



Pender County

Agenda

Board of Adjustment Meeting

Wednesday, February 16, 2022 @ 9:00 AM
Pender County Public Assembly Room

	Presenter	Page
1. CALL TO ORDER		
2. ROLL CALL		
3. PLEDGE OF ALLEGIANCE		
4. MOMENT OF SILENCE		
5. ADOPTION OF AGENDA		
6. ADOPTION OF MINUTES		
6.1. Minutes January 19, 2022 01/19/2022 Minutes - Pdf		3 - 12
7. PUBLIC COMMENT		
8. VARIANCE		
8.1. VAR 2021-09 Greg Pfountz VAR 2021-09 Greg Pfountz - Pdf		13 - 28
9. DISCUSSION ITEMS		
10. NEXT MEETING DATE March 16, 2022 805 S. Walker Street Burgaw, NC 28425		
11. ADJOURNMENT		



Pender County

TO: Board of Adjustment
FROM: Stephanie Jagoda
DATE: February 16, 2022
SUBJECT: Minutes January 19, 2022

SUMMARY:

Board of Adjustment Minutes 01/19/2022



MINUTES
Board of Adjustment Meeting
Wednesday, January 19, 2022 Pender County Public Assembly Room 9:00 AM

MEMBERS PRESENT: Max Kipfer
Andrew Olsen
Douglas Scott Rivenbark
Jeffrey Snider

MEMBERS ABSENT: Kyle Breuer
Samantha Nelson

OTHERS PRESENT: Travis Henley, Planning Director
Trey Thurman, County Attorney
Stephanie Jagoda, Administrative Assistant
Other Staff and Members of the Public.

1 CALL TO ORDER
Called to order 9:14 AM

2 ROLL CALL

3 PLEDGE OF ALLEGIANCE

4 MOMENT OF SILENCE

5 ELECTION OF OFFICERS
County Attorney T. Thurman calls for nominations for Chairman and Vice Chairman.

a) Chairman Kipfer nominated himself to remain as Chairman.

Moved by Max Kipfer, seconded by Jeffrey Snider

Motion to approve Chairman

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer				x

Samantha Nelson				x
Andrew Olsen	x			
Douglas Scott Rivenbark	x			
Jeffrey Snider	x			
	4	0	0	2

CARRIED.

- b) Chairman Kipfer nominates current Vice Chairman Breuer to remain Vice Chairman

Moved by Max Kipfer, seconded by Andrew Olsen

Motion to approve Vice Chairman

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer				x
Samantha Nelson				x
Andrew Olsen	x			
Douglas Scott Rivenbark	x			
Jeffrey Snider	x			
	4	0	0	2

CARRIED.

6 ADOPTION OF AGENDA

- a) Agenda adopted

Adoption of Agenda Accepted

CARRIED.

7 ADOPTION OF MINUTES

- a) Board of Adjustment Meeting Minutes for November 17, 2021

Adoption of Minutes Accepted

CARRIED.

8 PUBLIC COMMENT

9 VARIANCE

a) VAR 2021-07

Presented by Planner Greg Feldman, the subject property is JE Batson Road, a 1.35 acre piece of land that is a private dirt road that currently serves as access for Lots 3 through 9 of the Greenway II Subdivision. The applicant acquired this piece of land as means of access to the vacant 4.16 parcel of land to the south of the road. The applicant has submitted a preliminary plat to the Pender County Planning Department for review. This subdivision is known as Bodie Point. The applicant plans on improving and paving JE Batson Road, as required by the Pender County Unified Development Ordinance. Neighboring uses include single family homes in each direction, as well as Batson construction and Hampstead Kiwanis Park further to the west, and North Topsail Elementary School to the east. The neighborhood immediately to the east is The Walk at Sloop Point. The subject property approximately 1.35 acres in size and currently consists of a private dirt road. According to the standards outlined in Section 7.5.1.A of the Pender County Unified Development Ordinance, the applicant is required to connect JE Batson Road to W. Bailey Lane. According to the applicant's narrative, they are unable to connect JE Batson Road to W. Bailey Lane due to the mail kiosk that serves The Walk at Sloop Point neighborhood, which is located at the end of the cul-de-sac on W. Bailey Lane. According to the applicant, this is the only location for the mail kiosk that meets NCDOT and USPS standards. As well, the applicant shared that there is an groundwater lowering system located between JE Batson Road and W. Bailey Lane that is beneficial to the functionality of the septic systems within The Walk at Sloop Point. The applicant also added that removing the cul-de-sac at the terminus of W. Bailey Lane would temporarily block access for three property owners within the Walk at Sloop Point. With the development of Bodie Point subdivision and approval of this variance, the applicant plans on adding a hammerhead turn around at the terminus of JE Batson Road.

Robert Jackson, 640 Maritime Way, Topsail Beach, NC - Presented the 2 hardships regarding the need for the variance. First, there is no other location for the mailbox kiosk per NCDOT and removing the pipe will be invalidate the septic permits of the existing homeowners. Just trying to make the existing road better suited for the new lots to be added.

