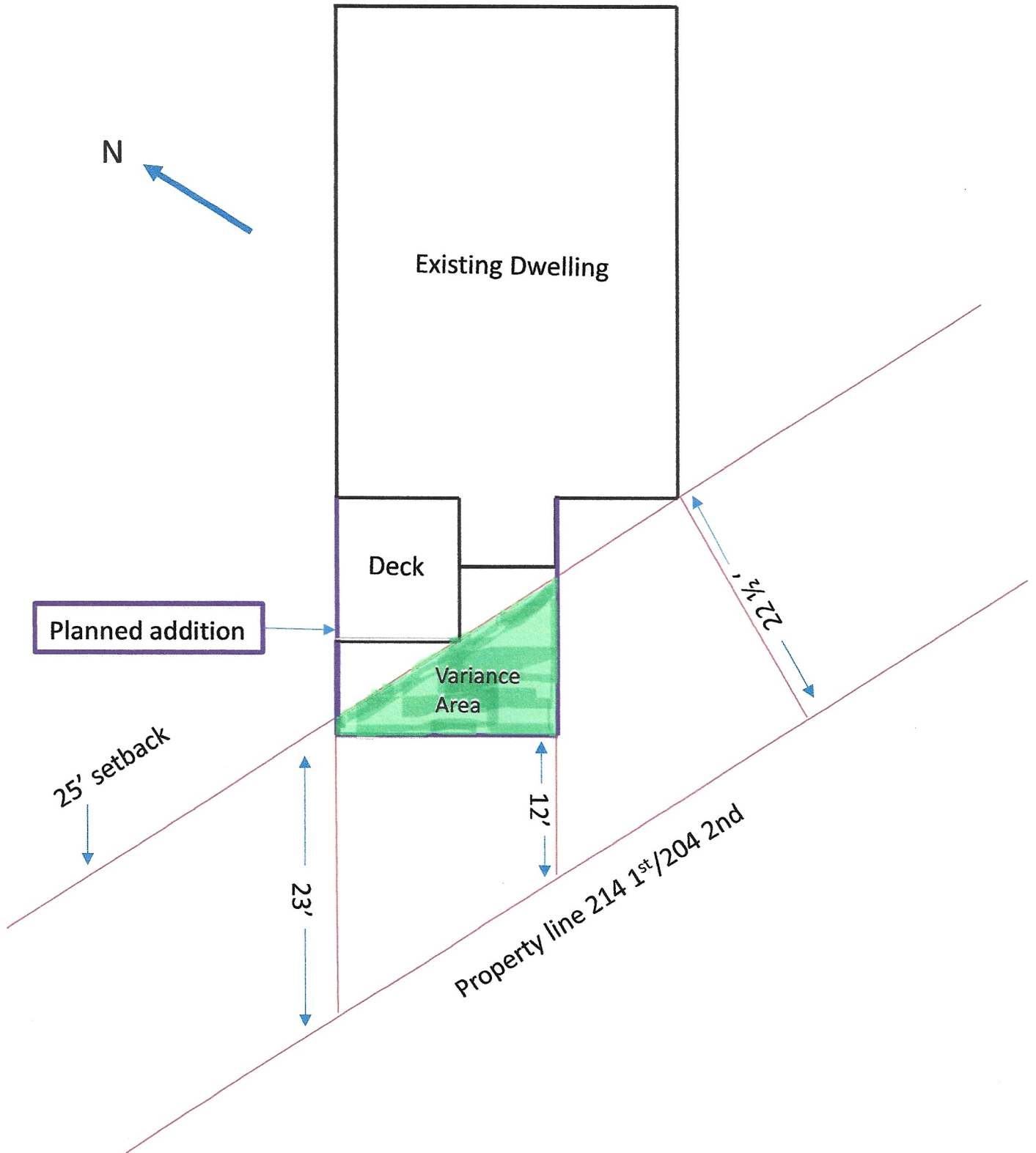
9. Jennifer Grassi
2004 Farmstead Ct.
Morehead City, NC 28557

10. Beaufort Housing Authority
716 Mulberry St.
Beaufort, NC 28516

Dept of Housing and Urban Development
United States of America
Washington, DC 20240







SECTION 21 Board of Adjustment

The Board of Adjustment (BOA) is a “quasi-judicial” administrative body whose purpose is (i) to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Ordinance; (ii) to issue variances as authorized by this section and state law; and, (iii) to issue special use permits when required by this Ordinance. The responsibilities of the BOA are authorized and set forth by N.C.G.S. 160A, Article 19 (3).

