



Application for
Board of Adjustment – Request for a Variance

(revised 7/12/17)

Fee: \$400.00

BOARD OF ADJUSTMENT MEETING SCHEDULE –
please check village website www.vopnc.org

REQUEST FOR VARIANCE PROCEDURES

- SUBMIT (12) sets of Plans and or Applications – (24”x 36”) or (18”x 24”)
- Plans and Applications must be submitted (4) four weeks prior to the next scheduled BOA meeting. Plans must be folded with the application attached.

Applicant: JEREMY RUST Owner: AMANDA FRASER

Applicant Address: 5615 NC HWY 211, WEST END, NC Owner Address: 67 DEERWOOD LANE, PINEHURST

Applicant Phone Number: 910-400-5098 Owner Phone Number: (407) 963-6180

Applicant e-mail: JEREMYRRUST@GMAIL.COM

Legal Relationship of applicant to property owner: LANDSCAPE CONTRACTOR
(Attach to this application evidence of legal relationship of applicant to owner)

Request:

I, JEREMY RUST, hereby petition the Board of Adjustment of the Village of Pinehurst for a variance from Section(s) 9.2 TABLES OF DIMENSIONAL REQUIREMENT of the Pinehurst Development Ordinance which states:

CHAPTER 9. DESIGN AND DEVELOPMENT STANDARDS AND PROCESSES,
SECTION 9.2 TABLES OF DIMENSIONAL REQUIREMENT,
SUB-SECTION 9.2A TABLE OF DIMENSIONAL REQUIREMENTS
"LAKEFRONT/GOLF COURSE SETBACK FROM PROPERTY LINE" = 30' (R-10 ZONING DISTRICT).

Property Description: UNIT 16 LOT 235 PH II Zoning District: R-10

Property Location: (address) 67 DEERWOOD LANE, PINEHURST, NC 28374

Moore County Parcel ID #: 00035903



Application for Board of Adjustment – Request for a Variance

(revised 7/12/17)

Petition:

A variance from the regulations of this section may be granted by the Board of Adjustment if it finds that strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the variance, and that, by granting the variance, the intent of this section and the Pinehurst Development Ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach this conclusion if it finds: (Applicant must make a statement supporting each finding, attach additional pages in necessary.)

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;

SEE ATTACHED

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;

SEE ATTACHED

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of the variance shall not be regarded as a self-created hardship

SEE ATTACHED

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.

SEE ATTACHED



**Application for
Board of Adjustment – Request for a Variance**

(revised 7/12/17)

Therefore, on the basis of all the foregoing, it is ordered that the application for a variance be (GRANTED ____ or DENIED ____), subject to the following conditions:

Ordered this _____ day of _____, 20_____.

(Chairman)

(Secretary)

Please attach proof of ownership, such as a copy of a deed.

VILLAGE OF PINEHURST, BOARD OF ADJUSTMENT – REQUEST FOR A VARIANCE

APPLICATION ADDENDUM

1. STRICT APPLICATION OF THE ORDINANCE WOULD CREATE AN UNNECESSARY HARDSHIP IN THAT THE VIRTUALLY THE ENTIRE REAR YARD OF WOULD NOT BE ABLE TO BE USED OTHER THAN FOR A GRASSED LAWN. NO PATIO, RETAINING WALL, FIREPLACE OR FIRE PIT, CHILD’S SWINGSET, OR ACCESSORY STRUCTURE WOULD BE PERMITTED BY THE STRICT APPLICATION OF THE ORDINANCE.
2. THE HARDSHIP RESULTS FROM THE PECULIARITY IN THAT THE PARCEL’S LOCATION IS NOT ACTUALLY ABUTTING THE PLAYABLE AREA OF THE GOLF COURSE. RATHER THE PROPERTY ABUTS PROPERTY THAT IS JUST ZONED GOLF COURSE. WE CONTEST THAT THE ADJACENT PROPERTY ZONED GOLF COURSE IS NOT ACTUALLY A PLAYABLE AREA AS IT IS STEEP, WOODED AND ON THE EDGE OF A WET AREA (MOST LIKELY WETLAND). THE CLOSEST POINT OF THE FRASER LOT (NORTHEAST CORNER) TO THE CENTER OF THE GOLF GREEN IS APPROXIMATELY 150’ (OR 50 YARDS). FURTHERMORE, THE NEAREST EDGE OF THE PROPOSED PATIO/RETAINING WALL IS APPROXIMATELY 200’ FROM THE CENTER OF THE GOLF GREEN.
3. NO ACTIONS TAKEN BY THE APPLICANT CREATE THIS 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 IN THAT THE REQUEST IS WELL BEYOND THE PLAYABLE AREA OF THE GOLF GREEN. THIS LOT WOULD BE CONSIDERED AN OUT OF BOUNDS AREA AS THE LOT IS OUTSIDE THE TYPICAL 150’ RADIUS GOLF SHOT CIRCLE FROM THE CENTER OF THE GREEN COMPLEX WHICH IS COMMONLY REFERRED TO BY GOLF COURSE AND LANDSCAPE ARCHITECTS AS THE PLAYABLE AREA OF THE COURSE.



PLANNING AND INSPECTIONS DEPARTMENT STAFF REPORT

To: Board of Adjustment
From: Alex Cameron, Senior Planner
CC: Will Deaton, Planning and Inspections Director
Date: May 29, 2018
Subject: **Variance Request 67 Deerwood Ln.**

Applicant:	Jeremy Rust
Owners:	John Bizorik & Amanda Fraser
Property Location:	67 Deerwood Ln.
Zoning:	R-10 (High Density Residential)
Lakefront/Golf Course Setback:	30'
Current Land Use:	Single Family Residence
PID#	00035903

Request and Background:

This request is to encroach into the required thirty (30) foot Lakefront/Golf Course setback to allow the construction of an outdoor fireplace and patio.

This property contains a single family home that was constructed in 2004.

The property is bounded to the north and south by Pinehurst No. 6 golf course and bounded to the west and east by single family residences.

Variance Process:

THE VARIANCE PROCESS is intended to provide relief from the zoning requirements of the Pinehurst Development Ordinance (PDO) in those cases where strict application of a particular zoning requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under the PDO. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the zoning requirements of the PDO may impose on property owners in general. Rather, it is intended to provide relief where the zoning requirements of the PDO render the land difficult or impossible to use because of some unique physical attribute of the property itself, or some other factor unique to the property for which the variance is requested.

Vicinity Map:



Aerial View



Action by the Zoning Board of Adjustment:

In considering the application, the Zoning Board of Adjustment shall review the application materials, the general purpose and standards set forth in this Section for the granting of variances, and all testimony and evidence received by the Zoning Board of Adjustment at the public hearing;

After conducting the public hearing, the Zoning Board of Adjustment may:

- (1) Have the authority to subpoena witnesses and may request additional information;
- (2) Continue the public hearing on the requested variance;
- (3) Conduct an additional public hearing on the application;
- (4) Grant the requested variance;
- (5) Deny the requested variance;
- (6) Grant the requested variance with conditions. In granting any variance, the Zoning Board of Adjustment may attach appropriate conditions, provided that the conditions are reasonably related to the request.

