



TOWN OF SOUTHERN SHORES

5375 N Virginia Dare Trl, Southern Shores, NC 27949

(252) 261-2394 tel (252) 255-0876 fax

www.southernshores-nc.gov

Application No. _____

Date 6-11-15

Application Fee \$350.00

Receipt No. 073966

VARIANCES APPROVED BY THE BOARD OF ADJUSTMENT RUN WITH THE PROPERTY. THEREFORE, APPLICANTS MUST BE THE PROPERTY OWNER, OR A DESIGNATED REPRESENTATIVE OF THE PROPERTY OWNER. REFERENCE TO YOU OR THE APPLICANT IN THIS APPLICATION INCLUDES THE PROPERTY OWNER IF THE APPLICANT IS NOT THE PROPERTY OWNER. NOTARIZED SIGNATURES OF ALL APPLICANTS ARE REQUIRED ON THE LAST PAGE. ADDITIONAL PAGES MAY BE ATTACHED TO ANSWER ANY QUESTIONS IN THIS APPLICATION OR TO PROVIDE ANY SUPPLEMENTAL INFORMATION.

1. Applicant Name Hazel K. Hurdle

Mailing Address 618 Windemere Road

City Newport News State VA Zip Code 23602

Telephone 757-754-1841

2. Property Owner Name (If different from Applicant) _____

Mailing Address _____

City _____ State _____ Zip Code _____

Telephone _____

3. Property for which variance is requested:

Street Address 78 Spindrift Trail, Southern Shores, NC 27949

Tax Parcel Identification Number 986712855218

Subdivision Name Chicahauk Block# _____ Lot# 238

Zoning District Classification Residential

4. List specific Zoning Ordinance Section(s) and subsection(s) from which a variance is requested.

Section 36-132(c)(1); Section 36-297(a)(1)

5. For each Section/subsection listed above, describe with specificity how it applies to the property without the requested variance and how you propose it should be varied by providing the type, dimension, amount and location of the variance requested. Attach a scale drawing using a current survey of the proposed placement of the structure for which the variance is being requested.

Without a variance, section 36-132(c) will apply to the property

by making the current side deck a non-conforming structure that violates both the current 15 foot side yard setback requirement and the prior 10 foot side yard setback requirement. Also, section 36-297 applies because ^{unknown to the owner,} a permit was not properly sought upon building the deck. A variance of 2-3 feet, possibly accompanied (see attached)

6. Is this variance request the result of a Notice of Violation issued by the Southern Shores Planning and Code Enforcement Department? Yes No If yes, attach copy of Notice.
7. Explain how the variance request meets the approval criteria for the granting of a variance as set forth by the Town of Southern Shores Code of Ordinances by answering the following questions. Note that personal inconvenience or financial burden standing alone will not be considered as evidence in determining unnecessary hardship. Unnecessary hardship must be attributable to a unique or peculiar physical condition of the property that is not shared by other properties and has not been created by the actions of the applicant.

Describe the unnecessary hardship created on the property by the strict enforcement of the Zoning Ordinance.

Strict enforcement of the code will cause burdensome costs and labor to remove the entire deck to make it conform with the setback requirements. Furthermore, it will cause the loss of enjoyment of full use of the property by removing a deck that allowed for the enjoyment of the natural environment. It may also result in the decrease of the property's value by removing an aesthetically (see attached)

Explain how the property can be used if the variance is not granted.

It can still be used as residential property as a whole, but concerning the specific area that the deck currently occupies there would be diminished use and enjoyment of the deck area.

Explain how the property can be used if the variance is granted.

If granted, then with the proposed reduction in the deck, it can still be used as recreational space attached to the home for the full enjoyment of viewing the property's natural environment and aesthetic aspects of the land.

Explain how the unnecessary hardship is not the result of your own actions.

The unnecessary hardship was caused by contractor who constructed the deck. The contractor was hired four years ago by the owner to construct the deck. The owner assumed that the contractor, upon accepting the job, would take all steps necessary to ensure that the addition would comply with all town code and zoning ordinances. Furthermore, it was assumed that if there was an issue with (see attached)

Describe the conditions that are peculiar to the property, such as location, size, or topography which causes the unnecessary hardship.

The property is situated among many old oaks and trees, and the home itself is located close to one side of the property line. This non-centered placement, in conjunction with the surrounding environment, makes it difficult to place any additions to the home and this side happened to be the better location for the side deck. Furthermore, the contractor never notified the owner that the (see attached)

Explain how the requested variance is consistent with the spirit, purpose, and intent of the Town's Zoning Ordinance (Town Code Chapter 36) such that public safety is secured, and substantial justice is achieved.

There will be no effect on the public's safety since the deck is located on stable ground on the side of the property. It has not affected the privacy or security of the Town or its residents since the surrounding trees hide the deck from view. Allowing the variance will achieve substantial justice by allowing the owner to have full use and enjoyment of the property that the owner has enjoyed for the last four years without incident. The owner reasonably (see attached)

Will the variance, if granted, allow an increase or extension of an existing nonconforming use on the property?

No.

Will the variance, if granted, allow a use otherwise prohibited in the zoning district containing the property?

No.

8. List the names and addresses of all abutting property owners and the owners of property immediately across the street from the property affected. The list shall be current according to the most recent tax listing abstract as filed in the office of the Dare County Tax Supervisor.

Mr. Richard A. Zeisloft and Mrs. Judith A. Zeisloft, 80 Spindrift Tr.
Southern Shores, NC 27949

Mr. Steven G. Kiouisis, 76 Spindrift Tr., Southern Shores, NC 27949

9. Are any attachments being submitted with this application? Yes No If yes, please identify attachments and number of pages. _____

Notice of Violation and Photo (3 pages), Attachment A:

Responses Continued (1 page), Proposed Plan for Variance (1 page)

FILING OF APPLICATION

Variance applications are filed with the Town of Southern Shores Planning and Code Enforcement Department at Town Hall located at 5375 N. Virginia Dare Trail, Southern Shores, NC. Applications may be filed in person Monday through Friday during normal office hours or may be mailed to the previously listed address. In order for an application to be considered complete all questions and information requested in the application must be answered and provided. Applications must have original notarized signatures of the applicant and must be accompanied by the required application fee. Applications found to be incomplete will not be accepted and will be returned to the applicant.

SCHEDULING OF APPLICATION

Applications submitted will be placed on the following month's Board agenda. The monthly filing deadline and Board meeting dates for the year are listed on the Town's website at www.southernshores-nc.gov under

Planning and Code Enforcement Department or you may receive a copy by contacting the Department at (252) 261-2394.

HEARING OF APPLICATION

The Planning Board serves as the Board of Adjustment which is a quasi-judicial body governed by the North Carolina General Statutes and Chapter 36, Article XII of the Southern Shores Town Code. Meetings are held in the Pitts Center located at the Town of Southern Shores Municipal Complex. At the meeting, the Board will hear testimony and receive evidence from the applicant, Town Staff and other interested parties. Board members cannot discuss any case with any interested parties or persons prior to the public hearing of the case. Any person who testifies at the hearing must be sworn in and any written or physical evidence presented to the Board will be retained by the Board.

BOARD DECISION

The concurring vote of a four-fifths majority of the board shall be necessary to grant a variance. The Board's decision will be made, reduced to writing, filed, served and subject to appeal in the manner provided by Section 36-368 of the Southern Shores Town Code. Decisions of the Board may be appealed by any aggrieved party to Superior Court within 30 days from the effective date of the Board's decision.

ADDITIONAL INFORMATION

Persons seeking additional information or assistance concerning variance applications should contact the Zoning Administrator at the Planning and Code Enforcement Department at (252) 261-2394.

CERTIFICATION

I certify that the information filed by me in this application is accurate to the best of my knowledge, information, and belief.

Property Owner Signature

Date

STATE OF _____, COUNTY OF _____

On this _____ day of _____, 20____

personally appeared before me and is known to me to be the person who signed the foregoing instrument and he/she acknowledged that he/she signed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

Signature of Notary Public

My Commission expires _____, 20____

CERTIFICATION BY APPLICANT OTHER THAN PROPERTY OWNER

I C. Sean Yacobi (your name) file this application on the behalf of Hazel Hurdle (property owner name).

I am the Attorney (attorney, contractor, etc.) for the property owner in this matter and file this application with the full knowledge and consent of the property owner. I certify that the information filed by me in this application is accurate to the best of my knowledge, information, and belief.

C. Sean Yacobi
Signature

6-12-15
Date

STATE OF NC, COUNTY OF Dare

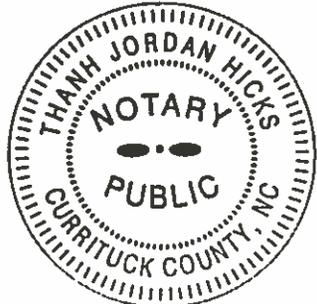
On this 11th day of June, 2015

personally appeared before me and is known to me to be the person who signed the foregoing instrument and he/she acknowledged that he/she signed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

Signature of Notary Public

Thanh Jordan Hicks

My Commission expires 9-17-17, 20____



ATTACHMENT A

Responses Continued

Question 5 Continued: by a reduction of the deck by about two feet, will allow for the deck to be in compliance with the original side yard setback requirement of 10 feet from the property line. This will resolve the violation of section 36-297(a)(1) because it will no longer be an expansion of a non-conforming structure.

Question 7, Part One Continued: pleasing addition to the property by requiring a removal process that may potentially damage the property. It will also cause the home upon the property to have an upper-level door that has no safe path outside, causing a possible safety hazard and further costs to ensure that the hazard is properly rectified. It will reduce the amount of the home's recreational space which was enjoyed without incident for four years.

Question 7, Part Four Continued: any ordinances, that the contractor would immediately report to the owner of said issue and discuss alternatives. Since that did not occur, the owner assumed that the deck was in compliance with all pertinent ordinances.

Question 7, Part Five Continued: deck would not comply with ordinances, so the owner assumed it was the better placement.

Question 7, Part Six Continued: relied on the contractor to ensure that the deck conformed to all Town Code requirements, and strictly enforcing the code will penalize the owner for the contractor's mistake. Furthermore, this deck has never been a problem to any neighbors for the past four years, and strict enforcement of the code will support a current neighbor's personal issue with the owner, not the property itself.



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

April 29, 2015

Hazel K. Hurdle
618 Windemere Rd.
Newport News, VA 23602

Re: Deck Addition

Dear Ms. Hurdle:

This letter shall serve as a Warning Citation for the unauthorized deck addition at 78 Spindrift Trail which is in violation of Section 36-132, (c), (1) and Section 36-297 (a), (1) of the Town Zoning Ordinance (see enclosed photo and applicable Sections). Section 36-132 (c), (1) states that no nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity. The structure is considered a nonconforming structure because at the time of construction, the required side yard setback requirement was 10 feet which has been amended to 15 feet and the unauthorized deck addition encroaches the previously approved side yard setback requirement of 10 feet as well as the current side yard setback requirement of 15 feet.

Section 36-297, (a), (1) states that no building or other structure shall be erected, moved, added to, or structurally altered, without a permit issued by the Building Inspector and Zoning Administrator. Please note that zoning violations that are not abated following issuance of a Citation could incur a civil penalty of up to five hundred dollars (\$500.00) each day the violation continues to exist which must be paid within fifteen (15) days of issuance.

