



**PROPOSED AGENDA
OAK ISLAND BOARD OF ADJUSTMENT
WEDNESDAY, JULY 15, 2026 – 10:00 AM
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL**

CALL TO ORDER

APPROVAL OF MINUTES

Approval of the Minutes of the May 13, 2026 Board of Adjustment meeting
[051326BdAdjustmentMinutes](#)

I. SELECTION OF A CHAIRMAN

I.1 [Selection of a Chairman](#)

II. NEW BUSINESS

II.1 [APPEAL 26-01290 - Appeal of Minimum Housing Hearing Determination](#)
[26-01290 - Application](#)
[Confirmation of Contractor](#)
[Property Owner Letter](#)
[Building Inspector Evaluation Memo](#)
[Signed Notice of MH Hearing 4.6.26](#)
[Minimum Housing Hearing Order 5.18.26-signed](#)
[Site Photos](#)

II.2 [VARIANCE 26-01481 - Request for Relief from Section 10.23.4 Sign Setbacks of the](#)
[Unified Development Ordinance](#)
[Variance Application](#)
[Variance Narrative](#)
[Dairy Queen Exhibits](#)

III. CHAIRMAN'S COMMENTS

IV. STAFF MEMBER REPORTS

V. ADJOURN

**BOARD OF ADJUSTMENT
AGENDA ITEM MEMO**

SUBJECT:	Approval of the Minutes of the May 13, 2026 Board of Adjustment meeting
DATE:	July 6, 2026
DEPARTMENT:	Town Clerk Lisa P. Stites, MMC

Subject Summary: summary

Attachments:
[051326BdAdjustmentMinutes](#)

Financial Impact Statement: n/a

Legal Review: n/a

MINUTES
BOARD OF ADJUSTMENT
WEDNESDAY, MAY 13, 2026 - 10:00 AM
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL

Present: Chairman Charles Farley, Vice-Chairman Steve Yuhasz, Board members Martin Bomar and Nancy McMurray, Alternate member Rick Morrison, Town Attorney Lydia Lavelle, Planning Manager Taylor Davis, and Town Clerk Lisa P. Stites, MMC. Board member Sue Stewart was unable to attend.

Chairman Farley called the meeting to order at 10 a.m.

APPROVAL OF MINUTES

(February 11, 2026) ([021126BdAdjustmentMinutes](#))

Ms. McMurray made a motion to approve the Minutes for the February 11, 2026 meeting. Mr. Yuhasz seconded, and the motion passed unanimously.

I. OLD BUSINESS (none)

II. NEW BUSINESS

II.1 VARIANCE 26-00330 - Variance request seeking relief from Section 8.1, Dimensional Requirements Table of the Unified Development Ordinance ([26-00330 - Application.pdf](#) [Survey.pdf](#) [Variance 26-00330 - Photos.docx](#))

Chairman Farley reviewed the quasi-judicial process. Ms. Stites swore in all those who indicated they would testify in either of the hearings this day. Ms. Lavelle asked the conflict-of-interest questions of the Board, and none of the members indicated a conflict. Chairman Farley resumed his explanation of the hearing process.

Planning Manager Taylor Davis introduced the item, saying that Richard and Tammy Boyd, as applicants and property owners, were requesting a variance from the dimensional requirements of the R6 zoning district, specifically seeking relief from the required 8-foot rear and side yard setbacks for accessory structures, in connection with an above-ground swimming pool and attached raised decking installed at 115 NE 17th Street. The pool and decking had been installed without a permit. A pool permit application was submitted in August 2025, but a compliant survey wasn't received until November 2025. That survey showed the pool encroaching approximately 1 foot 3 inches into the required rear yard setback, and the attached raised decking encroaching approximately 4 feet 11 inches into the required side yard setback. Staff also noted that there is a shed on the property that appeared to have been built without a permit and was likewise located within required setbacks, though that issue was not part of this variance request. Staff's conclusion was that the structures did not conform with the UDO and had been constructed without proper approval.

Mr. Yuhasz asked if the variance request included the shed in its location or if could be added to the variance request, and Ms. Davis said it did not. Ms. Lavelle advised that the shed issue would be better handled through a separate application, as it represented a substantially different matter from the pool. Answering a question from Mr. Bomar, Ms. Davis said the fence was on their property and was five feet.

Ms. McMurray made a motion to accept the packet materials and the staff presentation as Exhibit 1. Mr. Yuhasz seconded, and the motion passed unanimously.

Attorney Justin Owens addressed the Board on behalf of the applicant. Mr. Owens said that his clients had hired a professional contractor who told them no permit was needed and that everything would be in compliance. The Boyds also relied on an earlier survey that Mr. Owens suggested was not correct, which

affected how much room they believed they had behind the house. He emphasized that his clients had done everything asked of them since the violation letter arrived, that the pool posed no safety danger, and that the fence was in compliance. He noted that neighbor support letters would be introduced into evidence.

Applicant Richard Boyd also addressed the Board. He said the original survey when they built the house was meant to leave room for a pool. He said they saved their money and hired a contractor. He said the contractor said a permit was not required. He said they had the pool installed and used it last summer. He said that he'd heard the original surveyor had lost his license. Mr. Boyd said they had another survey done, and that while the numbers didn't really change, it showed that the house should have been placed closer to the road than it was. He said that they added the deck to be able to see their grandchildren in the pool. He said that they did not try to intentionally defy the ordinance. Mr. Boyd said that the shed was already on the property when he bought the house. He said staff told him he just needs to apply for a permit for that and move it, which he can do. Mr. Boyd also reviewed some photos: a picture of the deck they added (Exhibit B); a picture of the pool covered for the winter (Exhibit C); a picture of the deck and fence and the property line behind it (Exhibit D); a picture of the steps and gates (Exhibit E); and a picture of the back property line, the pool, fence, and the neighbor's fence (Exhibit F). Mr. Boyd also introduced and read emails from neighbors in support (Janet and Wayne (neighbors to the east), Barbara and Jesse across the street at 116 Northeast 17th Street, and Brenda Cameron, a backyard neighbor as Exhibits G, H, and I). Mr. Boyd also said that he called the Town's water department to let them know he'd be filling a pool, and he would not have done that if he were trying to be deceitful. Ms. McMurray asked why there were not any railings, and Mr. Boyd said it was only 24 inches off the ground, though he would install them if needed.