A) Organization of the Board of Adjustment.

1) Board Membership.

The BOA shall consist of five regular and two alternate members. Three regular and one alternate member shall reside within the corporate limits of the Town of Beaufort and be appointed by the Town’s Board of Commissioners (BOC). Two regular and one alternate member shall be appointed by the Carteret County Board of Commissioners (CC BOC) and shall reside within the Town’s extraterritorial jurisdiction (ETJ). If despite good faith efforts, enough residents of the ETJ cannot be found to fill the seats reserved for such residents, the CC BOC may appoint other residents of the county to fill these seats. If the CC BOC fails to appoint ETJ members needed within ninety days after receiving a resolution requesting such action from the Town, the BOC may make the necessary appointments.

2) Term Limits.

BOA regular members and alternate members shall be appointed to serve a three-year staggered term and members may continue to serve until their successors have been appointed. Members may be reappointed to successive terms without limitation. Vacant seats and unexpired terms shall be filled by the BOC or the CC BOC as necessary.

3) Removal from Board.

a) Regular BOA members may be removed by the BOC at any time for failure to attend three consecutive meetings or for failure to attend seventy-five percent (75%) of the meetings within any twelve month period or for any other good cause related to performance of duties. Such failure will constitute a voluntary resignation of the member. Upon the request of the member proposed for removal, the BOC shall hold a hearing on the removal before it becomes effective.

b) Alternate members may also be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with BOA established procedures. Upon request of the alternate member proposed for removal, the Town’s BOC shall hold a hearing on the removal before it becomes effective.

c) If a regular member or alternate member moves outside their particular planning jurisdiction within the Town it shall constitute a resignation of the member from the BOA.

d) If for reasons other than mentioned herein a member resigns from the board, a written notice shall be delivered to the Town Clerk at the member’s earliest convenience.

4) ETJ Members Rights.

ETJ regular members shall have equal rights, privileges, and duties as town members and may vote on all matters considered by the board regardless of whether or not the property affected lies within their planning jurisdiction.

5) Notification of Absences.

Regular members shall promptly notify the board secretary if they are unable to attend or participate in an upcoming meeting. The secretary shall notify an alternate member to attend when necessary. Assignments shall be rotated among the alternate members. When seated, any alternate member in attendance shall have the same powers and duties as the regular member they replace, including the ability to constitute a quorum for the purpose of the meeting regardless of whether the alternate is a regular or ETJ member.

B) **Meetings of the Board of Adjustment.**

- 1) The BOA shall establish a regular meeting schedule and shall meet frequently enough so the board can take action on the issues for which they are appointed.
- 2) All meetings of the board shall be open to the public and whenever feasible, the agenda for each board meeting shall be made available to the public at least three business days in advance of the meeting.
- 3) The minutes of all meetings and hearings of the BOA shall be retained by the board secretary or his/her designee and all minutes shall be a public record once adopted by the BOA. This shall include all findings of fact and decisions of the board.
- 4) The Chairman of the BOA will have the authority to cancel a meeting of the BOA when notified by the Planning and Inspections Department there is no business to be considered at the meeting.

C) **Quorum.**

1) Quorum Requirements.

- a) A majority of the members of the BOA board in attendance shall constitute a quorum at all meetings of the BOA. A quorum for the Board of Adjustment shall consist of a minimum of four members of the board qualified to vote.
- b) All actions of the BOA shall be taken by majority vote, a quorum being present.

2) Withdrawal from Meeting.

Any member who has withdrawn from the meeting without being excused shall be counted as present for the purposes of determining whether a quorum is present.

D) **Deciding Cases.**

1) Voting.

- a) The concurring vote of four-fifths of the board shall be necessary to grant a variance.
- b) A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.
- c) For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

2) Failure to Vote.

Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection D-3 of this section or has been allowed to withdraw from the meeting in accordance with subsection D-4 of this section.

3) Conflicts.

