



Board of Adjustment
June 18, 2026

VARIANCE
BADV-26-526

Patrick O'Mahony, Planning Manager, (910) 341-3260

REQUEST

<i>Code Section(s)</i>	Land Development Code: Section 18-199: Accessory buildings and structures Section 18-615: Board of adjustment
<i>Subject Property</i>	2722 Shandy Lane
<i>Parcel ID</i>	R06212-002-014-000
<i>Zoning</i>	R-15, Moderate-density single-dwelling district
<i>Request</i>	Variance to Land Development Code Section 18-199 for a detached accessory structure to be located in front of the primary dwelling
<i>Owner</i>	Walter J. Lentfert Etal 2722 Shandy Lane Wilmington, NC 28409
<i>Agent</i>	Stephen D. Coggins PO Box 1409 Wilmington, NC 28402

GENERAL INFORMATION

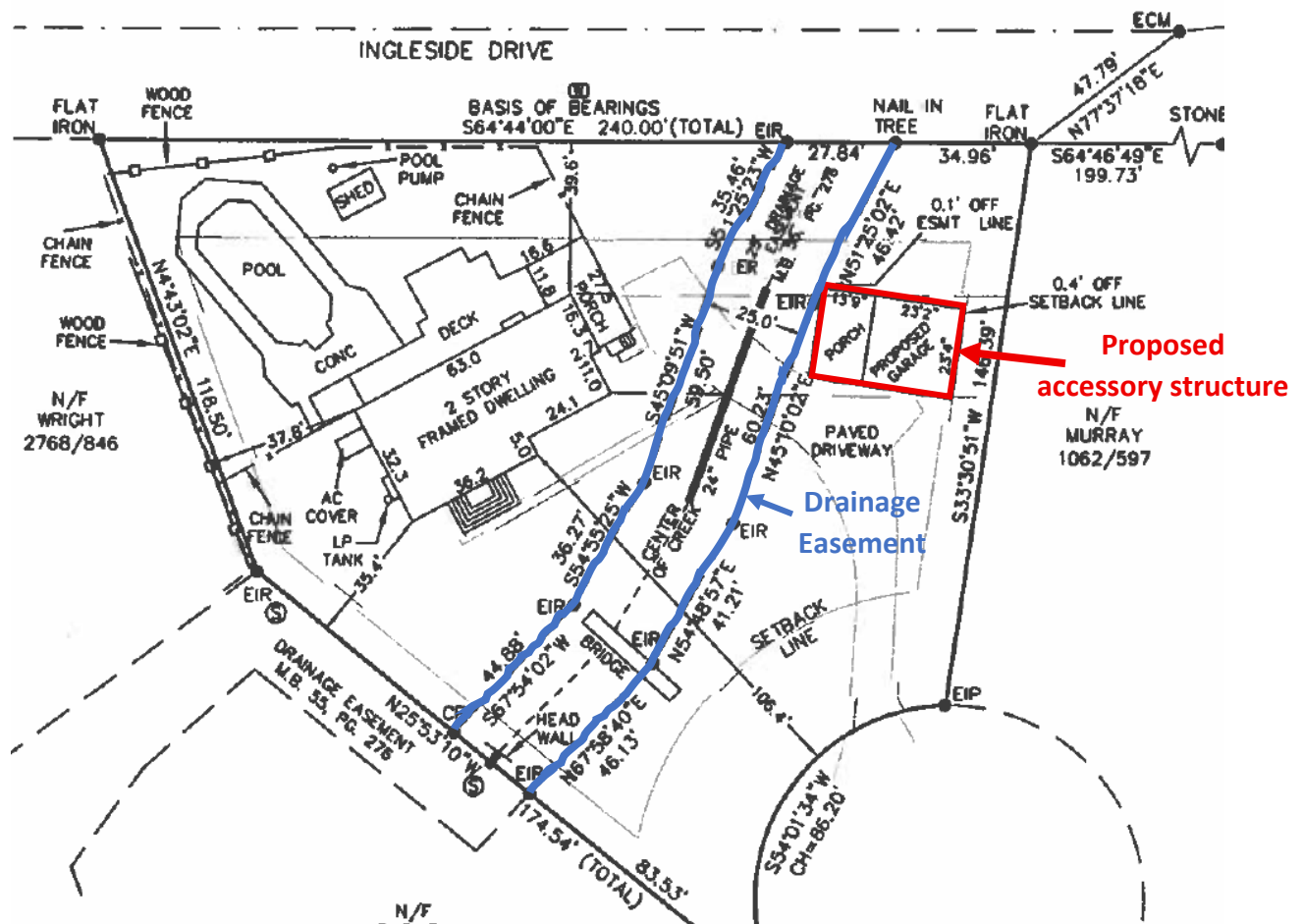
Subject Property Area	Approximately .73 acres +/- (31,995 square-feet)
Annexation Date	September 30, 2000
History if Applicable	BADV-5-519 denied 5/19/2016

ANALYSIS & RESEARCH

1. The subject property is located at 2722 Shandy Lane, is currently zoned R-15, Moderate-density single-dwelling district, contains approximately .73 acres, and is currently developed with a single-dwelling structure.
2. The owner is proposing to construct an approximately 541 square foot garage and attached porch.
3. Table 18-199 states that accessory buildings shall not be in front of the principal building and shall not be closer to a side street than the principal building.
4. The subject property is located on both Shandy Lane and Ingleside Drive and is thus defined as a "through lot" according to Article 8 of the Land Development Code.
5. The existing dwelling is located 106.4' from the front property line on Shandy Lane and 39.6' from the Ingleside Drive property line.
6. Additionally, an existing 25' wide drainage easement (MB 55, PG 276) bisects the property from north to south.