Luke Menius, Stroud Engineering, 100 Capps Court, Wilmington, NC - The right of way that is in place currently, will be rebuilt to NCDOT specifications. Resulting in a 25 foot wide asphalt road with a proper

turn around. Chairman Kipfer reiterated that it would be a back to back cul de sac turn around with a kiosk in the middle. The result will be a private road built to NCDOT specifications. Chairman Kipfer asked about the maintenance of the road. Mr. Menius stated that there will be a maintenance agreement drawn up. The builder states that JE Batson is in real bad shape and there will be a maintenance agreement with the new homeowners. Chairman Kipfer stated the drawing doesn't look like a cul de sac. Mr. Menius stated that it is a 3 point turn around with proper signage.

Brad George, 102 Doral Drive, Hampstead, NC - Here today to show support for the variance.

Moved by Andrew Olsen, seconded by Douglas Scott Rivenbark

Motion to approve

	For	Against	Abstained	Absent
Andrew Olsen	x			
Douglas Scott Rivenbark	x			
Max Kipfer	x			
Kyle Breuer				x
Samantha Nelson				x
Jeffrey Snider	x			
	4	0	0	2

CARRIED.

b) VAR 2021-08

Presented by Planner Greg Feldman, Old North State Water Company, applicant and owner is requesting relief from the Pender County Unified Development Ordinance standards outlined in Sections 4.14, , 5.3.5.C, and 8.2.6. Specifically, the request is to seek relief from the RP, Residential Performance zoning district minimum yard setbacks, sewage lift station project area boundary setbacks, and Type C buffer requirements. The subject property is located within the Majestic Oaks subdivision on the southern side of Dan Owen Drive near the terminus of Milne Way, approximately 0.5 miles east of the intersection of US HWY 17 and NC HWY 210 in the Topsail Township. The subject property is currently zoned RP, Residential Performance. There are two tracts totaling approximately 5.39 acres of land associated with this request. The subject property is located within the Majestic Oaks

Subdivision and currently serves as the Majestic Oaks Wastewater Treatment Facility. The treatment facility was approved through a Special Use Permit in 2007 and subsequently amended in 2017 and 2018. I would like to note here that the lift station was constructed 7 feet from the front setback, prior to any approval of a revised Special Use Permit. As a result, the subject property is currently under a Notice of Violation. Old North State Water Company, LLC (ONSWC) is requesting a variance from the minimum front yard setback requirements in the RP, Residential Performance zoning district. The Pender County UDO requires setbacks for all sewage lift stations to be measured from all property lines to the project area boundary, rather than the lift station itself. Therefore, the applicant is seeking a reduction of the front yard setback to 7 feet so that a fence associated with a Type C buffer could be constructed 7 feet from the front property line. Should this variance request be granted, the existing lift station could remain where it currently is constructed. Additionally, the applicant is requesting relief from the requirement of installing a fence as part of Type C buffer requirements.

Chairman Kipfer asked about the Violation, Planner Greg Feldman responded a NOV has been issued from our code enforcement officer, after residents in Majestic Oaks informed Pender County, that this lift station had been constructed. Chairman Kipfer asked what is likely to happen as a result of a Notice of Violation? Planner Greg Feldman answered those responsible for the violation will continue to accrue fines until said property is brought into compliance with the Unified Development Ordinance. The Chairman asked for it to be in compliance what would need to happen? Planner Greg Feldman stated that the lift station would be moved to meet RP setbacks, or this variance is approved. Director Henley added regardless of whether the variance is approved or not, establishing a lift station on the property requires an additional revision to the special use permit, which needs to be approved by the commissioners.

Karen Kemeriat, Attorney from Fox Rothchild spoke on behalf of Old North State Water Company and Pluris of Hampstead – She stated that the applicant is waving its right to have five members present to hear this request. Attorney Kemeriat provided background as to why this wastewater treatment site is so important. Adjacent property owners were present and hoped to get this issue resolved so that the landscaping could be fully installed. They support this variance request and would like it to be approved. Attorney Kemeriat continued, this variance is necessary, and it will be a win-win situation for the residents of Majestic Oaks as well as provide benefits to those who live in the area surrounding the wastewater treatment plant site, this will make the

Majestic Oaks homeowners happy as well. Attorney Kemeriat then suggested that an administrative oversight by ONSWC and Pluris Hampstead led to the continued construction. Once they were notified of the Notice of Violation, a request for the variance and the Special Use Permit were requested. The Variance requested is for setback allowance and an amendment so that a fence will not be required. Pluris had installed a fence but has since been removed. The Lift station components will not be visible and will be at grade level. The Dean's, the adjacent property owners, previously objected to the Pluris fence that was installed and later removed requested landscaping be installed. Chairman Kipfer asked if these changes were made before the Notice of Violation, Attorney Kemeriat indicated they were. Attorney Kemeriat stated the unnecessary hardship which would result in the strict application of the ordinance. Being that the lift station must be located where it is currently being constructed due to the existence of the wastewater treatment plant and the ponds that already exist on the property. The current location is the only feasible location where the lift station can be located. Attorney Kemeriat informed the board that the rush to get this lift station installed is due to the fact that an infiltration basin is near failing. Attorney Kemeriat stated there were two conditions requested by the Dean's and they are landscaping be extended along the entirety of the property and then the second condition that Pluris at their own cost will connect The Dean's home to county water. Chairman Kipfer asked if the lift station was operational, the attorney stated that work had not be finished.