A member of the board shall not participate in or vote on any quasi-judicial matter in a manner which would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include but are not limited to the following:

- a) A member having a fixed opinion prior to hearing the matter which is not susceptible to change;
- b) A member having undisclosed ex-parte communications;
- c) A member having a close familial business, or other associational relationship with an affected person;
- d) A member having direct or indirect financial interest in the outcome of the matter.

4) Voting Procedures Due to Conflict.

If an objection is raised to a member's participation and the member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

5) Roll Call Vote.

A roll call vote shall be taken upon request of any member.

E) **Board of Adjustment Officers.**

1) Election of Officers.

- a) Officers will be elected during the first February meeting of the year of the BOA and by majority vote of its entire membership (excluding vacant seats).
- b) The board shall elect one of its members to serve as chairperson (chair) and preside over the board's meetings. The chair should always be one of the regular members. No chair may succeed them self for more than two consecutive terms.
- c) The board shall elect one member to serve as vice-chairperson (vice-chair). The vice-chair shall serve as acting chair in the chair's absence and at such times, he/she shall have the same powers and duties as the chair.
- d) A secretary will be appointed by majority vote of the members either from within its membership or outside. The secretary shall produce all necessary clerical items for the board including public notices, minutes, correspondence, etc. as directed by the chair.
- e) The persons so designated to fill these positions shall serve in these capacities for a term of one year. The officers may be eligible for reappointment.
- f) Vacancies may be filled for the unexpired terms of the chair and vice-chair only by majority vote of the board membership (excluding vacant seats).

2) Rules of Order.

The chair shall decide on all points of order and procedure consistent with the *The Zoning Board of Adjustment*, by Michael B. Brough and Philip P. Green, Jr., as updated; and the modified version of *Roberts Rules of Order*, as updated.

3) Chairpersons Rights.

- a) The chair or any member temporarily acting or appointed by the chair may administer oaths to witnesses coming before the board.
- b) The chair and vice-chair may take part in all deliberations and vote on all issues.

F) **Powers and Duties of Board of Adjustment.**

1) The BOA shall hear and decide:

Land Development Ordinance for the Town of Beaufort

- a) Appeals from and review of any order, decision, requirement, or determination made by the administrative official charged with the enforcement of this Ordinance, as provided in subsection H of this section.
 - b) Applications for variances, as provided in subsection I of this section.
 - c) Questions involving interpretations of the location boundary lines on the Official Zoning Map or ordinance text requirements as provided in subsection J of this section.
 - d) Any other matter the board is required to act upon by any other Town Ordinance or state law.
- 2) The board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this chapter.

G) Public Notice of Hearings of the Board.

- 1) Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property which is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land which is the subject of the hearing, and to all owners of parcels within 100 feet of such land, and to any other persons entitled to receive notice as provided by this section. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within the same time period, the planning staff shall also prominently post a notice of the hearing sign on the site which is the subject of the hearing or on an adjacent street or highway right-of-way. Such sign(s) shall be at least eighteen inches by twenty-four inches (18"x24") in dimension. The sign shall contain the following message:

NOTICE

This property is subject to a Zoning Hearing.

Contact Town Hall for more information at 252-728-2141.

Such sign may include additional information deemed relevant by the administrator of this Ordinance. If more than one contiguous lot or parcels of land are included in the variance application proposal, the Town may nonetheless post only one sign.

- 2) A public hearing shall be held by the BOA for an appeal, a variance, or an interpretation as described in subsection F of this section. A notice of the public hearing shall be given once a week for two successive calendar weeks and published in a newspaper having general circulation in Town. The notice shall be published the first time not less than ten days or not more than twenty-five days before the date affixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- 3) The person or persons mailing the notice of hearing pursuant to this section shall certify to the BOA the proper notice has been provided and such certificate shall be deemed conclusive in the absence of fraud.

H) Appeals.

1) Appeal Procedures.

- a) An appeal from any final order, decision, requirement, or determination of a Town official charged with the enforcement of this Ordinance may be taken to the BOA

Land Development Ordinance for the Town of Beaufort

by any person aggrieved. An appeal is taken by filing a written notice of appeal specifying the grounds thereof to the Town and the BOA. A notice of appeal shall be considered filed with the Town and the BOA when delivered to the Town’s Planning and Inspections Department, and the date and time of filing shall be entered on the notice of appeal by staff.

