



## **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, August 22, 2022 - Train Depot, 614 Broad Street, Beaufort, NC 28516 Monthly Meeting**

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#### **Call to Order**

#### **Roll Call**

#### **Agenda Approval**

#### **Minutes Approval**

- [1.](#) BOA Draft Minutes for 5.23.22

#### **Items of Consent**

- [1.](#) Approval of the Orders for 215 Turner Street & 1314 Ann Street
- [2.](#) Approval of the Orders for 215 Turner Street & 1314 Ann Street

#### **Administration of Oaths**

#### **Quasi-Judicial Proceeding**

- [1.](#) Variance Request for 216 Ann Street

#### **Commission / Board Comments**

#### **Staff Comments**

#### **Adjourn**

DRAFT



**Town of Beaufort, NC**

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**Town of Beaufort Board of Adjustment Regular Meeting  
6:00 PM Monday, May 23, 2022  
Minutes**

**Call to Order**

Chair Oliver called the May 23, 2022 Board of Adjustment regular meeting to order at 6:00 pm.

**Roll Call**

Board Secretary Anderson took roll and the following members were present: Wendi Oliver, Cathy Reeve, Ann Carter, and Nick Wilson. A quorum was declared with four members present.

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

**Agenda Approval**

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

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

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

**Minutes Approval**

Chair Oliver asked if there were any changes to the March 28, 2022 Meeting Minutes.

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

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

**Items of Consent**

- 1. Approval of the Order for 204 Second Street Variance

Chair Oliver asked for a motion to approve the Order for 204 Second Street Variance.

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

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

**New Business**

Chair Oliver informed the applicants that all four Board members would have to vote unanimously for the requests for the variance requests and Findings of Fact as there were only four members present, and asked the applicants if they would like their applications tabled until more members were present to vote. Both applicants declined the offer and decided for their applications to be heard at the current meeting.

Chair Oliver read a statement regarding how quasi decisions are made and who had standing and could participate and then asked Ms. Anderson to swear in Kyle Garner and the first applicant, Bradley Cummins.

1. Variance Request for 1314 Ann Street

Chair Oliver opened the hearing and Mr. Garner presented on behalf of staff. The lot is non-conforming in that it does not meet the required square footage in the R-8 district. The property has approximately 4,965 square feet and needs 8,000 square feet. The applicants requested a variance to increase encroachment 6'2" extending northerly from the NW corner of their home for a porch depth of 10', 4' 6" extending northerly from NE corner of home for a porch depth of 10', totaling 24'6" wide & 127.5 sq ft, and there would be no eve overhang on the porch.

Member Carter clarified that extending the variance would increase the encroachment.

The applicant, Mr. Cummins, testified that the vegetation around the house would not be impacted, and if the variance were granted the porch would still be 38 feet from Ann Street. He added that the property was unique in that the 1914 plat showed the lot was not initially slated for development but was planned to be part of Park Street. Park Street was not constructed and the lot was fashioned out of what was left over to the east of lot 37 and lot 38, which is referenced in the deed, Instrument #1716103 which accounts for the reduced size and uncharacteristic shape of the lot as compared to adjacent properties.

Vice-Chair Reeve clarified that Mr. Cummins wanted to align the deck with the house.

Chair Oliver requested a motion, and 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 and Member Wilson made the second. Chair Oliver took a vote:*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, 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 for Finding of Fact #2 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 Carter, 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 and Member Wilson made the second. Chair Oliver took a vote:

Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, 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 for Finding of Fact #4 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 Wilson

Chair Oliver then asked for a motion for the denial of the variance.

Member Carter made the motion for the denial of the variance and Member Wilson made the second.

Chair Oliver took a vote that was unanimous.

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

2. Variance Request for 215 Turner Street

Chair Oliver opened the hearing and requested all parties with standing to be sworn in for their testimony. Secretary Anderson administered the Oath to the following:

John Griffin, 215 Turner St

Jane Gordon, Morehead City

Isaac Adams, 209 Turner St

Jon Haas, 217 Turner St

Town Attorney Jill Quattlebaum asked the parties to testify as to whether they could show special damages if the variance were approved and if they had standing to be heard in the matter. Jane Gordon stated that she represented Ike Adams of 211 Turner St, Jon Haas and Kim Bell of 217 Turner St, and Charles and Sharon Kralick of 312 Broad St. Isaac Adams testified that his concerns included stormwater runoff and permeable surface being eliminated by a home being built on the lot owned by Mr. Griffin. Ms. Gordon testified that 217 Turner St was a home and an inn, and a home being built two feet closer on the adjoining lot owned by Mr. Griffin could negatively impact that business. Ms. Gordon stated that she had no expert witness to testify regarding their stormwater concerns. Member Reeve stated that, regarding their stormwater and permeable surface concerns, the Town of Beaufort has ordinances and guidelines regulating these issues to mitigate impact on surrounding areas, and that Ms. Gordon had not provided an expert witness to show data outside the normal scope.