Randy Hoffer, Sneads Ferry, NC Regional manager for Pluris Hampstead stated that the reason the lift station was slid closer to road into the setback, is due to the existing force mains. Mr. Hoffer stated that to move that station back, those live force mains would have to be moved which would impact existing customers. Once the force mains were discovered the decision was made to slide the project forward slightly so there would be no interruption of service to existing customers. Chairman Kipfer understood the inconvenience, but still questioned the lack of questions asked before decisions were made. The Chairman asked Mr. Hoffer of Pluris, if the Notice of Violation wasn't issued would the work have completed? Mr. Hoffer indicated they would have completed the project. County Attorney Trey Thurman questioned an estimate of \$200,000 cost to move to be in compliance with the setbacks and asked if pump and haul would be a solution. Mr. Hoffer indicated it would but required a permit from the state to do that. County Attorney Thurman then asked if there was any thought to acquiring the adjacent property from the Majestic Oaks HOA and Mr. Hoffer stated they did not. Board Member Andrew Olsen asked if these force mains served other properties outside of this development? Mr. Hopper stated that the force mains serve Majestic Oaks and Salter Haven. Chairman

Kipfer asked who owns the parcel of land the existing treatment plant is located, Director Henley stated Old North State Water Company.

Debra Dean, Hampstead, spoke about her initial concerns but as long as they finish the landscaping and put her on the county water, she was fine with the project. Chairman Kipfer asked the applicant if there was any danger related to the area without having a fence? Mike Gallant, an engineer for the applicant indicated that there was not a safety concern based on the equipment that will be in place.

The engineer spoke of potential failure of the current wastewater treatment plant and an increased urgency to get the new lift station up and running. The Chairman questioned the aesthetics and safety of a fence of a different material? Attorney Kemeriat stated that the applicant would fence the control panel for a safety measure, if that was something requested by the board. Director Henley added additional information regarding the ordinance, the fence originally placed and then removed would not have satisfied the buffer requirements. The Director stated the process of a project of this nature is as follows: Variance, Special Use Permit, and then a Zoning Review prior to any approval for construction being issued. This process needs to occur before any notice of violation is rectified. The Chairman stressed that a lot of money was spent because the applicant didn't ask the questions. Mr. Gallant, Engineer for the applicant, reiterated that Pluris was unaware that this was the process because it was an existing wastewater treatment plant. He stated it was setback from road and not sure of the dimensions. Also, asked about the plans for the drained pond lands in the future? Applicant's engineer said he would not know that information. Attorney Kemeriat stated that there is a process for decommissioning the wastewater plant and draining of the ponds and would follow DEQ requirements.

The applicants Attorney Kemeriat apologized again for the process not being followed but feels this is a good solution for the problem, good for the neighborhood. Board Member Snider asked for a summary of options. Applicants Attorney stated this is to be the only feasible location on the property for the lift station, and willing to comply with all fencing requirements the board requests. Chairman Kipfer included that there are other options, but they are not as cost effective. Attorney Kemeriat restated that it was not a cost issue it is a constraint on the site. Board member Andrew Olsen questioned whether these force mains and under drains should be given same recognition of say a hundred-year-old live oak tree where we would probably grant a variance if someone wanted to leave the tree in place and have their front porch a little too close to the front line. Here, I think there are other solutions but because

if delayed has some environmental impacts that have been testified to, consequently, it isn't just the question of closing down these force mains and moving them at whatever expense but rather the fact that in doing that, there may be some environmental impacts that we can forestall by approving this variance.

Board Member Jeff Snider voiced his concern for the adjacent property owners and that they were satisfied. Chairman Kipfer agreed and added that safety is a concern and anything above ground should be secured behind some type of fencing in accordance with the ordinance and to the Dean's liking. Also, Chairman Kipfer stressed that all penalty fines to date must be paid and will be part of this agreement. That the applicant's will be pay all fines for their negligence and not going through this process ahead of time. Applicants Attorney stated the fines will be paid, the currently working with the county to determine the total amount of fines. County Attorney Thurman stated that it is the county goal for compliance and will work with the applicants even though this is a pretty blatant violation. The Chairman suggested that if board is to approve this variance, the fines to be included from the date of our last meeting and certainly any fencing that required around anything that is above ground. Attorney Kemeriat stated applicants will comply with the condition about the fencing requirements but asked that the penalties for the NOV not be part of it. We will comply but you know my understanding is that the penalties were going accrue from the time of the NOV until our application was submitted and I am not sure we could agree to a condition to change, from what had been told to use previously. Chairman Kipfer stated it was their choice to accept the condition. Board Member Andrew Olsen makes a motion to approve based on his prior comments: fencing agreed to by The Deans and approved by the zoning review, also to pay all fines incurred, however the fines incurred would be determined by the county attorney and the county planning department.

