

**VARIANCE REQUEST  
ZONING BOARD OF ADJUSTMENT  
October 24, 2017**

**CASE:** ZBA-920, 10/17

**PETITIONER:** Suzanne King, applicant and property owner

**REQUEST:** 20' variance from the 30' front yard requirement and 15' variance from the rear yard requirement for structures per Section 51.5-2 of the Zoning Ordinance

**LOCATION:** 7411 Anaca Point Road  
PID: R04408-002-002-001

**ZONING:** R-20, Residential District

**PETITIONER'S REQUEST:**

Suzanne King, applicant and property owner, is requesting 20' variance from the 30' front yard requirement and 15' variance from the rear yard requirement for structures per Section 51.5-2 of the Zoning Ordinance in order to build a second residential structure 20' away from an existing residential structure on the subject property located at 7411 Anaca Point Road. Ms. King currently lives in the existing residential structure on the property and is seeking to build a new home and then demolish the existing home.

**BACKGROUND AND ORDINANCE CONSIDERATIONS:**

The subject property is located on Anaca Point Road off of Middle Sound Loop Road and contains 1.3 acres. The property has one home that was built in 1976, in which Ms. King resides. She intends to build a new home on the property for her new residence, and once the new home construction is complete and she has moved in, she intends to have the existing home demolished.

The area proposed for the new home is behind the existing home and on the highest point on the property, situating the new home up to 20' from the existing home. The Zoning Ordinance allows multiple structures to be built on a single property, as long as each structure conforms to the dimensional requirements of the zoning district in which it is located:

*Section 63.7: Erection of More Than one Principal Structure on a Lot*

*In any district, the Zoning Administrator may grant permission for more than one structure housing a permitted or permissible principal use to be erected on a single lot, provided that yards and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot. However, any parcel of land upon which are placed at least three (3) or more mobile homes shall be considered a mobile home park and regulated by the New Hanover County Mobile Home and Travel Trailer Park Ordinance. (3/7/83)*

The property is zoned R-20, Residential District, so the yard requirements in Section 51.5-2 are applicable:

*51.5-2: Conventional Residential Regulations*

*Dimensional Requirements:*

- (1) Minimum lot area 20,000 sq.ft. Duplex 35,000 sq.ft.*
- (2) Minimum lot width 90 feet*
- (3) Minimum front yard 30 feet*
- (4) Minimum side yard 15 feet*
- (5) Minimum rear yard 25 feet*
- (6) Maximum Height 35 feet*

In order for the new home to meet the yard requirements of Section 51.5-2 as if it were on its own individual lot, the new home would have to be 55' away from the existing home in order to account for the 25' rear yard requirement behind the existing home and the 25' front yard requirement for the new home. If the new home was built 55' behind the existing home, it would be in a low area on the lot that would potentially make the new home vulnerable to stormwater runoff from the higher areas of the lot and adjacent land.

The intention of the provision in Section 63.7 of requiring each structure to meet the dimensional requirements of the zoning district is to prevent a situation where multiple structures are built on a single parcel and then a future subdivision of the parcel would create nonconforming situations. Because the existing home is to be demolished after completion of the new home development, this situation will be a non-issue.

The property is served by public sewer, therefore the proposed location of the new home will not be impeded by a septic tank, drain field, and repair area

The applicant has included findings of fact to support the four required conclusions as part of her application materials.

#### **BOARD OF ADJUSTMENT POWER AND DUTY:**

The Board of Adjustment has the authority to authorize variances from the terms of the Zoning Ordinance where, due to special conditions, a literal enforcement of the regulations would result in unnecessary hardship. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance. A concurring vote of four-fifths (4/5) of the voting members of the Board shall be necessary to grant a variance. A variance shall not be granted by the Board unless and until the following findings are made:

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 personal circumstances, as well as 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.

#### **ACTION NEEDED (Choose one):**

- 1. Motion to approve the variance request based on the findings of fact (with or without conditions)**
- 2. Motion to table the item in order to receive additional information or documentation (Specify).**
- 3. Motion to deny the variance request based on specific negative findings in any of the 4 categories above.**