Mr. Garner then presented an overview of the request on behalf of staff. Mr. Griffin was requesting a reduction of the northeastern side yard setback from 5 feet to 3 feet (for a 2-foot encroachment) for a total area of 218 sq. ft. He stated that Staff had been working with the applicant since he purchased the property and was looking to apply for a Certificate of Appropriateness from the Historic Commission. When the applicant did submit for the COA, staff noticed that a survey/site plan was missing. It was then that the applicant found out through an updated survey that the property was actually 5 feet narrower than what the deed stated. Mr. Garner stated that the property is zoned TR (Transitional), it is a vacant lot of record, and the lot is non-conforming as it is less than 8,000 sq. ft. (approximately 5,300 sq. ft.) This lot was almost 55

feet wide and 6,000 sq. ft. in 2018 per survey; the deed of the applicant indicates a 55 foot wide lot, but a recent 2021 survey shows a 49 foot wide lot. Based on the more recent survey the property has lost approximately 700 sq. ft. of lot area. The Applicant will have to go before the Historic Commission for a Certificate of Appropriateness prior to construction of any structure.

Chair Oliver requested a motion, and 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 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 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 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 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.

*Vice-Chair Reeve made the motion for Finding of Fact #3 and Member Wilson made the second. Chair Oliver took a vote that was unanimous:*

*Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, 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 for Finding of Fact #4 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 Wilson*

Chair Oliver then asked for a motion for the denial of the variance.

*Member Carter made the motion for the denial of the variance and Vice-Chair Reeve made the second.*

*Secretary Anderson took a vote:*

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

Chair Oliver closed the variance request for 215 Turner Street.

**Commission / Board Comments**

There were no Board comments.

**Staff Comments**

There were no Staff comments.

**Adjourn**

Chair Oliver asked for a motion to adjourn the meeting.

*Chair Oliver 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 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. August 22, 2022 – 614 Broad Street – Train Depot**

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**AGENDA CATEGORY:** Consent  
**SUBJECT:** Approval of the Orders for 215 Turner Street & 1314 Ann Street

**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:**

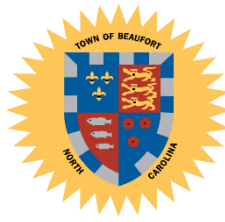
0 Minutes (Presentation From Staff)

**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 May 23, 2022, to consider Case # 22-03, submitted by Bradley Cummins and Kristen Prescott, a request for a reduction of the front setback by 6'2" at the northwest corner extending to a 4'6" reduction at the northeast corner, to build a larger porch with a depth of 10' on the property located at 1314 Ann Street, PIN # 730507595006000, 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 there is an existing porch and based on the setbacks required by the *Ordinance*.
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 applicant complains **does** result from conditions peculiar to the applicant's property due to the existing setbacks within which a structure may be built.
3. It is the Board's **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the applicant purchased the property in its present configuration and therefore the hardship of which the applicant complains **did** result from the applicant's own actions, in seeking to build a porch.
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** be consistent with the general spirit, purpose and intent of the *Ordinance*, such that public safety is secured, and substantial justice achieved, the variance as granted will provide the addition of a porch to the structure.

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

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

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Wendi Oliver  
Chair

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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*.



## TOWN OF BEAUFORT ORDER DENYING A VARIANCE

The Board of Adjustment for the Town of Beaufort, having held an evidentiary hearing on May 23, 2022, to consider Case # 22-04, submitted by John Griffin, a request for a reduction of the northeastern side yard setback from 5 feet to 3 feet, to build a residence on the property located at 215 Turner Street, PIN # 730617117012000, 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, since a structure could be built within the existing setbacks.
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 applicant complains **does not** result from conditions peculiar to the applicant's property due to the existing setbacks within which a structure may be built.
3. It is the Board's **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the applicant purchased the property in its present configuration and therefore the hardship of which the applicant complains **did not** result from the applicant's own actions.
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** be consistent with the general spirit, purpose and intent of the *Ordinance*, such that public safety is secured, and substantial justice achieved.