Any approval or denial of the request shall be by resolution, accompanied by written findings of fact that the variance meets or does not meet each of the standards set forth in Standards of Review below, stating the reasons for such findings;

The Zoning Board of Adjustment shall not grant any variance unless there is a concurring vote of at least 4 of its 5 members;

Standards of Review

The Zoning Board of Adjustment shall not grant a variance unless and until it makes the following findings:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) 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.

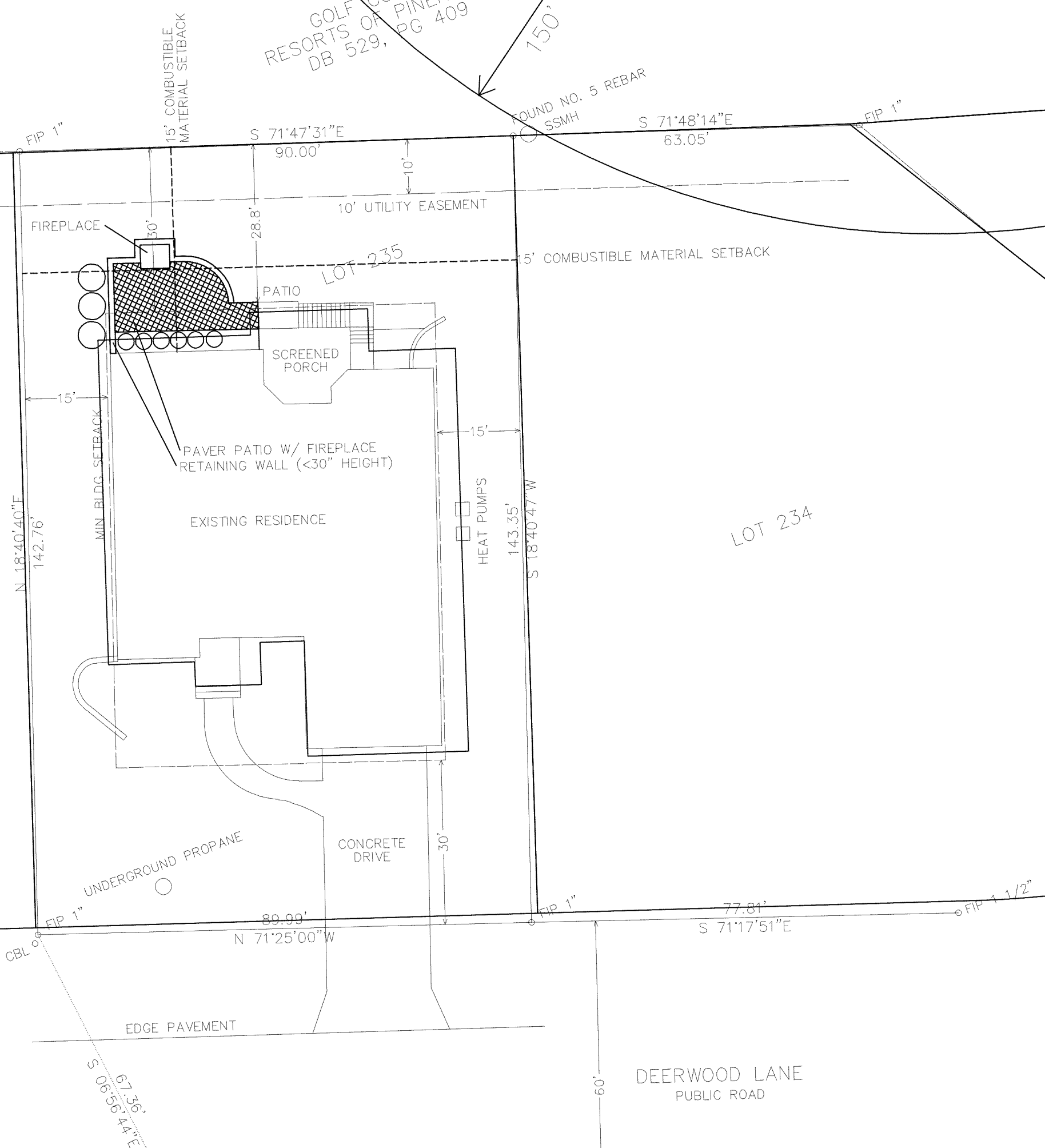
Staff does not formulate a recommendation of variance request as decisions are to be based solely on the testimony and evidence submitted at the quasi-judicial hearing.

TOTAL LOT AREA:
12,874 SF

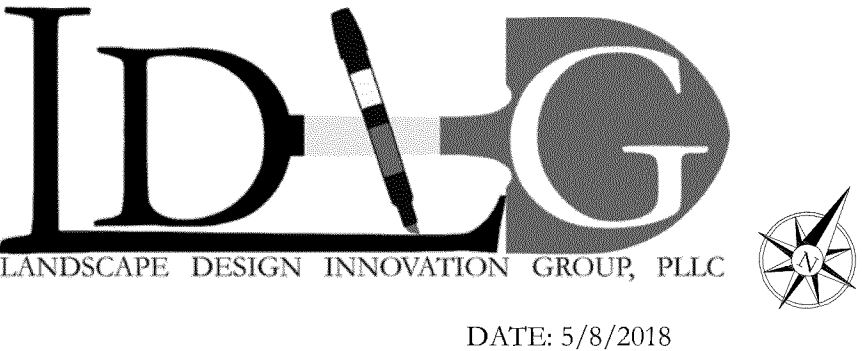
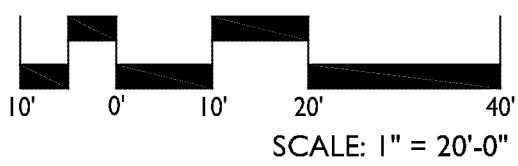
CURRENT IMPERVIOUS SURFACE:
4,677 SF (36.33%)

PROPOSED ADDITIONAL
IMPERVIOUS SURFACE:
340 SF

TOTAL IMPERVIOUS SURFACE
5,017 SF (38.9%)



FRASER RESIDENCE
67 DEERWOOD LANE, PINEHURST, NC



DATE: 5/8/2018



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REQUEST FOR VARIANCE PROCEDURES

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- Plans and Applications must be submitted (4) four weeks prior to the next scheduled BOA meeting. Plans must be folded with the application attached.

