

**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.)

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See Attached

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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.

Application No. \_\_\_\_\_

ATTACH PLOT PLAN DESCRIBING VARIANCE REQUEST

**PROPERTY LOCATION INFORMATION**

Street address of subject property 1225 Great Oaks Dr, Wilmington, NC 28405

Tax Parcel Number of subject property R05707-002-029-000

ATTACH TAX PARCEL & OWNERSHIP INFORMATION FOR ADJACENT PROPERTIES  
(Include stamped, self-addressed envelopes)

**APPLICANT INFORMATION**

Name/Address/Telephone/Email

Name: Tony Parker

Address: 1508 Military Cutoff Rd., Ste.206

Phone #: 910.395.2500

Email: customerservice@classiclandscapesnc.com

**OWNER INFORMATION**

Name/Address/Telephone/Email

Howard Stein

1225 Great Oaks

910.200.2113

hmstein@mac.com

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

DATE 6/02/25 APPLICANT'S SIGNATURE 77 PL

## **REASON FOR VARIANCE REQUEST**

We are requesting a variance to Section 18-286 (c)(2)(a) to allow for the placement of fill dirt in the rear portion of the property to address significant erosion issues. The yard contains a steep slope that is actively washing away during normal rain events, posing a risk to the stability and usability of the property and threatening to impact an adjacent protected environmental area. See the attached illustration and exhibit.

Compliance with the City's development regulations, without the requested variance, would prohibit us from back filling within the regulated buffer area. However, doing nothing is not a viable option the slope will continue to degrade, leading to loss of usable land, unsafe conditions, and potential environmental harm through sediment runoff into the protected area.

The variance is necessary to allow reasonable and responsible slope stabilization in a way that protects both the property and the surrounding environment. The proposed improvements are not intended to expand development, but to preserve the land in its current residential use and prevent further degradation. Without this relief, the property owner is unable to implement the only practical solution to halt the erosion and protect the site and adjacent resources.

**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.**

The strict application of the ordinance would result in unnecessary hardship to the property owner due to the unique topographic and environmental conditions of the lot. The subject property is located adjacent to a designated protected environmental area, which significantly limits options for erosion control and site stabilization. The rear yard has a pronounced slope that is actively eroding and washing away during normal rainfall events, endangering the structural integrity of the usable yard space and threatening to encroach into the protected area.

Without the ability to import fill dirt to stabilize and rebuild the eroded slope, the property owner is left with no practical and effective method to control ongoing soil loss. The continued erosion presents both safety and environmental concerns. Over time, unchecked runoff and slope failure could result in sediment entering the protected environmental area, contrary to the intent of the ordinance itself, which is aimed at protecting sensitive ecological resources.

The proposed fill will not increase impervious surfaces, nor will it support new construction or intensify use of the site. Instead, it is a necessary stabilization measure to preserve existing residential use and prevent environmental degradation.

Therefore, strict enforcement of the ordinance without allowance for a carefully managed and environmentally conscious solution such as the proposed fill would impose an unreasonable burden on the property owner and could ultimately lead to greater harm to the environmental features the ordinance is meant to protect.

**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 in this case results from the particular topography and location of the subject property, which make it uniquely vulnerable to erosion. The steep slope in the rear yard is not a feature created or altered by the current property owner. Rather, it is the result of the way the lot was originally graded and developed during the initial construction of the neighborhood. Like other nearby lots, this property was graded at the time of development, and the slope has existed in that condition since then.

Although the general neighborhood may share a similar development history, the severity of erosion on this particular property is due to its unique position and topographic configuration. The lot's slope continues to degrade and wash away, and the erosion has worsened over time

despite the owner's efforts to maintain vegetative cover. This has created a hazardous and unsustainable condition that threatens the use of the rear yard and risks impacting the adjacent protected area.

