

City of Wilmington
Board of Adjustment

Item #3



Board of Adjustment
February 19th, 2025

REQUEST FOR A VARIANCE
BADV-19-226

Tucker Cherry, (910) 341-3255, zoning@wilmingtonnc.gov

REQUEST

<i>Code Section(s)</i>	Legacy Land Development Code: Section 18-249 Accessory buildings Section 18-615: Board of adjustment
Subject Property	6312 Pigfish Lane
<i>Parcel ID</i>	R06300-001-063-000
<i>Zoning</i>	R-20(L), Residential (Legacy) District
<i>Request</i>	Variance to Legacy City Code Section 18-249 for a detached accessory structure to be located in front of the primary dwelling
<i>Owner/Agent</i>	Christopher & Alison Parker PO Box 1612 Wrightsville Beach, NC 28480

GENERAL INFORMATION

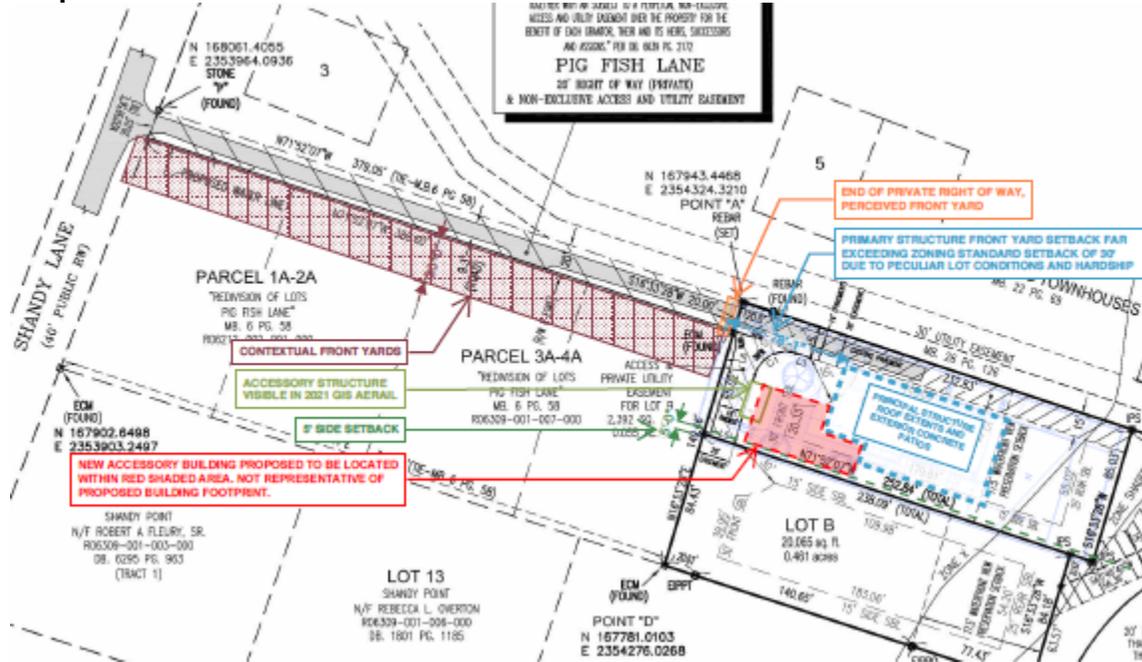
Subject Property Area	Approximately .49 acres +/- (21,488 square-feet)
Annexation Date	September 30 th , 2000
History if Applicable	N/A

ANALYSIS & RESEARCH

1. The subject property is located at 6312 Pigfish Lane, is currently zoned R-20 (L), Residential (Legacy) District, contains approximately .49 acres, and is currently undeveloped.
2. The owner is constructing a new single-dwelling home and has proposed constructing an additional 1,000 square-foot detached accessory structure to be used for storage.
3. The owner was issued building permits for the construction of the primary single-dwelling structure on or about January 28th, 2026.
4. Section 18-249 states that accessory buildings shall not extend any closer toward the front of a lot than the forwardmost projection of the principal structure.
5. Due to the configuration of the lot and the primary dwelling's proximity to the waterway, the accessory structure has been proposed between the primary residence and Pigfish Lane.
6. The applicant states that placing the structure behind the primary residence would conflict with the waterfront view preservation setback required by the development's restrictive covenants.

