

NEW HANOVER COUNTY

DEPARTMENT OF PLANNING & LAND USE
230 Government Center Drive, Suite 110
Wilmington, North Carolina
Telephone (910) 798-7165
FAX (910) 798-7053
planningdevelopment.nhcgov.com



VARIANCE Application

REVIEW PROCESS

Step 1: Pre-Application Conference

In order to assist applicants through the variance process, applicants are highly encouraged to attend a pre-application conference prior to application submittal. Applicants are requested to review Section 122-1(2) of the Zoning Ordinance and sections relating to the application, and advised to contact Planning Staff with any questions. The purpose of the pre-application conference is to provide the applicant an opportunity to become familiar with the submittal requirements and procedures of the application, and also to receive preliminary comments from staff regarding the proposal's compliance with any applicable development regulations.

Step 2: Application Submittal

Applications must be received by the Planning and Inspections Department by 5:00 PM on the application deadline date. A complete application consists of the items detailed in the submittal checklist provided in this application.

Step 3: Staff Review

Upon receiving a completed application, staff may distribute it to certain departments and agencies for review. County Planning staff shall review the application, and prepare a staff report for the Zoning Board of Adjustment.

Step 4: Zoning Board of Adjustment Review and Action

The New Hanover County Zoning Board of Adjustment shall consider the application at a public hearing. Public hearings for variance applications are conducted in a quasi-judicial manner and include additional standards for the testimony and evidence presented during the hearing. The property owner, or their attorney, must be present for the meeting.

A variance shall be approved if the applicant provides substantial evidence that the proposed use will meet the following findings:

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.** *Hardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or 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.

No change in permitted uses may be authorized by a variance. The Zoning Board of Adjustment may impose appropriate conditions on a variance, provided that the conditions are reasonably related to the variance. A concurring vote of a majority of members of the Board is necessary to grant a variance.

The Planning and Inspections Department shall notify the public of the hearing in accordance with standards of the Zoning Ordinance. This includes sending mailed notice to nearby residents, posting a sign on the subject property, and advertising the hearing in a local newspaper.

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VARIANCE Application

Applicant/Agent Information		Property Owner(s) If different than Applicant/Agent	
Name Jason D. Aking		Owner Name Ken Tilley	
Company 16 Pointe Properties LLC		Owner Name 2 Cindy Tilley	
Address 222 Seacrest Dr.		Address 3510 Melissa Ct	
City, State, Zip Wrightsville Beach NC 28480		City, State, Zip Wilmington NC	
Phone 704-506-2404		Phone 910-443-3728	
Email jason@16pointeproperties.com		Email kcjmtilley@aol.com	
Subject Property Information			
Address/Location 237 Windy Hills Dr. Wilmington NC 2840a Lot B			
Parcel Identification Number(s) R07908-003-060-000			
Total Parcel(s) Acreage .337			
Existing Zoning and Use(s) R15 958 unused land			
Application Tracking Information (Staff Only)			
Case Number	Date/Time received:	Received by:	
	7-2-18 4:30pm	BLA	

PROPOSED VARIANCE NARRATIVE

Subject Zoning Regulation, Chapter and Section: _____

In the below space, please provide a narrative of the application. (Additional pages may be attached to the application if necessary)

We are proposing a residence that has two main levels with 1430 heated sf on level 1 and 1519 on level 2. There are 2 rooms within this 1500 sf footprint that bring the total sf to 3277. One is a small room on the 3rd floor and the other is the entry access level in the garage. We took into consideration the limits of the lot in the design and were able to do everything except a small portion of the front access steps. The lot has multiple difficulties for which we are requesting a minor variance totaling 21 sf.

CRITERIA REQUIRED FOR APPROVAL OF A VARIANCE

The Zoning Board of Adjustment may grant a variance if it finds that strict application of the ordinance results in an unnecessary hardship for the applicant, and if the variance is consistent with the spirit, purpose, and intent of the ordinance. The applicant must explain, with reference to attached plans (where applicable), how the proposed use meets these required findings (please use additional pages if necessary).

1. **Unnecessary hardship would result from 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.**

Strict application of the ordinance creates a hardship as the owner would not be able to have front access stairs to the home and if the stairs were altered would then create an issue for vehicles to access the home. The owner has altered the plans from the original design a great amount to shrink as much as possible. If this were not a VE zone then the stairs would not be an issue. Additionally the city of Wilmington allows 8' feet of encroachment as they realize the strict application of ordinances can create hardships.