Mr. Bomar asked what permits were required for this project. Ms. Davis said that the pool and the decking could be together in one permit. Mr. Bomar asked if a permit had been applied for, would the setback issue have been addressed at that time, and Ms. Davis said it would have. She said that a survey is required for a pool. Mr. Morrison said that if there were not a deck, and pavers had been used, there would not be an encroachment issue, and Ms. Davis said that was correct, though a zoning permit would still have been required.

Mr. Yuhasz made a motion to accept Exhibits B through I, Mr. Bomar seconded, and the motion passed unanimously.

Mr. Owens said that the applicant's intention was to comply, and that he had relied on his contractor. He said that since the issues arose, Mr. Boyd has cooperated.

Answering a question from Ms. McMurray, Ms. Davis said that the request was for a variance for the deck and the pool, though the Board had the authority to consider them separately.

Answering a question from Mr. Bomar, Ms. Davis said there was room for the deck on the north side of the pool, but not at the rear property line. Mr. Boyd introduced the original survey (Exhibit J), which showed a 38-foot front setback compared to the 37-foot setback shown on the current survey. Mr. Yuhasz noted that this difference, while perhaps surprising to the homeowner, was discoverable from the foundation survey at the time of construction, and that the information about available backyard space had been available before the pool was installed.

Mr. Yuhasz made a motion to include what has been labeled Exhibit J into the record. The motion was seconded by Mr. Bomar and passed unanimously.

Chairman Farley closed the hearing at 10:44 a.m.

Ms. McMurray expressed concern about the deck specifically, noting it lacked railings and was encroaching significantly more into the setback than the pool itself. She raised the possibility of requiring the deck to be relocated to the north side of the pool, where there appeared to be more room. Mr. Yuhasz countered that once the shed is eventually brought into compliance, space on that side of the property would be reduced. Mr. Yuhasz said the Board has previously approved variances for pools, recognizing that pools are difficult to move. He said he was inclined to grant a variance for the pool, but only a certain amount of relief for the deck. Mr. Yuhasz said that once construction of the house began, it was clear how much space there was behind the house. He said that property owners are responsible, though it was an unfortunate situation. Mr. Bomar agreed, noting sympathy for the homeowner's situation but pointing out that the homeowner calling the water department about filling the pool was not the same as notifying the zoning department, as they are two entirely different town functions. He also agreed that the deck's encroachment was too substantial to approve as-is.

Chairman Farley read the first variance criteria. **Mr. Yuhasz moved that the Board finds that there would be an unnecessary hardship, based on the fact that moving a pool is not a simple undertaking. Ms. McMurray seconded. Mr. Yuhasz clarified that the motion was for the pool and deck, and the motion passed unanimously.**

Chairman Farley read the second variance criteria. Ms. McMurray said she didn't think the hardship resulted from conditions of the property. Mr. Yuhasz said that the fact that the house was built farther back on the lot than anticipated, and that was done to keep in general look of the neighborhood, indicates some specific issues with how this house was placed on the lot. **Mr. Yuhasz made a motion to find that the hardship does result from conditions second to the lot. Ms. McMurray seconded the motion, and it passed unanimously.**

Chairman Farley read the third variance criteria. **Mr. Yuhasz moved that the Board finds that the hardship did not result from actions taken by the applicant because he had specifically asked that the house be built closer to the street to allow enough room and his specific requests were ignored. Ms. McMurray seconded.** Mr. Bomar asked how to include a condition, considering the deck. Mr. Yuhasz said that the Board could grant a variance but put conditions on it. **The motion passed unanimously.**

Chairman Farley read the fourth variance criteria. **Mr. Yuhasz made a motion to find that the requested variance is consistent with the spirit, purpose, and intent of the ordinance in that the variance will still allow adequate light, space, and access to the property, which is really the purpose of building setbacks. Ms. McMurray seconded, and the motion passed unanimously.**

Mr. Yuhasz moved to approve the variance with the condition that the deck be reconstructed so that it is no more encroaching into the required setback than the pool is, which would be an encroachment of one foot, three inches. Mr. Bomar seconded the motion. Mr. Bomar asked if the Board was describing how the deck had to be rebuilt, and Ms. Lavelle said that the condition would only require the deck not have any more encroachment than the pool. **The motion passed unanimously.**

Ms. Lavelle said that staff would prepare the order. She also said that the way N.C.G.S. 160D is written, it contemplates having the entire Board reviewing the order before the Board Chairman signs it. She said if there is not a meeting scheduled for a few months, there could be a meeting called just for having the order signed. Ms. Lavelle will confirm what process the statutes require.

The Board took a brief recess before beginning the second hearing.

II.2 VARIANCE 26-00855 - Variance request seeking relief from Section 7.57.2 - Fences ([Variance application.pdf](#) [Property survey.pdf](#) [Fence variance request \(2\).pdf](#) [Fence variance request \(1\)](#))

[\(1\).pdf; Fence Drawing - Wright.pdf fence sketch.pdf\)](#)

Ms. Lavelle asked the conflict-of-interest questions. Mr. Bomar noted he lives in close proximity to the area and is generally familiar with it, but none of the members indicated having a conflict.

