

BOARD OF ADJUSTMENT STAFF REPORT



Hearing Date: 5-5-15 **(Continued to 9-9-2015; updated items in bold and underlined)**

Case#: BOA-15-02

Hearing Type:

- Variance
- Administrative Appeal
- Special Use Permit

Address (if applicable): 304 N. Shore Dr. East

CASE INFORMATION

Applicant: Lance and LouAnn Jackson

Requested Action: The applicant is requesting a variance to construct new steps and expand a covered deck that is abutting and running parallel to the southern property line fully within the 5 foot rear setback **(no longer applicable)**.

Update: for 9-9-15 meeting: New request as result of 5-5-15 continuance and BOA deliberation: applicant seeks 3 variance requests:

1. a variance of 300 sq. ft. for the minimum 4,500 minimum lot size requirement in the BR-2 zoning district for subdividing Lot 23, Block 4.

2. a variance of 5 ft. for the side 5ft. setback requirement for property located at 304 North Shore Dr. East (Lot 24, Block 4), and

3. a variance of 13ft. for the front 25 ft. setback requirement for property located at 304 North Shore Dr. East. (Lot 24, Block 4) for the renovation and addition to a single family home.

Supporting Documentation (APPLICANT'S EXHIBITS)

Exhibit A - Variance Application with associated documents

Exhibit B - Site plan detailing the existing construction on the site

Exhibit C – Site plan showing planned steps and decking encroaching into 5 ft. setback with planned addition(s).

Exhibit D – New site plan detailing existing construction and new request

**Supporting
Documentation
(STAFF'S EXHIBITS)**

Exhibit 1 – Map of subject property

Exhibit 2 – Copy of Unified Development Ordinance Article 6, Section 6.06 (G)

Exhibit 3 – Copy Unified Development Ordinance Article 8 Section 8.02 (D)(1), Expansion of nonconforming structures.

ORDINANCE REFERENCE(S)

- Article 6, Section 6.06, Section (G)(B): Rear setbacks for BR-2 lots. **(No longer applicable)**
- Article 8, Section 8.02, Nonconforming Structures; Section (D)(1): Expansion of nonconforming structures prohibited.
- **Article 6, Section 6.06, Nonconforming Structures; Section (G)(A): mean lot area per dwelling for BR-2 lots.**
- **Article 6, Section 6.06, Nonconforming Structures; Section (G)(D): Front setbacks for BR-2 lots.**
- **Article 6, Section 6.06, Nonconforming Structures; Section (G)(E): Side setbacks for BR-2 lots.**

BACKGROUND AND SITE INFORMATION

Background Information:

- The applicant owns both Lots 24 and the adjacent Lot 23 to the south and is able to recombine the lots into one single lot.
- Part of the current decking extends over the applicant's property line to the south of the property onto Lot 23, which he owns.
- The Town was incorporated in 1963 and the home was built in approximately 1968.
- The previous zoning designation before UDO adoption was BR-2. This designation had identical lot requirements.
- As per ordinance, the front setback has been determined to be fronting along North Shore Dr. The sides setbacks are along Lot 25 and 3rd street **(no longer applicable)**.
Update: based upon newly discovered information in the building files from an old

building permit, the front 25 ft. setback had been determined to be fronting along 3rd street.

Applicable Plans or Plans: Sunset Beach CAMA Land Use Plan

Existing Use: Single Family Residence

Adjacent Zoning and Land Uses: NA

- **North:** BR-2 (Single Family Residence)
- **South:** BR-2 (Vacant)
- **East:** BR-2 (Single Family Residence)
- **West:** BR-2 (Right-of-way)

District(s) Intent Statement:

BR-2:

“Exclusively for residential uses, with provisions for single-family residences, planned residential development, as well as customary and secondary uses.”

ARTICLE 8. NONCONFORMING USES AND BUILDINGS

- (E) A nonconforming **structure** shall not be moved unless it thereafter conforms to the standards of the **zoning** district in which it is located.

SECTION 8.03 NONCONFORMING BUILDINGS CONTAINING A NONCONFORMING USE

Any **nonconforming building** or any building containing a **nonconforming use** which has been damaged by fire or other cause may be reconstructed to its original dimensions only and used as before as long as a building permit is obtained within one hundred eighty (180) days of such damage, unless, such building or **structure** has been declared by the Building Inspector to have been damaged or improved to an extent exceeding fifty percent (50%) of its reproducible value at the time of destruction. In that event, said building may only be reconstructed and used in a manner which conforms to the requirements of all Town ordinances.