The proposed fill are not intended to expand or intensify use of the land, but to responsibly stabilize and restore an area that has become increasingly compromised through no fault of the current owner. The hardship is not self-created and does not arise from a condition common to the general public. It stems from the specific way in which this lot was originally developed and its particular relationship to surrounding environmental and topographic features.

**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.**

The hardship in this case did not result from any affirmative action taken by the property owner or applicant. The current owner did not alter the slope, introduce additional fill, or otherwise disturb the area that is now experiencing erosion. The lot was developed in its present condition during the original construction of the subdivision, when the land was graded and vegetated according to the site plans implemented by the developer. The existing slope, and the subsequent instability of the land, are legacy conditions that the property owner inherited and did not create.

Since acquiring the property, the owner has used the land in a customary residential manner and has not undertaken any activities that would have caused or contributed to the erosion now occurring. In fact, the owner's efforts to preserve existing vegetation and avoid unnecessary disturbance demonstrate a commitment to responsible stewardship of the property and the adjacent protected environmental area.

The need for a variance arises solely from the consequences of the lot's unique topography, its proximity to environmentally sensitive areas, and the development decisions made prior to the current owner's involvement. The requested variance is a necessary measure to protect the property from further erosion and prevent potential sedimentation impacts to neighboring resources.

Accordingly, this is not a self-created hardship. It is a condition that developed over time, independent of any action or inaction by the applicant, and now requires reasonable relief to allow the property to be safely and sustainably maintained.

**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.**

The requested variance supports and upholds the spirit, purpose, and intent of the ordinance by promoting responsible land use, protecting environmental resources, and preserving public safety. The ordinance is designed in part to safeguard protected environmental areas and to ensure that development does not compromise natural systems or cause adverse impacts such as

sedimentation, runoff, or slope instability. In this case, the property is experiencing active erosion that threatens to undermine these very goals.

The applicant seeks to backfill the eroded area to stabilize the slope and prevent further soil loss. This is a restorative measure that will reduce the risk of sediment encroachment into nearby environmentally sensitive areas, which aligns directly with the ordinance's conservation objectives. Moreover, this stabilization will improve site safety by addressing the current slope instability, thereby protecting both the property owner and the surrounding community from the hazards associated with continued erosion.