7. Accessory structures are required to provide a 5-foot setback from side lot lines.
8. Due to the configuration of the lot and the location of an existing drainage easement, the accessory structure has been proposed closer to both the Shandy Lane and Ingleside Drive property lines than the primary dwelling.
9. The applicant states that placing the structure behind the primary dwelling is not feasible due to the configuration of the lot and existing drainage easement.
10. On May 19, 2016, the Board of Adjustment denied a similar request for the placement of an accessory structure.
11. The previous Land Development Code states that an accessory building shall not extend any closer toward the front of a lot than the forwardmost projection of the principal structure, which differs from current code requirements.
12. On April 2, 2026, staff accepted an application for a variance to the Land Development Code, Section 18-199 to locate a detached accessory building in front of the principal building and closer to a side street than the principal building in the R-15 district.
13. This matter is set for hearing before the Board of Adjustment on June 18, 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:

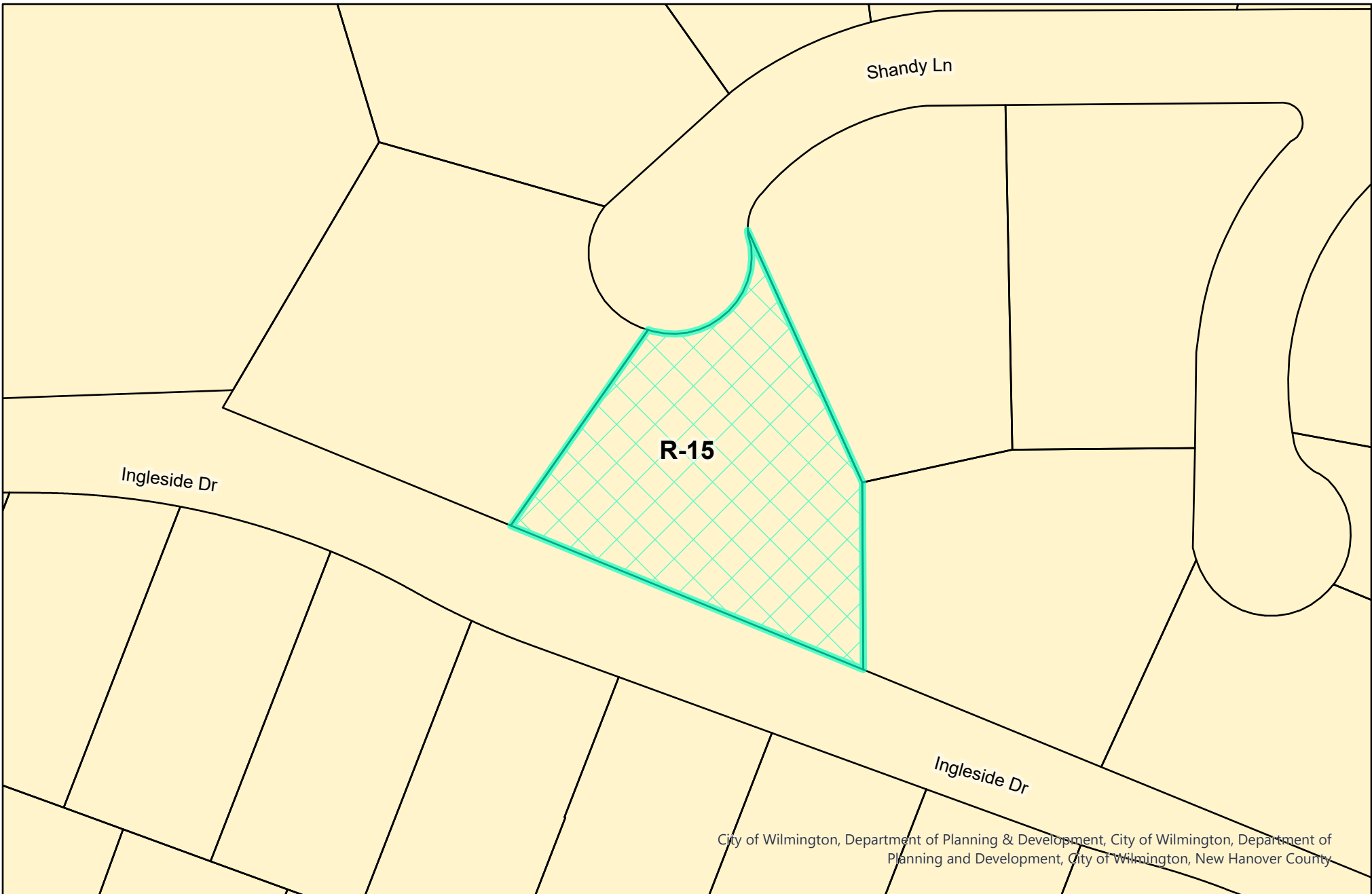
1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. The hardship results from conditions that are peculiar to the property, such as location, 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.

NEIGHBORHOOD CONTACT


City Notifications:	Board of Adjustment
Adjacent Letters	6/5/2026
Property Posted	6/5/2026
Advertisement Dates	6/12/2026


ATTACHMENTS


- 1.) Location and Zoning Map (6/1/26)
- 2.) Aerial Map (6/1/26)
- 3.) Application (received 4/2/2026)
- 4.) Site plan (4/2/2026)
- 5.) BADV-5-516 Signed Order (dated 6/8/16)
- 6.) City Code Chapter 18, Land Development Code references:
 - a. Section 18-199 Accessory buildings
 - b. Section 18-615 Board of Adjustment