7. On January 6th, 2025, staff accepted an application for a variance to the Legacy Land Development Code, Section 18-249 to locate a detached accessory structure in front of the primary dwelling in the R-20 district.
8. This matter is set for hearing before the Board of Adjustment on February 19th, 2026.

Proposed Site Plan



FINDINGS OF FACT

The Board of Adjustment, in granting a variance, shall find that the following four findings of fact required by North Carolina General Statutes §160D-705 and City Code Chapter 18, Land Development Code, Section 18-615 Board of adjustment have been met by the applicant:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance;
3. 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
4. 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.

ATTACHMENT

1



City of Wilmington, Department of Planning & Development, City of Wilmington, New Hanover County

Board of Adjustment

BADV-19-226 — Aerial Map

6312 Pigfish Lane

12/2/2025



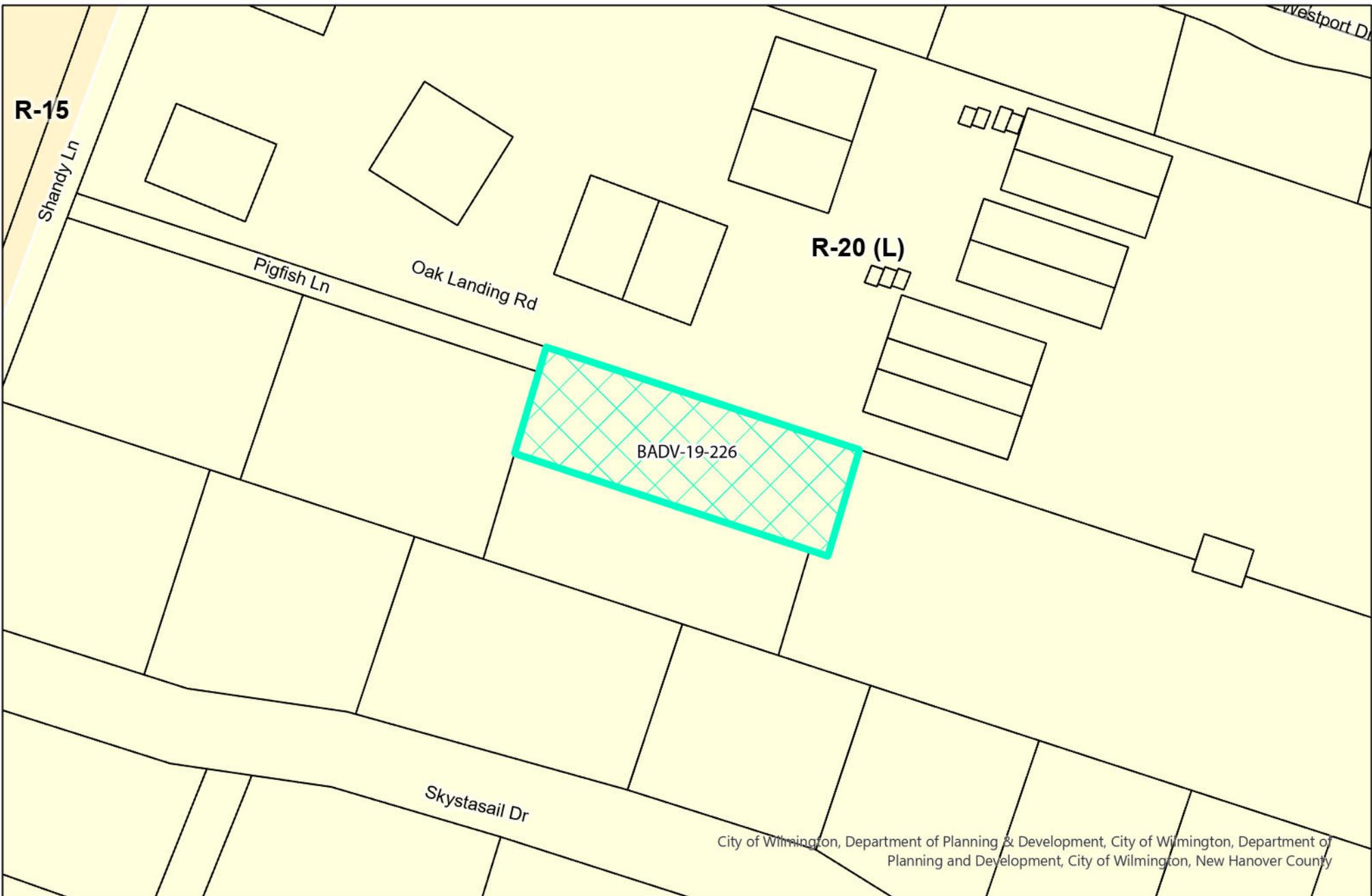
 Site
 Zoning

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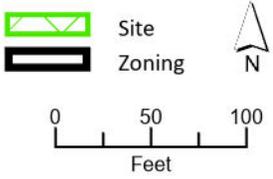
0 50 100
Feet