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

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**Town of Beaufort Board of Adjustment Regular Meeting  
6:00 P.M. August 22, 2022 – 614 Broad Street – Train Depot**

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**AGENDA CATEGORY:** Consent  
**SUBJECT:** Approval of the Orders for 215 Turner Street & 1314 Ann Street

**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

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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 there is an existing porch and based on the setbacks required by the *Ordinance*.
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 applicant complains **does** result from conditions peculiar to the applicant's property due to the existing setbacks within which a structure may be built.
3. It is the Board's **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the applicant purchased the property in its present configuration and therefore the hardship of which the applicant complains **did** result from the applicant's own actions, in seeking to build a porch.
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** be consistent with the general spirit, purpose and intent of the *Ordinance*, such that public safety is secured, and substantial justice achieved, the variance as granted will provide the addition of a porch to the structure.

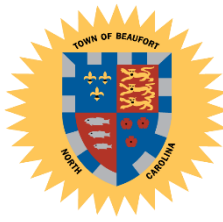
Therefore, on the basis of all the foregoing, **IT IS ORDERED** that the application for a **VARIANCE** be **DENIED**.

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*.



## TOWN OF BEAUFORT ORDER DENYING A VARIANCE

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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, since a structure could be built within the existing setbacks.
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 applicant complains **does not** result from conditions peculiar to the applicant’s property due to the existing setbacks within which a structure may be built.
3. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the applicant purchased the property in its present configuration and therefore the hardship of which the applicant complains **did not** result from the applicant’s own actions.
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** be consistent with the general spirit, purpose and intent of the *Ordinance*, such that public safety is secured, and substantial justice achieved.

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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**Town of Beaufort Board of Adjustment Regular Meeting  
6:00 P.M. August 22, 2022 – 614 Broad Street – Train Depot**

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**AGENDA CATEGORY:** New Business  
**SUBJECT:** Variance Request for 216 Ann Street

**BRIEF SUMMARY:**

Allen & Susan Marshall are requesting a variance to allow for:

- ◆ Reduction of the rear southwestern setback from 25 feet to 7 feet 2 inches (for a 17 foot 8 inch encroachment) and a reduction of the eastern Designated Right-of-Way setback from 20’ feet to 15.4 feet (for a 4 foot 6 inch encroachment).