SECTION 8.04 NONCONFORMING MOBILE HOME

An existing mobile home or **manufactured home** located in a nonconforming mobile home or manufactured housing park in operation at the time of adoption of these **regulations** may be replaced with another mobile home or **manufactured home** provided the number of mobile home or **manufactured home** units may not be increased beyond the number available before replacement and the replacing mobile home must not create nonconforming **yards**, separation distances, or increase existing nonconforming **yards** or separation distances.

SECTION 8.05 NONCONFORMING ACCESSORY USES AND ACCESSORY STRUCTURES

- (A) No nonconforming **accessory use** or **accessory structure** shall continue after the principal use or **structure** is terminated by discontinuance, damage, or destruction unless such **accessory use** or **accessory structure** thereafter is made to conform to the standards for the **zoning** district in which it is located.
- (B) A nonconforming **accessory use** or **accessory structure** may be expanded only if the nonconforming features of that use or **structure** are not expanded so as to increase the degree of nonconformity.

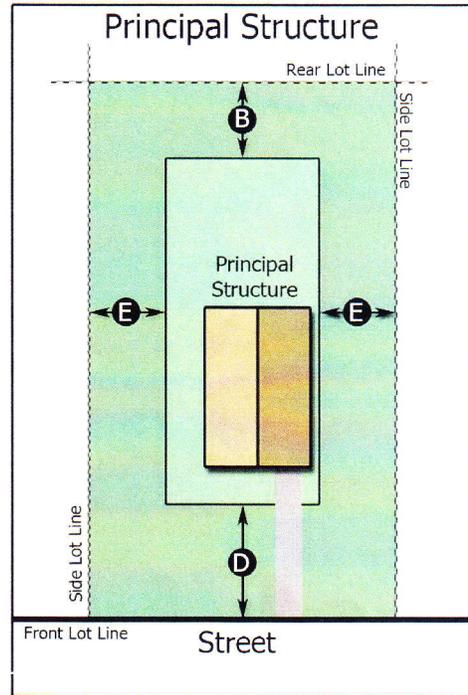
SECTION 8.06 NONCONFORMING VACANT LOTS

- (A) Except as provided below in Subsection (B), a nonconforming vacant **lot** may be used for any of the uses permitted by these **regulations** in the **zoning** district in which it is located, provided that the use meets all limitations and minimum requirements for **setback** and **yards, height, open space, buffers**, screening, parking, and floor area required in these **regulations** for the **zoning** district in which the **lot** is located.

ARTICLE 6. ZONING DISTRICTS

(G) BR-2 Beach Residential District.

- A** Minimum Required Mean Lot Area Per Dwelling: 4,500 sq. ft.
- B** Minimum Required Rear Yard: 5 feet.
- C** The minimum required building footprint for each dwelling erected in this district shall contain a minimum of 1,000 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character.
- D** Minimum Required Front Yard: 25 feet. However, as to corner lots this requirement shall apply to the portion of the yard facing the narrow side of the lot and the yard fronting on the wider side of the lot adjacent to the street shall be considered a side yard.
- E** Minimum Required Side Yard: 5 feet, except that any side yard abutting a street shall be at least 12 feet.
- F** Height of Building: No building or structure shall be more than 35 feet in height.
- G** The standard width of guttering used to control water run-off is specifically allowed, not withstanding other definitions herein.
- H** The owner of a corner lot shall be required to specify which street line is the front when requesting a building permit for the original construction.
- I** Concrete slabs in nonhabitable areas shall be a minimum of 3-1/2 inches in thickness.
 - 1** All concrete must be a minimum of 4 inches from the property line. Concrete must not channel stormwater to streets.
 - 2** Control joints must not exceed 10 feet in any direction unless thickness is increased to 4 inches and welded wire (W1.4xW1.4), (W2.0xW2.0), (W2.9xW2.9) is used; then spacing of control joints may be increased to 30 feet. Control joints that are keyed or saw cut must be done within 24 hours of placement.
 - 3** No concrete may be allowed to be placed over any septic system.
 - 4** Expansion must be provided against any masonry or pilings of all structures.
- J** Where through lots occur, the required front yard setback shall be provided on both streets.
- K** Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.



The following list provides the location of additional standards which apply to the development of uses permitted within this district:

Building Design Guidelines	Article 9, Part I
Off-Street Parking Requirements	Article 9, Part II
Lighting Ordinance	Article 9, Part III
Landscape and Buffering Requirements	Article 10
Sign Regulations	Article 11
Flood Damage Prevention Ordinance	Article 12, Part I
Stormwater Management Ordinance	Article 12, Part II
Driveway Access and Connectivity	N/A

ARTICLE 6. ZONING DISTRICTS

Fences and Walls Requirements	Section 7.09
Sight Visibility Triangle Requirements	Section 2.08