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OCT - 1 2019

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

NEW HANOVER COUNTY
PLANNING & ZONING



VARIANCE
Application

Applicant/Agent Information		Property Owner(s) <i>If different than Applicant/Agent</i>
Name	Kurt R. Huff and wife, Catherine A. Oliverio	Owner Name Same as Applicants
Company		Owner Name 2
Address	210 Windy Hills Dr.	Address
City, State, Zip	Wilmington, NC 28409	City, State, Zip
Phone	(910) 508-7476 (c/o Applicant/Owners' Attorney Matt Nichols)	Phone
Email	matt@mattnicholslaw.com (c/o Applicant/Owners' Attorney Matt Nichols)	Email
Subject Property Information		
Address/Location 210 Windy Hills Dr., Wilmington, NC 28409		
Parcel Identification Number(s) R07908-005-025-000		
Total Parcel(s) Acreage ±18491 Sq. Ft. or ±.424 acres		
Existing Zoning and Use(s) R-15 Residential		
Application Tracking Information (Staff Only)		
Case Number ZBA-944	Date/Time received: 10/1/19 1:15 pm	Received by: KV

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NEW HAVEN COUNTY
PLANNING & ZONING

PROPOSED VARIANCE NARRATIVE

Subject Zoning Regulation, Chapter and Section: 51.6-2(3) Minimum Front Yard in R-15

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

Please see attached Exhibit "A".

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.*

Please see attached Exhibit "A".

- 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.**

Please see attached Exhibit "A".

- 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.**

Please see attached Exhibit "A".

- 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.**

Please see attached Exhibit "A".

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.

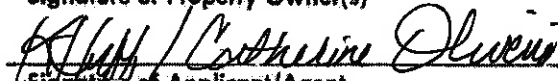
I also appoint the applicant/agent as listed on this application to represent me and make decisions on my behalf regarding this application during the review process. The applicant/agent is hereby authorized on my behalf to:

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)

Kurt R. Huff/Catherine A. Oliverio

Print Name(s)


 Signature of Applicant/Agent

Kurt R. Huff/Catherine A. Oliverio

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

**EXHIBIT A
TO
APPLICATION FOR VARIANCE**

210 Windy Hills Dr.

OVERVIEW:

The Applicants/Owners, Mr. and Mrs. Huff, purchased the subject residential lot at 210 Windy Hills Dr. more than a decade ago. In 2018, Mr. and Mrs. Huff decided to build their residence on the lot. The parcel is located in a flood zone and requires elevation of the home to comply with New Hanover County Floodplain regulations and National Flood Insurance Program requirements.

Mr. and Mrs. Huff, through their design and construction professionals, submitted their building plans to New Hanover County and received approval of their plans. Through their construction and design professionals, they applied for and obtained all required construction and building permits, and all required inspections were performed throughout the construction process.

Upon final review, the County has informed the owners that a variance will be required because the external front stairs, which are required to access the first finished floor of the elevated house, encroach into the front yard setback by approximately 9.7 feet. The house itself is not in the front setback, and the stairway, which is still setback approximately 15.3 feet from the front property line, does not negatively impact any other properties. The Applicants/Owners request the minimum variance necessary from the front yard setback in order to comply with the zoning ordinance and maintain the required stairway access to their home.

CRITERIA FOR APPROVAL OF VARIANCE:

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.

Mr. and Mrs. Huff and their design and construction professionals have consistently acted in good faith throughout the entire building process and attempted to follow all building regulations while constructing the home. They applied for all necessary permits, received approvals from the County throughout the process, and requested all relevant inspections. The subject stairway is situated in the front of the home and provides access to the from the ground to the elevated first finished floor. The home was designed with the double stairway as a beautiful focal point and entrance, complementing the coastal design and character of the home and the surrounding homes. Having to redesign the front of the home to relocate the entry stairway would significantly detract from the design, function and aesthetics of the home and would have a negative visual impact on the neighborhood. The stairway is not adjacent to any neighboring property, and the stairway has no negative impacts on neighboring properties. The home is already constructed, a Certificate of Occupancy has been issued by the County, and Mr. and Mrs.