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

3 major conditions peculiar to this property, are

1. The curvature of the setback make designs with straight lines very difficult if not impossible

2. The VE zone height requires the steps to project much more than normal.

3. The pie shape and yard line that exceeds the setback

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.

All the conditions making a design of even a small home were pre-existing. The owners have kept plans simple and small while trying to preserve the value of the lot with a proper home and have not created any extra or undue 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.

The variance is consistent as we have minimally impacted the front setback, no neighbors are affected as the actual pavement is still another 20 feet from the property line and we will show the owner has made alterations from the first design in an attempt to even have to apply for the variance

APPLICATION REQUIREMENTS

Staff will use the following checklist to determine the completeness of your application. Please verify all of the listed items are included and confirm by initialing under "Applicant Initial". Staff will not process an application for further review until it is determined to be complete.

Required Information		Applicant Initial	Staff Initial
1	Complete Variance application	JA	
2	Application fee – \$400	JA	
3	Site plan or sketch illustrating requested variance	JA	
4	1 hard copy of ALL documents	JA	

ACKNOWLEDGEMENT AND SIGNATURES

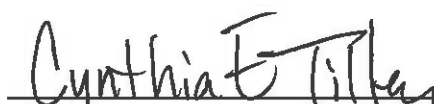
By my signature below, I understand and accept all of the conditions, limitations and obligations of the variance application for which I am applying. I understand that I have the burden of proving why this application meets the require findings necessary for granting a variance. I certify that this application is complete and that all information presented in this application is accurate to the best of my knowledge, information, and belief.

I also appoint the applicant/agent as listed on this application to represent me and make decisions on my behalf regarding this application during the review process. The applicant/agent is hereby authorized on my behalf to:

1. Submit an application including all required supplemental information and materials;
2. Appear at public hearings to give representation and commitments; and
3. Act on my behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of this application.



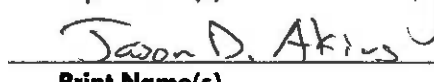
 Signature of Property Owner(s)



 Print Name(s)



 Signature of Applicant/Agent



 Print Name(s)

NOTE: Form must be signed by the owner(s) of record. If there are multiple property owners a signature is required for each owner of record.

***The land owner or their attorney must be present for the case at the public hearing.**

For Staff Only

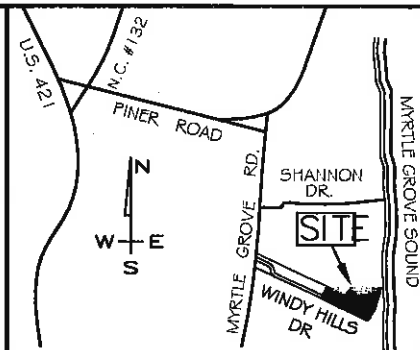
Application Comments

I, PATRICK C. BRISTOW, CERTIFY THAT THIS PROPERTY WAS SURVEYED AND MAP DRAWN UNDER MY SUPERVISION: DESCRIPTION AS SHOWN ON THE FACE OF THIS PLAT; RATIO OF PRECISION AS CALCULATED BY COMPUTER IS 1:10,000+; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN BY BROKEN LINES PLOTTED FROM INFORMATION REFERENCED; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH 'THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA' (21 NCAC 56.1604); WITNESS MY ORIGINAL SIGNATURE, LICENSURE NUMBER AND SEAL THIS 29TH DAY OF JUNE A.D. 2018.