ATTACHMENT

2



City of Wilmington, Department of Planning & Development, City of Wilmington, Department of Planning and Development, City of Wilmington, New Hanover County



Board of Adjustment
BADV-19-226 — Aerial Map
6312 Pigfish Lane

12/2/2025



ATTACHMENT

3

**CITY OF WILMINGTON
STATE OF NORTH CAROLINA**

APPLICATION FOR A VARIANCE

PURPOSE OF VARIANCE – A Variance is the official allowance of a variation from the dimensional requirements of the City Land Development Code or other development regulations. An applicant for a variance must demonstrate valid reasons which create a need for a Variance. These reasons cannot be strictly economic in nature but must generally involve some physical problem with the subject property which will not allow it to be developed in a reasonable manner if City development regulations are followed literally, such as a lot which is substandard in area or width.

BOARD OF ADJUSTMENT - The Board of Adjustment, or BOA, is the official City Board that considers requests for variances. The BOA receives sworn testimony at its quasi-judicial hearings and issues decisions on variance requests based on this testimony. It is the responsibility of each applicant for a Variance to attend the BOA meeting and present sworn testimony in support of the request.

REASON FOR VARIANCE REQUEST – Explain in your own words why you are requesting a Variance. Be sure to clearly indicate the problem(s) you will experience in complying with the City development regulations. (Attach additional sheets if needed.)

Land Development Code Chapter 18 - Article 6 - Division I - Sec. 18-249 Accessory Buildings - Part (b). Given unique site

circumstances and hardships, we request a variance from the requirement that an accessory building shall not extend closer toward

the front of a lot than the forwardmost projection of the principal structure. See attached additional exhibits and four findings.

The BOARD OF ADJUSTMENT is required to make the following four (4) findings before granting a Variance. Write a thorough response to each of these items.

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance;
3. 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;
4. 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.

ATTACH PLOT PLAN DESCRIBING VARIANCE REQUEST

PROPERTY LOCATION INFORMATION

Street address of subject property 6312 Pigfish Lane

Tax Parcel Number of subject property R06300-001-063-000

ATTACH TAX PARCEL & OWNERSHIP INFORMATION FOR ADJACENT PROPERTIES

APPLICANT INFORMATION

Name/Address/Telephone/Email

Name: Christopher & Alison Parker

Address: PO Box 1612, Wrightsville Beach, NC 28480

Phone #: 910.367.8739

Email: cparker@parkerconstructiongroup.com

OWNER INFORMATION

Name/Address/Telephone/Email

Christopher & Alison Parker

PO Box 1612, Wrightsville Beach, NC 28480

910.367.8739

cparker@parkerconstructiongroup.com

ATTACH AGENT FORM IF THE APPLICANT IS NOT THE OWNER

DATE 1/5/26

APPLICANT'S SIGNATURE



INFORMATION TO APPLICANTS APPEARING BEFORE THE CITY OF WILMINGTON BOARD OF ADJUSTMENT FOR A VARIANCE

The Board of Adjustment regularly meets on the third Thursday of each month at 1:00 p.m. in City Council Chambers, 102 North 3rd Street, Wilmington, NC.

An application to the Board of Adjustment for a variance must be submitted to the City of Wilmington Zoning Division, located at 929 N Front Street, 1st Floor, **thirty (30) working days** prior to the meeting at which the application is to be considered. **Should the applicant or his agent fail to appear for a duly scheduled quasi-judicial hearing before the Board of Adjustment without first requesting a continuance, such application for a variance may be dismissed by the Board.**

An application must be accompanied by the following items - otherwise, it will not be accepted.