County Attorney Thurman discussed the penalties with the board. The applicants Attorney interjected and stated that she has received authority that we can agree to the condition to what the county assess will be paid and the Dean's home will be connected to county water at no cost to the Dean's. Attorney Thurman addressed the Chairman regarding the Dean's home being connected to county water has nothing to do with this variance doesn't believe it should be part of the conditions and that might be overstepping the boundaries of this board.

Director Henley asked Attorney Kemeriat, "If the variance is not approved, what would happen?" she answered she did not know and stated that the variance is critical. The Director then asked "if the

variance is not approved, will the systems be joined? The applicant's Attorney was unable to say. The Chairman "asked whose responsibility would it be to answer the question", Attorney Kemeriat stated Pluris would have to find a solution.

Robert Jackson addressed the board stating he believes this is a great thing for the county and every neighbor.

Moved by Andrew Olsen, seconded by Jeffrey Snider

Motion to approve

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer				x
Samantha Nelson				x
Andrew Olsen	x			
Douglas Scott Rivenbark	x			
Jeffrey Snider	x			
	4	0	0	2

CARRIED.

10 DISCUSSION ITEMS

11 NEXT MEETING DATE

February 16, 2022 9:00 AM
805 S. Walker Street
Burgaw, NC 28425

12 ADJOURNMENT

Meeting adjourned at 11:21 AM



Pender County VAR 2021-09 Greg Pfountz

TO: Board of Adjustment
FROM: Greg Feldman
DATE: February 16, 2022
SUBJECT: VAR 2021-09 Greg Pfountz

SUMMARY:

Greg Pfountz, applicant, and owner, is requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 5.3.3.A 'Accessory Building Setbacks and Separation Requirements.' The applicant is requesting relief from rear and side yard setback requirements for the RP, Residential Performance zoning district, along with structure separation requirements for 3 accessory structures in the form of a pool deck, pool shed, and garage. Specifically, the request is to seek a 4'6" relief from the required 10' rear and side yard setbacks for a 64 square foot pool equipment shed, a 14'8" relief from the required 25' rear yard setback for a 354 square foot deck that would surround an existing above-ground pool, and a 5' relief from the required 10' side yard setback for an 884 square foot detached garage. The subject property is located at 108 Wyndham Way (Private), approximately ±440 feet north of the intersection of Wyndham Way and Scotts Hill Loop Road (SR 1571), in the Topsail Township. There is one (1) parcel associated with this request totaling ±0.46 acres and may be further identified by Pender County PIN 3280-09-0128-0000.

ACTION REQUESTED:

Approval of Variance

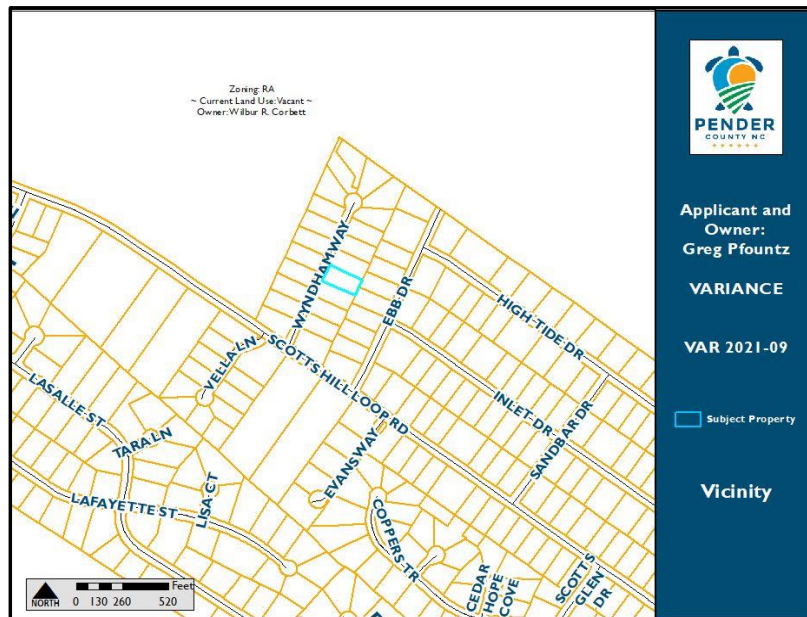
ATTACHMENTS:

VAR 2021-09 Staff Report
VAR 2021-09 Application
Attachment 1. Narrative
Attachment 2. Overall Site Plan
Attachment 3. EH State Well Variance

**STAFF REPORT FOR VAR 2021-09
VARIANCE APPLICATION**

APPLICATION SUMMARY	
Case Number	VAR 2021-09
Hearing Date	February 16, 2022 Board of Adjustment
Applicant	Greg Pfountz
Property Owner	Greg Pfountz
Parcel Identification Number	3280-09-0128-0000
Acreage	±0.46
Township	Topsail
Zoning District	RP, Residential Performance
Pender 2.0 Future Land Use Category	Low Density Residential