Applicant: Tatum Builders Inc Owner: Tatum Builders Inc

Applicant Address: 900 Gilmore Dr Sanford NC 27330 Owner Address: 900 Gilmore Dr Sanford NC 27330

Applicant Phone Number: 910-690-4197 Owner Phone Number: 910-690-4197

Applicant e-mail: miketatum@tatumbuildersinc.com

Legal Relationship of applicant to property owner: one and the same
(Attach to this application evidence of legal relationship of applicant to owner)

Request:

I, Michael J Tatum, President of Tatum Builders Inc, hereby petition the Board of Adjustment of the Village of Pinehurst for a variance from Section(s) 9.2 of the Pinehurst Development Ordinance which states:

30 feet setback from lake front / golf course lots

Property Description: Lot 86 Unit 16 Zoning District: R10

Property Location: (address) 4 Peachtree Ln

Moore County Parcel ID #: 00032345



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(revised 7/12/17)

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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;

A prior planning employee of the Village previously indicated to the surveyor for the owner as building plans were being prepared that a side setback of 15' would be allowed because the actual golf course on that side (the Tee to the No. 5 hole of the No. 6 course) was far in excess of 30' feet from the property line, so the building plans were prepared with only a 15' side setback and submitted to the Village. There is already a planned rear 30' setback where the golf course is nearest to the Lot

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;

This is an 'end' Lot on Peachtree Lane with property not currently used by the golf course owner as part of the golf course adjacent to it, resulting in an undefined tract of land unused by the golf course, but which acts as a natural buffer between this Lot and the golf course which is essentially wooded in nature. The Director of Golf Management with Pinehurst has previously provided his written statement as to the area not being a part of the golf course.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of the variance shall not be regarded as a self-created hardship

As explained above, the surveyor for the owner inquired of the Village Planning Department at or near the time of purchase of the Lot about the required setbacks and was informed that a 15' side setback would be allowed.

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.

If a 30' side setback from the Lot line were actually required, the building envelope would be substantially reduced and would require a structure that either would be much higher (multi-story) and/or much smaller than other residences in the area and would not be in keeping with the neighborhood as developed



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Ordered this _____ day of _____, 20_____.

(Chairman)

(Secretary)

Please attach proof of ownership, such as a copy of a deed.



PLANNING AND INSPECTIONS DEPARTMENT STAFF REPORT

To: Board of Adjustment
From: Alex Cameron, Senior Planner
CC: Will Deaton, Planning and Inspections Director
Date: May 30, 2018
Subject: **Variance Request 4 Peachtree Ln.**

Applicant:	Tatum Builders, Inc.
Owners:	Tatum Builders, Inc
Property Location:	4 Peachtree Ln.
Zoning:	R-10 (High Density Residential)
Lakefront/Golf Course Setback:	30'
Current Land Use:	Vacant
PID#	00032345

Request and Background:

This request is to encroach fifteen (15) feet into the required thirty (30) foot Lakefront/Golf Course setback to allow for the construction of a new single family residence. This requested fifteen (15) foot setback is the current required side setback for the R-10 zoning designation when the property does not abut a lake or golf course.

This property is currently vacant and bounded to the north and west by single family residences and to the east and south by Pinehurst No. 6 golf course.

Variance Process:

THE VARIANCE PROCESS is intended to provide relief from the zoning requirements of the Pinehurst Development Ordinance (PDO) in those cases where strict application of a particular zoning requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under the PDO. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the zoning requirements of the PDO may impose on property owners in general. Rather, it is intended to provide relief where the zoning requirements of the PDO render the land difficult or impossible to use because of some unique physical attribute of the property itself, or some other factor unique to the property for which the variance is requested.

Vicinity Map:



Aerial View



Action by the Zoning Board of Adjustment:

In considering the application, the Zoning Board of Adjustment shall review the application materials, the general purpose and standards set forth in this Section for the granting of variances, and all testimony and evidence received by the Zoning Board of Adjustment at the public hearing;

After conducting the public hearing, the Zoning Board of Adjustment may:

- (1) Have the authority to subpoena witnesses and may request additional information;
- (2) Continue the public hearing on the requested variance;
- (3) Conduct an additional public hearing on the application;
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Any approval or denial of the request shall be by resolution, accompanied by written findings of fact that the variance meets or does not meet each of the standards set forth in Standards of Review below, stating the reasons for such findings;

The Zoning Board of Adjustment shall not grant any variance unless there is a concurring vote of at least 4 of its 5 members;

Standards of Review

The Zoning Board of Adjustment shall not grant a variance unless and until it makes the following findings:

- (a) 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;
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- (d) 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.

Staff does not formulate a recommendation of variance request as decisions are to be based solely on the testimony and evidence submitted at the quasi-judicial hearing.

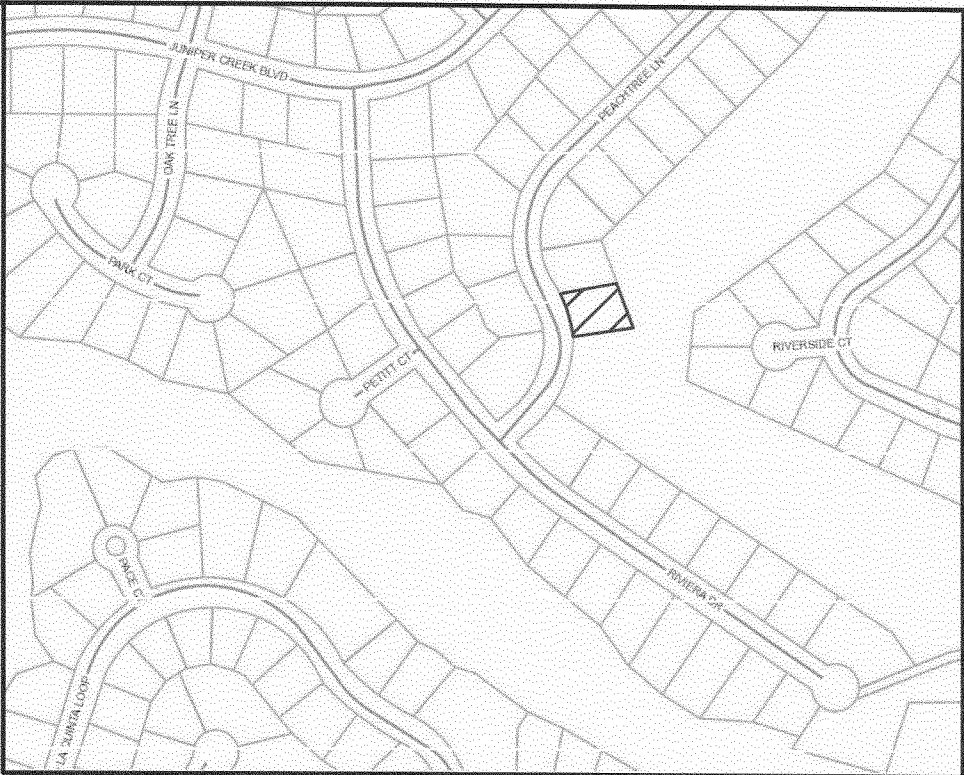
LOT 88, PHASE 2, UNIT 16
PINEHURST, INC.

MINERAL SPRINGS TWP., MOORE COUNTY, N.C.