- 1) Completed application form (including plot plan showing the nature of the variance request) and completed agent form, if needed. NOTE: The plot plan shall be drawn to scale and its size shall not exceed 11" x 17".
- 2) A check made payable to the City of Wilmington in the amount of \$500.00 for a variance request and for all other appeals.
- 3) A New Hanover County tax map delineating the property in question.
- 4) Within 5 business days of submitting an application, applicants shall be responsible for providing payment for adjacent property owner notification in the amount of \$0.85 per required notice. Adjacent properties are all properties abutting the site and properties immediately across the street from it. Planning staff will provide the applicant with a list of adjacent property owners and confirmation that notices were mailed.

Please contact the Zoning Division at 254-0900 if you have any questions.

**CITY OF WILMINGTON
STATE OF NORTH CAROLINA**

**APPLICANT'S RESPONSE TO REQUIRED ITEMS
FOR CONSIDERATION FOR A VARIANCE**

Applicant/Representative: Please write a thorough response to the following four items which are required by State law to exist in order for a variance to be granted. Please submit these responses as part of your application package.

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance;
3. 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;
4. 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.

APPLICANT INFORMATION:

The date, time, location and other pertinent information concerning the Board of Adjustment meeting is enclosed. It is highly recommended that you or your representative attend the meeting. In the event that you do not attend, the item may be continued or approved in a manner other than your original request. If you plan to have legal representation at the quasi-judicial hearing, please notify city staff within one week prior to the quasi-judicial hearing to ensure that the city can arrange representation as well. Failure to do so may result in the city requesting a continuance to another quasi-judicial hearing. Absence at a meeting is implied consent for the actions that may be taken by the Board.

Should you have questions regarding the Board of Adjustment procedures or the specifics of the meeting, please contact the Planning Division at 254-0900, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m.

FOUR FINDINGS RESPONSES

1. *Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;*

RESPONSE: Due to the unique conditions of easements and view preservation setbacks on this property, there is insufficient space to locate an accessory storage building without obstructing site access. A storage shed for lawn care equipment is a typical necessity of property owners. However, the lack of buildable area in the rear yard creates significant challenges in accommodating both the principal structure and an accessory structure.

2. *The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance;*

RESPONSE: This property exhibits atypical street frontage compared to neighboring lots. Most properties along Pigfish Lane have front yard setbacks oriented to the north, consistent with the historic alignment of the roadway. County GIS aerial imagery indicates that a smaller accessory structure was historically located forward of the primary residence on this lot. Additionally, the private right-of-way occupies only a small corner of the lot, which visually diminishes the perceived front yard and minimizes sightline potential to the accessory structure.

3. *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*

RESPONSE: The property owner complied with a shorter, wider footprint at the main residence to accommodate the site's unique constraints. Constructing the home along the atypical front yard setback line would have been economically impractical and inconsistent with the property's limitations. These conditions were not created by the owner's actions but are inherent to the lot's configuration.

4. *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.*

RESPONSE: The proposed accessory building location meets the spirit of the code, as it will appear to the rear or side of the primary structure when viewed from Pigfish Lane. The accessory structure will be designed and detailed by the same architectural team responsible for the main residence, ensuring visual harmony and an aesthetically cohesive appearance. This approach maintains neighborhood character, creates no adverse impact on adjacent properties, and upholds equity for the property owner.



State of North Carolina
County of New Hanover

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

Burrows G. Smith and Pamela Francis Smith.

Date: 12/7/2023

Kaytie Brown
Notary Public

Kaytie Brown
Notary's Printed or Typed Name

My Commission Expires: 7/28/2024



(Official/Notarial Seal)

State of North Carolina
County of New Hanover

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

Robin Smith Hackney.

Date: 12/7/2023

Kaytie Brown
Notary Public

Kaytie Brown
Notary's Printed or Typed Name

My Commission Expires: 7/28/2024



(Official/Notarial Seal)

State of North Carolina
County of New Hanover

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

Ernest Deans Hackney, Jr.

Date: 12/6/2023

Kaytie Brown
Notary Public

Kaytie Brown
Notary's Printed or Typed Name

My Commission Expires: 7/28/2024



(Official/Notarial Seal)

EXHIBIT "A"

Benefitted Properties

Lot A as shown on Map of Division of Pigfish Lane, LLC Lands recorded in Plat Book 73 at Page 222

Lot B as shown on Map of Division of Pigfish Lane, LLC Lands recorded in Plat Book 73 at Page 222

Common Area as shown on Map of Division of Pigfish Lane, LLC Lands recorded in Plat Book 73 at Page 222

Lot 9 of Shandy Point, Tax ID No. R06309-001-011-000 and described in Book 6138 at Page 1738 of the New Hanover County Registry.

