

BOARD OF ADJUSTMENT STAFF REPORT



Hearing Date: 10-14-15

Case#: BOA-15-06

Hearing Type:

- Variance
- Administrative Appeal
- Special Use Permit

Address (if applicable): Lots 27-94, Block 40E (Riverside North Subdivision)

CASE INFORMATION

Applicant: Chris Stanley, Agent

Requested Action: Chris Stanley, Agent, seeks a variance to reduce the required 25ft. front yard setback for the BR-2 zoning district by 15ft. for all lots within the Riverside North subdivision.

Supporting Documentation (APPLICANT'S EXHIBITS)

- Exhibit A** - Variance Application.
- Exhibit B** - Applicant Packet with site information; including findings of fact information for the request.
- Exhibit C** – Labeled applicant “Exhibit A” Site Plan/Survey showing proposed request application on lots.

Supporting Documentation (STAFF'S EXHIBITS)

- Exhibit 1** – GIS map of subdivision.
- Exhibit 2** – Copy of Unified Development Ordinance Article 6, Section 6.06 (G)(D), Front setback requirements for the BR-2 zoning district.

ORDINANCE REFERENCE(S)

- Article 6, Section 6.06, Zoning District Development Standards; Section (G)(D): Front setbacks for BR-2 lots.

BACKGROUND AND SITE INFORMATION**Background Information:**

The applicant is requesting a front yard setback reduction of 15 feet for the entire Riverside North subdivision to accommodate the State's required 30 foot CAMA setback on the rear of the lots. Whereas the applicant has enough lot width to accommodate a structure to conventional development standards, there is significantly reduced depth to the lots when accounting for both the Town's front yard setback requirement and required CAMA setback. These requirements are enough to significantly limit if not prohibit development on the lots to current ordinance standards without a variance being granted.

There is currently a recorded 35-foot access easement throughout the subdivision to access all lots. Staff has determined that the setbacks for the lots should be measured from the edge of this easement in a similar fashion to right-of-ways. Based upon this determination, the required 25 ft. setback, in addition to the required 30-foot CAMA setback adjacent to Jinks Creek Canal, would significantly impact the buildability of all lots to current standards.

The applicant is asking for a reduction of the required 25-foot front setback by 15 feet to preserve the rear CAMA setback. If approved, the resulting lots would have a prevailing 10-foot front setback which would serve as the subdivision's utility easement, would be able to provide the required 1,000 sq. ft. minimum building footprint, and would be able to maintain the required 30-foot CAMA setback from Jinks Creek.

Facts of the case:

- The applicant's lots are zoned BR-2; which requires a minimum 1,000 sq. ft. buildable footprint and a front setback of 25 ft.
- The subdivision was approved and recorded in 1976.
- The subdivision pre-dates the Town's adoption of a subdivision ordinance. Conventional data indicates an initial adoption of the subdivision ordinance in January of 1982.
- Based upon conventional data, staff believes the subdivision pre-dates the Town's zoning codes.
- CAMA was enacted in 1974, however the buffering requirements for all coastal shorelines went into effect August 1st, 2000.

Applicable Plans or Plans: Sunset Beach CAMA Land Use Plan

Existing Use: Vacant

Adjacent Zoning and Land Uses:

- **North:** CR-1 (Vacant)
- **South:** BR-2 (Single Family)
- **East:** CR-1 (Vacant)
- **West:** BR-2 (Vacant)