- b) An appeal must be made within thirty days after the date of the decision or order appealed from.
- c) Whenever an appeal is filed, Town staff shall forthwith transmit to the BOA all papers constituting the record relating to the action of the appeal.

2) Stay of the Appeal.

An appeal stays all actions by the Town official seeking enforcement of or compliance with the order or decision appealed from, unless the official certifies to the BOA, because of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the BOA or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the official.

3) Modifications to Appeals.

The BOA may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination which in its opinion should be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal was taken.

D) ***Variances.***

The power of variances is to be sparingly exercised and only in rare instances and under exceptional circumstances and with due regard to the main purpose of this Ordinance: to preserve the property rights of others. No change in permitted uses may be authorized by variance.

1) Application Submittal.

An application for a variance shall be submitted to the BOA by filing a copy of the application with the Town.

2) Findings for the Variance.

When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this Ordinance, the BOA shall have the power to vary or modify any of the regulations or provisions of the Ordinance so the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted only upon an affirmative finding of the following:

- a) Unnecessary hardship would result from the strict application of this Chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
- b) 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;
- c) 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

Land Development Ordinance for the Town of Beaufort

may justify the granting of a variance shall not be regarded as a self-created hardship; and,

- d) The requested variance is consistent with the spirit, purpose, and intent of this Chapter, such that public safety is secured, and substantial justice is achieved.

J) Interpretations.

- 1) The BOA is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the zoning official, they shall be handled as provided in subsection H of this section.
- 2) An application for a map interpretation shall be submitted to the BOA by filing a copy of the application with the Town. The application shall contain sufficient information to enable the board to make the necessary interpretation.
- 3) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
 - a) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;
 - b) Boundaries indicated as approximately following lot lines in the Town or ETJ limits shall be construed as following such lines, limits, or boundaries;
 - c) Boundaries indicated as following shorelines shall be construed to follow such shorelines and in the event of a change in the shoreline shall be construed as continuing to follow such shorelines;
 - d) Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement using the scale of the Official Zoning Map; and,
 - e) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply only to the portion of such streets or alleys added thereto by virtue of such vacation or abandonment.

K) Burden of Proof in Appeals, Interpretations, and Variances.

- 1) When an appeal is taken to the BOA in accordance with subsection H of this section, the appellant has the burden of proof and persuasion.
- 2) The applicant for a variance shall have the burden of proof and persuasion.

L) Board Action on Appeals and Variances.

1) Appeals.

With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include insofar as practicable, a statement of the specific reasons or findings of fact which support the motion. If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption, a motion to uphold the decision appealed from shall be in order. This motion is adopted as the board's decision if supported by more than one-fifth of the board's voting membership in attendance. (excluding vacant seats)

2) Granting a Variance.

Before granting a variance, the BOA must take a separate vote and vote affirmatively by a four-fifths majority, on each of the four required findings stated in subsection I-2

Land Development Ordinance for the Town of Beaufort

of this section. A motion to make an affirmative finding on each of the requirements set forth in subsection I-2 of this section shall include a statement of the specific reasons or findings of fact supporting such motion.

3) Denying a Variance.

A motion to deny a variance shall be made if any one or more of the four required findings set forth in subsection I-2 of this section are not satisfied or if the application is incomplete. A motion to deny a variance shall include a statement of the specific reasons or findings of fact which were not met and therefore caused the denial of the variance. This motion is adopted as the board's decision if supported by more than one-fifth of the board's voting membership in attendance (excluding vacant seats).

M) ***Review of Board's Decisions.***

Every decision of the board shall be subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for review by the Court shall be filed with the Clerk of Superior Court within thirty days after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or the chairperson of the board at the time of its hearing of the case, whichever is later. The decision of the board should be delivered to the aggrieved party either by personal service, or by registered or certified mail.