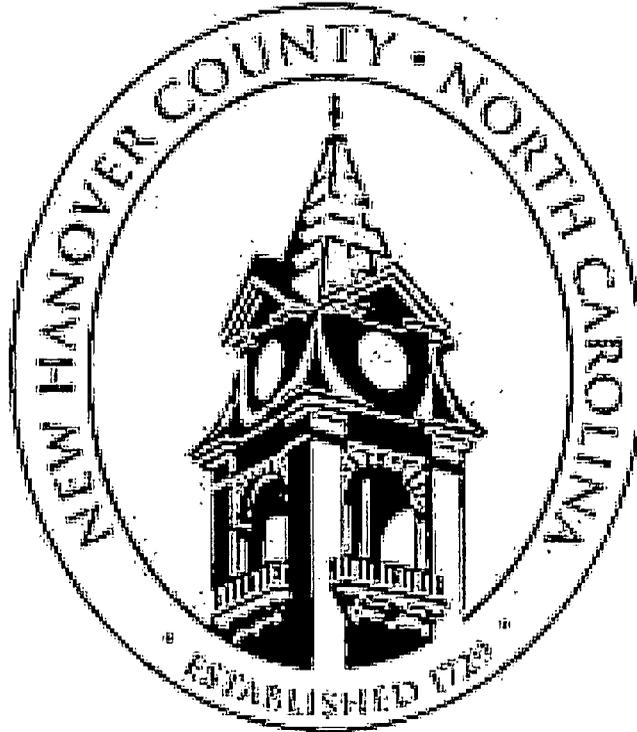
Lot 10 of Shandy Point, Tax ID No. R06309-001-010-000 and described in Book 6470 at Page 2666 of the New Hanover County Registry.

MORGHAN GETTY
COLLINS
Register of Deeds

New Hanover County

Register of Deeds

320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401
Telephone 910-798-4530 • Fax 910-798-7716



State of North Carolina, County of NEW HANOVER
Filed For Registration: 12/07/2023 10:26:12 AM
Book: RB 6678 Page: 466-471
6 PGS \$26.00
Real Property \$26.00
Recorder: ANGELA ENGLISH
Document No: 2023030495

DO NOT REMOVE!

This certification sheet is a vital part of your recorded document. Please retain with original document and submit when re-recording.

BK: RB 6678

PG: 466-471

RECORDED:
12-07-2023

10:26:12 AM

BY: ANGELA ENGLISH
DEPUTY

2023030495

NEW HANOVER COUNTY, NC

MORGHAN GETTY COLLINS

REGISTER OF DEEDS

NC FEE \$26.00

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants ("Declaration") is made this ____ day of December, 2023, by Pigfish Lane, LLC, a North Carolina limited liability company ("Declarant"), for the benefit of those certain properties identified on Exhibit "A" attached hereto and incorporated herein by reference (collectively, the "Benefitted Properties" and individually a "Benefitted Property"). The owners of the Benefitted Properties are referred to herein as the "Benefitted Owners" and individually as a "Benefitted Owner".

WHEREAS, Declarant is the sole owner in fee simple of that certain real property located in New Hanover County, North Carolina, identified as Lot A and Lot B on that Map of Division of Pigfish Lane, LLC Lands recorded in Plat Book 73 at Page 222 of the New Hanover County Registry and referred to herein as the "Restricted Property"; and

WHEREAS, Declarant desires to establish certain covenants, conditions, and restrictions for the Restricted Property

NOW, THEREFORE, in consideration of the above and the covenants, terms, conditions, and restrictions contained herein, Declarant does hereby restrict the use of the Restricted Property for the purposes set forth herein:

1. **Single-Family Residential Use Only.** The Restricted Property shall be use for single-family residential purposes only and shall not be used or occupied by other than a single-family nor used for other than residential uses. No structure of a temporary nature, trailer, tent, shack, barn or similar structure shall be permitted on the Restricted Property either temporarily or permanently at any time, provided, however, that this prohibition shall not apply to shelters used by the contractor during the construction of the main dwelling, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the Restricted Property after completion of construction of the main dwelling. No structure on the Restricted Property other than a fully completed single family residence shall be occupied.
2. **Short-Term Rentals Prohibited.** The Restricted Property shall not be rented for boarding house, bed and breakfast, hotel, or other transient residential purposes, which, for purposes of this Declaration, shall be defined as a rental for any period less than three hundred sixty-five (365) consecutive days.