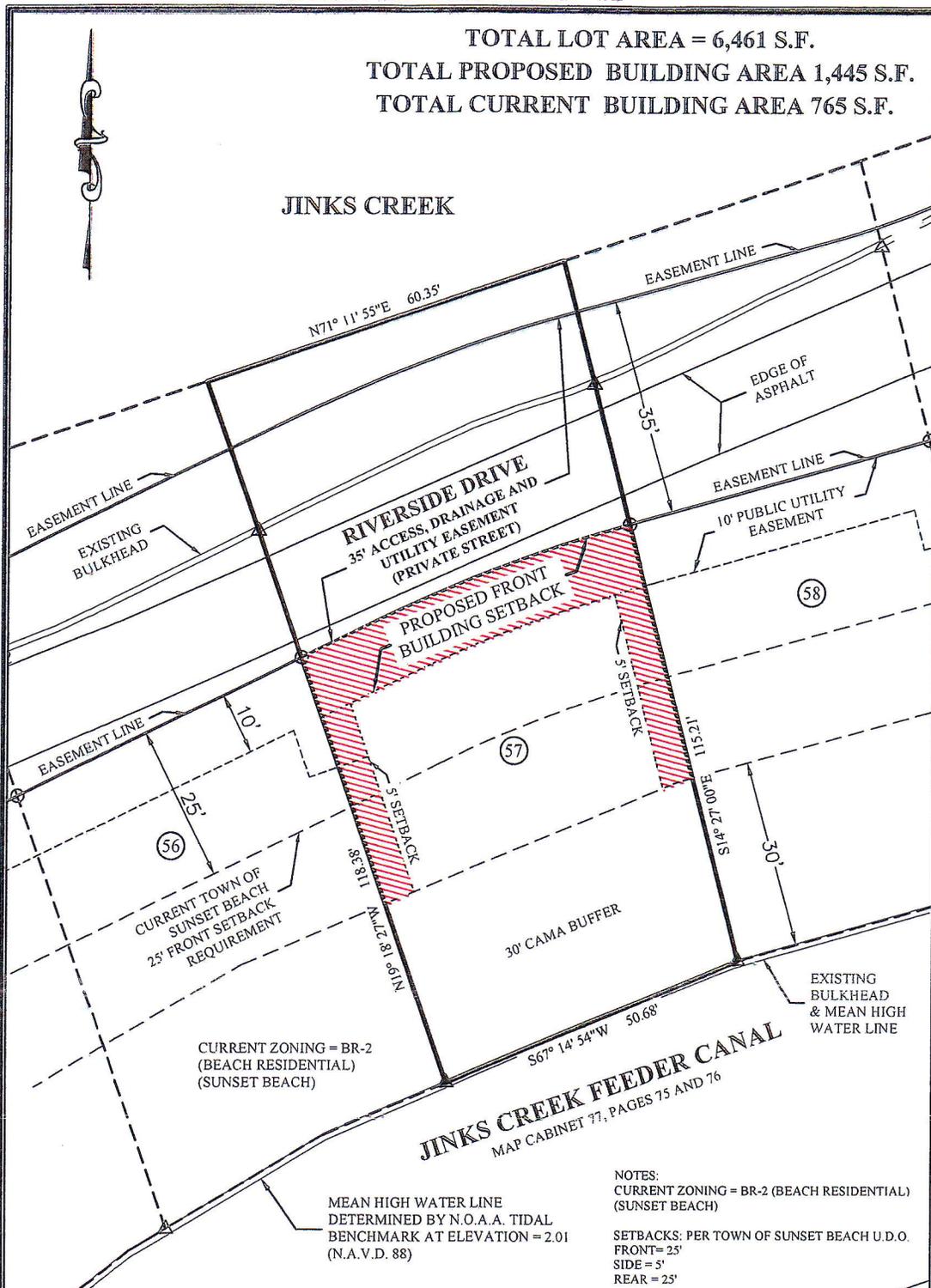
District(s) Intent Statement:

BR-2:

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

SURVEY EXHIBIT "A"

TOTAL LOT AREA = 6,461 S.F.
 TOTAL PROPOSED BUILDING AREA 1,445 S.F.
 TOTAL CURRENT BUILDING AREA 765 S.F.



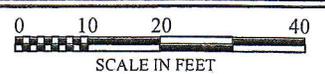
CURRENT ZONING = BR-2
 (BEACH RESIDENTIAL)
 (SUNSET BEACH)

JINKS CREEK FEEDER CANAL
 MAP CABINET 77, PAGES 75 AND 76

MEAN HIGH WATER LINE
 DETERMINED BY N.O.A.A. TIDAL
 BENCHMARK AT ELEVATION = 2.01
 (N.A.V.D. 88)

NOTES:
 CURRENT ZONING = BR-2 (BEACH RESIDENTIAL)
 (SUNSET BEACH)
 SETBACKS: PER TOWN OF SUNSET BEACH U.D.O.
 FRONT = 25'
 SIDE = 5'
 REAR = 25'

EXHIBIT OF:
LOT 57, BLOCK 40E
SUNSET BEACH



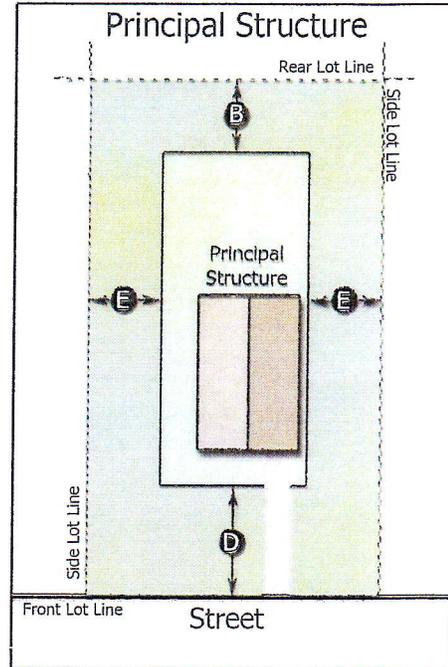
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 <p>East Coast Engineering & Surveying, P.C. ENGINEERS • PLANNERS • SURVEYORS 4918 Main Street Post Office Box 2469 Shallotte, North Carolina 28459</p>	PROJECT #: 1275 DATE: 09-18-2015 TOWNSHIP: SHALLOTTE COUNTY: BRUNSWICK STATE: NC SCALE: 1"=20' CREW: N/A FB/PG: N/A DRAWN BY: DML CHECKED BY: CDS	REVISIONS: _____ _____ _____ _____ _____ _____ _____ _____
Phone: 910.754.8029 Fax: 910.754.8049 Firm License Number C-3014		

