



## **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](http://www.beaufortnc.org)

### **Town of Beaufort Board of Adjustment Regular Meeting 6:00 PM Monday, October 24, 2022 - Town Hall - Conference Room, 701 Front Street, Beaufort, NC 28516 Monthly Meeting**

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**Call to Order**

**Roll Call**

**Agenda Approval**

**Minutes Approval**

- [1.](#) BOA Draft Minutes for 9.26.22

**Items of Consent**

- [1.](#) Approval of the Order for 141 Lewistown Road

**Presentations**

- [1.](#) Board Training

**Commission / Board Comments**

**Staff Comments**

**Adjourn**

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**Town of Beaufort, NC**

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**Town of Beaufort Board of Adjustment Regular Meeting  
6:00 PM Monday, September 26, 2022  
Minutes**

**Call to Order**

Chair Oliver called the September 26, 2022 Board of Adjustment regular meeting to order at 6:00 pm.

**Roll Call**

Members Present: Wendi Oliver, Cathy Reeve, Ann Carter, Virginia Cuthrell, and Nick Wilson

Members Absent: Barry Evans, Alternate, and Allison Long, Alternate

A quorum was declared with five members present.

Staff Present: Town Attorney Jill Quattlebaum, Kyle Garner, and Laurel Anderson.

**Agenda Approval**

Chair Oliver asked if there were any changes to the Agenda.

*Member Carter made the motion to approve the Agenda and Vice-Chair Reeve made the second. Chair Oliver took a vote that was unanimous.*

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

**Items of Consent**

- 1. Approval of the Order for 216 Turner Street

Chair Oliver asked for a motion to approve the Order for 216 Turner Street.

*Vice-Chair Reeve made the motion to approve the Order and Member Carter made the second. Chair Oliver took a vote that was unanimous.*

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

**Minutes Approval**

Chair Oliver asked if there were any changes to the August 22, 2022 Meeting Minutes.

*Member Carter made the motion to approve the Minutes and Member Wilson made the second. Chair Oliver took a vote that was unanimous.*

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

**Administration of Oaths**

Secretary Anderson administered the Oath to Kyle Garner and the following applicant:

Kyle Dixon, 141 Lewistown Rd, Beaufort NC

**Quasi-Judicial Proceeding**

- 1. Variance Request for 141 Lewistown Road

Chair Oliver read a statement regarding how quasi decisions are made and who had standing and could participate and opened the hearing. Mr. Garner presented on behalf of staff, stating that the homeowners were requesting a variance to allow for reduction in the lot area requirement in the R-20 Zoning District from 20,000 sq. ft. feet per lot to 17,344 sq. ft. so that a 37,344 square foot lot can be subdivided into two lots with one being 20,000 sq. ft. and the other 17,344 sq. ft. He requested that the staff report and its attachments, the CAMA Land-Use Plan specifically regarding density qualifications, and the future Land-Use Plan be admitted into evidence. The property is in an AE-6 flood zone, and the use of the lot is compliant as a single-family residential lot. The lot is conforming and currently meets the criteria of the R-20 zone. The existing structure on the lot is also conforming and meets all current setbacks.

Chair Oliver asked Mr. Garner to explain AE-6, and he stated that new structures in that zone must be elevated six feet above the flood zone and Beaufort requires an additional foot of freeboard above that, and the applicant’s lot in question is on a tidal creek.

Mr. Dixon explained that he wanted to subdivide the lot for a possible future sale or to give to one of his children. Member Carter asked him to identify the hardship related to his request, and Mr. Dixon stated that possibly selling the other potential lot would help with financial upkeep of his current home.

Member Carter stated that her concern was subdividing a lot to include a smaller lot which is not permitted by the zoning ordinance based on its size, and the Board did not have that authority.

*There being no further discussion, Member Carter made the motion to close the hearing and Member Wilson made the second. Chair Oliver took a vote that was unanimous.*

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

The Board voted on the following 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.

*Member Carter made the motion to deny Finding of Fact #1 as the applicant did not demonstrate a hardship and he does have reasonable use of the property, and Member Wilson made the second. Chair Oliver took a vote:*

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

- 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.

*Member Carter made the motion to deny Finding of Fact #2 as the applicant wished to subdivide his property for financial reasons which is not a hardship, and Member Cuthrell made the second. Chair Oliver took a vote that was unanimous:*

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

- 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.

*Member Carter made the motion to deny Finding of Fact #3 as the hardship will be self-created, and Vice-Chair Reeve made the second. Chair Oliver took a vote:*

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

- d. Based on the neighbors being consulted and testimony of the applicant the spirit of the ordinance was being upheld. 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.

*Member Carter made the motion to deny Finding of Fact #4 as the request is not consistent with the Land Development Ordinance, and Chair Oliver made the second. Chair Oliver took a vote that was unanimous:*

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

*Chair Oliver made the motion for the denial of the variance and Member Carter made the second.*

*Chair Oliver took a vote that was unanimous.*

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

**Commission / Board Comments**

There were no Board comments.

**Staff Comments**

Mr. Garner stated that there would be Board training possibly scheduled in October.

**Adjourn**

Chair Oliver asked for a motion to adjourn the meeting.

*Member Carter made the motion to adjourn and Vice-Chair Reeve made the second. Chair Oliver took a vote that was unanimous.*

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

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**Wendi Oliver, Chair**

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**Laurel Anderson, Board Secretary**



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**Town of Beaufort Board of Adjustment Regular Meeting  
6:00 P.M. November 24, 2022 – 701 Front Street – Town Hall**

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**AGENDA CATEGORY:** Consent  
**SUBJECT:** Approval of the Order for 141 Lewistown Road

**BRIEF SUMMARY:**

As part of the new General Statutes (160D), prior to Evidentiary Hearing Orders being signed and sent to the applicant/property owners, the Board in which conducted the hearing is to review the order for accuracy.

Staff has consulted with the Town Attorney and now asks that the Board of Adjustment Members review the order for such accuracy and be prepared to make a motion to recommend approval of the Order or to approve with Board recommend changes.

**REQUESTED ACTION:**

Review the order for such accuracy and be prepared to make a motion to recommend approval of the Order or to approve with Board recommend changes

**EXPECTED LENGTH OF PRESENTATION:**

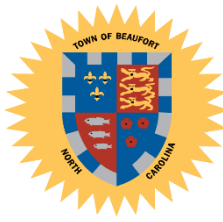
0 Minutes (Presentation From Staff)

**SUBMITTED BY:**

Kyle Garner, AICP Planning Director

**BUDGET AMENDMENT REQUIRED:**

N/A



## TOWN OF BEAUFORT ORDER DENYING A VARIANCE

The Board of Adjustment for the Town of Beaufort, having held an evidentiary hearing on September 26, 2022, to consider Case # 22-07, submitted by Kyle and Kimberly Dixon, a request for a reduction of lot area requirement in the R-20 Zoning District from 20,000 square feet to 17,344 square feet so that a 37,344 square foot lot can be subdivided on the property located at 141 Lewiston Road, PIN # 731506483186000, Beaufort, NC, in a manner not permissible under the literal terms of the Town’s *Land Development Ordinance* (hereby known as “the *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/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that strict application of the *Ordinance*, which would result in the denial of the requested variance, **would not** result in an unnecessary hardship due to the fact that the property is currently being used as a single-family residence and based on the lot size required by the *Ordinance*. The owners’ request to subdivide the lot and sell the non-conforming lot in order to fund repairs and maintenance to the existing single-family residence does not constitute a hardship.
2. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the hardship of which the applicants complain **does not** result from conditions peculiar to the applicants’ property.
3. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the applicants purchased the property in its present configuration and therefore the alleged hardship of which the applicants complain **would** result from the applicants’ own actions, in seeking to subdivide their lot.
4. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that if granted, the variance **would not** be consistent with the general spirit, purpose and intent of the *Ordinance*, such that public safety is secured, and substantial justice achieved, as it would result in the creation of a non-conforming lot.

Therefore, on the basis of all the foregoing, **IT IS ORDERED** that the application for a **VARIANCE** be **DENIED**.

Ordered this \_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Wendi Oliver  
Chair

\_\_\_\_\_  
Laurel Anderson  
Board Secretary

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Clerk of Superior Court of Carteret County within thirty (30) days after the date this order is served on you.  
See Section 21-M of the Town of Beaufort’s *Land Development Ordinance*.



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6:00 P.M. November 24, 2022 – 701 Front Street – Town Hall**

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**AGENDA CATEGORY:** Presentations  
**SUBJECT:** Board Training

**BRIEF SUMMARY:**

The Board’s attorney will give a quasi-judicial presentation specifically focusing on evidentiary hearing items and process. This will be a time to ask questions and gain a better understanding of the role as a Board of Adjustment member.

**REQUESTED ACTION:**

None

**EXPECTED LENGTH OF PRESENTATION:**

45-1 hour Minutes (Presentation From Attorney)

**SUBMITTED BY:**

Kyle Garner, AICP Planning Director

**BUDGET AMENDMENT REQUIRED:**

N/A