

# NEW HANOVER COUNTY

## DEPARTMENT OF PLANNING & LAND USE

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Wilmington, North Carolina


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## VARIANCE

### Application (Amended)

Applicant/Agent Information		Property Owner(s) <i>If different than Applicant/Agent</i>	
Name	Harold C. Petzold Esq.	Owner Name	Beyond Beautiful LLC
Company	Beyond Beautiful LLC	Owner Name 2	
Address	P.O. Box 100	Address	P.O. Box 100
City, State, Zip	Ramsey, N.J. 07446	City, State, Zip	Ramsey, N. J. 07446
Phone	973-800-4354	Phone	201-805-8312
Email	hpetzoldesq@yahoo.com	Email	gracewongnj@yahoo.com
Subject Property Information			
Address/Location 1512 Burnett Road, Wilmington, New Jersey 28409			
Parcel Identification Number(s) R08511-03-001-000 (Lots 1-4, Block 3 Burnett Subdivision)			
Total Parcel(s) Acreage 2.9 ac.			
Existing Zoning and Use(s) R-15			
Application Tracking Information (Staff Only)			
Case Number	Date/Time received:		Received by:
ZBA-934	11/21/18 3:15 pm		

## PROPOSED VARIANCE NARRATIVE

**Subject Zoning Regulation, Chapter and Section:** 51.6-5 and 51.1-2 (11)(c)

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

Property initially belonged to the Ward family (Timothy Ward, hereinafter "Ward") which spent several years seeking to develop a dry-stack storage Marina facility in this residential neighborhood. His efforts included legal actions against the County and legal actions with his neighbors.

Applicant became involved with Ward when the opportunity arose for Ward to reacquire the property from the Bank, which had foreclosed on it. We provided some funding to him, buying him further time to seek financing for his project. Ward was unable to secure financing and in order to preserve our investment, which was non-refundable, we closed on the property prior to the expiration of the purchase contract. Ward then litigated against us, tying up the property for two and a half years.

This property lies with the R-15 zoning of New Hanover County. This property was initially presented to us by Ward as a 3.1 acre parcel which could be subdivided into an eight lot subdivision meeting the requirements of the R-15 zone as it exists.

Our survey of the property disclosed only 2.9 acres, which limited the property to a seven lot subdivision under current R-15 zoning, section 51.6-2. Because of the purchase carrying charges and the litigation expenses we need the eighth lot to make the projected development economically viable. In order to do so we need a variance from the requirements of Section 51.6-2 of the New Hanover County zoning and development regulations.

## 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.**

Unnecessary hardship will result from the strict application of the regulations, in the absence of a variance providing for a eighth lot on the parcel. The project needs review of its Sections 51.6-5 and a variance from Section 51.1-2(11)(c), "At no time shall any portion of the project designated as ....VE special flood hazard areas, .....exceed the 2.5 units/acre limitation. Our project lies entirely within the VE special flood hazard area and needs a variance from this density limitation.

The parcel is 2.9 acres and eight lots would result in a density of approximately 2.76 units per acre. the additional lot renders the project economically viable. The increased costs from the litigation, including attorney fees and carrying charges during the period of the litigation seriously undermined the viability of the development of the property. The addition of the eighth lot will return that viability and help pay the costs incurred in the extension of public utilities which the neighbors would then be able to tie into.



- 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.**

The hardship results from conditions peculiar to the property. No additional property is obtainable. The property is bounded on the east by the intracoastal waterway, on the west and north by public easement and public road, respectively. On the south the property is bounded by the property of the Estate of Violet Ward. This property is tied up in estate litigation and is unavailable for acquisition in whole or in part within any relevant time period if at all.

- 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.**

The hardship was not created as a result of any actions taken by the applicant or the property owner. This hardship was created as a result in the actual size of the property as compared to the original survey, provided by Ward. This was compounded by Ward with his 2 1/2 years of frivolous litigation, which led to attorney's fees and carrying charges for the debt service. which now effects the economic viability of the project.

- 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 granting of the variance is consistent with the spirit purpose and intent of the regulation. the property development will be served by public water and sewer, eliminating public health concerns over the increased density. The increased density is not of such a substantial nature as to thwart the purpose and intention of the density regulation aimed at preserving public health and safety. Substantial justice would be served, not only for the applicant, who has already committed substantial resources to the project but also to the neighboring land owners in preserving the R-15 character of the neighborhood.

## 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		KV
2	Application fee – \$400		KV
3	Site plan or sketch illustrating requested variance		KV
4	1 hard copy of ALL documents		KV

## 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)

Jonathan S. Wong, Member Beyond Beautiful LLC.  
Print Name(s)

  
Signature of Applicant/Agent

Harold C. Petzold Esq. for Beyond Beautiful LLC  
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**



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