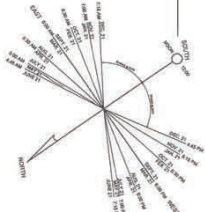
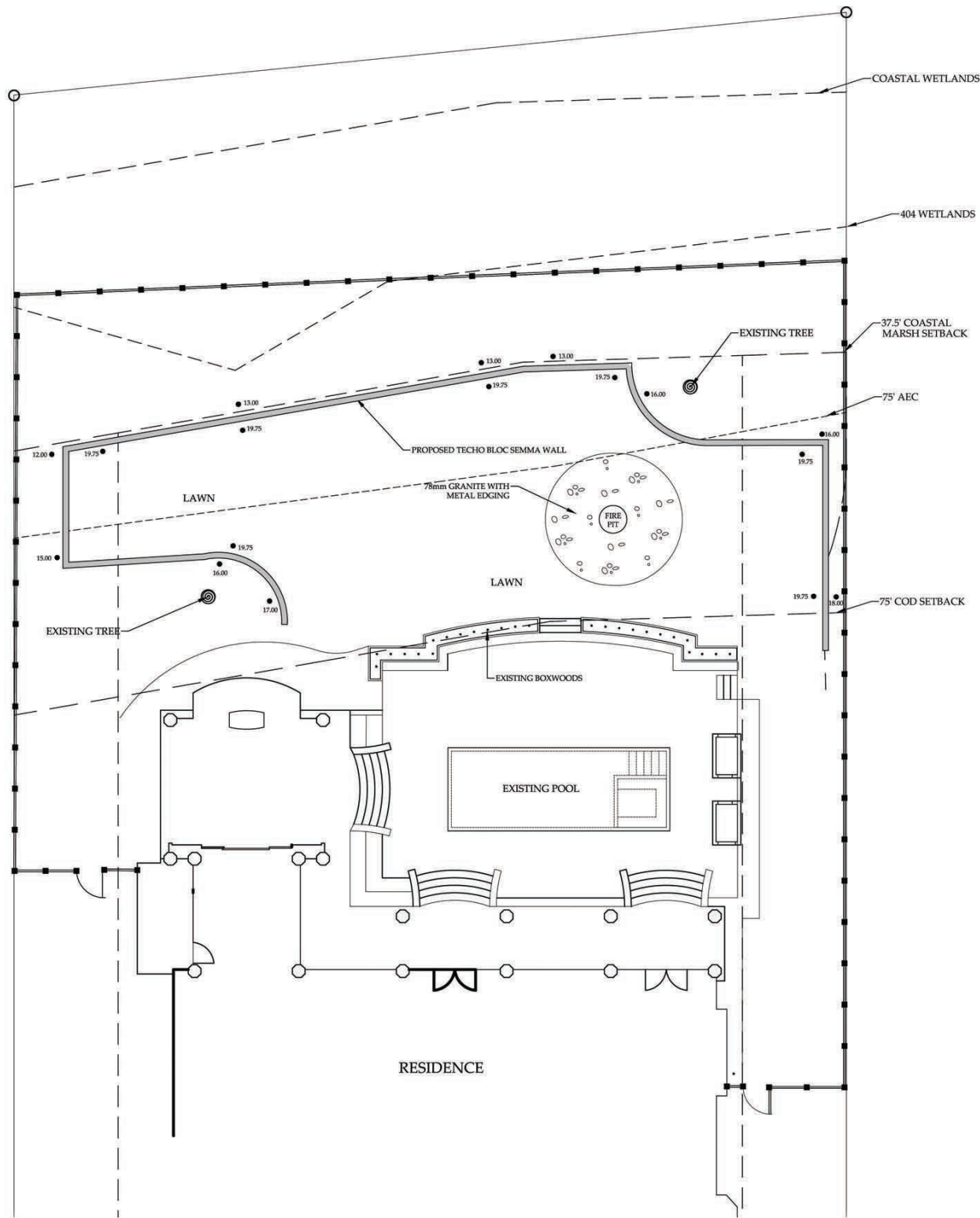
Granting the variance will also ensure substantial justice by allowing the property owner to take necessary and reasonable action to maintain the usability and safety of the property, in a manner that does not negatively affect neighboring properties or the public interest. It would be unjust to deny the variance and allow the erosion to continue, particularly when the condition was not caused by the owner and when the proposed solution furthers the ordinance's protective aims.

In short, the variance promotes environmental protection, mitigates public safety risks, and allows for equitable use of the property all of which are consistent with the ordinance's underlying intent.

RETAINING WALL PLAN

# STEIN RESIDENCE

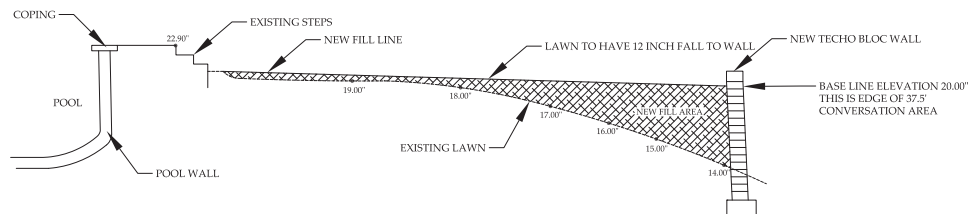
1225 Great Oaks Drive • Landfall • Wilmington, NC



DESIGN BY: Tony Parker  
DATE: July 11 2024  
REVISION #: 1: 9/5/2024  
SCALE: 1" = 10'



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STEIN  
 1225 GREAT OAKS DR  
 $\frac{1}{4}" = 1"$  SCALE  
 12-5-24