OWNER: TATUM BUILDERS, INC

DEED REFERENCE: DEED BOOK 4883, PAGE 40

MAP REFERENCE: PLAT CABINET 1, SLIDE 112



VICINITY MAP NTS

NORTH BY PLAT CABINET 1, SLIDE 112



IMPERVIOUS SURFACE = 3616 SQ. FT. = 29.89 %

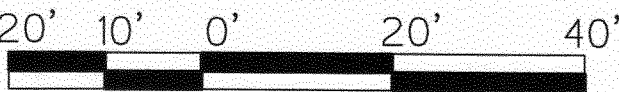
NOTE:
LOT 88 CONTAINS 12099 SQ. FT.
AREA BY COORDINATE METHOD
PROPERTY IS NOT IN A SPECIAL FLOOD
HAZARD AREA ACCORDING TO MAP NUMBER
3710856300J OF THE FEDERAL EMERGENCY
MANAGEMENT AGENCY. EFFECTIVE DATE:
OCTOBER 17, 2006
PIN 856308879587, PARID 00032345
ZONED R10



CERTIFICATE OF SURVEY AND ACCURACY
I, BENNY L. BROWN, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY
SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, DEED
DESCRIPTION RECORDED AS SHOWN ON MAP, THAT THE BOUNDARIES NOT
SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND
IN BOOKS REFERENCED; THAT THE RATIO OF PRECISION AS CALCULATED
IS 1:10,000; THAT THIS MAP MEETS THE REQUIREMENTS OF THE
STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA
(21 NCAC 56. 1600). THIS 18th DAY OF MAY, 2018

PROFESSIONAL LAND SURVEYOR
REGISTRATION NUMBER L3031

© 2017 BENNY L. BROWN, ALL RIGHTS RESERVED



- LEGEND
- FIP FOUND IRON PIPE
 - SIP SET IRON PIPE
 - FCM FOUND CONCRETE MONUMENT
 - SCMS SET COTTON MILL SPINDLE
 - FMN FOUND MAG NAIL
 - SMN SET MAG NAIL
 - CP COMPUTED POINT
 - CBL CABLEVISION EQUIPMENT
 - TP TELEPHONE PEDESTAL
 - ET ELECTRICAL TRANSFORMER
 - PP POWER POLE
 - WM WATER METER
 - SCO SEWER CLEANOUT

SURVEY FOR: TATUM BUILDERS 900 GILMORE LANE SANFORD, NC 27330	DATE 12/20/17
	FILE NO. 24617
	SCALE 1" = 20'

BENNY L. BROWN
Professional Surveyor

5318 NC HWY 211
P.O. BOX 307
WEST END, N.C. 27376
(910) 673-1446

CURVE	Arc	Delta Angle	Chord	Ch Bearing	Radius	Tangent
C1	149.05'	37°28'16"	146.40'	N 15°18'00"E	227.90'	77.30'
C2	99.69'	25°03'46"	98.90'	N 15°58'01"W	227.90'	50.66'

**VILLAGE OF PINEHURST ZONING BOARD OF ADJUSTMENT
FINDINGS OF FACT
DOCKET # 01-18**

Variance Request for 38 Chinquapin Rd./PID #00030476

This request is allow a portable A-frame sign to be placed beyond the allowed location of 12' from the business main entrance and be placed approximately 68' from the main entrance near an existing ground sign at the end of a breezeway. .

The Zoning Board of Adjustment shall not grant a variance unless and until it makes the following findings:

The Findings of Facts and Conclusions of Law are to be based on the Official Record in the proceeding that is made up of the official transcripts and any documentary evidence submitted within the course of the proceeding.

Such Findings of Fact are to be based upon substantial, competent, and material evidence as found in the record of the proceeding.

- 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.**

The applicant submitted evidence that indicated that there would be no reasonable use of a portable A-frame sign if strict application of the ordinance is applied.

- 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.**

The applicant submitted evidence that the business' main entrance location is peculiar in that it is recessed approximately 68 feet away from the sidewalk along Chinquapin Rd. Therefore, its condition is not common in the Village Center and not easily visible to the public. A change to the 12 foot maximum requirements for a portable A-frame sign would be suitable to the property and give the business visibility like others in the Village Center.

- 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 applicant submitted evidence that the hardship is not self-created. Previous owners have advised that permission had been granted to display the A-frame sign at the location granted and the sign had been allowed to be displayed at this location for approximately 25 years without objection.

4. **The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice achieved.**

The applicant submitted evidence if the variance is granted it would be consistent with the spirit, purpose and intent of the ordinance. The variance allows the portable A-frame sign to be located adjacent to the permanent sign which the owners have an easement for and the portable A-frame sign will not obstruct pedestrian traffic or present a safety issue. The granting of this variance will achieve substantial justice and be consistent with similar properties in the Village Center.

Therefore, on the basis of all the foregoing, it is ordered that the application for a variance be **GRANTED** subject to the following conditions:

Granted w/ conditions:

None

I, Lauren Craig, Village Clerk a Notary Public for said Moore County and North Carolina do hereby certify that A.C. Engelfried, Chairperson of the Board of Adjustment, Village of Pinehurst, personally appeared before me this day and acknowledged the foregoing document. Witness my hand and official seal this the ____ day of _____.

Lauren Craig, Village Clerk
Notary Public
My Commission expires: _____

SEAL

A. C. Engelfried, Chairperson

Gwendy Hutchinson, Secretary

BOARD OF ADJUSTMENT MEETING

in re: A-Frame

HELD ON:

May 3, 2018

4:30 p.m.

HELD AT:

Assembly Hall

395 Magnolia Road

Pinehurst, North Carolina

Chairman:

Fred Engelfried

Members:

Leo Santowasso

David Kelley

Mike Marsh

Cyndie Burnett

1 CHAIRMAN ENGELFRIED: We are out of recess
2 and I would ask that anyone that will be speaking with
3 regard to public hearing number two would be sworn at
4 this time.

5 (Whereupon,

6 Ms. Dalitsouris

7 was called as a witness, duly sworn to tell the
8 truth and testified under oath as follows:)

9 CHAIRMAN ENGELFRIED: Okay, could I have a
10 motion, please, to enter into public hearing number
11 two?

12 MS. BURNETT: So moved.

13 CHAIRMAN ENGELFRIED: Thank you, Cyndie.
14 I'll second that one. And all in favor?

15 BOARD MEMBERS: Aye.

16 CHAIRMAN ENGELFRIED: Thank you, it's
17 unanimous. We are now into public hearing number two
18 and I will ask The Village and specifically Alex, to
19 read it into the record and give us the back story
20 related to it. Excuse me --

21 Oh, I'm sorry, I -- I do need to -- for
22 public hearing number two. Does anyone need to review
23 some stuff for conflict of interest, potential
24 financial gain, ex parte communications?

25 (No response.)

1 CHAIRMAN ENGELFRIED: We're good.

2 Okay, go ahead, Alex.

3 MR. CAMERON: Public hearing item number two
4 and this -- purpose of this public hearing is to
5 receive testimony for a variance request from Section
6 9.7.1.4 subsection b, freestanding signs standards for
7 the property at 38 Chinguapin Road. This property is
8 located within the VC, Village commercial zoning
9 district and the local historic overlay district,
10 further identified by Moore County parcel ID number
11 00030476. Specifically the applicant and owners Elias
12 and Helen Dalitsouris, I apologize if the
13 pronunciations are not correct, are requesting a
14 variance from the portable A-frame sign standard
15 setback of 12 feet from the business main entrance to a
16 setback of approximately 68 feet in order to place a
17 portable A-frame sign near an existing ground sign at a
18 breezeway entrance.

19 As some Board members may recall in October
20 of last year there was an appeal by the same applicant
21 based on the staff determination of the business main
22 entrance regarding the same portable A-frame sign. At
23 that public hearing The Board of Adjustment upheld the
24 staff's decision of the business main entrance being
25 the -- the entrance way going into the restaurant that

1 is not at the breezeway. So, there -- there was some
2 discussion during that public hearing regarding the
3 possibility of a variance request.

