

*TOWN OF DUCK § 156.052 REDUCTION IN MINIMUM YARD REQUIREMENTS IN RESIDENTIAL DISTRICTS BASED ON ERROR IN BUILDING, STRUCTURE OR SITE FEATURE LOCATION.*

Notwithstanding any other provision of this chapter, the Zoning Administrator may approve a reduction in the minimum yard requirements where an existing or partially constructed building or structure, driveway, patio, swimming pool or pool deck, sign or similar feature does not comply with the requirements applicable when construction of a building or structure or similar features noted above began, provided that:

(A) The Zoning Administrator determines that:

- (1) The error does not exceed 10% of the minimum yard or setback requirement;
- (2) The noncompliance occurred in good faith and through no fault of the property owner, or was the result of an error in the location of the building or other site feature subsequent to the issuance of a building permit, if it was required;
- (3) The reduction will not be detrimental to the use and enjoyment of other property in the immediate vicinity or result in unsafe conditions;
- (4) To enforce compliance with the minimum yard or setback requirements would cause unreasonable hardship upon the owner; and
- (5) The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

(B) In approving a like reduction, the Zoning Administrator shall allow only a reduction necessary to provide the requested relief and may prescribe conditions, including, but not limited to, landscaping and screening measures, to mitigate any negative impacts of the reduction.

(C) Upon the issuance of written approval of a reduction for a particular building, sign, structure or similar site feature in accordance with the provisions of this section, the same shall be deemed to be lawful.