Ms. Davis introduced the item, which was a variance request for a 5-foot fence. The property is located at 112 SE 71st Street. Ms. Davis said the Town does not consider the alleyway a street. The fence would face SE 71st Street and cannot be five feet. Ms. Davis explained the situation, saying it is located within the St. James by the Sea neighborhood, where homes are oriented toward a rear alleyway, with driveways accessed from the alley rather than the street. The front entries, porches, and decks of these homes all face the alley, but the town's UDO defines the front yard as the side abutting the addressed street, in this case, SE 71st Street. The alley is not considered a street under the UDO's definition. The relevant code sections were outlined: UDO Section 7.57.2.2 limits 6-foot fences to side or rear yards and prohibits them from extending toward the street beyond the front corner of the principal structure; Section 7.57.2.3 prohibits any fence taller than 4 feet within 25 feet of the street right-of-way from the front property line, excluding alleys. Staff concluded that the proposed 5-foot fence, placed along the property line adjacent to 71st Street, could not be administratively approved. Ms. Davis also said that the property survey included deed restriction notes (Book 1099, Page 241) stating no dwelling or structure shall be erected within 30 feet of the street abutting the front of the lot, though she noted those deed restrictions are civil matters not enforced by the Town.

Mr. Yuhasz asked about the intent of the 25-foot right-of-way restriction, and Ms. Davis confirmed that under the Town's interpretation, the restriction applies from the property line inward. Mr. Morrison asked whether there was a defined standard for what constitutes the front versus rear of a home, and Ms. Davis confirmed that for a standard interior lot like this one, the front is the side facing the addressed street. The Chairman noted a history of similar situations in the neighborhood, and a prior case on 72nd Street was briefly recalled.

Mr. Yuhasz made a motion to include the staff report and the presentation into the record (Exhibit A), Ms. McMurray seconded, and the motion passed unanimously.

Applicant Ben Wright addressed the Board, saying he had permission from the Homeowners Association (HOA) prior to applying for a Town permit. He introduced an email from the HOA (Exhibit B), and two photos which show another house with a 5-foot fence and the view from his deck (Exhibits C and D). He said there were two houses with 5-foot fences for which the homeowners were issued a permit without a variance required.

Mr. Wright said that the HOA describes the front yard as facing the alley. He said when he purchased the home, it never occurred to him that the street-facing side would be considered his front yard, since no driveways on the entire block access 71st Street — it's actually prohibited by the HOA. He said he had a large dog, a young child, and visiting families with kids, making an enclosed yard a real need. He proposed placing the fence approximately 17.5 to 18 feet from the edge of the street pavement, slightly further back than his neighbors' fences, to avoid utility clean-out access points. His fence design also incorporated an angled section to preserve a live oak tree on the property, which he confirmed would not require any tree removal.

Mr. Yuhasz asked whether access to the home from 71st Street by vehicle was possible. Mr. Wright confirmed it was not, and that this was true for every home on the block. Mr. Yuhasz followed up by asking whether a 4-foot fence might serve his purposes, and Mr. Wright said it would not be adequate to contain his large dog, and that a 5-foot fence was consistent with his immediate neighbors. Mr. Bomar asked Ms. Davis if the two fences on the same street were approved with applications. Ms. Davis said that she could not speak to what was reviewed by another employee at another time, but she acknowledged that there were inconsistencies in how things had been interpreted.

Chairman Farley closed the hearing at 11:39 a.m.

Mr. Yuhasz said that when the Board considered a request for a fence on 72nd Street, the fence had already been built. He said he had argued strongly against approving a variance for that fence. He noted that the Town's regulation limiting front-yard fences to 4 feet exists for legitimate reasons — visibility, security, and the interest of neighbors across the street — and that the fact the Town specifically excluded alleys from consideration in the fence code suggested the Town was well aware of this type of situation and still drew the line at 4 feet along public street rights-of-way. Ms. McMurray disagreed, saying she had voted to approve a similar request previously and continued to believe it was the right call. She noted that these homes have always functioned with their backs to 71st Street, and that it was an issue the Town itself should address more broadly rather than making each individual homeowner come before the Board.

Mr. Morrison expressed the view that the real problem was structural in that the entire St. James by the Sea neighborhood is effectively "backwards" relative to how the Town's UDO is written, and the right fix would be for the HOA to petition the town for a text amendment that redefines the front and rear of those properties for UDO purposes. Ms. Davis agreed that the neighborhood likely had a strong case for such an amendment, and said that either Mr. Wright or his neighbors could initiate that process. She also said that since the fence had not yet been built, Mr. Wright was not in violation of anything and was not under any pressure to rush a decision.

Mr. Bomar said that the two fences they were shown were very different fences, and that there was another similar one closer to the clubhouse. He was sympathetic to the request, but that he thought there should have been some sort of uniform perimeter for this development. He said that could impact the homes on the other side of the street, where people might see a patchwork of fences rather than vegetation.

Ms. Lavelle asked if there were anything the St. James HOA could say that would make the Board grant a variance, and she said it didn't sound like that would happen.

Mr. Morrison made a motion to continue this until next month to give the applicant time to come up with further evidence. Ms. McMurray seconded the motion. Ms. Lavelle reminded the Board that a decision would have to be made based on evidence presented during the hearing and that they shouldn't do their own research or discuss it. **Mr. Yuhasz suggested amendment to the motion to defer this until the next meeting at which there is another item other than this one on the agenda. Mr. Morrison accepted the amendment, and Ms. McMurray did as well. The motion passed 4-1 with Chairman Farley and Board members McMurray, Morrison, and Yuhasz in favor and Board member Bomar opposed.**

III. CHAIRMAN'S COMMENTS: none

IV. STAFF MEMBER REPORTS: none

V. ADJOURN

Chairman Farley announced the meeting was adjourned at 12:03 p.m.