4 Our office received a variance request and
5 application filed by Mr. Smith on behalf of the -- the
6 same applicants. However with allowing something that
7 -- that location and the sign being on the property
8 other than the applicants' we would not mark that the
9 application received or complete without the property
10 owner who would be effected consent. And we had just
11 received that last month. And so therefore, here's the
12 public hearing.

13 CHAIRMAN ENGELFRIED: Great, thank you. Mr.
14 Smith, would you like to add to that with regard to the
15 specific contract that you've seen between the property
16 owners, et cetera?

17 MR. SMITH: The -- the consent order, is that
18 what you're referring to?

19 CHAIRMAN ENGELFRIED: Yeah.

20 MS. SMITH: Well, only -- only to say just a
21 couple of quick things, I think -- I think all of you
22 were here for the proceeding in the Fall except for Ms.
23 Burnett, as I recall.

24 MS. BURNETT: I was not on the Board but I was
25 --

1 MS. SMITH: But you were here, okay.

2 MS. BURNETT: I was present.

3 MS. SMITH: Okay. Okay, fine. What I will
4 say to The Board is that the next morning after The
5 Board's decision -- the next morning after The Board's
6 decision my clients were here to try to pick up --
7 picking up a variance application, at which time Mr.
8 Gould indicated that because the A-frame is going to be
9 on the Mr. Saunders property we would need to get his
10 approval. And Mr. Saunders indicated to me that he
11 would give his approval but there -- because the
12 Dalitsouris and -- and Mr. Saunders sort of have a
13 joint patio out there, he had some things that he
14 wanted written down about that, and that's what -- we
15 just recently got a consent order. So that's the only
16 reason we weren't back here at the very next meeting.

17 And I want to thank Mr. Cameron because we
18 were at -- we had just a few days, one day to get this
19 thing on the -- on the calendar, on the agenda within
20 the statutory notice period and he kindly pushed that
21 through and we appreciate that, because my clients go
22 to Greece every summer and they're getting ready to
23 leave on May 10th, so they were really frantic wanting
24 to get this matter before The Board. So --

25 MS. DALITSOURIS: Just so you can get your

1 olive oil order.

2 MS. SMITH: That's right. But anyway --
3 anyway, you see from the consent order which has
4 nothing to do with this matter with the exception of
5 Mr. -- Mr. Saunders agreeing that they could place
6 their sign -- place their A-frame sign back in the same
7 location where it's been for 25 years. That's why
8 we're here.

9 CHAIRMAN ENGELFRIED: Any questions from The
10 Board? Go ahead, Cyndie.

11 MS. BURNETT: Is there not a -- a requested
12 stipulation that it be -- that it be attached, the
13 A-frame sign be attached either to the building or to
14 the existing sign so that there's no chance of it
15 falling over?

16 MS. SMITH: Mr. Saunders asked for that in
17 his -- in his -- or at least that's what he said. I
18 mean, that was not what the court order said, but
19 that's what he said, and I can tell you that my clients
20 -- if you recall testimony from last time -- as a
21 matter of fact one of the exhibits showed a hook there,
22 and they -- they can hook that sign back so it doesn't
23 fall over. I mean, it's not a -- it's not a problem.
24 But that's -- but that's kinda between them and -- and
25 Mr. Saunders. But -- but --

1 MS. BURNETT: Well --

2 MR. SILVERSTEIN: Not necessarily, because
3 The Board can grant a variance upon conditions.

4 MS. SMITH: Okay.

5 MR. SILVERSTEIN: So, that could be a
6 condition of the variance.

7 MS. SMITH: Right. All right.

8 CHAIRMAN ENGELFRIED: Anyone with questions;
9 Mike, David?

10 How long is the variance good for? I know
11 that sounds like an uneducated question, but the
12 agreements between the parties is as long as the
13 ownership -- it doesn't transfer the title; is that
14 correct, the agreement that's been reached?

15 MR. SILVERSTEIN: I'll take it if you would like
16 me to, unless --

17 MR. CAMERON: Yeah.

18 MR. SILVERSTEIN: Unless -- unless you want
19 to answer that.

20 CHAIRMAN ENGELFRIED: I just need an answer.

21 MR. CAMERON: Go ahead.

22 MR. SILVERSTEIN: It -- a variance runs with
23 the land. So, unless again, you were to put a
24 condition on the variance that it would expire with the
25 current owner, which you could do, it would run with

1 the land.

2 CHAIRMAN ENGELFRIED: Well, the agreement
3 between the two parties expires if ownership changes;
4 am I correct in that?

5 MR. SILVERSTEIN: Yeah, but that would not
6 impact the variance.

7 CHAIRMAN ENGELFRIED: No, unless there was a
8 condition. That the variance --

9 MR. SILVERSTEIN: That's right.

10 CHAIRMAN ENGELFRIED: -- expired at the same
11 time --

12 MR. SILVERSTEIN: That's -- that's correct.

13 CHAIRMAN ENGELFRIED: Which is the point I'm
14 trying to make.

15 MR. SILVERSTEIN: That's correct.

16 CHAIRMAN ENGELFRIED: As to whether that
17 should be a condition of the variance.

18 MR. SILVERSTEIN: That's right. Otherwise
19 the fact that there's a consent order would not bind
20 the -- the variance granted by The Board --

21 CHAIRMAN ENGELFRIED: Yeah.

22 MR. SILVERSTEIN: -- by this Board.

23 MR. SMITH: It seems to me the Board is
24 trying to determine whether or not a variance is
25 appropriate given the four requirements that you have.

1 CHAIRMAN ENGELFRIED: I think the property is
2 -- that property is -- I'm just trying to figure out if
3 there's conditions that should be put on it?

4 MR. MARSH: Right, and -- and -- and as I,
5 you know, understand it, I mean, that Mr. -- Mr.
6 Saunders if he sells the property, I mean he can't bind
7 the -- can't bind the subsequent property owner but
8 that can be between the parties at that -- at that
9 point.

10 MR. SILVERSTEIN: I think that's correct. I
11 think that if The Board granted a variance without the
12 condition the -- the new owner of the property would
13 not necessarily be -- be -- be bound by it. It would
14 be an interesting question because the variance does
15 run with the land, but in this case they're actually
16 putting the sign on property they do not own, because
17 -- for which an easement exists.

18 CHAIRMAN ENGELFRIED: That's information but
19 it's not a suggestion.

20 MR. SILVERSTEIN: It's -- it's really not.
21 It's totally up to the -- to The Board.

22 CHAIRMAN ENGELFRIED: Okay. Any discussion?

23 (No response.)

24 Would you like me to close the public hearing
25 and go to a vote or keep the public hearing open in

1 case you have any questions as we discuss?

2 MS. BURNETT: Well, this letter from Ken
3 Saunders where it basically says that he agrees to this
4 consent decree, with -- with the one stipulation of it
5 being mounted, so do we add that? Can we add that, or
6 do we have decide if we want to add that. What do we
7 do with that?

8 MR. SILVERSTEIN: You can put on what -- as
9 long as the condition is reasonably related to the
10 variance request, you can put on any condition you want
11 to.

