



Variance Application

OFFICIAL USE ONLYCase Number: BoA 22-05Date Filed: 9/13/2022Gate Keeper: C. EllisAmount Paid: \$500.00**Contact Information****APPLICANT:**

Name: VICKI ANSELL & DAVID BARHAM
Address: PO BOX 133
KNOTTS ISLAND, NC 27950
Telephone: 757-343-2265
Fax Number: 252-232-3038
E-Mail Address: vickiansell60@gmail.com

PROPERTY OWNER:

Name: VICKI ANSELL & DAVID BARHAM
Address: PO BOX 133
KNOTTS ISLAND, NC 27950
Telephone: 757-343-3365
Fax Number: 252-232-3038
E-Mail Address: vickiansell60@gmail.com

LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: n/a**Property Information**Physical Street Address: 185 ORCHARD LANE, KNOTTS ISLAND, NC 27950Location: KNOTTS ISLAND, NCParcel Identification Number(s): 0077-000-0002-0000**Request**

I, VICKI ANSELL AND DAVID BARHAM, hereby request a variance from Section(s) 10.5 of the
Unified Development Ordinance.

Provide a narrative of why the variance is needed and what circumstances have lead to the need for a
variance:

See attached Statement of Facts

Relevant Factors for Issuance of a Variance

A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it makes detailed written findings that:

- A. The alleged hardship is suffered by the applicant as a result of the application of the Ordinance. *(Variances can not be granted if the hardship is the result of restrictions other than those of the ordinance; restrictive covenants are an example).*

The Ordinance, as interpreted and applied by planning staff, makes the property not a "Lot of Record". The creates a hardship in that the property

may not be built upon or used for any reasonable purpose.

- B. The hardship relates to the applicant's land, such as location, size, or topography, rather than personal circumstances. *(Hardships suffered by the applicant should be the result of factors directly related the applicant's land and not ordinance requirements).*

The size of the property is what makes it not a "Lot of Record" thereby creating the hardship.

- C. The hardship is unique, or nearly so, rather than one shared by many surrounding properties. *(Hardships suffered by the applicant in common with neighbors does not justify a variance, the proper remedy is not a variance, but rather an amendment of the ordinance. Courts have held that a board's granting a variance based on such factors amounts to an attempted usurpation of legislative power).*

The hardship is unique in that the property was initially created in in 1962 and expanded by a recombination plat in 2002 creating the existing lot. The

2002 recombination plat was approved for recording by Cheryl Eggar, Currituck County Review Officer.

- D. The hardship is not the result of the applicant's own actions. *(Where a property owner has either knowingly or unknowingly violated the ordinance by erecting a forbidden structure, he/she cannot cite expenses as a hardship, otherwise no one would ever comply with the ordinance. Similarly, when a person buys property and certain restrictions exist, he/she cannot be said to suffer hardship if those restrictions are enforced; such hardship would be self imposed).*

The applicant acquired the property by deed dated July 14, 2020 and recorded on July 16, 2020 in Deed Book 1548, Page 618 of the Currituck County Registry.

The lot was created in 1962 and recombined in 2002, well before the applicant acquired the lot. The applicant has neither knowingly or unknowingly violated the ordinance.

- E. The variance will not authorize the initiation of a nonconforming use of land. *(State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted will not create a new nonconformity).*

The variance requested would only allow the lot to be built upon and would not change the size of the lot at all, nor alter any property lines of the lot. Treating

the lot as not a "Lot of Record" denies all reasonable use of the property. The development of the property will take place pursuant to the enclosed site plan.

I, the undersigned, do certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.

Further, I hereby authorize county officials to enter my property for purposes of determining zoning compliance. All information submitted and required as part of this application process shall become public record.

Victor H. Binsler, David Bink
Property Owner(s)/Applicant*

7/13/2022
Date

***NOTE:** Form must be signed by the owner(s) of record, contract purchaser(s), or other person(s) having a recognized property interest. If there are multiple property owners/applicants a signature is required for each.

Owner Verification

If the person who is requesting the Board of Adjustment to take action on a particular piece of property is not the owner of the property, or under contract to purchase, then the actual owner of the land must complete this section. If the owner is the appellant/application please do not complete this section.

Dear Sir or Madame:

I am the owner of the property located at _____

I hereby authorize _____
to appear with my consent before the Board of Adjustment in order to request a variance at the above location. I understand that a variance, if granted, is permanent and runs with the land. I authorize you to advertise and present this matter in my name as the owner of the property.

If you have any questions, you may contact me at the following at the address, phone number, or email address listed on this application.

Respectfully yours,

Owner Date

Sworn to and subscribed before me, this the _____ day of _____, 20____.

Notary Public

My commission expires: _____

Variance Design Standards Checklist

The table below depicts the design standards of the site plan for a variance application. Please make sure to include all applicable listed items to ensure all appropriate standards are reviewed.

Variance

Site Plan Design Standards Checklist

Date Received: _____

Project Name: _____

Applicant/Property Owner: _____

Site Plan Design Standards Checklist		
General		
1	Property owner name, address, phone number, and e-mail address.	✓
2	Site address and parcel identification number.	✓
3	North arrow and scale to be 1" = 100' or larger.	✓
4	Existing zoning classification of the property.	✓
5	Scaled drawing showing property lines, setbacks, existing and proposed development, and proposed dimensional modification. Additional site features (i.e. vehicular use areas, utilities, infrastructure, surface water) may be required by the administrator if applicable.	✓
6	Approximate Flood Zone line and Base Flood Elevation as delineated on the "Flood Insurance Rate Maps/Study Currituck County."	✓
7	Approximate location of all designated Areas of Environmental Concern or other such areas which are environmentally sensitive on the property, such as Maritime Forest, CAMA, 404, or 401 wetlands as defined by the appropriate agency.	✓
OR Architectural Elevations (Height Modification)		
8	Architectural drawings and/or sketches illustrating the design, character, and height of the proposed building(s).	
Other		
9	Any other documentation deemed necessary by the administrator to determine compliance with variance review standards.	

Variance Submittal Checklist

Staff will use the following checklist to determine the completeness of your application within ten business days of submittal. Please make sure all of the listed items are included. Staff shall not process an application for further review until it is determined to be complete.

Variance

Submittal Checklist

Date Received: 9/13/2022

Project Name: BOA 22-05 Vicki Ansell & David Barham -

Applicant/Property Owner: Variance Request

Variance Submittal Checklist		
1	Complete Variance application	✓
2	Application fee (\$500)	✓
3	Site Plan	✓
4	Other documentation deemed necessary	✓
6	2 copies of plans	✓
7	2 hard copies of ALL documents	✓
8	1 PDF digital copy of all plans AND documents (ex. Compact Disk – e-mail not acceptable)	✓

For Staff Only

Pre-application Conference (Optional)

Pre-application Conference was held on _____ and the following people were present:

Comments

STATEMENT OF FACTS
VICKI ANSELL AND DAVID BARHAM

The subject lot was acquired by the owner by deed recorded on July 16, 2020 (See Ex. 1) The subject lot was created by deed recorded on 1/2/1963 in Book 98, Page 101 of the Currituck Registry (See Ex. 3). The lot was a lot of record when Currituck first adopted subdivision regulations on 8/2/1965. A recombination plat was recorded on 6/17/2002 in Plat Cab. C2, Slide 347 which resulted in an increase in the dimensions of the lot (See Ex. 2). The plat was approved by Cheryl Eggar, a Currituck Review Officer. The owners now plan to build a single-family residence on the subject lot pursuant to the enclosed site plan.