PRELIMINARY

PATRICK C. BRISTOW
N.C. PLS No. L-4148

FLOOD ZONE BOUNDARY FROM NHC
ONLINE G.I.S. & FIRM PANEL REFERENCED



LOCATION MAP
NOT TO SCALE

SURVEY REFERENCE

MAP BOOK 39 PAGE 168
DEED BOOK 6086 PAGE 2046

NOTE: THIS LOT IS LOCATED
IN ZONES VE (EL. 15 & 16) AS PER
MAP # 3720314300 J
COMMUNITY ID # 370168
DATED: APRIL 3, 2006

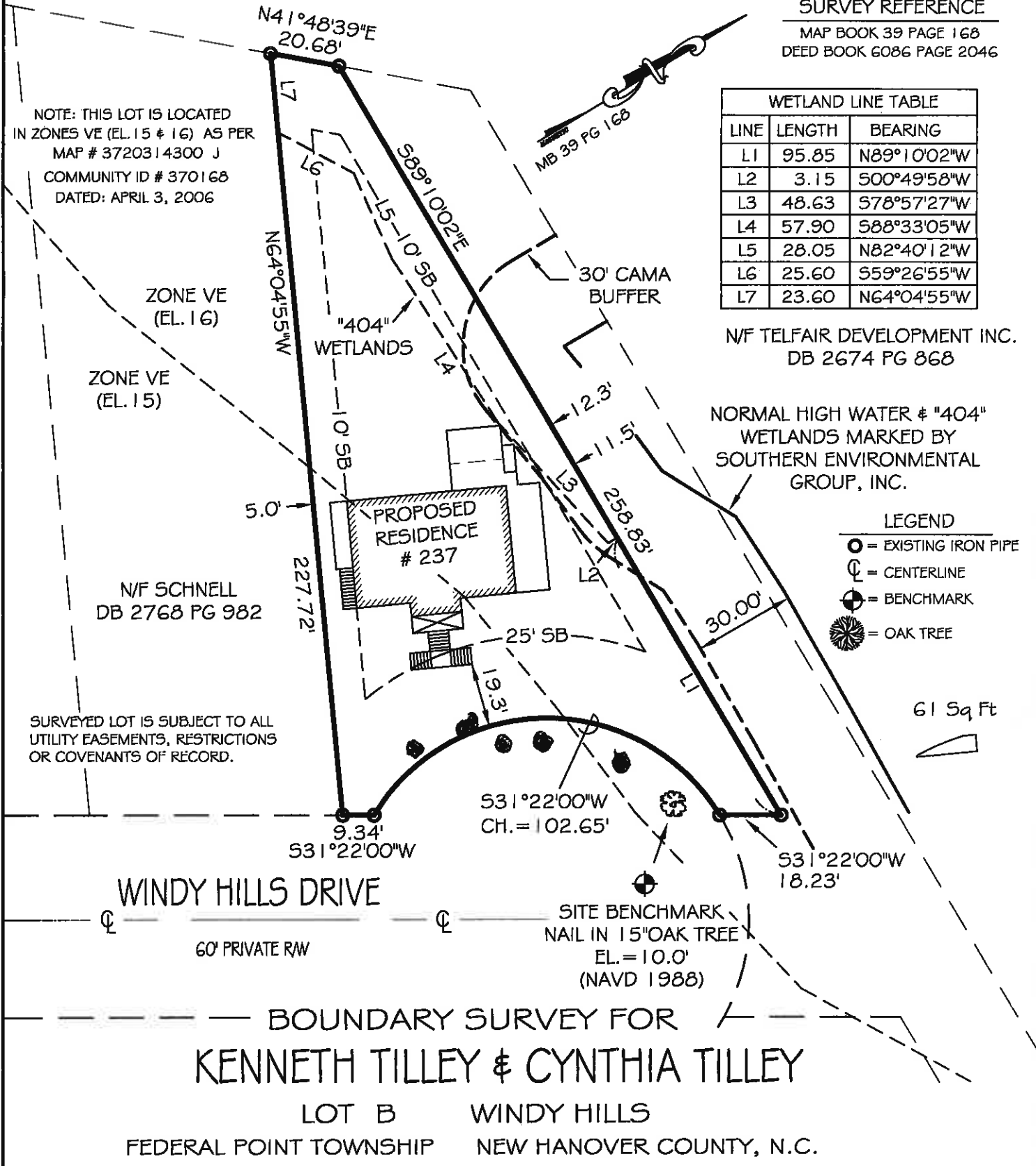
WETLAND LINE TABLE		
LINE	LENGTH	BEARING
L1	95.85	N89°10'02"W
L2	3.15	S00°49'58"W
L3	48.63	S78°57'27"W
L4	57.90	S88°33'05"W
L5	28.05	N82°40'12"W
L6	25.60	S59°26'55"W
L7	23.60	N64°04'55"W

N/F TELFAIR DEVELOPMENT INC.
DB 2674 PG 868

NORMAL HIGH WATER & "404"
WETLANDS MARKED BY
SOUTHERN ENVIRONMENTAL
GROUP, INC.

LEGEND

- = EXISTING IRON PIPE
- ⊕ = CENTERLINE
- ⊙ = BENCHMARK
- 🌳 = OAK TREE

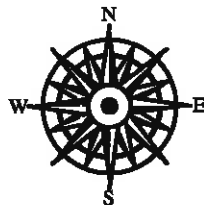


S:\LAND PROJECTS\WINDY HILLS LOT B\dwg\237 WINDY HILLS DRIVE.dwg

JUNE 29, 2018 0.337 AC. ±



1 INCH = 40 FEET



PATRICK C. BRISTOW
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WILMINGTON, N.C. 28403
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E-MAIL: pat@bristowsurveying.com
FIRM LICENSURE NO. C-3071