12 MS. BURNETT: Well, when I read this letter
13 it sounds like his consent is conditional on the
14 stipulation. That's -- am I reading that correctly?

15 MR. SILVERSTEIN Right. I don't want to
16 interpret for you, the consent orders.

17 MS. BURNETT: -- this is just the letter --

18 MR. SILVERSTEIN: But I think -- I think it's
19 as Mr. Smith pointed out, you know, obviously Mr.
20 Saunders is concerned about what would happen if he
21 tries to sell the building, and that -- you may want to
22 consider that, you may not. That's really -- as I
23 said, I think that's totally up to you.

24 MS. BURNETT: This first part of the letter
25 says, as part of my support of this request for a

1 variance I require the menu board to remain temporary
2 and we'll place it next to this post sign, the menu is
3 secured either to my building or the post sign in a
4 manner which prohibits it from falling off it. This
5 letter is not to be construed as (indiscernible) form
6 of easement. To me that -- I would like to include
7 that in it, because I think for safety reasons, that's
8 a good requirement.

9 MR. KELLEY: I think that sounds reasonable
10 to me and I agree. That -- I -- I read the letter the
11 same way.

12 MR. SMITH: I think the A-frame is -- I mean,
13 because as I understand the sign ordinance, I mean, the
14 A-frame sign specifically are considered temporary.
15 They have to be taken in at night. I mean, I think
16 that's the context of the temporary aspect of it.

17 CHAIRMAN ENGELFRIED: Are you suggesting you
18 don't find an objection to the condition that was read?

19 MR. SMITH: Well, I think the temporary
20 nature of it is -- is -- I mean, the way I read that,
21 and the way we understand it is simply that it's not
22 -- he's not agreeing that it be a permanent sign, and
23 it's not, because they've got a permanent sign with an
24 easement there. So they're not asking for a permanent
25 --

1 MS. DALITSOURIS: Am I -- am I allowed to say
2 something?

3 CHAIRMAN ENGELFRIED: You're sworn.

4 MS. DALITSOURIS: We -- we normally take the
5 sign out in normal operating hours and when we close we
6 bring the sign in. The sign never stays out there
7 outside of the operating --

8 MS. BURNETT: Well, the part where it needs
9 to be secured either to the post or to the --

10 MS. DALITSOURIS: There's already one. Mr.
11 Saunders for, God knows how many years, we've been --
12 he actually put in an eye in the brick for us to mount
13 the sign so that it wouldn't fall over. And it's on
14 three legs and it's not going to fall over anyway
15 because it's sits into a small bedded area where our
16 permanent sign is. So, there's no way anybody can walk
17 over it and there's no way anybody can really touch it.
18 But he was nice enough to put something there so it is
19 latched so that it wouldn't fall.

20 CHAIRMAN ENGELFRIED: So, you're using it?

21 MS. DALITSOURIS: Not now. We haven't since
22 the last hearing but --

23 CHAIRMAN ENGELFRIED: Oh, okay.

24 MS. DALITSOURIS: But we were using it, yes.

25 CHAIRMAN ENGELFRIED: And you would again?

1 MS. DALITSOURIS: And we would again,
2 absolutely.

3 CHAIRMAN ENGELFRIED: Puzzled look on you,
4 Leo.

5 MR. SANTOWASSO: I'm trying to understand. I
6 think Mr. Saunders is more worried about some kind of
7 liability issue if the sign does fall over. And you
8 might also have the same concern. If it falls over and
9 somebody trips over it or cracks their head or
10 something like that, I don't see the big objection for
11 whether it's a three-legged or two-legged or one-legged
12 that there's some condition that stipulates that it's
13 -- once it's there for however long it's there, 10-12
14 hours or whatever, that it's secured to something so it
15 doesn't fall over and create a situation that might
16 make things worse for both he and you.

17 MS. DALITSOURIS: I mean, it's there. We've
18 used it. Always have used it.

19 MR. SMITH: We're not objecting.

20 MS. DALITSOURIS: We're not objecting to that.

21 MR. SANTOWASSO: Okay.

22 CHAIRMAN ENGELFRIED: Fair enough. Anything
23 else?

24 All right, I would then suggest that we close
25 the public hearing since I don't think we're going to

1 be hearing more questions.

2 MR. SANTOWASSO: So moved.

3 MR. MARSH: Second.

4 CHAIRMAN ENGELFRIED: Mike Marsh, thank you.

5 All in favor.

6 BOARD MEMBERS: Aye.

7 CHAIRMAN ENGELFRIED: And now we enter a
8 discussion or a motion.

9 MR. DEATON: Chairman, if I may?

10 CHAIRMAN ENGELFRIED: Yes.

11 MR. DEATON: Leo, it looks like you have
12 your PDO right there. If you don't mind, if you can
13 look with me 9.7.1.8(a)9: Any sign -- I'm going to
14 read it. Any sign that is not located on the premise
15 upon which the sign is located is a prohibited sign.

16 MR. SANTOWASSO: 1.7.1.9?

17 MR. DEATON: 9.7.1.8 Prohibited signs --

18 MR. SANTOWASSO: .8.

19 MR. DEATON: -- (a)9.

20 MR. SANTOWASSO: (a)9. Holy crap, that's a
21 lot of stuff. (a) 9, okay. What's it say?

22 MR. DEATON: It says, any sign that copies or
23 imitates an official sign or that purports to have
24 official status, any sign that is used to attract
25 attention to an object, person, product, institution,

1 organization, business, service event, or location that
2 is not located on the premise upon which the sign is
3 located is a prohibited sign.

4 MR. KELLEY: Except those specifically
5 permitted by section -- except those --

6 MR. DEATON: Um-hum.

7 MR. KELLEY: -- 9.7.1.7 --

8 MR. DEATON: Correct.

9 MR. KELLEY: -- which talks about temporary
10 signs.

11 MR. DEATON: Correct.

12 MR. KELLEY: Right?

13 MR. DEATON: I just want to make sure that
14 --

15 MR. KELLEY: That's what this is, right?

16 MR. DEATON: I don't know if it's -- if the
17 -- I'm not an attorney but I want to make sure The
18 Board is not approving arbitrarily something that is
19 prohibited in the code. And other than what our -- I
20 think our interpretation of a temporary business, real
21 estate, coming soon, yard sales, et cetera.

22 MR. MARSH: Isn't the interpretation come
23 down to the further interpretation as unnecessary
24 hardship that results from the strict application of
25 the ordinance on how much damage is done to the

1 business. It does appear to meet all the standards for
2 the review, all four standards which is why the
3 variance is here. Just for discussion.

4 MR. DEATON: I thought we're just -- just
5 pointing that out. We don't want to get any legal
6 trouble here, but --

7 MR. SILVERSTEIN: The Board does not have the
8 authority to grant a use variance. So, you could say
9 that a use variance is -- would be an illegal sign in
10 this -- in this case. But to the extent that there's
11 going to be some change in the ordinance in the future,
12 this decision I think could be grandfathered if there's
13 some change made in the future. I think it would apply
14 to the situation that exists today, not some time in
15 the future.