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



Variance Application - Form 2
Zoning Board of Adjustment
Town of Sunset Beach

Date Filed: _____ Case Number: _____ Fee Collected _____

Has work started on this project? YES NO
 If yes, did you obtain a building permit? YES NO If yes, attach a copy.
 Have you received a Notice of Violation for this project? YES NO If yes, attach a copy.

(1) What zoning ordinance section numbers are you seeking a variance from? Please list each section, the requirement and the requested variance.

Item	Code Section	Code Requirement	Variance Request
<i>Example</i>	6.06 (A)(C)	50' front yard setback	15' front yard (35' ft. reduction)
A		6.06 (G)(D)	10' front yard (15' reduction)
B			
C			

(2) Please describe why the variance(s) requested are necessary.

See Appendix Page 1 Attached

State facts and arguments in support of each of the following:

(a) **Unnecessary hardship would result from the strict application of the ordinance.** (Note: It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. It is not sufficient that failure to grant the variance simply makes the property less valuable.)

See Appendix Page 1 Attached

(b) **The hardship results from conditions that are peculiar to the property, such as location, size, or topography.** (Note: 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. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the life of the land.)

See Appendix Page 1 Attached

(c) **The hardship did not result from actions taken by the applicant or the property owner.** (Note: 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.)

See Appendix Page 1 Attached

(e) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
(State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the Applicant.)

See Appendix Page 1 Attached



East Coast Engineering & Surveying, P.C.

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Variance Application – Form 2

Zoning Board of Adjustment-Town of Sunset Beach
Riverside Subdivision – Block 40-E

Appendix Page 1

(2) Please describe why the variance requested is necessary.

Exceptional or extraordinary circumstances apply to the property which do not apply generally to other similar properties on the island which result from property size and shape that existed prior to the date of the current Ordinance; in which the applicant has no control. We are seeking a variance to reduce the required 25 foot front yard setback for the BR-2 zoning district by 15 feet for all lots within Riverside Subdivision (Block 40-E as recorded in Map Cabinet H, Page 358-358A). The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.

(a). Unnecessary hardship would result from the strict application of the ordinance.

Platted lots in Riverside Drive extend from the mean high water line along Jinks Creek Feeder Canal to an exterior boundary line located north of the bulkhead on the AIWW side of the subdivision. Lot area north of the street will be open with an unobstructed view. No future development is foreseen north of Riverside Drive. This unique scenario allows for adequate light and air space similar to other lots in the same zone. It will also allow the extra room for emergency vehicles to access buildings that the current front yard setback would allow. Therefore, with this extra accessible space, the current front yard setback is an unnecessary hardship.

(b). The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

Lots within Block 40-E (Riverside Drive) were originally recorded in September 1976. During the years since, natural erosion, erosion due to several hurricanes and past Town dredging projects, caused the land encompassing Block 40-E to decrease in size from its originally mapped area. The erosion of the developable land has caused some of the platted lot depths to decrease. The decrease in lot depth, along with current town setback requirements that had not been adopted when this subdivision was originally recorded, will not allow for a reasonably sized dwelling.

(c) The hardship did not result from actions taken by the applicant or the property owner.

The lack of buildable area on a portion of these lots is a result of past erosion and dredging of Jinks Creek Feeder Canal and was not a self-created hardship. When erosion of this area became apparent, the Town adopted a resolution (November 10, 2003) and placed assessments on any property owner who failed to bulkhead their properties. The location of the existing bulkhead was installed in accordance with the Division of Coastal Management's guidelines per Major CAMA Permit 42-05. The placement of the approved bulkhead defined the buildable area within the block from thenceforth.

(e) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such as public safety is secured, and substantial justice is achieved

The property is zoned for residential development; a single family residential structure is the most appropriate development for the property. The easement width of Riverside Drive is 35 feet, with an additional 10 utility easement. Approval of the variance request would allow structures to be placed as far forward as possible in an effort to minimize development within the 30' C.A.M.A. Coastal Shoreline buffer. An approved 10 foot front yard setback would provide a uniform alignment of structures along Riverside Drive, allow adequate ingress/egress for public access and emergency vehicles and allow adequate room for utility maintenance while providing the minimum variance to relieve the hardship. By reducing impact to the CAMA buffer area, this variance would agree with the Town's CAMA Land Use Plan in that it will preserve and conserve the land and estuarine waters, as well as, support the major and general permitting process as implemented by the North Carolina Division of Coastal Management.