



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 19, 2022 to consider a Variance application submitted by Kerry Skinner (the “Applicant”) seeking to vary Town Code Section 36-202(b)(5)c on the parcel of property located at 36 Ginguite 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 Applicant owns the Property.
2. A new pier is to be constructed on the Property.
3. Town Code Section 36-202(b)(5)c states that no such permitted dock or pier shall extend into adjacent waters more than 75 feet from an estuarine bulkhead, mean high waterline, or a line connecting the outermost limits of the coastal wetlands on either side of the proposed structure, whichever is nearest the channel.
4. The Applicant alleges that an irregular shoreline on the Property restricts his ability to reach deeper water without extending further than the allowed 75 ft.
5. The Applicant claims that the pier could be moved further south to comply with the 75 ft. requirement but doing so would add significant costs and require an additional 155 ft. of marshland disturbance.

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 36-202(b)(5)c. would allow a 75 ft. long pier (measured from the shoreline), which the applicant claims is not long enough to reach deeper water. The pier could be located further south to reach deeper water, but it would require an additional 155 ft. of pier at a cost of \$20,500.00.
- (b) The Alleged Hardship **did** result from conditions that are peculiar to the Property, such as location, size, or topography.
- The shoreline is irregular when compared to the other lots on Ginguite Trl.
 - Due to an unusual cove inset, there is a long shoreline away from the channel.
- (c) The Alleged Hardship **did not** result from actions taken by the Applicant or the Property Owner.
- The hardship is a result of the irregularity of the shoreline.
- (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 RS-1, Single-family Residential District is to provide for the low-density development of single-family detached dwellings in an environment which preserves sand dunes, coastal forests, wetlands, and other unique natural features of the coastal area. The district is intended to promote stable, permanent neighborhoods characterized by low vehicular traffic flows, abundant open space, and low impact of development on the natural environment and adjacent land uses.
 - By granting the Variance, a smaller area of coastal wetlands will be disturbed.
 - By granting the Variance allowing a 125 ft. pier, it does not present a hazard to navigation of Ginguite Creek.

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.