16 MR. SANTOWASSO: Okay, if this sign is
17 permitted to be located off premises, why would that
18 paragraph apply?

19 MR. DEATON: Because it's off premise. It's
20 off the property. It's off the subject property. I
21 just want to clarify that we don't -- if it's -- if
22 it's your intention to do that, I just want to make
23 sure that cases come through whether it's a foot over
24 on someone's property, it's not two miles down the road
25 either. So, the same test applies. It's off premise

1 regardless, it's where the property lines are. And we
2 don't think that it meets open house signs, window
3 signs, special event signs, new business ground signs,
4 anything, official notices, yard sales.

5 CHAIRMAN ENGELFRIED: If there were a special
6 event would it meet in your end?

7 MR. DEATON: We'd have to -- we'd have to
8 check on the dimensions and the time period allowed.

9 CHAIRMAN ENGELFRIED: It seems to me a menu
10 is a special event because it changes every day, but
11 that's speculation on my part.

12 MR. DEATON: Auctions, carnivals, church
13 events, fairs, tournaments, horse shows, ten -- tennis.

14 MR. SANTOWASSO: So, you're saying they can't
15 have this sign?

16 MR. DEATON: That's a good question.

17 MR. KELLEY: One of the stipulations that I
18 read here, that Mr. Saunders put in his -- he says, I
19 require the menu board to remain temporary, et cetera.
20 So, the paragraph that cited 2 talks -- sends me backed
21 to 91 -- sorry -- 9.7.1.7 and then I go to J, temporary
22 business signs, temporary/new business signs, temporary
23 or new business signs. So if we -- if we carry that
24 stipulation through in the approval of the variance
25 where it must remain temporary and the other

1 requirement there; does that satisfy your concern?

2 MR. DEATON: It -- it -- it stipulates that
3 it has to be a wall sign and/or a window sign. Not
4 necessarily a freestanding sign.

5 MS. BURNETT: What about the fact that it's
6 in -- it's within an easement and it also has approval
7 of the owner for it to be placed there?

8 MR. DEATON: As far as I'm concerned it's --
9 it's not their property and --

10 MS. BURNETT: They had an easement, is that
11 not considered --

12 MR. DEATON: That's an access to.

13 MS. BURNETT: Because they have the easement
14 for the permanent sign, wouldn't that also apply for a
15 temporary sign?

16 MR. MARSH: And that's where -- and that's
17 where it's been. That's where it is, that whole
18 section up there.

19 MR. DEATON: So, you have an access easement
20 through property, would not be their property, it would
21 be off premise?

22 MR. SILVERSTEIN: You also had some -- this
23 would be -- this would be a good law decision case. It
24 really would because you have some other issues with
25 regard to the fact that it's been there so long. And

1 that has an impact on legal issues as well. So, I -- I
2 don't think that -- I don't think there's any cut and
3 dried answer to -- to this question. I think that
4 there are merits on both sides and in the -- in the
5 previous case there were heart string tugs on both
6 sides. In this case there are legal tugs on both
7 sides. There really are. There's some good legal
8 arguments that can be made on both sides, but I think
9 that what you have here is -- it's a variance case,
10 it's not an interpretation case and if someone doesn't
11 like your decision they can appeal it.

12 CHAIRMAN ENGELFRIED: All right, I did close
13 the public hearing, but are you done?

14 MR. DEATON: Unless you have any further
15 questions.

16 CHAIRMAN ENGELFRIED: We'll consider that
17 that was a question. We asked you what you had on your
18 mind. Continue discussion, or we can take a motion.

19 MR. KELLEY: So, if we were to preface the
20 approval with something like given the historical
21 precedent of this particular sign, given the agreement
22 from the --

23 MR. SILVERSTEIN: You wouldn't really need to
24 do that because it's part of the record.

25 MR. KELLEY: Just to avoid the there's that

1 sign, --

2 MR. SILVERSTEIN: Well, in most cases --

3 MR. KELLEY: -- let's all run and put up a
4 sign like that one. Well, that one was a special case
5 because, because, because.

6 MR. SILVERSTEIN: Well, in most cases those
7 are -- are implemented in the findings of fact upon
8 which you base your decision.

9 MR. KELLEY: Understood, thank you.

10 CHAIRMAN ENGELFRIED: If we have a motion and
11 a second, then we need a four to one to uphold or deny.

12 MR. KELLEY: I move to uphold.

13 MR. MARSH: Second.

14 CHAIRMAN ENGELFRIED: Uphold what?

15 MR. KELLEY: Last time you were --

16 CHAIRMAN ENGELFRIED: Oh, I'm sorry, now I
17 got it, to approve? To approve? You move to approve?

18 MR. KELLEY: Approve the variance, yes,
19 sorry.

20 CHAIRMAN ENGELFRIED: Any conditions on it?

21 MR. KELLEY: I -- I think that we should
22 respect Mr. Saunders' letter and put the conditions on
23 that it remain temporary and secured in a manner to
24 prohibit it from falling over.

25 CHAIRMAN ENGELFRIED: And Mike Marsh

1 seconded?

2 MR. MARSH: Second.

3 MR. SANTOWASSO: I think we need to establish
4 the following findings: And there's four that we have
5 to consider.

6 CHAIRMAN ENGELFRIED: Yes.

7 MR. SANTOWASSO: Before we talk about any
8 kind of motion.

9 CHAIRMAN ENGELFRIED: Well, let's go through
10 them.

11 MR. SANTOWASSO: Okay. In my opinion, there
12 is an unnecessary hardship that would result from the
13 strict -- strict application of the ordinance in this
14 case. It's also my opinion that the hardship results
15 from conditions that are peculiar to the property
16 because the property has no frontage on a public
17 street, it was previously established that a breezeway
18 is not the front door, there's no other place where a
19 sign can be located, and that's a hardship I believe
20 because a business needs a sign.

21 Initially the hardship did not result from
22 actions taken by the applicant or the property owner.
23 And finally that the requested variance is consistent
24 with the spirit, purpose, and intent of the ordinance,
25 such that public safety is secured and substantial

1 justice is achieved.

2 That being said, I would move to approve the
3 applicant's request for a variance.

4 CHAIRMAN ENGELFRIED: We have a motion onboard
5 from David with the condition added on of the Saunders'
6 letter.

7 MR. SANTOWASSO: Okay.

8 CHAIRMAN ENGELFRIED: And as part of our
9 discussion you have reminded of our obligation on the
10 standards of review, and you agree with them all, as do
11 I. Does anyone else that is voting not agree? Cyndie,
12 I can't see you.

13 MS. BURNETT: I agree.

14 MR. SANTOWASSO: And including the
15 stipulation that he mentioned?

16 MR. KELLEY: Yes, that was part my -- that
17 was part of my motion.

18 MR. SANTOWASSO: Was there a second?

19 MR. KELLEY: Yes.

20 CHAIRMAN ENGELFRIED: Mike Marsh seconded it.

21 MR. SANTOWASSO: I third it then.

22 CHAIRMAN ENGELFRIED: Thanks for getting that
23 in the record though, Leo. Any further discussion?

24 (No response.)

25 CHAIRMAN ENGELFRIED: Let's vote, Cyndie?

1 MS. BURNETT: In favor.

2 CHAIRMAN ENGELFRIED: David?

3 MR. KELLEY: In favor.

4 CHAIRMAN ENGELFRIED: Mike?

5 MR. MARSH: In favor.

6 CHAIRMAN ENGELFRIED: Fred? In favor.

7 MR. SANTOWASSO: In favor

8 CHAIRMAN ENGELFRIED: It's unanimous,

9 five-zero. thank you very much.