Return to
Susan Keelin

3. **Waterfront View Preservation Setback.** No planting, structure, accessory building, playground equipment or other improvement shall be permitted in the Waterfront View Preservation Setback Areas (“WVPS Areas”) of the Restricted Property, as said WVPS Areas are shown on the Plat, which exceeds four (4) feet in height.

4. **Exterior Colors.** The exterior color of all structures and improvements on the Restricted Property shall be a shade of white, beige, tan, gray, green or light blue customarily identified as within a light neutral earth tone color palette. Unacceptable colors include, but are not limited to, such bright colors as baby blue, pink, cherry red, orange, neon, fluorescent and other exotic hues, and also such dark colors as black, chocolate brown, and navy blue.

5. **Enforcement.** The Benefitted Owners shall have the right to prevent and correct violations of the terms of these restrictive covenants as set forth below.

(a) Notice of Failure. If one or more of the Benefitted Owners determines that a violation of the terms of these restrictive covenants has occurred or is threatened, one or more of the Benefitted Owners shall give written notice to the offending property owner of such violation and demand cessation of such violation and corrective action sufficient to cure the violation.

(b) Failure to Respond. A Benefitted Owner may bring an action as provided for in Section 5(c) below if the offending owner fails to cure the violation within thirty (30) days after receipt of notice thereof, fails to begin curing such violation within the thirty (30) day period under circumstances where the violation cannot reasonably be cured within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured.

(c) The Benefitted Owners’ Action. Provided that a Benefitted Owner has provided the notice of violation and opportunity to cure as set forth in Sections 5(a) and (b) above, said Benefitted Owner may bring action at law or in equity in a court of competent jurisdiction to enforce the terms of these restrictive covenants, to enjoin the violation by temporary or permanent injunction, and to require the restoration of the restricted property to the condition that existed prior to any such injury.

6. **Modification and Termination of Restrictive Covenants.** These restrictive covenants may be amended or terminated only with the written concurrence of the Declarant, its successors and assigns, and each of the Benefitted Owners, their heirs, successors and assigns, and such amendment or termination shall be recorded in the real property records of New Hanover County.

7. **Interpretation.** These restrictive covenants shall be interpreted under the laws of the State of North Carolina, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its purposes.

8. **Perpetual Duration.** These restrictive covenants shall be a binding servitude running with the land in perpetuity.

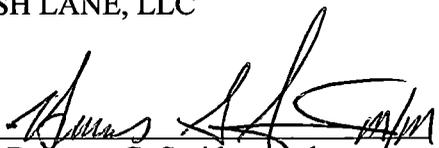
9. **Notices.** Any notices required by these restrictive covenants shall be in writing and shall be personally delivered or sent by first class certified mail, return receipt requested, to the receiving

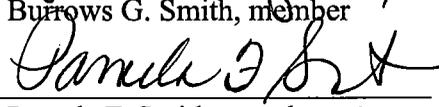
party at the address of its registered agent on record with the North Carolina Secretary of State, or, if an individual, at the address on record with the New Hanover County Tax Office.

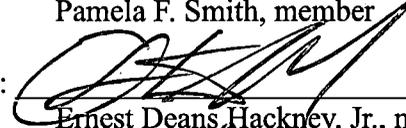
10. **Severability.** If any provision of these restrictive covenants is found to be invalid, illegal or unenforceable, that finding shall not affect the validity, legality or enforceability of the remaining provisions.

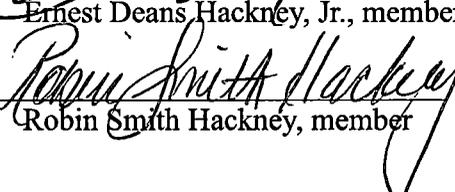
In Witness Whereof, the Declarant has set its hand on the date first written above.

PIGFISH LANE, LLC

By:  (SEAL)
Burrows G. Smith, member

By:  (SEAL)
Pamela F. Smith, member

By:  (SEAL)
Ernest Deans Hackney, Jr., member

By:  (SEAL)
Robin Smith Hackney, member

ATTACHMENT

4

ATTACHMENT

5

Sec. 18-248. - Accessory apartments, detached.

