

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

BEFORE THE MOREHEAD CITY
BOARD OF ADJUSTMENT

In the matter of an Application for)
A Variance for 214 Glenn Abby Drive)
David Lee Carter)

ORDER

**THE TOWN OF MOREHEAD CITY, NORTH CAROLINA
ORDER DENYING A VARIANCE**

The Board of Adjustment for the Town of Morehead City, NC, having held a public hearing on October 27, 2022, to consider an application for a Variance to use property in a manner not permissible under the literal terms of the Town of Morehead City Unified Development Ordinance (UDO), and having heard all of the evidence and arguments presented at the hearing, denied a Variance on October 27, 2022, for the use of the property identified below in accordance with the plan and conditions listed below:

LOCATION OF PROPERTY: 214 Glenn Abby Drive

CARTERET COUNTY PIN NUMBER: 635614427757000

NATURE OF VARIANCE: A variance under Article 5-3 of the Unified Development Ordinance (UDO) and from Article 13-1 to allow for a reduction of the front yard setback from thirty feet (30') to twenty-two feet (22') at 214 Glenn Abby Drive, zoned R20 (Single-Family Residential) District. The **FINDINGS OF FACT** based on testimony provided during the public hearing were as follows:

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. **Chairman Sewell said the unnecessary hardship would be the configuration of the lot being a flag lot which was different than others in the community. Bill Stompf said that he understood what Chairman Sewell was saying but was having a difficult time classifying the applicant's situation as an unnecessary hardship. The shape of the lot affected what the applicant is intending to build, but Mr. Stompf said he did not see that as an unnecessary hardship. Sarah West said that she also did not find there to be an unnecessary hardship, as it was only an eight-foot (8') difference. Judson Walton said that, to lose sixty percent (60%) of the buildable space on a lot as Attorney Gordon had stated, he considered to be a hardship.** The vote on the finding was 3-2 in favor of the finding and conclusion.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or 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. **The lot is a different size and shape from other lots in the subdivision. The front lot line has a unique placement, and the subject property is the only flag lot in the neighborhood.** The vote on the finding was 5-0 in favor of the finding and conclusion.

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 the granting of the variance shall not be regarded as a self-created hardship. **Mr. Carter did not know when he purchased the lot that there would be any issue with setbacks. This was not due to his actions, but rather, his inactions.** The vote on the finding was 5-0 in favor of the finding and conclusion.

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. **Chairman Sewell said he felt conflicted regarding the evidence supporting this item because there is a lot of property to develop. He said the Board cannot change the ordinances already in place. Sarah West said that the applicant wants justice so that his home could be more in line with the rest of the neighborhood, but some of the Board members have said under item one to change the plans. Patrick Conneely said that a larger house would be more in line with the neighborhood but the closeness to adjacent homes would not be in line with the neighborhood. Bill Stompf said that he felt the request was not consistent with this item. Sarah West and Patrick Conneely agreed it was not consistent.** The vote on the finding was 2-3 in favor of the finding and conclusion.

NOW, THEREFORE, based on the foregoing Findings of Fact and the conclusions reached by the unanimous vote of the Board of Adjustment, **IT IS ORDERED** that the application for a **VARIANCE** under Article 5-3 of the Unified Development Ordinance (UDO) and from Article 13-1 to allow for a reduction of the front yard setback from thirty feet (30') to twenty-two feet (22') at 214 Glenn Abby Drive, zoned R20 (Single-Family Residential) District is **DENIED** due to having failed to meet all of the criteria by a four-fifths vote.

Charles Sewell, Chairman

NORTH CAROLINA
CARTERET COUNTY

I, _____, Notary Public, do hereby certify that Charles Sewell, Chairman to the Board of Adjustment for the Town of Morehead City, personally appeared before me this day and acknowledged the due execution of the foregoing certification, for the purposes therein expressed.

WITNESS my hand and notarial seal this the _____ day of _____, 2022.

Notary Public Signature

My commission expires on: _____