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

 Site

 City Limits

 N


0 50 100
Feet

Board of Adjustment

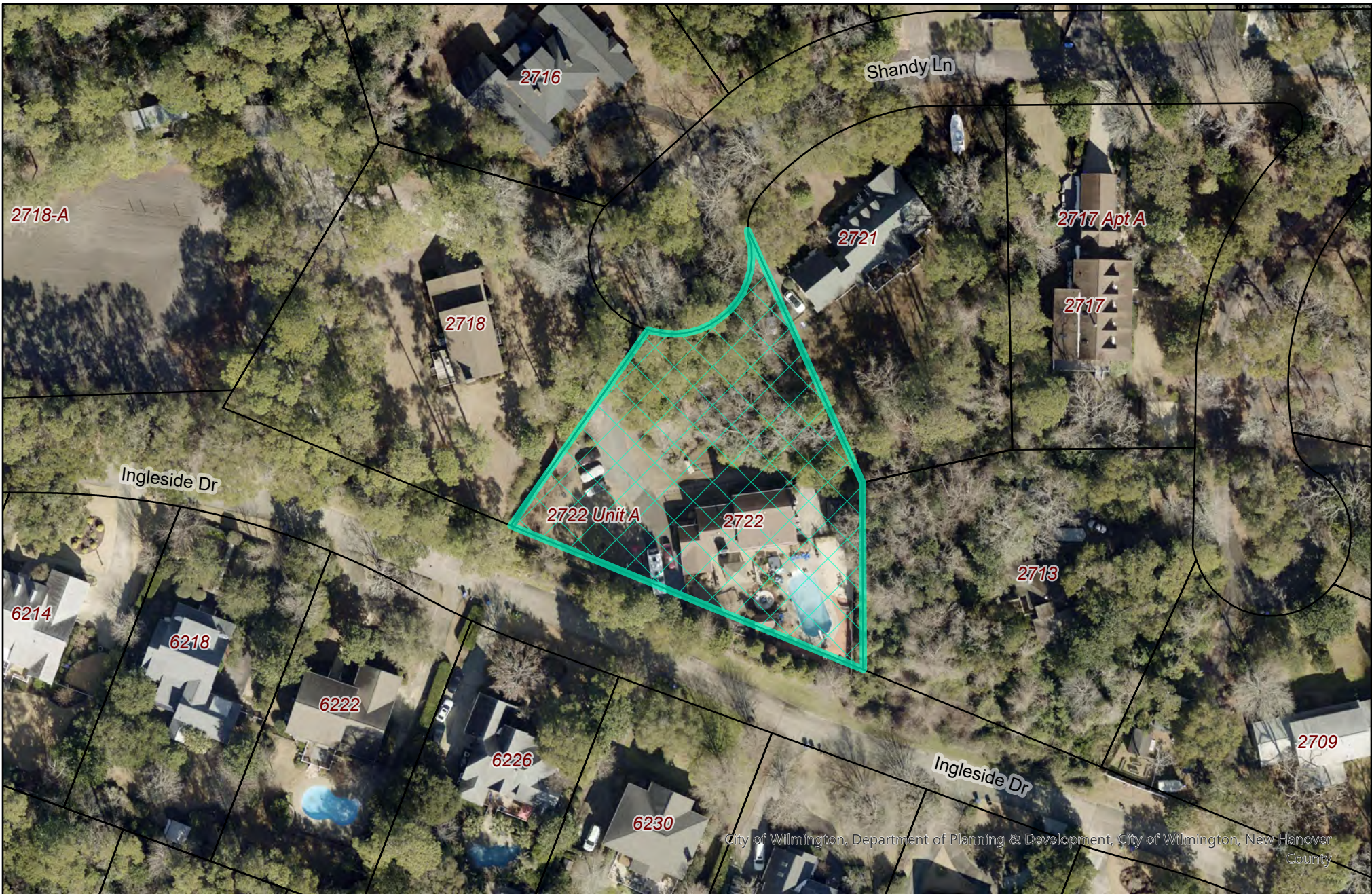
BADV-26-526 — Zoning Map

2722 Shandy Ln

6/1/2026



CITY OF WILMINGTON
PERSEVERE
1739
STATE OF NORTH CAROLINA



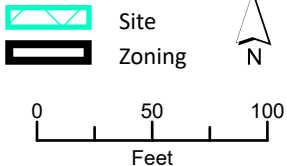
City of Wilmington, Department of Planning & Development, City of Wilmington, New Hanover County

Board of Adjustment

BADV-26-526 — Aerial Map

2722 Shandy Ln

6/1/2026



**CITY OF WILMINGTON
STATE OF NORTH CAROLINA
APPLICATION FOR A VARIANCE**

PRE-APPLICATION MEETING – A pre-application meeting with staff is required before a variance application can be accepted. Pre-application meetings will not be scheduled or held on the application submission deadline date. Please identify the meeting date and staff in attendance below.

Meeting Date: 3/4/2026

Staff: Linda Painter

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 that create a need for a Variance. These reasons cannot be strictly economic in nature but must generally involve a physical problem with the subject property that would prevent it from being developed in a reasonable manner if City development regulations are followed literally, such as a lot that 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.)

See attached Memo in Support.

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	2722 Shandy Lane, Wilmington, NC 28409
Tax Parcel Number of the subject property	R06212-002-014-000

ATTACH TAX PARCEL AND OWNERSHIP INFORMATION FOR ADJACENT PROPERTIES.

APPLICANT INFORMATION

Applicant Name:	Stephen D. Coggins
Applicant Address:	P.O. Box 1409, Wilmington, NC 28402
Applicant Phone #:	[REDACTED]
Applicant Email:	[REDACTED]

OWNER INFORMATION

Owner Name:	Walter and Francisca Lentfert
Owner Address:	2722 Shandy Lane, Wilmington, NC 28409
Owner Phone #:	[REDACTED]
Owner Email:	[REDACTED]

ATTACH THE AGENT FORM IF THE APPLICANT IS NOT THE OWNER.

APPLICANT'S SIGNATURE: Walter J.
Lentfert

Digitally signed by Walter J. Lentfert
Date: 2026.03.31 19:53:10 -0400'

DATE: 3/31/2026



VICINITY MAP - NOT TO SCALE
 ZONING: R15
 SETBACKS:
 FRONT: 30'
 REAR: 25'
 SIDE: 10'

- LEGEND**
- EIP - EXISTING IRON PIPE
 - EIR - EXISTING IRON ROD
 - FLAT - EXISTING FLAT IRON
 - CP - COMPUTED POINT
 - ECM - EXISTING MONUMENT
 - NAIL - EXISTING NAIL
 - WM - WATER METER
 - EP - ELECTRIC PEDESTAL