Detached accessory apartments shall be allowed in the R-20, R-15, R-10, R-7, R-5, R-3, MF-L, MF-M, MF-MH, MF-H, HD, HD-R, and HD-MU Districts if the following criteria are met:

- (a) Lots must exceed the minimum lot area of the applicable zoning district by at least fifty (50) percent, or five thousand (5,000) square feet, whichever is less;
- (b) The entire structure shall not exceed thirty-five (35) percent of the gross total enclosed heated square footage of the existing single-family dwelling or one thousand two hundred (1,200) square feet, whichever is less;
- (c) Two (2) additional off-street parking spaces shall be required;
- (d) Detached accessory apartments shall comply with the requirements established in section 18-249, accessory buildings, except:
 - (1) The side and rear setbacks for any detached accessory apartment shall be fifteen (15) feet, or the respective minimum side and rear setback of a principal structure in the zoning district in which the property is located, whichever is less. In no case shall the side or rear setback be less than five (5) feet. Corner lots shall follow the requirements set forth in section 18-249.
 - (2) The detached accessory apartment shall be located completely behind the plane of the rear facade of the principal structure.
- (e) Only one (1) accessory apartment, whether attached or detached, shall be permitted per lot;
- (f) Accessory apartments may be constructed over existing detached garages provided the garage meets the accessory building regulations and the living space of the apartment does not exceed eight hundred (800) square feet;
- (g) Reserved; and
- (h) In the multiple-family districts (MF-L, MF-M and MF-H) accessory apartments shall only be allowed when constructed in connection with any single-family detached development which is allowed within the district.

(Ord. No. O-2008-25, 4-8-08; Ord. No. O-2012-53, § 1, 8-21-12)

Sec. 18-249. - Accessory buildings.

- (a) *Number of accessory buildings.* In the residential districts, no more than two (2) accessory buildings shall be permitted per lot, with the following exceptions:
 - (1) *Bona fide agricultural uses.* Lots of four (4) acres or greater shall be allowed two (2) additional accessory buildings.
 - (2) *City approved community gardens.*
 - a. One (1) accessory building not exceeding twelve (12) feet in any dimension shall be permitted on lots designated as community gardens.
 - b. The accessory building shall not be connected to electricity or plumbing.
 - c. The accessory building shall comply with city permitting requirements and the city community garden policy.
 - d. Placement of the structure shall be to the interior of the lot and subject to the approval of the planning division.
- (b) *Location of accessory buildings.* On all lots, accessory buildings shall be located only to the side or rear of the principal structure. An accessory building shall not extend any closer toward the front of a lot than the forwardmost projection of the principal structure including, but not limited to, porches, steps, entryways, etc. Where a typical development pattern of accessory buildings placed in front of primary buildings exists, one (1) accessory structure may be allowed in front of the primary structure subject to the following conditions:

- (1) The accessory building shall be located a minimum of two hundred (200) feet from the front property line.
- (2) The accessory building shall meet or exceed the required side setback for the principal structure.
- (3) The accessory building shall not exceed one thousand (1,000) square feet in area.
- (4) The accessory building shall be oriented toward the street and includes fenestration (doors and windows) on the front facade. Garage doors on the front facade shall be prohibited.
- (5) Corrugated metal, unparged concrete block, and plywood shall be prohibited on the exterior facade of the structure.

On corner lots accessory buildings shall be located no closer to the street than the front of the principal structure on the rear adjoining lot at a setback from the street equal to at least fifty (50) percent of the length of the common property line. If the adjoining lot does not contain a structure, or if the adjoining structure does not meet the minimum required front setback of the zoning district, an accessory building must meet the minimum front setbacks of the zoning district in which it is to be located.

- (c) *Lot coverage.* Accessory buildings shall not cover more than thirty (30) percent of the required side or rear yard. The gross total square footage of all accessory buildings shall not exceed one hundred (100) percent of the heated square footage of the primary structure.
- (d) *Setback.* Accessory buildings shall be set back at least five (5) feet from the side and rear lot lines in all districts except in the separate use historic districts. In these districts, setbacks will be reviewed and approved by the historic preservation commission or historic preservation planner through the certificate of appropriateness application process according to [section 18-96](#). The separation between the principal structure and accessory building shall meet the state building code.
- (e) *Height.* The height of any accessory building shall not exceed the height of the primary structure or thirty-five (35) feet, whichever is less.

(Ord. No. O-2008-25, 4-8-08; Ord. No. O-2010-91, § 16, 12-7-10; Ord. No. O-2016-54, § 1, 7-19-16)