VARIANCE PROPOSAL
Greg Pfountz, applicant, and owner, is requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 5.3.3.A 'Accessory Building Setbacks and Separation Requirements.' The applicant is requesting relief from rear and side yard setback requirements for the RP, Residential Performance zoning district, along with structure separation requirements for 3 accessory structures in the form of a pool deck, pool equipment shed, and detached garage. Specifically, the request is to seek a 4'6" relief from the required 10' rear and side yard setbacks for a 64 square foot pool equipment shed, a 14'8" relief from the required 25' rear yard setback for a 354 square foot pool deck that would surround an existing above-ground pool, and a 5' relief from the required 10' side yard setback for an 884 square foot detached garage.
LOCATION
The subject property is located at 108 Wyndham Way (Private), approximately ±440 feet north of the intersection of Wyndham Way and Scotts Hill Loop Road (SR 1571), in the Topsail Township. There is one (1) parcel associated with this request totaling ±0.46 acres and may be further identified by Pender County PIN 3280-09-0128-0000.



PROPERTY DESCRIPTION

One tract totaling approximately 0.46 acres of land is associated with this request which may be further identified by Pender County PIN 3280-09-0128-0000. The subject property is located within the Wyndham Ridge Subdivision. According to the applicant, there is no Homeowners Association (HOA) established in Wyndham Ridge.

Below: Aerial Photograph of Subject Property



VARIANCE DESCRIPTION

According to the submitted narrative, the applicant is requesting a variance from the minimum front, side, and rear yard setback requirements for accessory structures in the RP, Residential Performance zoning district. Section 5.3.3.A of the Pender County Unified Development Ordinance (UDO) requires all accessory structures 50-599 square feet in area to have a setback of ten (10) feet from all property lines, access easements, and any other structures located on the property. Accessory structures 600-1,199 square feet in area shall adhere to zoning district requirements and separation must be 10 feet from any other structure and access easements located on the property while accessory structures greater than 1,200 square feet in area shall have the same setback and separation requirements as principal buildings per zoning district regulations.

The applicant is seeking relief from setback requirements for 3 accessory structures in the form of a pool deck, pool equipment shed, and detached garage. Within the applicant's submitted narrative, two (2) options are provided for each accessory structure. The applicant's submitted narrative and site plan can be found in the board packet as **Attachment 1** and **Attachment 2**, respectively.

Pool Equipment Shed:

According to the applicant's submitted narrative and site plan, "Option A" includes a side setback of 5'6" for a 64 square foot pool shed that will house equipment to service an existing above ground pool. The applicant is seeking a 4'6" encroachment into the required 10' side setback for all accessory structures less than 599 square feet. The applicant is seeking a 5'6" rear yard setback that would also encroach 4'6" into the required 10' side setback. "Option B" within the applicant's narrative also includes an encroachment of 4'6" into the required 10' side and rear yard setback requirements. However, "option B" would also result in an encroachment of 7' into the required 10" structure separation from the existing above ground pool.

Accessory Structure Setbacks UDO Section 5.3.3A		PROPOSED SETBACKS FOR 64 sf Pool Shed
Rear Yard (East)	10 feet	("Option A": 5'6" (4'6" encroachment)) ("Option B": 10'4" (0' encroachment))
Side (North)	10 feet	("Option A": 5'6" (4'6" encroachment)) ("Option B": 5'6" (4'6" encroachment))
Structure Separation (Existing Pool)	10 feet	("Option A": 10 (0' encroachment)) ("Option B": (7' encroachment))

Elevated Pool Deck:

The applicant is also seeking relief from setback requirements for a 354 square foot deck that would surround an existing above-ground pool. The proposed deck would encompass the existing pool on the applicant's property; therefore, the setback requirement will be based on the combined square footage of both the pool and proposed deck.

Accessory Structure Setbacks UDO Section 5.3.3A		PROPOSED SETBACKS FOR 354 sf (Total with Pool included = 654 sf) Pool Deck
Rear Yard (East)	25 feet	("Option A": 6'4" (18'8" encroachment)) ("Option B": 10'4" (14'8" Encroachment))
Structure Separation (Proposed Pool Equipment Shed)	10 feet	("Option A": 3' (7' encroachment)) ("Option B": 3' (7' encroachment))

The combined square footage of the proposed deck and pool total approximately 654 square feet, which requires all setbacks to adhere to zoning district requirements and a separation of 10 feet from any other structure and access easements located on the property. According to the applicant's submitted site plan "Option A" for the proposed pool deck results in an 18'8" encroachment into the required 25' rear setback while "Option B" results in a 14'8" encroachment into the required 25' rear setback.

Additionally, both options would also result in a 27' encroachment into the required 30' structure separation should the variance be granted for the proposed pool equipment shed.

Detached Garage:

For the final relief request, the applicant is proposing an "Option A" for an 884 square foot garage. According to the submitted site plan, "Option A" would result in a 5' encroachment into the required 10' side setback. Additionally, the applicant has received approval from Pender County Environmental Health to encompass an existing well within the proposed detached garage. This approval document from Pender County Environmental Health and the North Carolina Department of Health and Human Services can be found in the board's packet as **Attachment 3**.