N) ***Deadlines for Applications to the Board.***

All applications and supporting materials shall be submitted to the Town's Planning and Inspections Department fifteen business days prior to the next regularly scheduled BOA meeting. Informational packets shall be delivered to board members seven days prior to the scheduled meeting.

| <u>OWNER</u> | <u>AIL_HOU</u> | <u>MAIL_ST</u> | <u>MAIL_CITY</u> | <u>L_ST</u> | <u>AIL_Z</u> | <u>MAIL_ADD2</u> |
|--------------------------------|----------------|----------------------|------------------|-------------|--------------|------------------|
| ABRAHAM,JOSEPH J ETUX RENEE L | 2231 | N. LONG LAKE RD | FENTON | MI | 48430 | |
| CANOSA,CHRISTOPHER J ETUX K | 2 | ANTHONY DRIVE | NEW PALTZ | NY | 12561 | |
| CHRISTIANSEN,EMILY FENIMORE | 115 | CARTERET AVE | BEAUFORT | NC | 28516 | |
| DOTY,SUSAN G | 100 | NORTHBROOK DRIVE | RALEIGH | NC | 7075 27609 | APT #304 |
| FOLLUM,CONNIE MARIE L/T | 214 | FIRST STREET | BEAUFORT | NC | 28516 | |
| GRASSI,JENNIFER G | 2004 | FARMSTEAD CT | MOREHEAD CITY | NC | 28557 | |
| MULLINS,KIMBERLY A ETVIR C | 9366 | SKIPWITH ROAD | SKIPWITH | VA | 1810 23968 | |
| PENNINGTON,JOHN RAND ETUX DIAN | 210 | CRAVEN AVENUE | BEAUFORT | NC | 28516 | |
| POPE,DAVID W ETUX RENEE G | 1305 | FAYETTEVILLE STREET | KNIGHTDALE | NC | 27545 | |
| RAINS,NANCY A | 202 | SECOND STREET | BEAUFORT | NC | 28516 | |
| SPROWL,JONATHAN O ETUX ROBIN E | 1412 | LAKESTONE VILLAGE LN | FUQUAY VARINA | NC | 27526 | |
| TAHERI,PATRICIA PITTMAN | 1519 | ANN STREET | BEAUFORT | NC | 2301 28516 | |
| UNITED STATES OF AMERICA | | | WASHINGTON | DC | 20240 | |

TOWN OF BEAUFORT, NC
ORDER GRANTING/DENYING A VARIANCE

The Board of Adjustment for the Town Of Beaufort, NC having held a public hearing on March 28, 2022, to consider an application submitted by Jonathan & Robin Sprowl, a request for a variance of the Town of Beaufort Zoning Ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. It is the Board's CONCLUSION that, the proposed change will/will not constitute an unnecessary hardship which would result from the strict application of this Chapter. This conclusion is based on the following FINDINGS OF FACT:
2. It is the Board's CONCLUSION that the proposed change is/is not a hardship that results from conditions that are peculiar to the property, such as location, size, or topography. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board's CONCLUSION that the proposed change is/is not a hardship resulting from actions taken by the applicant or the property owner. This conclusion is based on the following FINDINGS OF FACT:
4. It is the Board's CONCLUSION that the proposed variance is/is not is consistent with the spirit, purpose, and intent of this Chapter, such that public safety is secured, and substantial justice is achieved. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be (**Approved/DENIED**), subject to the following conditions

Ordered this _____ day of _____ 2022.

Chairman_____

Secretary_____

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Carteret County within 30 days after the date this order is served on you.

WORKSHEET FOR VARIANCE REQUEST

Applicant: Jonathan & Robin Sprowl

Property Location: 204 2nd Street.

1. FINDINGS OF FACT

| | | | |
|----|---|-----|----|
| a. | Unnecessary hardship would result from the strict application of this Chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; | Yes | No |
| b. | 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; | Yes | No |
| c. | 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; and, | Yes | No |
| d. | The requested variance is consistent with the spirit, purpose, and intent of this Chapter, such that public safety is secured, and substantial justice is achieved. | Yes | No |

2. GRANTING OF A VARIANCE REQUEST

Motion to grant the Variance request based on items (a) through (d) found to be affirmative.

___ The Variance Request is granted, subject to the following conditions:

3. DENYING OF A VARIANCE REQUEST

Motion to deny based on:

___ The Application is denied because, if completed as proposed, the development more probably than not:

___ Will not be in conformity with the City’s land use plan and other comprehensive plan elements for the following reasons:

___ Will substantially injure the value of adjoining or abutting properties for the following reasons:

___ Will not be compatible and not be in harmony with adjoining land uses and the development pattern of the immediate area for the following reasons: