

**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: cspark@parkerconstructiongroup.com

OWNER INFORMATION

Name/Address/Telephone/Email

Christopher & Alison Parker

PO Box 1612, Wrightsville Beach, NC 28480

910.367.8739

cspark@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
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**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.



BK: RB 6678

PG: 466-471

RECORDED:

12-07-2023



2023030495

NEW HANOVER COUNTY, NC

10:26:12 AM

MORGAN GETTY COLLINS

BY: ANGELA ENGLISH

REGISTER OF DEEDS

DEPUTY

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 used 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 Keel

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.

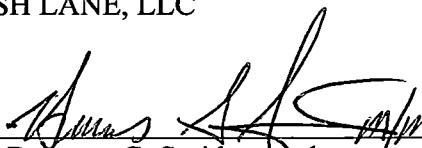
9. **Notices.** Any notices required by these restrictive covenants shall be in writing and shall be personally delivered or sent by first class certified mail, return receipt requested, to the receiving

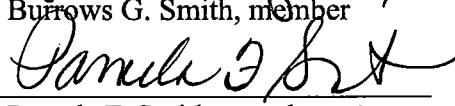
party at the address of its registered agent on record with the North Carolina Secretary of State, or, if an individual, at the address on record with the New Hanover County Tax Office.

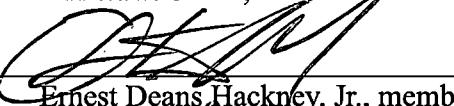
10. **Severability.** If any provision of these restrictive covenants is found to be invalid, illegal or unenforceable, that finding shall not affect the validity, legality or enforceability of the remaining provisions.

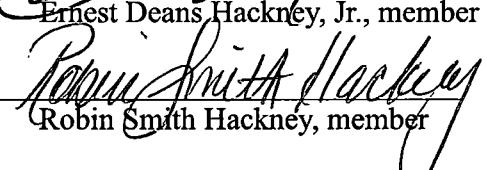
In Witness Whereof, the Declarant has set its hand on the date first written above.

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

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: 12/17/2023

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: 12/17/2023

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

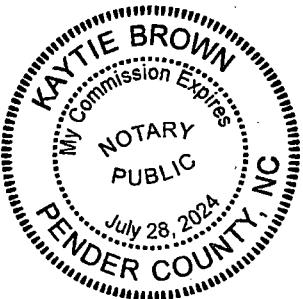
I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:
Ernest Deans Hackney, Jr.

Date: 12/16/2023

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

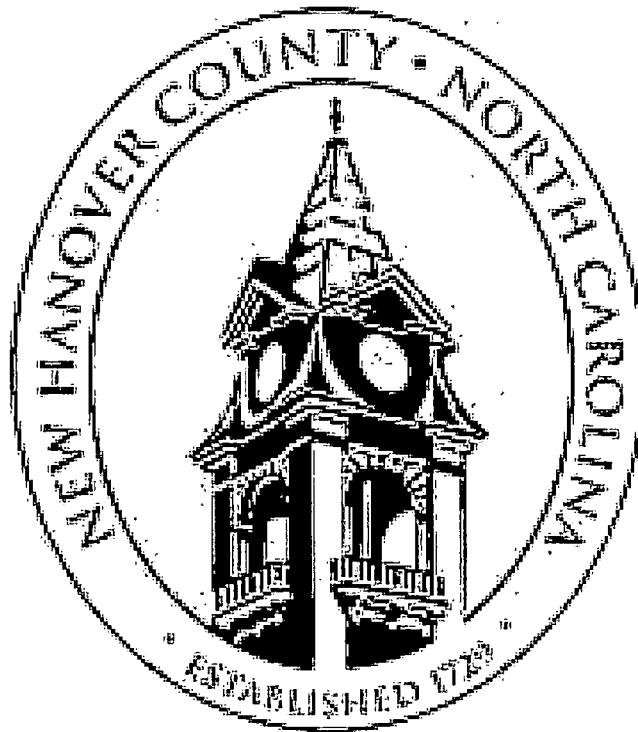
Lot 9 of Shandy Point, Tax ID No. R06309-001-011-000 and described in Book 6138 at Page 1738 of the New Hanover County Registry.