Accessory Structure Setbacks UDO Section 5.3.3A		PROPOSED SETBACKS FOR 884 sf Detached Garage
Side Yard (South)	10 feet	("Option A": 5' (5' encroachment))

BACKGROUND/JUSTIFICATION FOR A VARIANCE

According to the applicant's submitted narrative, a hardship stems from existing infrastructure in the form of a gravel retaining wall. This retaining wall is located on the northeast corner of the property and was installed prior to the applicant purchasing the property. According to the applicant, the retaining wall and overall grade change has limited the ability to place the proposed accessory structures while complying with the Unified Development Ordinance.

Below: Aerial Photograph of Existing Retaining Wall on Subject Property



ZONING ADMINISTRATOR'S CONCLUSION

The applicant is requesting relief from the standards outlined in section 5.3.3A of the Pender County UDO for 3 separate accessory structures. Due to the size of the applicant's property and existing infrastructure, constructing a 64 square foot pool equipment shed, a 354 square foot pool deck, and a 884 square foot garage would prove challenging when attempting to comply with the UDO. As proposed, each requested relief would result in an encroachment into the required setbacks for the RP, Residential Performance zoning district.

PENDER COUNTY UNIFIED DEVELOPMENT ORDINANCE

3.14 VARIANCE

3.14.1 Applicability

- A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
- B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.
- C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.
- D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.
- E. The need for the variance cannot be a result of the owner's own actions and cannot be for strictly economic reasons.
- F. The Board of Adjustment may grant variances in the following special circumstances, as indicated in Section 3.14.7 of this Ordinance.

3.14.6 Burden of Proof

The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.

3.14.7 Findings

In granting any variance, the Board of Adjustment shall make the following findings:

- A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;
 - 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.
 - 2) The hardship results from conditions that are peculiar to the property, such as location, size, 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.

- 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 granting of a variance shall not be regarded as a self-created 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. B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.
- B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.

BOARD OF ADJUSTMENT: FINDING OF FACTS

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **results/does not 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. This conclusion is based on the following FINDINGS OF FACT:
2. It is the Board's CONCLUSION that, the hardship **results/does not result** from conditions that are peculiar to the property, such as location, size, 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.
 - a. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board's CONCLUSION that the hardship **results/does 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 granting of a variance shall not be regarded as a self-created hardship.
 - a. This conclusion is based on the following FINDINGS OF FACT:
4. It is the Board's CONCLUSION that, the requested variance is **consistent/not consistent** with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved.
 - a. This conclusion is based on all of the FINDINGS OF FACT:

BOARD OF ADJUSTMENT ACTION FOR VARIANCE
--

MOTION	SECONDED

APPROVED	DENIED	UNANIMOUS

Kipfer	Breuer	Nelson	Rivenbark	ALT: Olsen	ALT: Snider

APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE			
Application No.	VA	Date	11-8-21 exp.
Application Fee	\$	Invoice Number:	

SECTION 1: APPLICANT INFORMATION

Applicant's Name:	Gregory E Pfoantz	Owner's Name:	Same AS Applicant
Applicant's Address:	108 WYNHAM WAY	Owner's Address:	
City, State, & Zip	Wilmington NC 28411	City, State, & Zip	
Phone Number:	404-861-9136 cell	Phone Number:	
Email Address:	greg.pfoantz@gmail.com	Email Address:	
Legal relationship of applicant to landowner: Self			

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	328D090128	Total property acreage:	.047
Zoning Classification:	RP	Variance Size:	varies
Variance Location & Address	108 WYNHAM WAY 28411		
Describe Variance and amount or type requested:	Requesting RELIEFS ON MULTIPLE SETBACKS		

SECTION 3: SIGNATURES

Applicant's Signature	[Signature]	Date:	11-8-21
Applicant's Name Printed	Gregory E Pfoantz	Date:	11-8-21
Owner's Signature	[Signature]	Date:	11-8-21
Owner's Name Printed	Gregory E Pfoantz	Date:	11-8-21

NOTICE TO APPLICANT:

1. The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements.
2. All applicants seeking a variance shall schedule a pre-application conference with the administrator to discuss the procedures, standards, and regulations required for variance approval.
3. An application for a variance shall be submitted in accordance with application requirements.
4. Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage.
5. The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.
6. Applicant must also submit the information described in the Variance Checklist provided below.
7. Applicant or agent authorized in writing must attend the public hearing.
8. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing.