**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:**

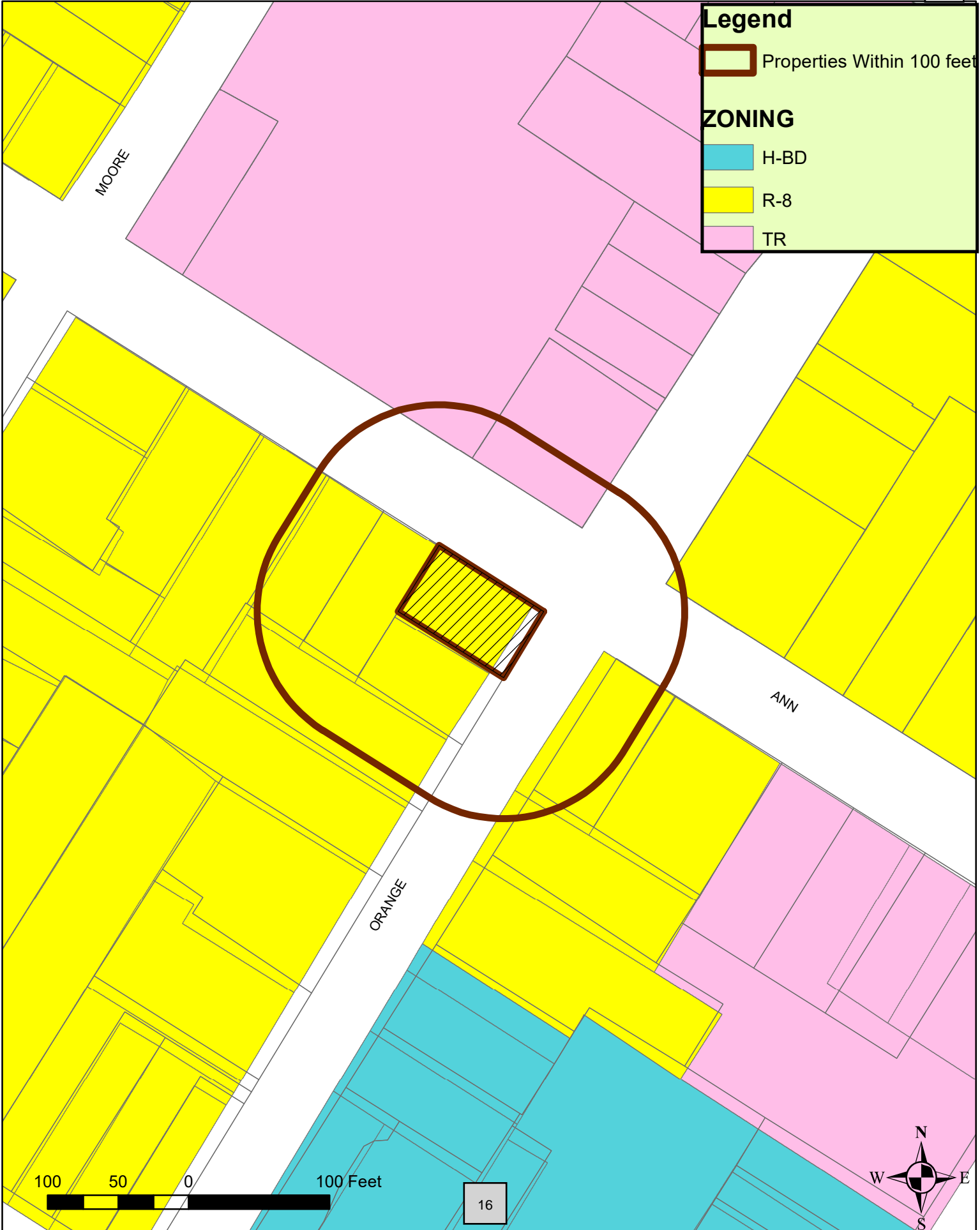
N/A



**Facts:**

- The property is zoned R-8 (Medium Density).
- The use of the lot is compliant as it is developed as a single family residential.
- The property has been in existence prior to adoption of any zoning standards.
- The lot is non-conforming as it is less than 8,000 sq. ft. (4,977 sq. ft. surveyed)
- The existing structure is non-conforming as it does not meet the current rear setback of 25 feet (14.2 feet) and the Designated Side (Right-of-Way) setback of 20 feet (15.4 feet) per survey.
- If approved the Applicant will have to go before the Historic Commission for a Certificate of Appropriateness prior to the construction of any structure.

# Case # 22-06 - Variance Request - 216 Ann Street



<u>OWNER</u>	<u>AIL_HOU</u>	<u>MAIL_ST</u>	<u>MAIL_CITY</u>	<u>IL_ST/MAIL_ZI</u>
ALLAN,MARTIN D ETUX JOYCE E	50	WINDY RIDGE	MILTON	WV 25541
EMRICH,MEGAN B ETVIR SAMUEL	2413	RIDGE ROAD	RALEIGH	NC 27612
GAULDEN,LAURA ETAL HOLLAND	305	MOORE STREET	BEAUFORT	NC 28516
GLOVER,ELAINE H ETVIR MICHAEL	12908	PECAN TERRACE	MIDLOTHIAN	VA 23112
JOHNSON,ZACKARY IAN	206	ANN STREET	BEAUFORT	NC 28516
MARSHALL,ALLEN F ETUX SUSAN	1016	HARVEY ST	RALEIGH	NC 27608
MARSHALL,ROBERT ETUX LORENA	2804	ROTHGEB DRIVE	RALEIGH	NC 27609
MOUNTCASTLE,RICHARD ETUX AMAND	12121	CASTLE RIDGE ROAD	RALEIGH	NC 27614
NEWTON,FRANCES S TRUSTEE	301	ANN STREET	BEAUFORT	NC 28516
ST PAULS EPISCOPAL CHURCH	209	ANN STREET	BEAUFORT	NC 28516
SYMONDS,WILLIAM T III TR ETAL	217	PRESTON RETREAT LANE	CARY	NC 27513





**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: Allen and Susan Marshall  
Applicant Address: 216 Ann Street, Beaufort NC, 28516  
Phone Number: (919) 395-2586 Email: clairfmarshall@gmail.com

Property Owner Name: Allen and Susan Marshall  
Address of Property Owner: 216 Ann Street, Beaufort NC, 28516  
Phone Number: (919) 395-2586 Email: clairfmarshall@gmail.com

**PROPERTY INFORMATION**

Property Address: 216 Ann Street, Beaufort, NC 28516  
15-Digit PIN: 730617101808000 Lot/Block Number: Lot 65 (1808/10)  
Size of Property (in square feet or acres): 0.113  
Current Zoning: R-8 Is the property in the Historic District? Yes

Current Use of Property:  Residential  Vacant  Commercial  Other: \_\_\_\_\_

[Signature] [Signature] 7-11-22  
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](http://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.**

**Section 21. Board of Adjustment**

**I) 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 the *Land Development Ordinance* (herein known as *the LDO* or *the 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 Board of Adjustment (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 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;
- 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 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.