Charles Farley, Chairman

Attested: _____
Lisa P. Stites, MMC
Town Clerk



Item Cover Page

BOARD OF ADJUSTMENT AGENDA ITEM REPORT

DATE: July 15, 2026

SUBMITTED BY: Taylor Davis, Town Clerk Lisa P. Stites, MMC

ITEM TYPE: Other

AGENDA SECTION: SELECTION OF A CHAIRMAN

SUBJECT: Selection of a Chairman

SUGGESTED ACTION:

ATTACHMENTS:

**BOARD OF ADJUSTMENT
AGENDA ITEM MEMO**

SUBJECT:	APPEAL 26-01290 - Appeal of Minimum Housing Hearing Determination
DATE:	July 6, 2026
DEPARTMENT:	Development Services

Subject Summary: APPEAL SUMMARY

David Wallace, applicant, on behalf of Arthur "Burt" Lea, owner, is requesting an Appeal of a Minimum Housing hearing order made by the Hearing Officer that requires the demolition of a residential structure determined to be in dilapidated condition on May 13, 2026.

LOCATION

The subject property is located at 4906 E. Beach Dr. and adjacent to the Kevin Bell Skate Park. The property may be further identified by Brunswick County PID: 249DC003.

BACKGROUND

The subject property was identified as being in violation of the Town's Minimum Housing Code, as found in Chapter 8 Article V, of the Town Code of Ordinances. Specifically, the property was determined to be unfit for human habitation due to unsafe conditions such as wiring and electrical fixtures in a state of disrepair, lack of heating facilities in good working condition, lack of exterior weatherproofing, interior floors, walls and partitions in an unsound condition, sanitary facilities in non-working condition, lack of hot and cold-water supply, the property being in an unsanitary condition, unsafe foundation, means of egress, stairs, and porch, and broken windows among other issues.

An administrative warrant was served on the property on April 7, 2026, which allowed Development Services Staff and Oak Island Police to access the interior of the property for inspection.

A Minimum Housing Hearing was scheduled for April 29, 2026. Notice of the hearing was sent to the tax mailing address per the Brunswick County tax record, posted notice was placed on the property, and it was advertised in the local newspaper.

Assistant Town Manager Kent Jackson acted as the Hearing Officer, and Brook Russell served as the Housing Inspector. The Planning Manager, Taylor Davis, and Zoning Technician II, John Anderson, also assisted in the hearing and provided evidence.

Following review of the inspection notes, photographs, and other evidence by Staff, the owner was given the opportunity to present explanation or justification for the state of the property. The property owner stated that he intended to repair the structure but had not been able to in recent years but that he was looking to hire a contractor to begin the work. The Hearing Officer continued the Hearing to May 13, 2026, to give the property owner time to assemble additional information that may be provided in support of a determination to repair such as proof of

financing and procurement of a construction professional for the project.

The Hearing was continued on May 13, 2026, the property was determined to be in a dilapidated condition, meaning the required repairs exceed fifty percent (50%) of the tax value of the structure and was therefore ordered to be demolished or removed within ninety (90) days. The property owner did not attend the Hearing.

The Minimum Housing Hearing Order was mailed to the property owner and posted on the property.

About a week later, Staff was notified by a contractor hired by Mr. Lea that Mr. Lea had gotten the Hearing dates mixed up and had mistakenly missed the meeting. However, since the Hearing had already occurred and a determination had been made, a re-hearing by Staff could not occur. Staff informed the applicant that they must apply for an Appeal to the BOA to have the determination reconsidered.

TOWN OF OAK ISLAND APPEAL REGULATIONS

As specified in N.C.G.S 160D-405, an appeal by any person aggrieved by a final order, interpretation or decision of the Administrator or other administrator in regard to the provisions of the Ordinance may be taken to the Board of Adjustment.

4.10.1.7. The official who made the decision or the person currently occupying that position shall be present at the hearing. If the decision maker is no longer employed by the town then the next most applicable person shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board of Adjustment shall continue the hearing. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board of Adjustment shall have all the powers of the official who made the decision.

4.10.1.8. When hearing an appeal pursuant to G.S. 160D-102 and G.S. 160D-947 or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160D-102 and G.S. 160D-1402.

4.10.1.9. The parties of an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

Attachments:

[26-01290 - Application](#)

[Confirmation of Contractor](#)

[Property Owner Letter](#)

[Building Inspector Evaluation Memo](#)

[Signed Notice of MH Hearing 4.6.26](#)

[Minimum Housing Hearing Order 5.18.26-signed](#)

[Site Photos](#)

Financial Impact Statement: N/A

Legal Review: N/A

TOWN OF OAK ISLAND APPEAL APPLICATION

Section 1: Applicant Information

Name(s): <i>David Wallace</i>	Phone: <i>910-279-3890</i>
Street Address (mailing): <i>107 SE 36th</i>	City/State/Zip Code: <i>Oak Island NC 28465</i>
Email: <i>David@WallaceHomesok.com</i>	Business/Firm Name (If applicable): <i>DavidWallaceHomesok.com</i>

Section 2: Property Owner Information

Name(s): <i>Arthur Burton Lee Jr.</i>	Phone: <i>910-512-5924</i>
Street Address (mailing): <i>4906 E Beach</i>	City/State/Zip Code: <i>Oak Island, NC 28465</i>
Email: <i>N/A</i>	Legal Relationship of Applicant to Landowner: <i>Contractor</i>

Section 3: Subject Property Information

PID:	249DC003	Zoning District:	CR
Total Acreage:	.19	List Existing Structures (dwellings, pools, sheds, etc.):	House, Piling

Section 4: Appeal Request

Select One (1):

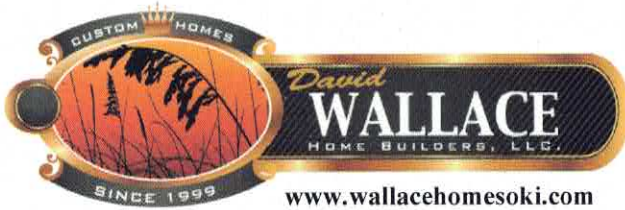
☐ Issued Permit
 ☐ Denied Permit
 ☒ Hearing Order
 ☐ Administrative Decision
 ☐ Violation

Section 5: Required Supplemental Materials

Check all included

	Narrative describing the request with evidence supporting the appeal
	Photos (include pictures of structure included in request or area of property applicable to request)
	Application fee (to be paid at time of application)
	Supporting documentation (contracts, invoices, professional reports, etc.)