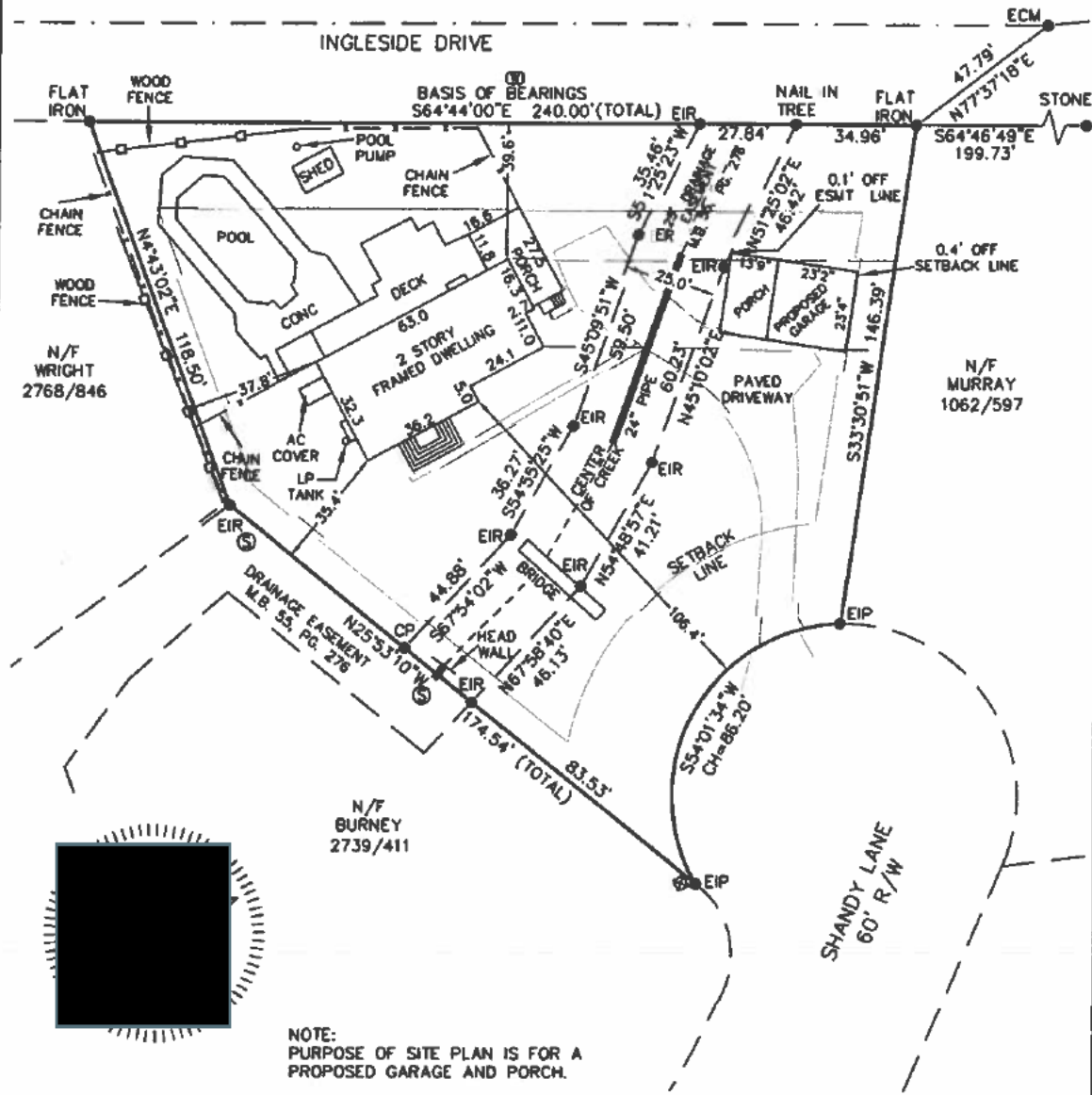
REFERENCES

D.B. 5811, PG. 947
 M.B. 38, PG. 65
 M.B. 55, PG. 276

AREA

0.74 +/- ACRES

- NOTES:**
1. SOLID LINES ARE LINES SURVEYED, DASHED LINES ARE LINES NOT SURVEYED, RECORDED DATA ONLY.
 2. NO GRID MONUMENT FOUND WITHIN 2000'. PROPERTY RECORDED IN MAP BOOK 38, PAGE 65 & MAP BOOK 55, PAGE 276.
 3. THE ERROR OF CLOSURE CALCULATED BY LATITUDES AND DEPARTURES IS 1/10,000+. THE ENCLOSURE IS DISTRIBUTED BY THE CRANDALL METHOD AND THE AREA, IF SHOWN, IS CALCULATED BY COORDINATE METHOD.
 4. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP, TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.



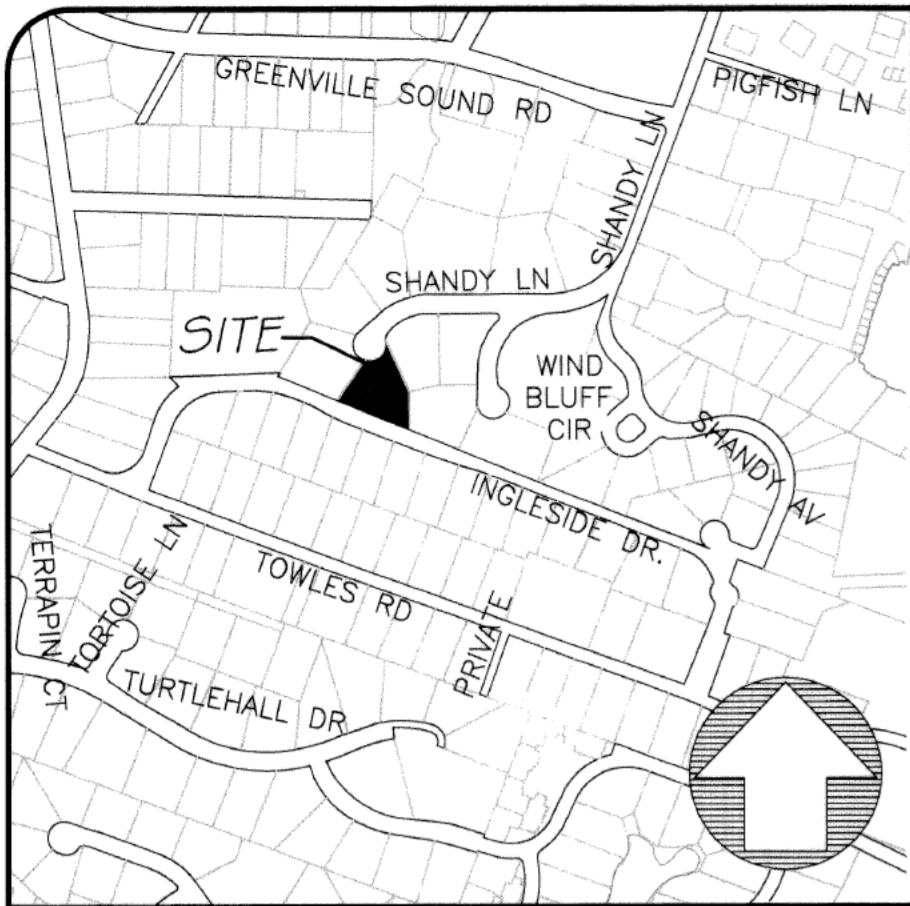
NOTE:
 PURPOSE OF SITE PLAN IS FOR A
 PROPOSED GARAGE AND PORCH.

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK AS SHOWN, PAGE AS SHOWN OR OTHER REFERENCE SOURCE AS SHOWN); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BOOK AS SHOWN, PAGE AS SHOWN OR OTHER REFERENCE SOURCE AS SHOWN; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1:10,000+; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). THIS DAY OF JUNE, 2015.

SITE PLAN FOR
WALTER LENTFERT
 PIN R06212-002-014-000
 2722 SHANDY LANE
 LOT 10, WINDSOR FOREST
 HARNETT TOWNSHIP, NEW HANOVER COUNTY, NC
 DATE OF SURVEY: FEBRUARY 24, 2015

BAR GRAPH 1 inch = 40 ft.