**K) Burden of Proof for Variances.**

2) The applicant for a variance (request) shall have the burden of proof and persuasion.

**L) Board Action on Variances.**

**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 of this Section. A motion to make an affirmative finding on each of the requirements set forth in subsection I-2 (see above reference) 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 (see above reference) 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. The 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).

1. Variance Request:

- a. A statement explaining the specific requirements of the Town of Beaufort that the applicant is asking to be varied.

**Allen and Susan Marshall of 216 Ann Street (Zoned R-8) request a variance of LDO Section 7, C) 3) Building Setback Requirements, specifically the Corner Lot Requirements. The current structure does not conform to the current rear setback requirement due to the size of Lot 65. See 2022 property survey.**

Per review of: Land Development Ordinance for the Town of Beaufort  
 SECTION 7 Residential Zoning Districts  
 C) R-8 Residential Medium Density District.  
 3) Building Setback and Building Height Requirements and Limitations.  
 Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 7-10 Corner Lot Requirements

District	Designated Front (Right-of-Way) Setback	Designated Side (Right-of-Way) Setback	Rear Setback	Side Setback	Building Height Limitation
R-8	25 feet	20 feet	25 feet	8 feet	35 feet

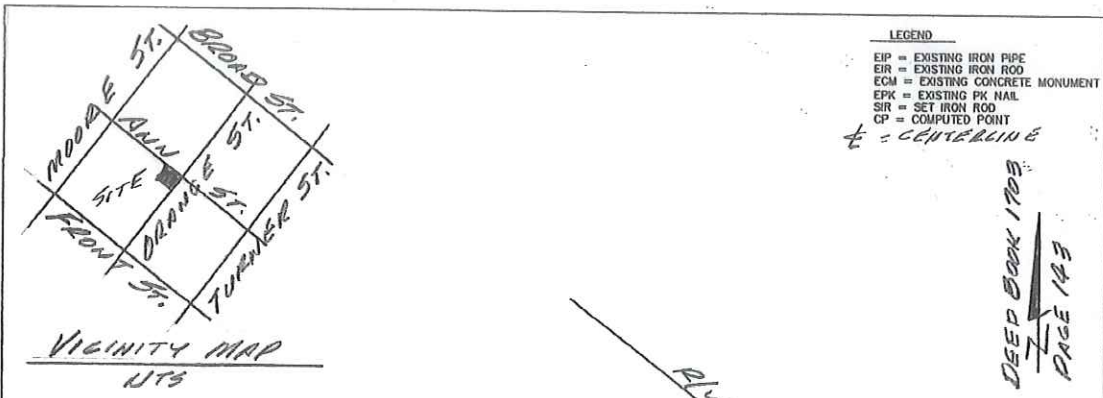
- b. A statement explaining the exact amount of variance that is being requested.

**Allen and Susan Marshall of 216 Ann Street (Zoned R-8) request a reduction of the southwest side rear setback from 14.2' feet to 7.2" (for a 7 foot encroachment of the abutting property line with 121 Orange Street) with a distance of 16 ft of length for a total area of 112 square feet. This setback would put the planned addition even with the existing deck of 216 Ann Street. See attached rendering.**

- c. The reason for requesting the Variance.

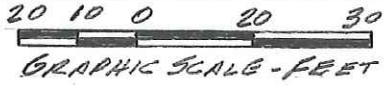
**Prior to designing an addition to increase the floor area of our home at 216 Ann Street by 112 sq feet, we are requesting this variance to the LDO Section 7, C) 3) Rear Setback requirements. This placement for an addition creates the least visual impact from Orange Street and no visual impact from Ann Street. This placement for an addition would maintain the integrity of the streetscape within the Beaufort Historic District.**





LEGEND  
 EIP = EXISTING IRON PIPE  
 EIR = EXISTING IRON ROD  
 ECM = EXISTING CONCRETE MONUMENT  
 EPK = EXISTING PK NAIL  
 SIR = SET IRON ROD  
 CP = COMPUTED POINT  
 † = CENTERLINE