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.

MORGAN 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.

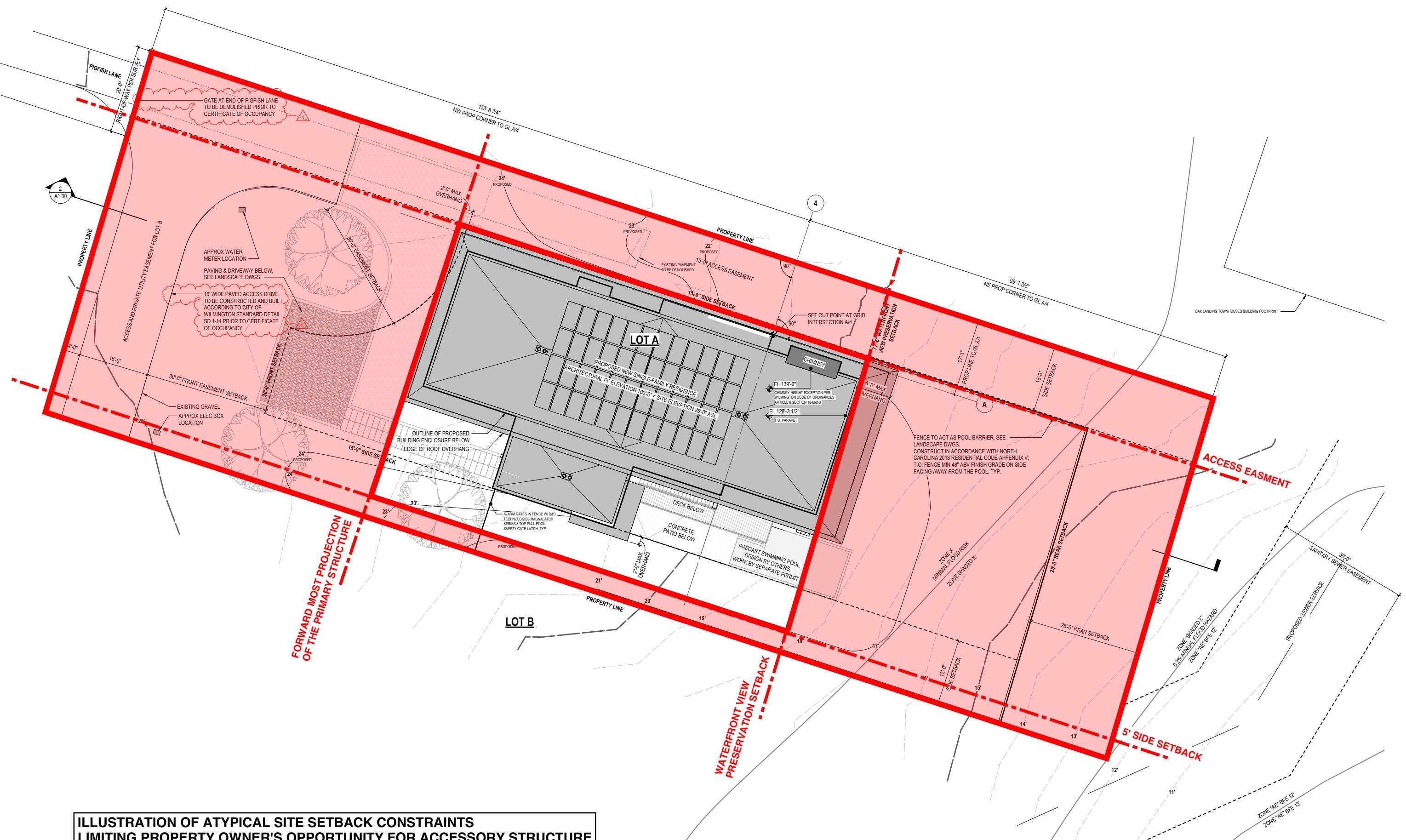


ILLUSTRATION OF ATYPICAL SITE SETBACK CONSTRAINTS LIMITING PROPERTY OWNER'S OPPORTUNITY FOR ACCESSORY STRUCTURE