Huff are living in the home. Without a variance, the stairs would need to be removed and relocated, which would require significant redesign and reconfiguration of this newly constructed home, at a great and unnecessary expense. A strict application of the ordinance in this particular instance would create an unnecessary hardship on the Owners as it would create significant access issues and require an expensive and unconventional redesign of the entire front of the house in order to access the first finished floor, which would also result in an overall negative visual impact on the surrounding properties.

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 site is constrained by a significant area of wetlands that limits the buildable area of the lot. The Applicants/Owners planned the construction of the home carefully to comply with this buildable area, including the overall design of the house and location of the entryway stairs. The hardship is peculiar to the property the particular set of facts and circumstances underlying the need for a variance in this matter, as the Owners and their design and construction professionals reasonably relied and acted upon the County's review and approval of the house plans during the permitting and construction process.

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 Owners did not create the hardship. They submitted their plans to the County and received approval. They have acted consistently in good faith and with the intent and understanding that they were following all building and zoning rules, regulations and procedures. The building plans were designed and approved such that the stairs were built within the front yard setback. This issue was not identified until after construction of the home.

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.

In addition to the foregoing, allowing this variance is consistent with the spirit, purpose and intent of the ordinance. It was the Owners' intent throughout the entire process to comply with the Ordinance, and the Owners and their design and construction professionals submitted all required documents and obtained and reasonably relied upon approved construction plans. Allowing the entry stairway to remain creates no safety issues, and in fact the entry stairway is currently located in the best and most logical location for the design of the house given the front door entry location and fenestration.

Allowing this variance will allow the Owners to access their home as designed and intended by the County-approved building plans, and will also allow the beautiful entryway staircase to remain, which is beneficial and positive for this coastal neighborhood and consistent with the spirit, purpose and intent of the ordinance.



**NEW HANOVER COUNTY
PLANNING & LAND USE
AUTHORITY FOR
APPOINTMENT OF AGENT**

230 Government Center Drive
Suite 110
Wilmington, NC 28403
910-798-7165 phone
910-798-7053 fax
www.nhcgov.com

Please note that for quasi-judicial proceedings, either the land owner or an attorney must be present for the case at the public hearing.

The undersigned owner does hereby appoint an authorized the agent described herein as their exclusive agent for the purpose of petitioning New Hanover County for a variance, special use permit, rezoning request, and/or an appeal of Staff decisions applicable to the property described in the attached petition. The Agent is hereby authorized to, on behalf of the property owner:

1. Submit a proper petition and the required supplemental information and materials
2. Appeal at public meetings to give representation and commitments on behalf of the property owner
3. Act on the property owner's behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of any petition applicable to the New Hanover County Zoning Ordinance.

Agent Information	Property Owner(s)	Subject Property
Name Matthew A. Nichols	Owner Name Kurt R. Huff	Address 210 Windy Hills Dr.
Company Law Office of Matthew A. Nichols	Owner Name 2 Catherine A. Oliverio	City, State, Zip Wilmington, NC 28409
Address 3205 Randall Pkwy., Ste. 104	Address 210 Windy Hills Dr.	Parcel ID R07908-005-025-000
City, State, Zip Wilmington, NC 28403	City, State, Zip Wilmington, NC 28409	
Phone (910) 508-7476	Phone	
Email matt@mattnicholslaw.com	Email	
Application Tracking Information (Staff Only)		
Case Number Reference: ZBA-944	Date/Time received: 10/1/19 1:15pm	Received by: KV

This document was willfully executed on the 01st day of 1, 20 19.

Kurt R. Huff
Owner 1 Signature
Kurt R. Huff

Catherine Oliverio
Owner 2 Signature
Catherine A. Oliverio