THIS PARCEL OF LAND LIES WITHIN FLOOD ZONE X WHICH IS NOT A SPECIAL FLOOD HAZARD AREA AS PER F.I.R.M. PANEL NUMBER: 3156
 EFFECTIVE DATE: 04/03/2006



LOCATION MAP
NOT TO SCALE

LEGEND

- ECM EXIST. CONC. MON. AND STONE
- EIP EXIST. IRON PIPE
- EIS EXIST. IRON STAKE
- IRS IRON ROD SET
- PL EXIST. PROPERTY LINE
- R/W EXIST. RIGHT-OF-WAY

NOTES:

1. References: Deed Book 1606, Page 1625
Deed Book 2739, Page 411
New Hanover County Registry
2. Horizontal ground distances shown hereon unless denoted otherwise, grid factor = 1.00004552
3. Area by coordinate computation.
4. The property shown hereon does not lie within a FEMA designated 100 year flood hazard zone area.
5. Date of survey: December 6, 2010.

GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

"I, BENJAMIN C. BROWN, PLS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION FROM DEEDS AS REFERENCED HEREON; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION AS INDICATED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED IS 1: 10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 8th DAY OF DECEMBER, A.D., 2010.

I FURTHER CERTIFY THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING

PHONE (910) 341-5898

STATE OF NORTH CAROLINA
NEW HANOVER COUNTY

FILED FOR REGISTRATION OF THE 22 DAY OF Dec 2010 AT 10:16 AM/PM AND DULY RECORDED IN MAP BOOK 55 AT PAGE 276 #2010036864

DRAWN BY: _____
REGISTER OF DEEDS Jennifer H. MacNeish
BY: Jacqueline E. Moore, Deputy

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, John W. Fullerton, REVIEW OFFICER OF NEW HANOVER COUNTY CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE: 12-22-10 REVIEW OFFICER: John W. Fullerton

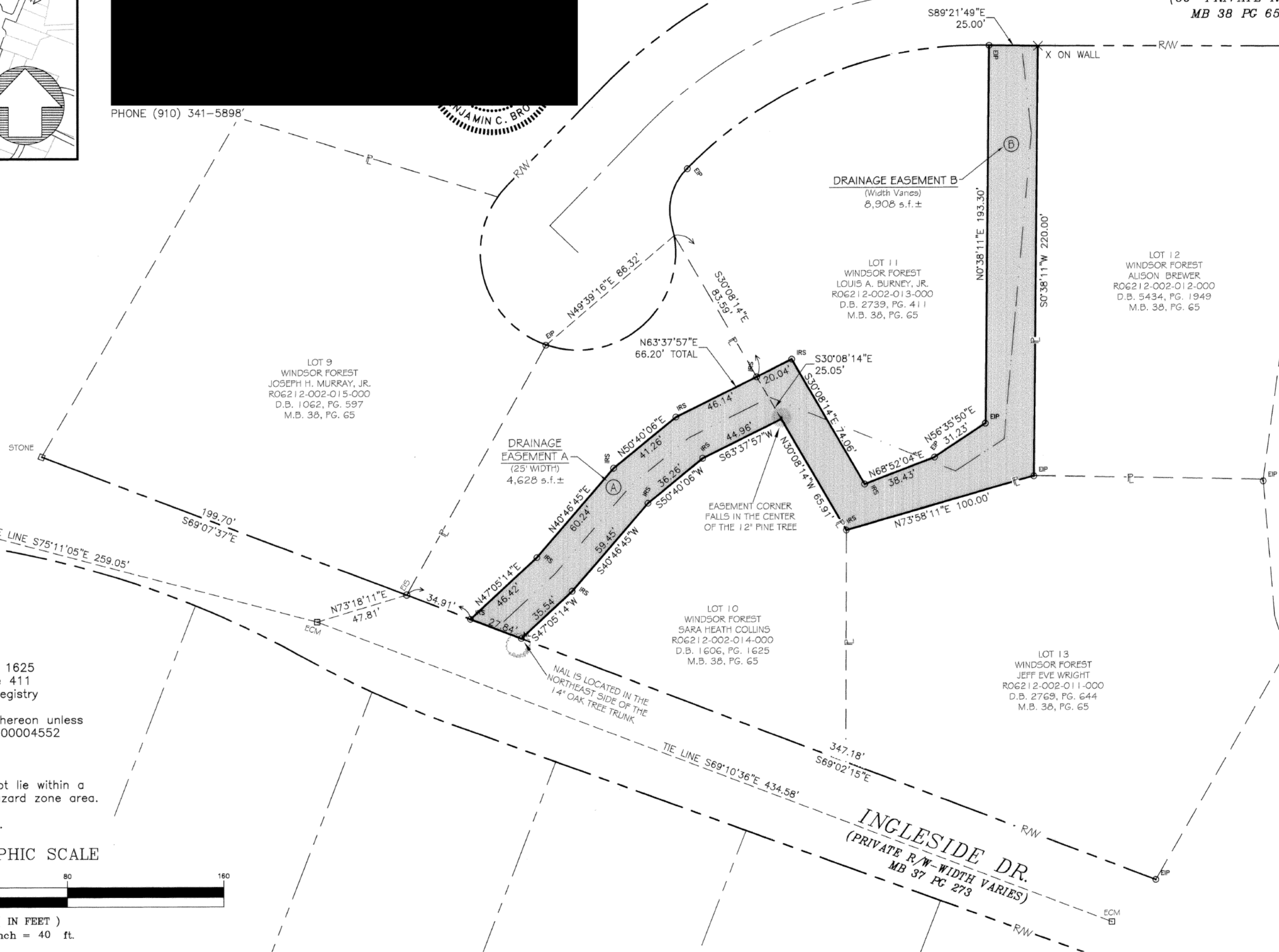
MAP NOT SUBJECT TO CITY OF WILMINGTON SUBDIVISION ORDINANCE

DATE PROJECT MANAGER



BENJAMIN C. BROWN

SHANDY LANE
(60' PRIVATE R/W)
MB 38 PG 65



City Surveying • Engineering Division • Public Services
P.O. Box 1810 • 414 Chestnut Street • Wilmington, NC 28401 • (910) 341-7807

DESIGNED	
DRAWN	TCR
CHECKED	BCB
PROJ. ENGR.	