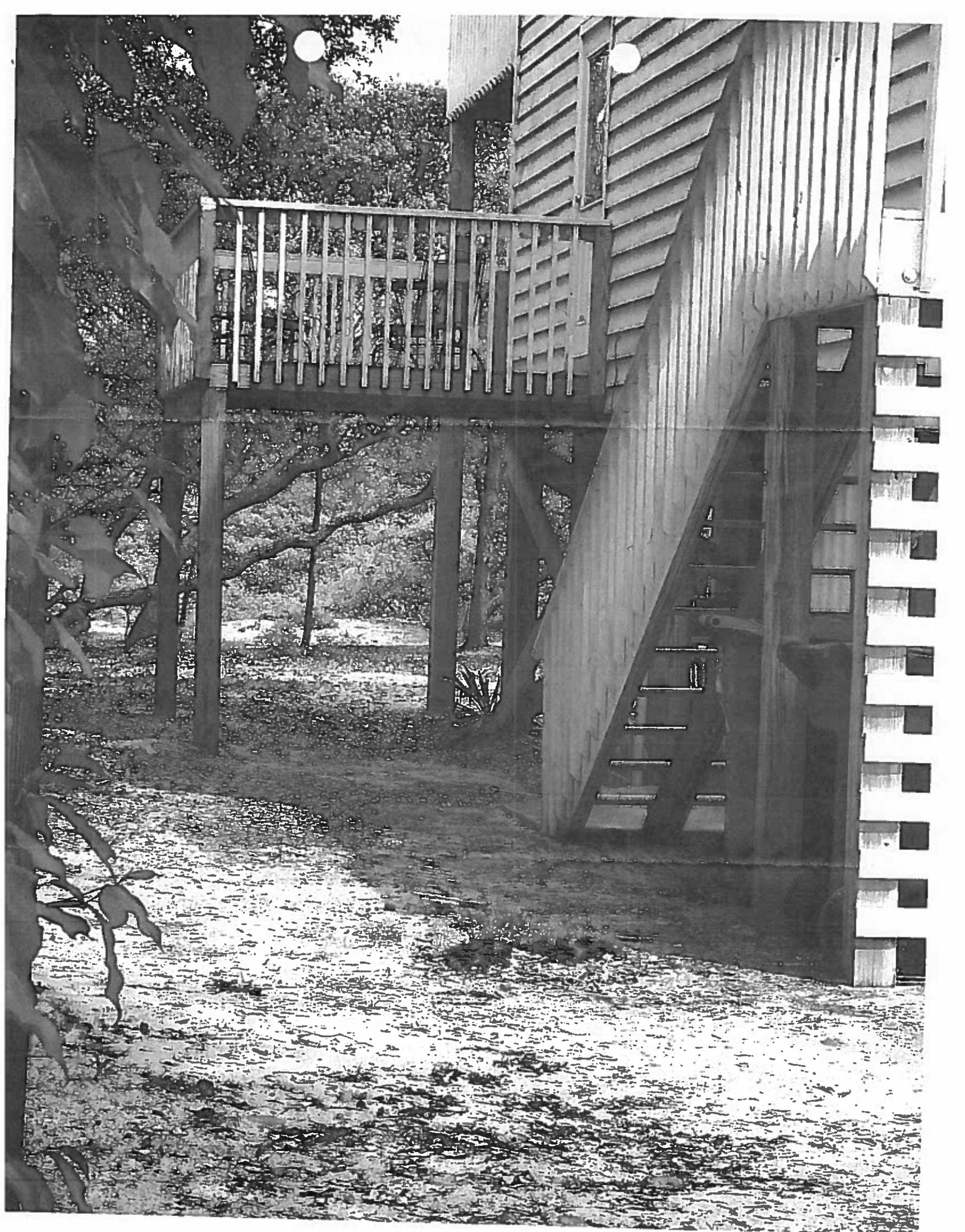
Please contact me at (252) 261-2394 as soon as possible to discuss potential solutions for abatement of the violation.

Sincerely,

Wes Haskett

**Town Planner/Code Enforcement Officer
Town of Southern Shores**

Cc: Peter Rascoe, Town Manager



Proposed Plan for Variance