10 MS. DALITSOURIS: Thank you.

11 CHAIRMAN ENGELFRIED: May I have a motion to

12 -- did I close the public hearing.

13 MR. MARSH: Yeah, you did.

14 CHAIRMAN ENGELFRIED: I did.

15 MR. MARSH: Wasn't effective, but you closed

16 it.

17 CHAIRMAN ENGELFRIED: Yes, it's closed.

18 Yeah, make sure that I did, and hopefully it's

19 reopening. I don't think we have anything else on our

20 agenda except the date of the next meeting is June --

21 what, 7th?

22 (The matter was concluded.)

23

24

25

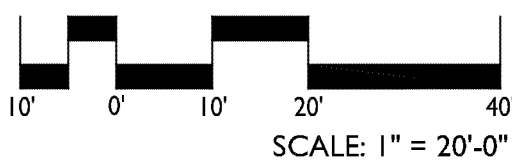


TOTAL LOT AREA:
12,574 SF

CURRENT IMPERVIOUS SURFACE:
4,677 SF (36.33%)

PROPOSED ADDITIONAL
IMPERVIOUS SURFACE:
340 SF

TOTAL IMPERVIOUS SURFACE:
5,017 SF (38.9%)



FRASER RESIDENCE

67 DEERWOOD LANE, PINEHURST, NC



**Board of Adjustment
May 3, 2018
Assembly Hall
395 Magnolia Road
Pinehurst, North Carolina
4:30 pm**

MINUTES

Board Members in Attendance

Fred Engelfried, Chair
Cyndie Burnett, Alternate
David Kelley, BOA Member
Mike Marsh, BOA Member
Leo Santowasso, BOA Member
Joel Shriberg, Alternate

Board Members Absent:

Jeff Haarlow, BOA Alternate
Julia Latham, Vice-Chair ETJ

Staff in Attendance:

Will Deaton, Planning and Inspections Director
Alex Cameron, Senior Planner
Gwendy Hutchinson, Planning and Administrative Assistant
Jamie Reed, Planning Technician
Angel Smith, Zoning Enforcement Officer

Attorneys in Attendance:

S. Kent Smith, Attorney for the Applicants
John Silverstein, BOA Attorney

Court Reporter:

Sandra Wise, President Starkings Court Reporting

I. Call to Order

Chairman Engelfried confirmed there was a quorum present and called the meeting to Order.

II. Approval of Minutes and Transcript

A. April 5, 2018

David Kelley made a motion to approve the Minutes and Transcript for April 5, 2018. Leo Santowasso seconded the motion, which was unanimously approved.

III. Close the Regular meeting and enter into a Public Hearing

David Kelley made a motion to close the regular meeting and enter into Public Hearing No. 1. The motion was seconded by Mike Marsh and was unanimously approved.

IV. Sworn in:

The following were sworn in: Will Deaton, Planning and Inspections Director; Alex Cameron, Senior Planner; Jamie Reed, Planning Technician; James Flanagan, Property Owner; James Maddix, Resident; and Helen Dalitsouris, owner of Theo's Taverna.

V. Public Hearing No. 1 – Continuance from the April 5, 2018 meeting

To receive evidence on the Appeal from an action and decision of the Pinehurst Zoning Administrator to the Board of Adjustment, regarding an application made by S. Kent Smith, attorney for James P. Flanagan. Specifically, this request is seeking a determination from the Board of Adjustment regarding the decision of the Pinehurst Zoning Administrator in applying the regulatory provisions of section 9.1(E)(2) "Required Setbacks: Allowable Encroachments into Required Yards" of the Pinehurst Development Ordinance regarding a patio at 95 Oak Hills Rd., Pinehurst NC. This property is also defined as Moore County PID# 00023786.

Chair Engelfried stated that the Board has four (4) members seating and they would be; David Kelley, Michael Marsh, Leo Santowasso; and me, Fred Engelfried. Chair Engelfried asked for a motion to appoint Cyndie Burnett as the fifth voting member in today's proceedings. Leo Santowasso made a motion to appoint Cyndie Burnett; Mike Marsh seconded the motion, which was approved unanimously.

S. Kent Smith, Attorney and James P. Flanagan, Property Owner were present to answer any questions or concerns of the Board.

After discussions, Leo Santowasso made a motion to deny the Appeal and uphold the Village's decision. Mike Marsh seconded the motion.

Poll the Board

Fred Engelfried *Yes*

Cyndie Burnett *Yes*

David Kelley *No*

Mike Marsh *Yes*

Leo Santowasso *Yes*

The motion to deny the Appeal, carried (4-1). The transcript is available in the Planning Department.

VI. Close Public Hearing No. 1 and enter into Public Hearing No. 2

Cyndie Burnett made a motion to close Public Hearing No. 1 and enter into Public Hearing No.2. David Kelley seconded the motion, which was unanimously approved.

VII. Public Hearing No. 2

The purpose of the public hearing is to receive testimony for a variance request from section 9.7.1.4 (D) Freestanding Sign Standards for the property at 38 Chinquapin Rd. This property is located within the VC (Village Center) Zoning District and the Local Historic District, further identified by Moore County PID # 00030476. Specifically, the applicant and owners, Elias & Helen Dalitsouris are requesting a variance from the standard that portable A-frame signs shall be located within 12 feet of the business main entrance to allow the portable A-frame sign to be placed approximately 68 feet from the main entrance of Theo's Taverna.

Alex Cameron, Senior Planner read portions of the staff report into the record.

S. Kent Smith, Attorney and Helen Dalitsouris were present to answer any questions or address any concerns of the Board.

S. Kent Smith, Attorney entered into the record a note on a consent decree by Jim Saunders, owner of the building, agreeing to the sign being placed in front of his building with the condition that the menu board to remain temporary and when placed next to his "post" sign, the menu is secure either to my building or the "post" sign in a manner to prohibit it from falling over.

VII. Close Public Hearing No. 2 and re-enter into the Regular meeting.

Cyndie Burnett made a motion to close Public Hearing No. 2 and re-enter into the regular meeting. Leo Santowasso seconded the motion, which was unanimously approved.

After discussion, Fred Engelfried discussed that the Board's decision is based on fact(s). The Board can either approve, deny or continue Public Hearing No. 2.

David Kelley made a motion to approve the variance from section 9.7.1.4(D) Freestanding Sign Standards an A-frame sign for the property at 38 Chinquapin Road. Mike Marsh seconded the motion, which was unanimously approved.

Poll the Board

<i>Fred Engelfried</i>	<i>Yes</i>
<i>Cyndie Burnett</i>	<i>Yes</i>
<i>David Kelley</i>	<i>Yes</i>
<i>Mike Marsh</i>	<i>Yes</i>
<i>Leo Santowasso</i>	<i>Yes</i>

The vote carried 5-0 for the variance request. The transcript is available in the Planning Department.

VIII. Next Meeting Date

A. June 7, 2018

IX. Adjourn

David Kelley made a motion to adjourn. Leo Santowasso seconded the motion, which was unanimously approved.