PATH
N:\PROJECT FILES\STORM SEWER-SHANDY LANE-2009
FILE NAME SHANDY LANE EASEMENT FINAL.dwg

CITY OF WILMINGTON DRAINAGE EASEMENTS
CROSSING PROPERTIES OWNED BY:
SARA H. COLLINS & LOUIS A. BURNEY, JR.
CITY OF WILMINGTON WILMINGTON TOWNSHIP NEW HANOVER COUNTY NORTH CAROLINA

SCALE
1" = 40'
SHEET
1 of 1



2010036864

SFOR REGISTRATION REGISTER OF DEED:
JENNIFER H. MACNEISH
NEW HANOVER COUNTY, NC
2010 DEC 22 10:26:55 AM
BK:55 PG:276-277 FEE:\$21.00

MAP INDEX

INSTRUMENT # 2010036864

City of Wilmington Drainage Easements
Crossing Properties Owned By!
Sara Collins & Louis A Burrey Jr

Name Of Map

City of Wilmington

Owner's Name

Type Of Map:

- Subdivision Plat
- Condo Plat
- Highway Map

Book:

55

Page(s):

276

Number Of Pages:

1

Recorded By:

Jaqueline E. Moore
Deputy / Assistant



JENNIFER H. MACNEISH
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration: 12/22/2010 10:26:55 AM

Book: PLAT 55 Page: 276-277

Document No.: 2010036864

2 PGS \$21.00

Recorder: JOHNSON, CAROLYN

State of North Carolina, County of New Hanover

PLEASE RETAIN YELLOW TRAILER PAGE WITH ORIGINAL DOCUMENT.

2010036864

2010036864



April 1, 2026

MEMORANDUM IN SUPPORT OF VARIANCE REQUEST

To: Board of Adjustment, City of Wilmington NC

Fr: Stephen D. Coggins, Esq of Rountree Losee, LLP, (“Applicant”)
Authorized Agent for Owners, Walter and Francisca Lentfert
 (“Owners”)

Subject: 2722 Shandy Lane, Wilmington, NC 28409;
Tax ID # R06212-002-014-000
See DB 5811, Page 947 of the New Hanover County Registry, recorded
April 30, 2014, conveying the Subject to the Owner; (collectively,
“Subject”); Map Book 38, Page 65 and Map Book 55, Page 276

Re: Application for Variance From Land Development Code (“LDC” or
“Code”) Minimum Setback Requirements In **Section 18-199** That
Permits the Owner To Construct an Accessory Building Attached as
Exhibit 1

I. INTRODUCTION – WHY VARIANCE IS NEEDED

The Subject is a “through lot” with “primary frontage” on Shandy Lane and “secondary frontage” on Ingleside Drive. The Owners of the Subject request a variance from the accessory building minimum setback requirements set forth in **Table 18-199 of Section 18-199** of the LDC in order to construct a garage (the “Garage”) on the Subject. As proposed in **Exhibit 1**, the Garage would be located slightly in front of the principal structure and slightly closer to a side street than the principal structure.

The proposed Garage as shown on **Exhibit 1** was previously the subject of a variance application considered by the Board of Adjustment in May 2016. At that time, the Owners sought relief from former Section 18-249 of the Land Development Code, which strictly required that accessory structures be located only to the side or rear of the principal structure and prohibited such structures from extending closer to the front of the lot than the forwardmost projection of the principal dwelling. The Board denied the 2016 variance request, concluding that strict application of LDC Section 18-249 did not rise to the level of unnecessary hardship because, under the

prior Code, the applicant retained theoretical ability to construct a conforming garage closer to the rear towards Ingleside Drive.

Since that time, however, the City has amended the Land Development Code so that it is no longer possible to conform to the LDC even if the Garage is moved closer to Ingleside Drive. Here is how: The new accessory building setback provisions no longer require accessory structures to be located strictly to the side or rear of the principal building. Nor do they impose the former “forwardmost projection” limitation. Instead, the current Code requires that accessory buildings comply with the minimum setback requirements listed in Table 18-199, pictured below.

Table 18-199: Dimensional standards for accessory buildings accessory buildings and structures	
Building/structure placement	
Minimum setbacks	
Front	Shall not be in front of principal building
Side street	Shall not be closer to a side street than the principal building
Side interior	5 feet
Rear	5 feet

Those changes materially alter the regulatory framework that governed the Board’s 2016 decision. For double-frontage lots such as the Subject, where the rear lot line is deemed to abut a side street, the revised standards, together with the existing drainage easement, effectively eliminate any feasible location for a compliant accessory structure. As a result, the Owners cannot construct a compliant accessory building on the Subject Property absent a variance from the Table 18-199 minimum setback requirements.

II. VARIANCE NEEDED FROM CERTAIN LDC REQUIREMENTS IMPOSING MINIMUM SETBACK REQUIREMENTS REHARDING THE PLACEMENT OF ACCESSORY BUILDINGS

A. LDC ACCESSORY BUILDING “MINIMUM SETBACK” REQUIREMENT

Table 18-199 of LDC **Section 18-199** requires that an accessory building “not be in front of the principal building” and not be “closer to a side street than the principal building.”[Note: **Section 18-665** provides that where a standard includes a separation or distance requirement between buildings or structures, “the horizontal distance between the two closest portions of each building’s (or structure’s) exterior walls shall be used.”]

LDC Section 18-692 defines a “principal building” as a building containing the principal use of a lot. **LDC Section 18-687** defines an “accessory structure” as:

“structures which are located on the same parcel of property as the principal building and the use of which is incidental to the use of the principal building. Garages, carports and storage sheds are common urban accessory structures.”

Here, the principal building is a single-family dwelling (the “Dwelling”), and the accessory structure for which the Owners seek a variance is the proposed Garage. The Dwelling’s foremost projection sits approximately 106 feet north-northwest of Shandy Lane, and its rearmost projection sits approximately 39 feet south-southwest of Ingleside Drive. A drainage easement (the “Easement”) bisects the Subject, running from the southwest portion of the Property to the northeast portion.

When these standards are applied to the Subject and the proposed Garage, as depicted in Exhibit 1, it is clear that the available buildable space is extremely narrow and is further constrained by the City of Wilmington’s drainage easement—so much so that building the Garage is not legally feasible in the absence of a variance.

B. OVERVIEW OF PROPOSED VARIANCE

The Owners propose the site plan attached as Exhibit 1, which contemplates a limited variance to permit construction of the Garage accessory building that would be situated slightly in front of the principal structure and slightly closer to Ingleside Drive than the principal building. The proposed location otherwise complies with all other applicable LDC and zoning regulations and does not interfere with the Easement.