OFFICE USE ONLY

☐ VA Fees \$250		Total Fee Calculation \$	
Payment Method :	Cash : ☐ \$ _____	Credit Card:	Check: ☐ Check # _____
		☐ Master Card ☐ Visa	
Application received by: Page 10 of 16		Date:	

From: Greg Pfountz greg@structorgroup.com
Subject: Property Variances requested 108 Wyndham way
Date: Nov 7, 2021 at 8:56:11 PM
To: Greg Pfountz gregpfountz@gmail.com

Please see list below of the 3 areas on my lot at 108 Wyndham way I'm requesting variances for . Their are 3 different separate issues I'd like to address with this board so I can make the best use of my small back yard ,accomplishing my proposed ideas and trying to stay as much as possible being in code compliance ,

1. Pool shed , plan A. VARIANCES NEEDED ON TWO SIDES
PLAN B. VARIANCE NEEDED ON JUST ONE SIDE.

2. Pool deck , PLAN A Two issues exist VARIANCE NEEDED ON JUST THE REAR PROPERTY LINE
AND THE SQUARE FOOTAGE OF THE POOL AND DECK IS GREATER THAN 600 sq ft .

PLAN B . ONLY ONE ISSUE TO ADDRESS ,THE SQUARE FOOTAGE OF THE POOL AND DECK IS GREATER THAN 600 sq ft. Even when I moved in for compliance of 10 feet and made the deck smaller in size.

3. GARAGE, HOBBY SHOP ON concrete slab , 34x26 WITH 12 feet side trailer shed included. With in .

Plan A. SET 5 feet off the SIDE PROPERTY line instead of the required 10 feet. I'd like to KEEP THE WELL INSIDE THE TRAILER OVER HANG .
TWO VARIANCES NEEDED HERE . Side variance off line , and well inside building !!!

PLAN B.

SET OVER 10 feet off the property line And 6 feet ahead of the well , I'll be code compliant Off the line then, but only 6 feet away from the well ,instead of 25 required feet. For building . !!
Thanks for your time Greg Pfountz

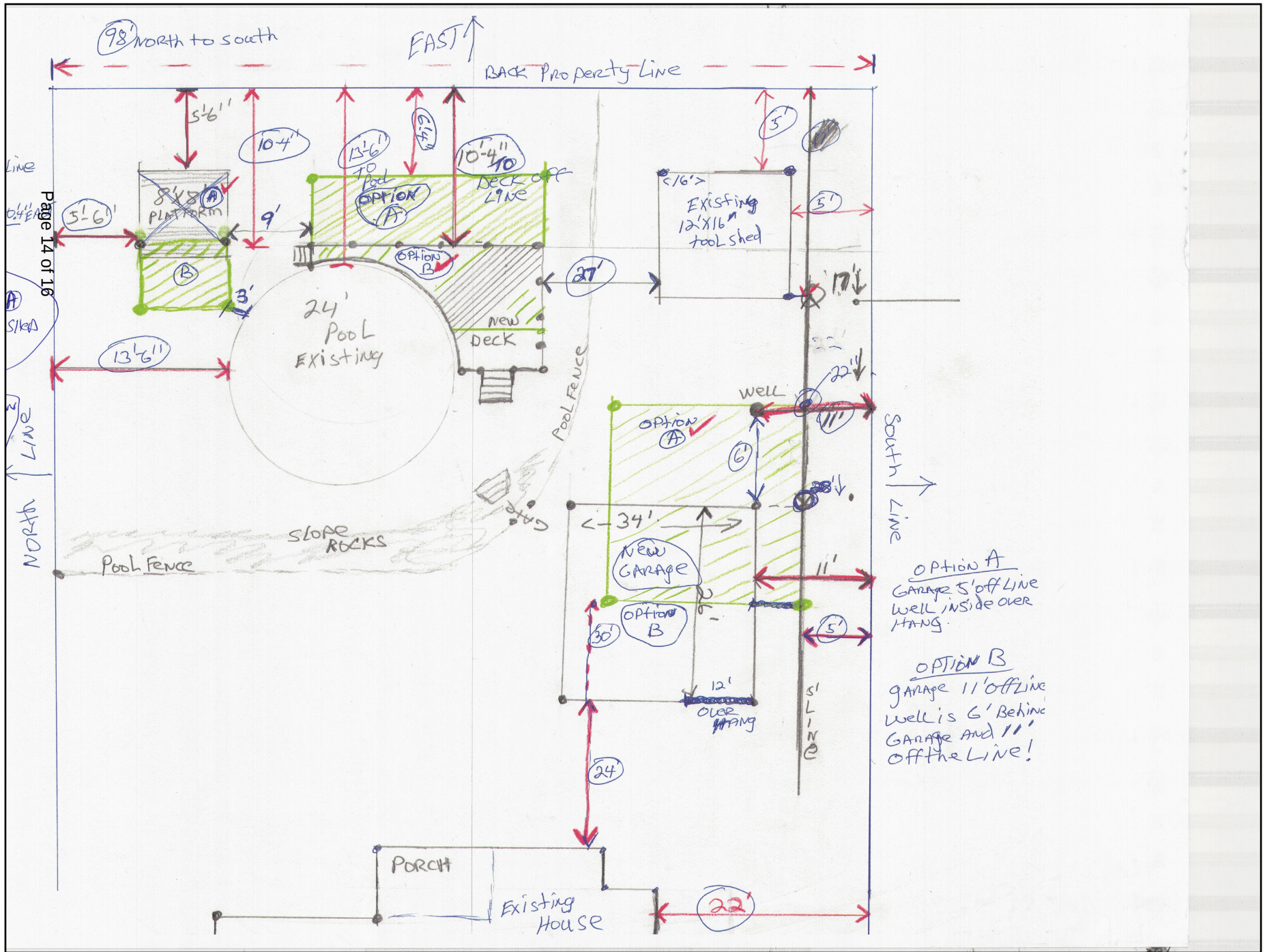
Sent from my iPad

Greg and Karen Pfountz
108 Wyndham Way
Wilmington, NC 28411

OPTIONS TO VARIANCE

Below see A-B options I'd like to discuss with the Board. See the Master Site Plan that I list two different site building locations, as requested by Greg Feldman.