DEED BOOK 1703  
 PAGE 143



LOT 15 IN FLOOD ZONE SHAPED X  
 LOT SIZE = 4977 S.F.  
 PIN 790617101808000

PART OF LOT 65  
 TOWN OF BEAUFORT  
 DEED BOOK 1703 PAGE 143  
 CARTERET COUNTY REGISTRY

I, JAMES L. POWELL, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED REFERENCES AS SHOWN); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN REFERENCES AS SHOWN; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1:10,000; THAT THIS PLAT WAS NOT PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED; WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 17 DAY OF APRIL 2022.

PROFESSIONAL LAND SURVEYOR  
 L-1531

SEAL  
 L 1531  
 JAMES L. POWELL

SURVEY FOR  
ALLEN F. MARSHALL  
SUSAN MARSHALL  
 210 ANN ST., BEAUFORT  
 BEAUFORT TOWNSHIP  
 CARTERET COUNTY, N.C.

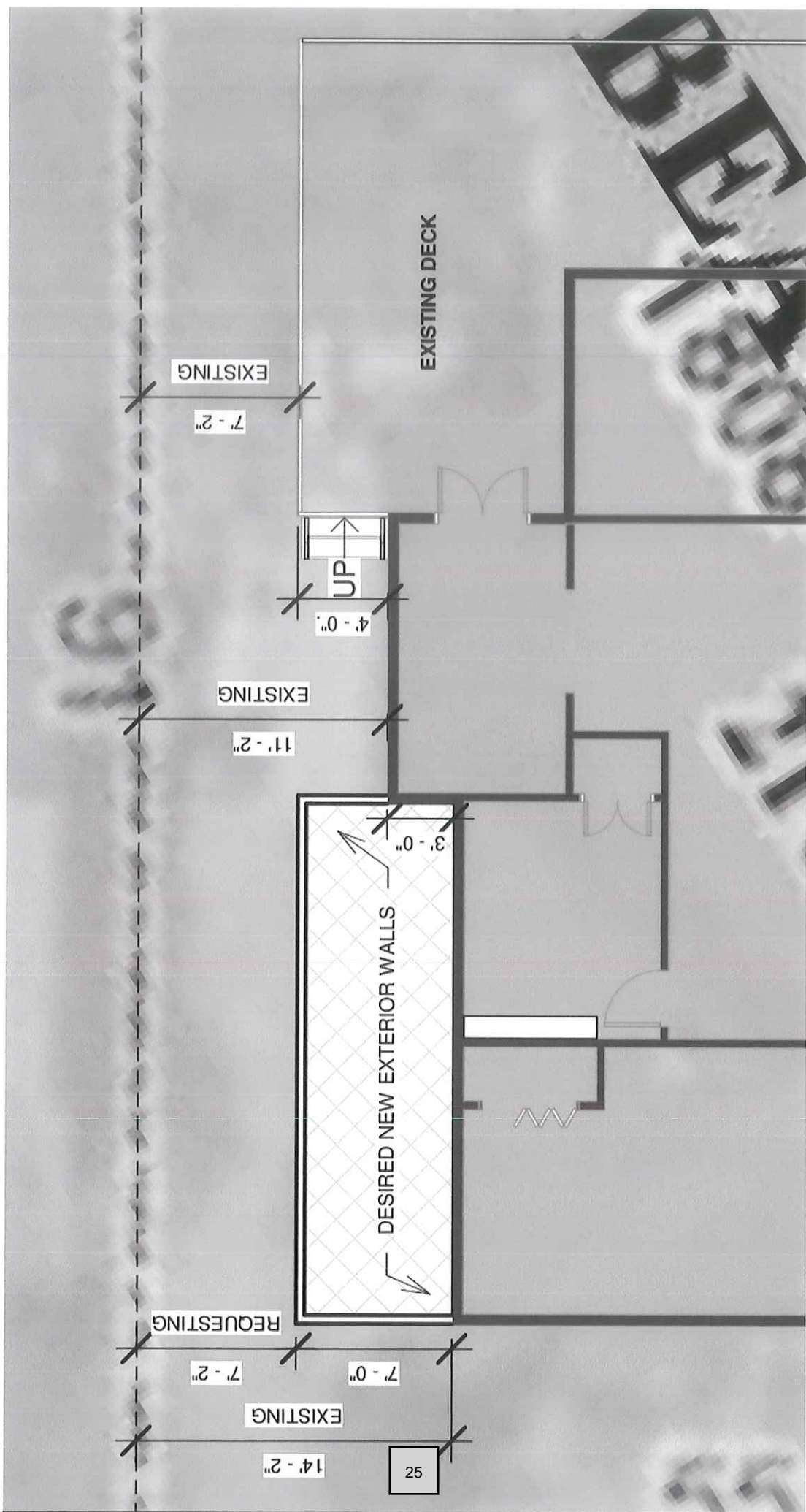
JAMES L. POWELL, PROFESSIONAL LAND SURVEYOR  
 3616 PLANTATION ROAD  
 MOREHEAD CITY, N.C. 28557  
 (252) 766-7077