III. BACKGROUND FACTS RELEVANT TO VARIANCE CRITERIA

A. THE SUBJECT PROPERTY

1. Description Of Subject and Its Surrounding Area

The Subject is an irregular-shaped lot located on the south side of the circular cul de sac at the end of Shandy Lane and north of Ingleside Drive. [See plat recorded at Map Book 38, Page 65 (attached as **Exhibit 2**), recorded on July 15th, 1998]. It is further encumbered by a twenty-five-foot drainage easement running across the middle of the parcel. [See plat recorded in Map Book 55, Page 276 and attached as **Exhibit 3**]. Zoned R-15 Residential District, it contains a single-family residence. In total, its size is approximately 31,995 sf, i.e., about .73 acres.

Pursuant to **Section 18-622(D)(2)** of the LDC, the Subject is a “through lot,” or “double frontage lot,” because it has frontage on more than one street: Shandy Lane and Ingleside Drive. As recognized during the 2016 proceedings, these conditions are peculiar to the Subject and significantly constrain the available buildable area for accessory structures.

The applicable zoning setbacks are thirty (30) feet in the front, twenty-five (25) feet in the rear, and ten (10) feet on each side and are depicted on **Exhibit 1**.

IV. ARGUMENT

THE VARIANCE APPLICATION MEETS THE CRITERIA SET FORTH IN LDC SEC. 18-591

The foregoing facts establish that Applicant has established the following criteria set forth in LDC **Section 18-591** (P. 423)

A. UNNECESSARY HARDSHIP WOULD RESULT FROM THE STRICT APPLICATION OF THE ORDINANCE.

Strict application of the current LDC **Section 18-199 Table** would create an unnecessary hardship by effectively precluding any reasonable location on the Subject for the construction of a detached garage. Due to the combined effect of (i) the Subject’s classification as a “through lot” with frontage on two streets, (ii) the requirement that accessory structures not be located in front of the principal structure or closer to a side street than the principal structure, (iii) applicable R-15 zoning setback requirements, and (iv) the presence of a twenty-five (25) foot drainage easement running through the middle of the parcel, there is no practical buildable area remaining for a conforming accessory structure.

Unlike the circumstances considered by the Board in 2016, where alternative compliant locations were deemed to exist, specifically towards the rear of the Property, the current LDC, as applied to this uniquely constrained parcel, eliminates those alternatives. As a result, strict enforcement of the ordinance would deprive the Owners of the ability to construct an accessory building that is otherwise permitted within the zoning district.

B. 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)

The hardship arises from unique physical and regulatory characteristics of the Subject Property that are not common to surrounding parcels. Specifically, the Subject is a “through lot” with dual street frontages, requiring setback treatment along both street-facing Property lines.

In addition, the parcel is encumbered by the City’s twenty-five (25) foot drainage easement that bisects the Subject. Such significantly limits the available buildable area.

Further, the Subject is an irregular shaped lot with widely varying elevations and located on the circular cul de sac end of Shandy Lane. That, combined with front facade of the principal residence directed at an angle to the east instead of more directly toward the cul de sac, makes more complicated determining whether an accessory structure is “in front” of the principal building or “closer to the side street” than the principal building. For example, a proposed accessory structure may appear to be behind the residence when viewed from the cul de sac, but in fact may be located closer to the cul de sac than the portion of the principal residence located closest to the cul de sac.

C. THE HARDSHIP DID NOT RESULT FROM ACTIONS TAKEN BY THE APPLICANTS OR THE PROPERTY OWNERS

The hardship is not self-created. The Subject’s configuration as a through lot, the existence and location of the drainage easement, the placement of the principal residence so that it ‘fits’ in relationship to the significant elevation variations on the Subject and the applicable setback requirements are all conditions outside the Owners’ control.

The Owners have not undertaken any action that created or exacerbated these constraints. This variance request is instead a good-faith effort at reasonable use of the Subject in light of existing conditions and current regulatory requirements.

D. 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.

Granting the requested variance is consistent with the spirit and intent of the Land Development Code. The proposed accessory structure will remain subordinate to the principal dwelling, will be situated in the only feasible location given the Subject's constraints, and will not adversely affect public safety or the character of the surrounding neighborhood.

The variance will not undermine the purposes of the ordinance, but rather will allow for a reasonable and customary residential use that would otherwise be permitted but for the unique conditions affecting this parcel. Denial of the variance, by contrast, would impose an undue and disproportionate burden on the Applicant without advancing any corresponding public benefit.

Accordingly, granting the variance will achieve substantial justice while maintaining the integrity of the City's development standards.

CONCLUSION

Accordingly, the Board of Adjustment should grant relief from **Section 18-199 Table 18-199** of the LDC through granting a variance permitting the Owner to construct the Garage as shown on **Exhibit 1**.

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

CITY OF WILMINGTON
BOARD OF ADJUSTMENT
FILE NO: BADV-5-516

ORDER DENYING A VARIANCE

This matter came before the Wilmington Board of Adjustment for a public hearing on May 19, 2016 to consider application number BADV-5-516 by Walter and Ciska Lentfert to City Code Chapter 18, Land Development Code, Section 18-249, Accessory buildings, to allow the construction of an accessory garage at 2722 Shandy Lane that will extend closer to the front of the lot than the principal structure.

FINDINGS OF FACT

1. The subject property at 2722 Shandy Lane consists of approximately 31,995 square feet (0.73 of an acre), is zoned R-15, Residential District and contains a single-family residence.
2. The site is bounded on two sides by city right-of-way; Ingleside Drive to the south, and Shandy Lane to the north.
3. The lot is considered a "through lot", which is defined by City Code, Chapter 18, Land Development Code, Section 18-812 as a lot other than a corner lot with frontages on more than one (1) street. Through lots abutting two (2) streets are also referred to as double frontage lots.
4. A "double frontage" lot requires the setback from the property lines abutting each street meet the required front setback for that zoning district. In this case, a front setback would be required from the property line adjacent to Shandy Lane and Ingleside Drive.
5. The R-15 zoning district requires a thirty (30) foot front setback.
6. The lot contains a twenty-five (25) foot drainage easement that runs through the middle of the lot as shown on a survey survey by Jason M. Failla and dated June 2, 2015.
7. City Code Section 18-249 requires that accessory buildings "not extend any closer toward the front of a lot than the forward most projection of the principal structure including, but not limited to, porches, steps, entryways, etc."
8. On March 10, 2016 Planning Staff accepted an application for a variance to City Code Chapter 18, Section 18-249. Accessory buildings, to allow the construction of an accessory garage that will extend closer to the front of the lot than the principal structure.
9. The proposed accessory building is located approximately eighty (80) feet from the front property line and the existing single family dwelling is approximately one hundred twenty-five (125) feet from the front property line.
10. To issue a variance as requested, the board must find that the applicant meets all four (4) of the following findings of fact:

- a. 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;
 - b. 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;
 - c. 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;
 - d. 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.
11. In the application for this variance request, the applicant asserts that strict application of the ordinance would create unnecessary hardship because the construction of a garage to the west of the house would not look aesthetically appropriate; however, aesthetics are entirely subjective and do not constitute grounds for the board to grant a variance.
 12. The applicant also explains that peculiar conditions apply to the lot due to the encumbrance of a twenty-five foot drainage easement which runs through the middle of the lot. Staff agrees that the existence of the drainage easement is a peculiarity to the subject property and restricts the location of an accessory structure; however, it does not preclude the applicant from constructing an attached or detached garage that does comply with the setback requirements.
 13. The angle of the existing house also does not preclude the applicant from constructing a garage that complies with City Code.
 14. The applicant contends that constructing the proposed garage within the required setbacks would increase the project cost; however, the cost of complying with City Code is not an appropriate consideration for granting a variance request.
 15. Finally, the spirit, purpose and intent of the ordinance to recognize the existing residential development pattern and preserve established neighborhoods would not be advanced or upheld by granting the applicant's request.

CONCLUSIONS

Based on the foregoing finds of fact, the Board concludes that the applicant is not entitled to a variance pursuant to North Carolina General Statutes §160A-388 and City Code Chapter 18, Land Development Code, Section 18-29 Powers and Duties:

1. The applicant failed to prove a hardship resulted from the strict application of the ordinance;

2. The existence of the drainage easement is a peculiarity to the subject property and restricts the location of an accessory structure; however, it does not preclude the applicant from constructing an attached or detached garage that does comply with the setback requirements;
3. The need for the variance is a direct result of the applicant's desire to place the accessory structure in an aesthetically pleasing location in violation of City Code; and
4. The requested variance is not consistent with the spirit, purposed, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

THEREFORE, IT IS ORDERED that a variance to City Code Chapter 18, Section 18-249, Accessory buildings, to allow the construction of an accessory building that will extend closer to the front of the lot than the principal structure be DENIED.

SIGNED this 8th day of June, 2016.




Ronald W. Sparks, Chairman



Ron H. Satterfield, Assistant Planning Director
Secretary to the Board

ATTEST:



Eryn K. Moller
Associate Planner

Date Order Filed with Planning Office/Development Center: June 8, 2016

Date Order Mailed Certified Mail, Return Receipt Requested: June 14, 2016

Section 18-199: Accessory buildings and structures

A. Site design

1. The maximum number of accessory structures and buildings shall be two, only one of which can be an accessory dwelling unit. Swimming pools shall not be counted toward the maximum number of accessory structures. The gross total square footage of all accessory buildings shall not exceed one hundred (100) percent of the gross floor area of the primary structure. The heated square footage of accessory dwelling units shall not exceed 50% of the gross floor area of the primary structure, or 1,200 square feet, whichever is less.

Table 18-199: Dimensional standards for accessory buildings and structures

Building/structure placement	
Minimum setbacks	
Front	Shall not be in front of principal building
Side street	Shall not be closer to a side street than the principal building
Side interior	5 feet
Rear	5 feet
Maximum building/structure size	
Height (feet)	Shall not exceed the height of the principal building
Gross floor area, general (square feet)	The total combined area of all accessory buildings shall not exceed 100% of the gross floor area of the primary structure.
Gross floor area, ADU (square feet)	No ADU shall exceed 50% of the principal structure gross floor area, or 1200 square feet, whichever is less

2. On lots developed with bona fide agricultural uses, the maximum number of accessory structures and buildings shall be four.
3. Placement shall be subject to the requirements found in Table 18-199: Dimensional standards for accessory buildings and structures, unless more specific standards are listed in this article for certain accessory structures and buildings.

B. Exceptions

1. In separate use historic districts, setbacks and distance from other buildings and structures shall be reviewed and approved through the certificate of appropriateness process according to Section 18-597: Historic preservation. Accessory uses and structures shall not be otherwise exempt from this section.
2. Within the Masonboro Sound National Register historic district, one accessory building or structure may be allowed in between the principal building and Masonboro Sound Road subject to the following setbacks:
 - a. Front: 200 feet; and
 - b. Side: At least that of the minimum required side setback for the principal building.

(Ord. No. 0-2022-41, §§15, 16, 6-7-2022; Ord. No. 0-2022-88, §3(Att. A), 11-1-2022; Ord. No. 0-2024-22, §§4, 5(Att. A), 5-21-2024)

Section 18-200: Accessory dwelling unit (ADU)

A. Permitted

1. ADUs shall only be allowed when constructed as an accessory to a principal single dwelling.
2. Only one ADU shall be permitted on any lot.

B. Creation

ADUs may be created through new construction, the conversion

ARTICLE 7. DIVISION 3.

BOARDS, COMMISSIONS, AND COMMITTEES

Section 18-615: Board of adjustment

A. Establishment

The board of adjustment is established to fulfill the duties and powers prescribed by the city of Wilmington Code of Ordinances and by NCGS 160D-302.

B. Appointment and tenure

1. The board shall consist of five members and two alternate members, who shall be citizens and residents of the city, holding no other public office under the city government, and shall be appointed by the city council.
2. All members shall be appointed for staggered terms of three years, to serve in accordance with the city council policy on boards and commissions then in effect.
3. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.
4. All appointments to fill vacancies shall be for the unexpired period of the term.

C. Compensation

Members of the board shall serve without compensation and may be removed by the city council at any time.

D. Organization

1. The board shall hold meetings in accordance with its rules of procedure for the purpose of transacting its duties assigned in this chapter and shall maintain a public record of its actions.

2. Rules of procedure shall be adopted by the board for the conduct of its business and for the election of its officers. The city council shall approve the rules of procedure and any amendments prior to implementation.
3. All meetings held by the board shall be held in accordance with the North Carolina open meetings law.
4. The board shall keep minutes of its proceedings suitable for review in court showing:
 - a. The factual evidence presented to the board by all parties concerned;
 - b. The findings of fact and the reasons for the determinations by the board; and
 - c. The vote of each member, or if absent or failing to vote indicating such fact, all of which shall be public record and be filed with the secretary to the board.

E. Duties

1. The board shall hear and decide all matters upon which it is required to pass under any statute or development regulation.
2. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. Vacant positions on the board and members who are disqualified from voting on the quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.