Applicant Signature:	<i>David Wallace</i>	Date:	5/21/2026
Owner Signature:	<i>Arthur Burton Lee Jr.</i>	Date:	5/21/26



7804 E Beach Drive
Oak Island, NC 28465
(910) 201-1152 office
(910) 279-3890 mobile

yourhome@wallacehomesoki.com

1 of 1

To whom it may concern,

David Wallace Home builders, Inc has been contracted by Arther Burton Lea, Jr to bring his property at 4906 E Beach Drive into compliance with town ordinances and building codes.

Mr. Lea and I have already met with Brooks Russell and reviewed the file. I am ready to move forward as soon as we get town approval.

Sincerely,

David Wallace
David Wallace Home Builders, Inc

5/26/2026

To: David Wallace

From: Burt Lea

As you are aware Hurricane Isaias knocked my house off the foundation on August 4, 2020. The house was in a family trust that I brought it from. The family dropped the insurance and I was unaware. Therefore, there was no insurance on the house.

Two weeks prior to the storm I had Quadruple Bypass surgery which limited my ability to function for an extended time. I was due to start medical rehab but could not because of this.

Once I could function, I hired Milligan home movers to help me get the house back on the foundation. Milligan jacked the house up but moved in the way of the foundation. Eventually they returned and moved house so we could get the pilings installed. We had to wait for months for people to arrive because of all the storm damage. I know I waited 6 months for the required survey to set the pilings.

I had Collier foundation install the piling per the plans that Pyramid Engineering provided. Once the pilings were install, I tried to get Milligan's back to determine piling heights and a time frame. We were unsuccessful in getting this accomplished.

During this time my daughter lost her transportation. I became her means of transportation to get her to her nursing job. Also, I became responsible for her daughter's transportation and after school care. This became basically a full-time job.

During this time, I became sick with covid and depression. I have been on medicine and suffered from depression since my twenties. I have always had periodic lapses into depression.

Other reasons I have not gotten back on the house is my wife got sick and I had to care for her. My daughter passed away unexpectedly. I then took on the responsibility of my granddaughter. I had to relocate the household from Kings Mountain.

Then I became sick with RSV and was unable to proceed until I recently recovered. I am ready to fix my house.

I never intended not to fix the house, in hopes of living there again. I look for to working with you and getting my house livable and up to code.

Sincerely,

A handwritten signature in blue ink, appearing to read "Arthur Lea", with a stylized flourish.

Arthur Burton Lea



4601 E. Oak Island Drive
Oak Island, NC 28465-5211

MEMO

Date: April 6, 2026

To: Ms. Taylor Davis

From: Brook Russell

Subject: Minimum housing issues

4906 E. Beach Dr

☒ **Maintenance:**

- ☒ Free from garbage
- ☒ Free from wildlife?
- ☒ Access to property?
- ☒ Building occupied?
- ☒ Access to interior? *was unsafe to go in*

☒ **Structural Integrity:**

- ☒ Foundation
- ☒ Floors ?
- ☒ Exterior Walls *No weather proof Siding*
- ☒ Roof ?

☒ **Plumbing & Sanitation:** *NOT connected to*

- ☒ Potable water supply *water in Sewer*
- ☒ A working toilet
- ☒ A sink
- ☒ A bathtub/shower
- ☒ Kitchen



Heating & Electrical: *No Meter*

- ☒ A functional heating system
- ☒ Electrical systems must be safe and functional.
- ☒ Electrical Meter

☐ **Light & Ventilation:** Every room must have
DID NOT ENTER

☐ **Safety & Security:**

- ☒ Windows *Some Broken out*
- ☒ Doors must be lockable,
- ☒ Egress in case of fire.
- ☒ Doors
- ☒ Stairs

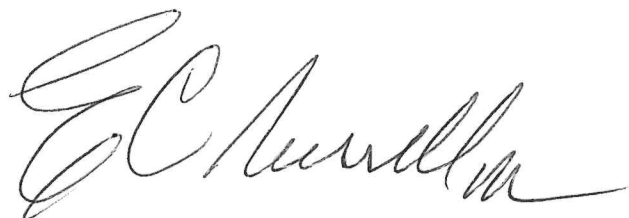
*Building ceases on Temporary Cribbing Awaiting Re-location
on Adjacent Newly Installed Pilings*

EMAIL brussell@oakislandnc.gov

PHONE (910) 278-5024

FAX (910) 278-1811

At the request of Ms. Taylor Davis I visited the site and deemed the building thereon unfit for human habitation for the reasons listed on the previous page.

A handwritten signature in cursive script, appearing to read "J.C. Auerbach".

4.16.2026

Background: Minimum housing standards are local, state, or federal regulations ensuring residential dwellings are safe, sanitary, and fit for human habitation. Key requirements typically include structural integrity (roofs, walls, foundations), functional plumbing and heating, adequate electrical systems, weatherproofing, pest control, and proper sanitation. Properties failing to meet these standards may be deemed "unfit for human habitation," leading to orders for repairs or demolition.

Core Minimum Housing Standards

- **Structural Integrity:** Foundations, floors, walls, and roofs must be in good repair, safe, and not have cracks allowing rodents.
- **Plumbing & Sanitation:** Dwellings must have a potable water supply, a working toilet, sink, and bathtub/shower connected to a proper disposal system.
- **Heating & Electrical:** A functional heating system is required (often mandated to maintain specific temperatures between November and March). Electrical systems must be safe and functional.
- **Light & Ventilation:** Every room must have adequate lighting and ventilation, typically via windows or mechanical means.
- **Safety & Security:** Windows and doors must be lockable, and there must be safe egress in case of fire.
- **Maintenance:** Structures must be free from garbage and, in many cases, rodents or insect infestation.