SCALE  
 1" = 20'

DATE  
 4-27-22

2B-

1.



3. List of all property owners within 100 feet of the boundary lines of all properties requesting the variance:

730617009914000

**OWNER:** JOHNSON,ZACKARY IAN  
**PHYSICAL ADDRESS** 210 ANN ST  
BEAUFORT  
**MAILING ADDRESS:** 206 ANN STREET  
BEAUFORT NC 28516  
**LEGAL DESCRIPTION:** PART L55 56 65 66 OLD TOWN. BEAUFORT

730617110361000

**OWNER:** ST PAULS EPISCOPAL CHURCH  
**PHYSICAL ADDRESS** 0  
**MAILING ADDRESS:** 209 ANN STREET  
BEAUFORT NC 28516  
**LEGAL DESCRIPTION:** PART LOTS 75, 85 LOTS 76 86 96 106 TOWN OF BEAUFORT

730617009984000

**OWNER:** SYMONDS,WILLIAM T III TR ETAL  
**PHYSICAL ADDRESS** 212 ANN ST  
BEAUFORT  
**MAILING ADDRESS:** 217 PRESTON RETREAT LANE  
CARY NC 27513  
**LEGAL DESCRIPTION:** PART L65 OLD TOWN BEAUFORT

730617100911000

**OWNER:** ALLAN,MARTIN D ETUX JOYCE E  
**PHYSICAL ADDRESS** 214 ANN ST  
BEAUFORT  
**MAILING ADDRESS:** 50 WINDY RIDGE  
MILTON WV 25541  
**LEGAL DESCRIPTION:** PART L65 TOWN OF BEAUFORT

[730617111052000](#)

**OWNER:** GAULDEN,LAURA ETAL HOLLAND  
**PHYSICAL ADDRESS** 219 ANN ST  
BEAUFORT  
**MAILING ADDRESS:** 305 MOORE STREET  
BEAUFORT NC 28516  
**LEGAL DESCRIPTION:** PART L75 TOWN OF BEAUFORT

[730617101789000](#)

**OWNER:** MOUNTCASTLE,RICHARD ETUX AMAND  
**PHYSICAL ADDRESS** 300 ANN ST  
BEAUFORT  
**MAILING ADDRESS:** 12121 CASTLE RIDGE ROAD  
RALEIGH NC 27614  
**LEGAL DESCRIPTION:** PART L64 TOWN OF BEAUFORT

[730617102993000](#)

**OWNER:** NEWTON,FRANCES S TRUSTEE  
**PHYSICAL ADDRESS** 301 ANN ST  
BEAUFORT  
**MAILING ADDRESS:** 301 ANN STREET  
BEAUFORT NC 28516  
**LEGAL DESCRIPTION:** PART L74 - ANN ST / ORANGE ST OLD TOWN BEAUFORT

[730617100863000](#)

**OWNER:** GLOVER,ELAINE H ETVIR MICHAEL  
**PHYSICAL ADDRESS** 121 ORANGE ST  
BEAUFORT  
**MAILING ADDRESS:** 12908 PECAN TERRACE  
MIDLOTHIAN VA 23112  
**LEGAL DESCRIPTION:** PART L65 TOWN OF BEAUFORT

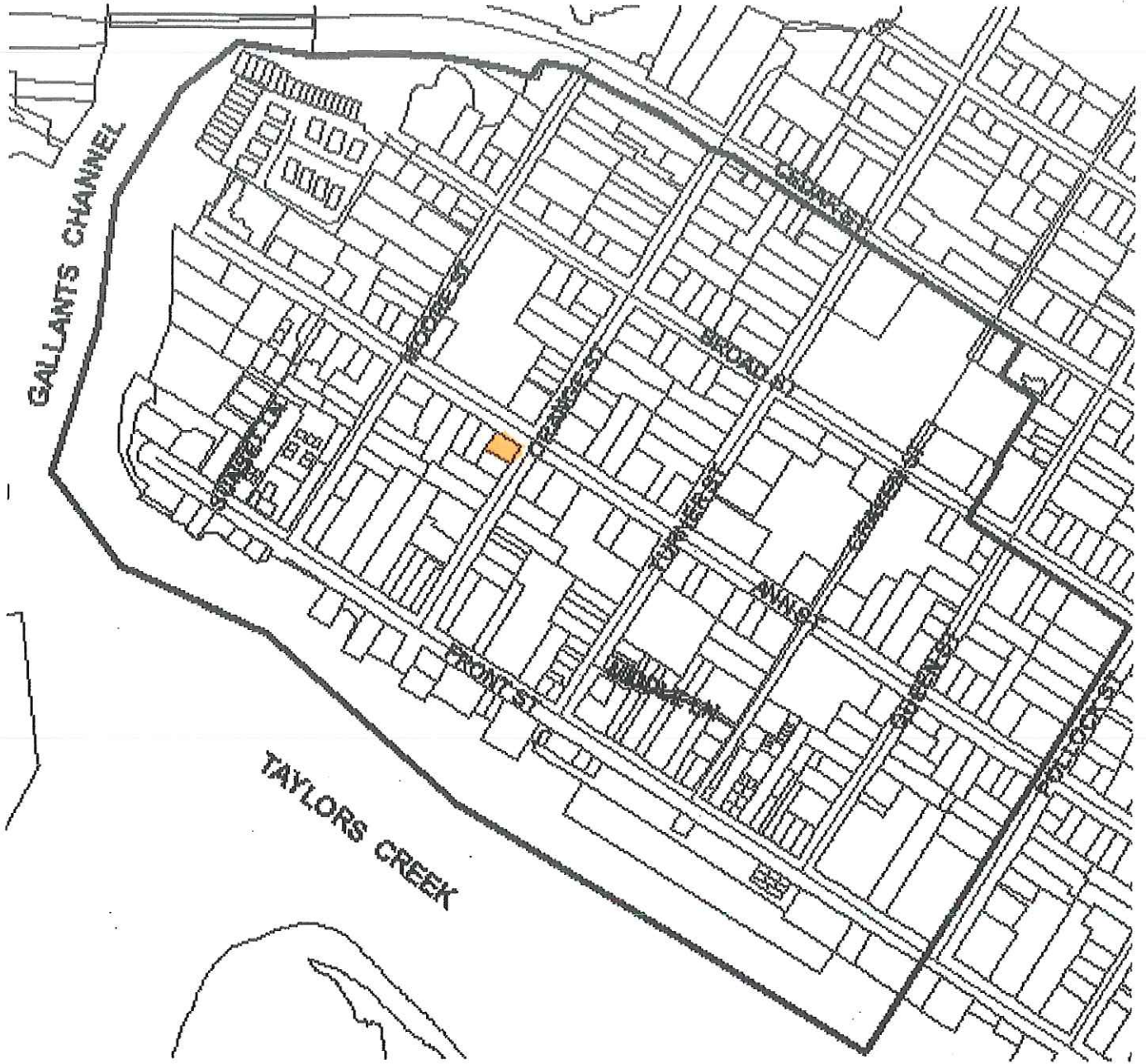
[730617009881000](#)

**OWNER:** MARSHALL,ROBERT ETUX LORENA  
**PHYSICAL ADDRESS** 119 ORANGE ST  
BEAUFORT  
**MAILING ADDRESS:** 2804 ROTHGEB DRIVE  
RALEIGH NC 27609  
**LEGAL DESCRIPTION:** PART L55 OLD TOWN BEAUFORT

[730617101688000](#)

**OWNER:** EMRICH,MEGAN B ETVIR SAMUEL  
**PHYSICAL ADDRESS** 118 ORANGE ST  
BEAUFORT  
**MAILING ADDRESS:** 2413 RIDGE ROAD  
RALEIGH NC 27612  
**LEGAL DESCRIPTION:** PART L54 TOWN OF BEAUFORT ORANGE STREET  
**DEED REF:** 1746-156

**Boundaries of Beaufort Local Historic District**  
Source: Town of Beaufort





216 Ann St

216 Ann St, Beaufort, NC 28516

## 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

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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.