- 1) Pool Shed: Option A - 5'6" x 5'6" off back and side property lines.
Option B - 5'6" off North line and 10'4" off back property line
** I'd like to go with Option A
- 2) Pool Wood Deck: Option A - 454 sq ft wood deck, 6'4" off back line.
Option B - 354 sq ft wood deck, 10'4" off back line.
** I'd like Option B
- 3) Garage with overhang: Option A - 11' off South line and 6' off well pump
Option B - 5' off the South line and the well pump is inside the
Garage overhang.
** I'd like Option B for the garage



PENDER COUNTY HEALTH DEPARTMENT
ENVIRONMENTAL HEALTH SECTION



EXISTING SYSTEM
AUTHORIZATION PERMIT

EHSA-929-2022 108 Wyndham Way
PERMIT # ADDRESS PHONE
Gregory Pfountz Wyndham Ridge Lot 17
OWNER/APPLICANT SUBDIVISION/MOBILE HOME PARK

STRUCTURE TYPE

☐ MOBILE HOME ☐ HOUSE ☐ COMMERCIAL
Metal garage on concrete slab behind home
OTHER

This permit is valid for one year

At the time of inspection, no visible signs of malfunction were evident. However, since this is a subsurface sewage disposal system, it is impossible for this office to determine if any unauthorized modifications or misuse has occurred. No warranty or guarantee is implied or expressed and future performance of this system is not assured by the Pender County Health Department. Failing to maintain a properly operating septic tank system is considered a public health hazard and a violation of the North Carolina State Laws and Rules Governing Sanitary Sewage Collection, Treatment and Disposal (Article 11 NC General Statutes Chapter 130A). Should the system malfunction or fail in the future, it shall be the responsibility of the owner to apply for an Improvement Permit for the repair of the system.

N/A
NUMBER OF BEDROOMS
PERMIT ISSUED FOR

See well variance
REMARKS Install as permitted

ENVIRONMENTAL HEALTH SPECIALIST

DATE

803 S. WALKER STREET BURGAW, NC
28425 (910)259-1233

15060 US HWY 17 HAMPSTEAD, NC
28443 (910)270-5000



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

MARK BENTON
DIRECTOR

Onsite Water Protection Branch
January 6, 2022

Gregory E. Pfountz
108 Wyndham Way
Wilmington, NC 28411

RE: Approval WWM1302
Existing Well Located Less than 25' From Building Perimeter
Rule 15A NCAC 2C .0107(a)(2)(M)
108 Wyndam Way, Wilmington, NC

Dear Mr. Pfountz,

On January 6, 2022, the On-Site Water Protection Branch received your request for a variance to rule 15A NCAC 2C.0107(a)(2)(M) to allow an existing private drinking water well to be located less than the 25' to a building perimeter on your property.

Based upon information provided by the Pender County Environmental Health Department and the property owner, it is my finding that, you meet the conditions necessary for approval of a variance as specified by 15A NCAC 2C .0118 (a) (1) and (2). On that basis and provided that the following conditions are met, the requested variance is approved:

- 1) No pesticide treatments (i.e. termiticides) for the new structure shall be applied within 10 feet of the well unless alternative methods are approved by the local health department to ensure contaminants do not enter the well.
- 2) The well/wellhead shall meet current 2C. regulations, including but not limited to being 12" above land surface, properly sealed, vented, and sample tap present.
- 3) No potential sources of groundwater contamination shall be stored near the well-head.
- 4) It is strongly recommended that you properly disinfect and sample your well annually.

The approval of this variance does not affect any of the other requirements or limitations of the Well Construction Standards, including but not limited to the requirements in 15A NCAC 2C .0113(b) to repair or to abandon any well which acts as a source or channel for the migration of contamination or to your responsibility to comply with any other applicable Federal, State, or local laws or regulations. The granting of this approval is for the well location only, and in no way relieves the owner or agent from other requirements of the North Carolina Well Construction Standards, or any other applicable law, rule, or regulation that may be regulated by other agencies, nor does it imply sufficient water quality.

If you have any questions regarding this variance, please contact Wilson Mize at (919) 270-9665.

Sincerely,

Wilson Mize R.E.H.S

WWW.NCDHHS.GOV
TEL 919-707-5874 • FAX 919-845-3972
LOCATION: 5605 SIX FORKS RD • RALEIGH, NC 27609
MAILING ADDRESS: 1642 MAIL SERVICE CENTER • RALEIGH, NC 27699-1642
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER