

BOARD OF ZONING APPEALS



STAFF REPORT DEPARTMENT OF GROWTH MANAGEMENT

MEETING DATE:	January 7, 2025
PROJECT:	375 Hampton Parkway – Variance Request
PROJECT MANAGER:	Dan Frazier, Planning Manager

APPLICATION REQUEST: The Applicant, Melvin Fields, on behalf of Menachem M. Hertz and Sheina N. Groner, is requesting a variance for the following application (Attachment 1):

ZONE-12-24-019474 - The Applicant is requesting a variance from Beaufort County Development Standards Ordinance 90/3 Section 4.3.3. (A) to allow an approximately 4-foot encroachment in the 35-foot setback requirement from Hampton Parkway.

The property is zoned Buckwalter PUD identified by tax map number R610 029 000 2482 0000 and is located at 375 Hampton Parkway within the Parcel 10A, 10B, and 10D Master Plan. The BZA hearing was advertised in The Island Packet on December 22, 2024 (Attachment 2), the property was posted, and adjacent property owners were notified via certified mail.

INTRODUCTION: The subject property consists of a 5.0-acre parcel located at 375 Hampton Parkway. The parcel has a new 6,118 square foot single-family home, currently under construction. The Applicant is proposing an approximately 4-foot encroachment into the 35-foot setback requirement from Hampton Parkway.

BACKGROUND: Section 2 of the Buckwalter Planned Unit Development Concept Plan defines permitted land uses. The Beaufort County Zoning and Development Standards Ordinance (ZDSO 90/3) as adopted establishes zoning districts and site design and development standards, including building setbacks.

Several zoning districts in which the subject property may exist identify a minimum front yard setback requirement of 35 feet, including Rural Development District, Development District, and General Residential (Sections 4.2.4.A, 4.3.3.A, and 4.4.2.A) (Attachment 3).

A Slab Inspection was conducted on April 17, 2024. This inspection failed, and the inspector noted that the “survey and home must be a minimum of 35-foot from the street lot line and show setbacks on survey” (Attachment 4). A site plan provided on April 18, 2024, shows the building footprint and covered porch in conformance with the 35-foot building setback (Attachment 5). The Slab Inspection was subsequently approved on July 22, 2024 (Attachment 6). However, a survey dated

June 20, 2024, identifies an encroachment of approximately 4 feet (Attachment 7). Based on the surveyed location of the slab, the applicant requests a variance to allow a 4-foot encroachment into the 35-foot building setback.

BOARD OF ZONING APPEALS ACTIONS: As granted by the powers and duties set forth in Section 2.2.6.D.2 of the Unified Development Ordinance, the Board of Zoning Appeals has the authority to take the following actions with respect to this application:

1. Approve the application as submitted by the Applicant;
2. Approve the application with conditions; or
3. Deny the application as submitted by the Applicant.

REVIEW CRITERIA & ANALYSIS: In assessing an application for a Variance, the Board of Zoning Appeals is required to consider the criteria set forth in Section 3.7.3 of the UDO. The seven criteria are provided below followed by a Staff Finding for each criterion.

As expressed in Section 3.7.3.B.1., a variance may be granted as applicable, and the application must comply with the following:

Unnecessary Hardship. A Variance from a dimensional or design standard may be granted by the Board of Zoning Appeals in an individual case of unnecessary hardship upon a finding that all the following standards are met:

1. Section 3.7.3.B.1.a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;

Finding. There are no extraordinary or exceptional conditions other than the property is on a curved segment of Hampton Parkway, which may have contributed to the forms being incorrectly placed prior to pouring the slab.

2. Section 3.7.3.B.1.b These conditions do not generally apply to other property in the vicinity, particularly those in the same zoning district;

Finding. The setback requirements are the same for the adjacent lots.

3. Section 3.7.3.B.1.c Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property in a manner consistent with others in the zoning district;

Finding. A strict application of the Ordinance to this particular piece of property would require the approved slab and approved building plans to be modified.

4. Section 3.7.3.B.1.d The need for the Variance is not the result of the Applicant's own actions;

Finding. While the slab was incorrectly placed by the builder, the Town erred in approving the slab inspection on July 22, 2024. The Applicant and builder continued construction based on the slab inspection approval.

5. Section 3.7.3.B.1.e The authorization of a Variance does not substantially conflict with the Comprehensive Plan and the purposes of this Ordinance;

Finding. The approval of the requested Variance does not substantially conflict with the Comprehensive Plan, *Blueprint Bluffton*, and the purposes of the Unified Development Ordinance.

6. Section 3.7.3.B.1.f The authorization of a Variance will not result in a substantial detriment to adjacent property or the public good, and the character of the District will not be harmed by the granting of the Variance;

Finding. The approval of the requested Variance would not result in substantial detriment to adjacent property owners or the public good. The visual impact of granting the setback variance will be minimal. As illustrated in Attachment 7, the majority of the home's front façade is placed behind the 35-foot front setback.

7. Section 3.7.3.B.1.g The reason for the Variance is more than simply for convenience or to allow the property to be utilized more profitably.

Finding. The reason for the Variance is to correct a field error and bring the foundation into compliance. The property will not be utilized more profitably by the granting of this variance.

CONCLUSION: Applying the seven variance criteria, the Board of Zoning Appeals must determine if the literal interpretation and enforcement of the UDO and provisions of the Ordinance would result in unnecessary hardship to the property owner(s). Findings of fact and using the criteria will be required.

ATTACHMENTS:

1. Application
2. BZA Island Packet Public Notice 12 22 24
3. ZDSO 90-3 Section 4.4.2.A
4. Slab Inspection Worksheet 04 17 24
5. Site Plan 04 18 24
6. Slab Inspection Worksheet 07 22 24
7. Survey with Setback Dimension 06 20 24