Access to



April 06, 2026
Arthur B. Lea Jr.
4906 E Beach Dr.
Oak Island, NC 28465-5233

RE: Minimum Housing Violation & Scheduled Hearing

SUBJECT PROPERTY: 4906 E Beach Dr.
PID: 249DC003
ORDINANCE(S): Chapter 8, Article V
Sec. 8-162 – Sanitary facilities required in good working condition
Sec. 8-163 – Failure to provide hot and cold water supply
Sec. 8-168 – Electrical systems not maintained in state of good repair
Sec. 8-169 – Unsafe foundation, means of egress, stairs, porches & appurtenances, non-weathertight windows and doors, broken windows and window sashes, missing hardware, interior floors, walls, and partitions, structural supports, and lack of protective railings
Sec. 8-171 – Property not in unmaintained and unsanitary condition

On April 2, 2026, the above referenced property was inspected for compliance with the Oak Island Minimum Housing Code and was found to be in violation of the above Section(s) a copy of which is/are enclosed. Specifically, the house was found to be unfit for human habitation due to the presence of unsafe and unsanitary living conditions on the property such as broken windows and doors, lack of structural supports, exposure to elements, and lack of utilities.

Per Sec. 8-195 a minimum housing hearing shall be held not more than thirty (30) days for the date the complaint was served.

Hearing Information:

Hearing Date: **Wednesday, April 29th, 2026**
Hearing Time: **9:00 AM**
Location: **Town Hall - 4601 E Oak Island Dr.**

Please check-in with the front desk receptionist upon arrival.

The hearing shall determine the status of the structure as either deteriorated or dilapidated and the Order shall reflect one of the findings below:

- Property is deteriorated – The cost of repair is less than fifty percent (50%) of the structures tax value. The property must be repaired within ninety (90) days.
- Property is dilapidated – The cost of repair exceeds fifty percent (50%) of the structures tax value. The structure shall be demolished/removed and all debris cleared from the property.



MINIMUM HOUSING HEARING ORDER

By First Class Mail and Certified Mail, Return Receipt Requested

Arthur B. Lea
4906 E Beach Dr.
Oak Island, NC 28465-5233

Violation Case: 24-130

May 18, 2026

Dear Mr. Lea,

On April 29 and May 13, 2026, the Town of Oak Island Hearing Officer conducted a hearing to consider the condition of the house on the property located at 4906 E Beach Dr. Based on the evidence presented, I make the following Findings of Fact:

1. Oral, photographic, and documentary evidence was presented by the Housing Inspector or Town Staff.
2. The owner was present and was not represented by counsel.
3. The owner presented testimony.
4. The building is not currently occupied.
5. Based on the evidence presented, the Hearing Officer finds that the following dangerous and/or unsafe conditions make the dwelling unfit for human habitation:
Failure to maintain heating facilities in safe and good working condition. Failure to maintain electrical fixtures, equipment, and wiring in a state of good repair. No exterior weatherproofing. Failure to maintain interior floors, walls, and partitions in sound condition and good repair. Failure to maintain sanitary facilities in good working condition. Failure to provide hot and cold water supply. Failure to maintain the property in a sanitary condition. Unsafe foundation, means of egress, stairs, porches & appurtenances, non-weathertight windows and doors, broken windows and window sashes, missing hardware, interior floors, walls, and partitions, structural supports, and lack of protective railings. Failure to provide operable sanitary facilities.
6. These conditions are violations of the following provisions of the Town of Oak Island Minimum Housing Code: Section(s) 8-161 – 171.
7. I make the following additional Findings of Fact: Structure is not permanently affixed to the ground or other foundational structure. Structure currently poses a safety hazard to those who may encounter it. Deceased vermin or other wildlife and foul odors associated with decaying animal matter were observed on the property at the time of inspection. The property sustained storm damage from Hurricane Isaias in 2020 and remains in a state of disrepair and is uninhabitable.

Based on these Findings of Fact, I hereby determine that the house **CANNOT** be repaired, altered or improved to comply with the requirements of the Town of Oak Island and all applicable requirements of the North Carolina State Building Code for less than fifty percent

(50%) of its value. **The house is, therefore, determined to be DILAPIDATED. The owner is hereby ORDERED to do the following:**

Dilapidated House

- **Remove or demolish the house within 90 days.** Failure to make timely repairs as directed by this Order shall subject the House to removal or demolition by the Town of Oak Island and a possible lien against the property.

Please note that you must obtain the proper permits from the Town of Oak Island before any demolition or repair work can begin, and all required inspections must be completed within the timeframe listed above.

If you have any questions, please contact Oak Island Code Enforcement immediately at the contacts listed below.

John Anderson, Zoning Technician II
jjanderson@oakislandnc.gov
(910) 201-8059

We look forward to your timely cooperation in this matter.

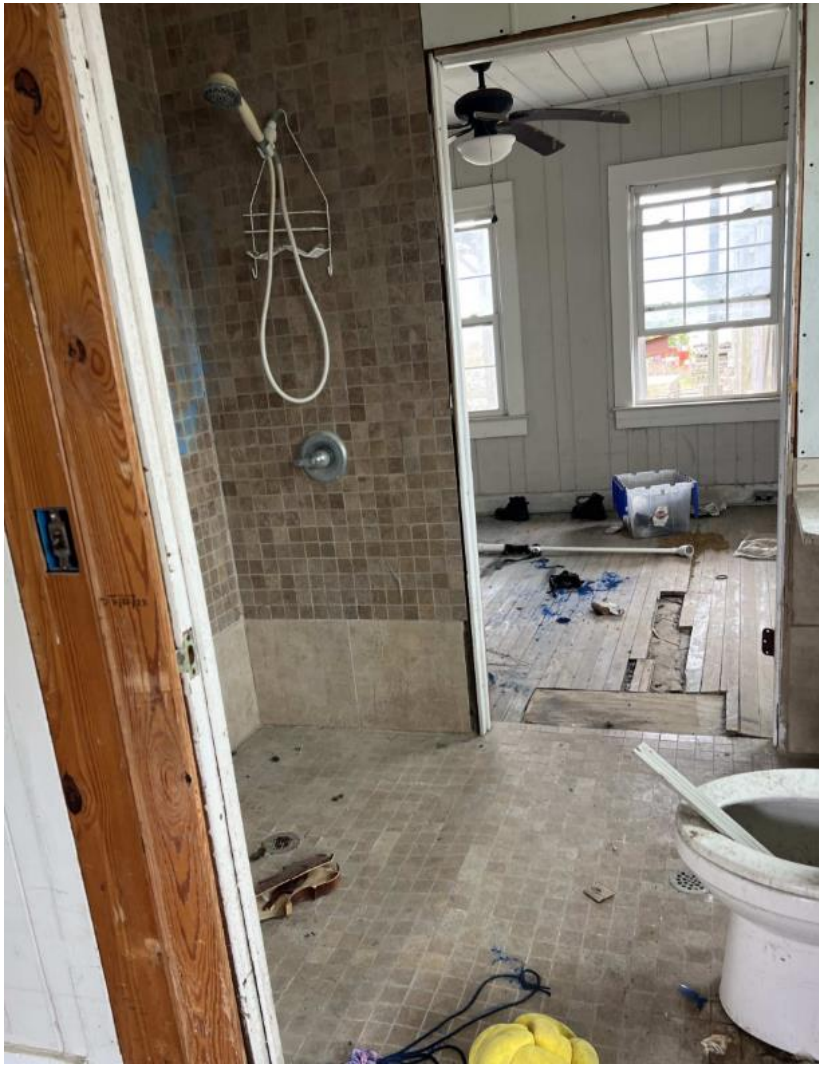
Thank you,



Taylor Davis, MPA, CZO
Planning Manager
Town of Oak Island Development Services
tdavis@oakislandnc.gov









**BOARD OF ADJUSTMENT
AGENDA ITEM MEMO**

SUBJECT:	VARIANCE 26-01481 - Request for Relief from Section 10.23.4 Sign Setbacks of the Unified Development Ordinance
DATE:	July 6, 2026
DEPARTMENT:	Development Services

Subject Summary: VARIANCE PROPOSAL

Courtney Tanner, applicant, on behalf of Andre Beacham, owner, is requesting a variance from the standards of the Town of Oak Island Unified Development Ordinance. Specifically, the request is for encroachment into the ten-foot (10ft) setback for all signs that require a permit.

LOCATION

The subject property is known by the address 5701 E. Oak Island Dr. (Dairy Queen), is located at the corner of SE 57th St. and E. Oak Island Dr. and may be further identified by Brunswick County PID: 250AD002

BACKGROUND

The owner seeks to install a new pole sign on the property for the existing business but the existing pavement for the parking lot and proximity of the existing building to the road limits the available area for a sign. A new sign has not yet been installed; this is a preemptive request for a variance prior to the construction of the proposed sign.

UDO COMPLIANCE

Zoning dimensional requirements for signs are established in Section 10.23.4, Setbacks, and are applied to all signs which require a permit. Commercial signs, such as a sign advertising a business name or logo and that exceed a certain size require a zoning and building permit.

10.23.4. Setbacks.

All signs that require a permit shall be setback at least ten feet from any property line. In the case a structure is erected to the property line, a wall sign shall be erected flush to the building and no lower than eight feet above sidewalk grade. Unless specifically exempted herein, signs that do not require a permit shall be located entirely within the property lines and situated so no traffic hazards are created.

TOWN OF OAK ISLAND VARIANCE EVALUATION

4.10.2. Variances.

4.10.2.1. An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the UDO Administrator 30 days prior to the meeting at which it will be considered. Applications shall be handled in the same manner as applications for permits.

4.10.2.2. When unnecessary hardships would result from carrying out the strict letter of the UDO, the Board of Adjustment shall vary any of the provisions of the Ordinance upon a showing of all of the following:

4.10.2.2.1. 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.

4.10.2.2.2. 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

4.10.2.2.3. 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 a variance shall not be regarded as a self-created hardship.

4.10.2.2.4. 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.

4.10.2.3. No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

4.10.2.4. The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

4.10.3. Burden of Proof in Appeals and Variances.

4.10.3.1. When an appeal is taken to the Board of Adjustment in accordance with Section 4.10.1, the UDO Administrator shall have the initial burden of presenting to the Board of Adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

4.10.3.2. The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 4.10.2.2, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

4.10.4. Board of Adjustment Action/Voting.

The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority.

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, 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.

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:

Attachments:

[Variance Application](#)

[Variance Narrative](#)

[Dairy Queen Exhibits](#)

Financial Impact Statement: N/A

Legal Review: N/A

TOWN OF OAK ISLAND VARIANCE APPLICATION

Section 1: Applicant Information

Name(s): Courtney Tanner, AICP, CZO	Phone: 919-522-9796
Street Address (mailing): 7208 Falls of Neuse Road Suite 101	City/State/Zip Code: Raleigh, NC 27615
Email: planning@alliancegroupnc.com	Business/Firm Name (If applicable): Alliance Group of NC

Section 2: Property Owner Information

Name(s): Andre Beacham	Phone: 919-448-0231
Street Address (mailing): 3976 S Pointe Dr	City/State/Zip Code: Southport, NC 28461-9037
Email: abeacham01@gmail.com	Legal Relationship of Applicant to Landowner: Assisting property owner with variance

Section 3: Subject Property Information

PID:	250AD002	Zoning District:	CB
Total Acreage:	.32	List Existing Structures (dwellings, pools, sheds, etc.):	one-story commercial building

Section 4: Variance Request

Short description of variance request and location on property

Reduction in 10 ft setback to allow for the installation of a freestanding sign. Without reduction, there is no practicable location to install a sign.

