



Town of Southern Shores

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BOARD OF ADJUSTMENT FOR THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ORDER GRANTING VARIANCE

The Board of Adjustment of the Town of Southern Shores (the “Board”) held a Public Hearing on December 1, 2022 to consider a Variance application submitted by Timmons Group, Kimberly D. Hamby (the “Applicant”) on behalf of Fire Service Real Estate, Inc. (the “Property Owner”) seeking to vary Town Code Section 36-171(1) on the parcel of property located at 28 E. Dogwood Trl. (the “Property”). The Board, having heard all of the evidence and arguments presented at the hearing makes the following FINDINGS OF FACT:

1. The Property Owner owns the Property.
2. A new EMS/Fire Station is to be constructed on the Property.
3. Town Code Section 36-171(1) requires site plans to demonstrate that following construction of the proposed improvements, the property will retain all stormwater generated by a one and one-half inch rain event and will not adversely affect any stormwater management system previously constructed by the Town or on adjacent properties.
4. The Applicant alleges that for redevelopment of the Property, the stormwater runoff from a 1.5 inch rainfall can be captured and stored except in the area of the concrete apron between the new EMS/Fire Station and the edge of E. Dogwood Trl. In this location, the concrete apron has a steep slope down to the edge of the road which is substantially lower than the station which makes collection of the stormwater virtually impossible.
5. The Applicant alleges that strict enforcement of Town Code Section 36-171(1) that would require lowering the site would cause less stormwater to be able to be stored on other portions of the Property and would put the new EMS/Fire Station at a greater risk of storm surge.

6. Currently, stormwater in this area runs down to E. Dogwood Trl. and is collected and stored in a stormwater retention area on the Town-owned lot at 29 E. Dogwood Trl.

Based on the above Findings of Fact, and considering the burdens of proof and persuasion being on the Applicant, the Board makes the following **CONCLUSIONS**:

1. All parties are properly before the Board, and the Board has the jurisdiction to consider and render a decision on the requested Variance.
2. Conclusions Regarding Specific Variance Criteria established by Town Code Sec. 36-367(a):
 - (a) An unnecessary hardship **did** result from the strict application of the ordinance.
 - Strict application of Town Code Section 36-171(1) would require adjustment of the proposed grade to lower the site which would affect the other drainage areas. Lowering the site would also increase flood risk.
 - (b) The Alleged Hardship **did** result from conditions that are peculiar to the Property, such as location, size, or topography.
 - The lot area of the Property is appx. 27,000 sq. ft.
 - The other Fire Station in the Town is located at 15 S. Dogwood Trl. and its lot area is appx. 30,000 sq. ft.
 - The lot area of another site where a new EMS Station is to be constructed (Kill Devil Hills) is appx. 91,000 sq. ft.
 - (c) The Alleged Hardship **did not** result from actions taken by the Applicant or the Property Owner.
 - The hardship is a result of the size of the lot.
 - (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.
 - The intent of the R-1, Low-Density Residential District is to encourage the development of permanent low-density residential neighborhoods and community facilities necessary for the health and safety and general welfare of the community.
 - By granting the Variance, stormwater generated by the new EMS/Fire Station in the area of the concrete apron between the new EMS/Fire

Station and the edge of E. Dogwood Trl. can be collected and stored in the retention area located at 29 E. Dogwood Trl. as it is today.

- By granting the Variance, a new EMS/Fire Station can be constructed which will benefit the public's health, safety, and general welfare.

THEREFORE, based upon all of the foregoing the application for a Variance is **GRANTED**.

Ordered this ____ day of _____, 2023

Tony DiBernardo, Vice Chairperson

Sheila Kane, Secretary

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Dare County in accordance with Town Code Sec. 36-368(b) and Article 14 of Chapter 160D of the North Carolina General Statutes.