Section 5: Required Supplemental Materials

Check all included

	Narrative describing the request that addresses each of the four (4) variance standards
	Photos (include pictures of structure included in request or area of property applicable to request)
	List of names and mailing addresses, including the applicant, owner, and owners of all adjacent properties surrounding the subject property including those across the street as obtained by the County tax listing
	Survey (if requesting an encroachment)
	Application fee (to be paid at time of application)

Applicant Signature:	<u>Courtney Tanner</u> Courtney Tanner (May 14, 2026 16:52:51 EDT)	Date:	14/05/2026
Owner Signature:	<u>Andre Beacham</u> Andre Beacham (May 15, 2026 15:30:20 EDT)	Date:	15/05/2026

VARIANCE PROCEDURES & STANDARDS

4.10.2.2. When unnecessary hardships would result from carrying out the strict letter of the UDO, the Board of Adjustment shall vary any of the provisions of the Ordinance upon a showing of all of the following:

- 4.10.2.2.1. 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.
- 4.10.2.2.2. 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- 4.10.2.2.3. 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 a variance shall not be regarded as a self-created hardship.
- 4.10.2.2.4. 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.

4.10.4. Board of Adjustment Action/Voting.

The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority.

4.11.1.3. All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (necessary findings) shall be based upon competent, substantial evidence. The term (competent evidence, as used in this subsection, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (1) the evidence was admitted without objection or (2) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term (competent evidence,) as used in this subsection, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

- 4.11.1.3.1. The use of property in a particular way would affect the value of other property.
- 4.11.1.3.2. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.
- 4.11.1.3.3. Matters about which only expert testimony would generally be admissible under the rules of evidence.

Please reference Section(s) 4.10 - 4.13 of the UDO for all regulations and procedures for Variances and Appeals

Variance Applicationv2

Final Audit Report

2026-05-15

Created:	2026-05-14
By:	Courtney Tanner (planning@alliancegroupnc.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAARUCYVax6eqcwE7k2ZU65bbHRDqAbdYZw

"Variance Applicationv2" History

-  Document created by Courtney Tanner (planning@alliancegroupnc.com)
2026-05-14 - 8:50:54 PM GMT
-  Document emailed to Courtney Tanner (planning@alliancegroupnc.com) for signature
2026-05-14 - 8:50:59 PM GMT
-  Document emailed to Andre Beacham (abeacham01@gmail.com) for signature
2026-05-14 - 8:50:59 PM GMT
-  Email viewed by Courtney Tanner (planning@alliancegroupnc.com)
2026-05-14 - 8:51:54 PM GMT
-  Document e-signed by Courtney Tanner (planning@alliancegroupnc.com)
Signature Date: 2026-05-14 - 8:52:51 PM GMT - Time Source: server - Signature Appearance Selected: TYPE
-  Email viewed by Andre Beacham (abeacham01@gmail.com)
2026-05-15 - 7:26:32 PM GMT
-  Document e-signed by Andre Beacham (abeacham01@gmail.com)
Signature Date: 2026-05-15 - 7:30:20 PM GMT - Time Source: server - Signature Appearance Selected: MOBILE_DRAW
-  Agreement completed.
2026-05-15 - 7:30:20 PM GMT

4.10.2.2.1. 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

This 0.32-acre parcel is fully developed with a one-story commercial building, paved areas, and gravel surfacing. See Exhibit 1. The paved and gravel areas are utilized for parking. The parcel is bounded by N. Oak Island Drive to the north, SE 57th Street to the west, a gravel alley to the south, and commercial development to the east.

The site historically contained two legal, nonconforming signs. The Dairy Queen sign was destroyed in 2018 due to Hurricane Florence, while the Sub Shop sign remained. See Exhibit 2 for Google Street View imagery showing both signs in January 2017 and Exhibit 3 for documentation of the damaged Dairy Queen sign. Due to the extent of the damage, and because the Dairy Queen sign was located within the public right-of-way, it could not be reinstalled. The property owner, Mr. Beacham, accepted direction provided by Town Staff that the legally nonconforming sign could not be reinstalled and subsequently upgraded the wall signs.

Mr. Beacham later received a letter from Dairy Queen of Wilmington, See Exhibit 4, notifying him that he was in default of his operating agreement and subject to termination of that agreement. Mr. Beacham then proceeded to secure a sign design that complies with the dimensional standards set forth in the Town of Oak Island Unified Development Ordinance. However, strict application of Section 10.23.4, Setbacks, prohibits the installation of a freestanding sign, as no such sign can be located at least 10 feet from any property line without creating an unsafe condition due to the existing parking lot and building configuration. See Exhibit 5, which demonstrates that there is no practicable location on the site to install a freestanding sign while maintaining the required 10-foot setback from all property lines.

The unnecessary hardship resulting from strict application of the Ordinance, specifically the 10-foot setback requirement in Section 10.23.4, could result in the loss of a franchise, which would in turn lead to the closure of a business that residents and visitors have enjoyed since 1983.

Granting a reduction that allows the installation of a single freestanding sign outside of the right-of-way, but within the 10-foot setback requirement, would bring the site's remaining nonconforming freestanding sign situation into compliance with current regulations. This outcome is consistent with the intent of the nonconforming provisions, which aim to regulate and reduce nonconforming conditions and which, in this case, previously

prevented reconstruction of the original Dairy Queen sign after it was damaged by Hurricane Florence.

4.10.2.2.2. 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

This 0.32-acre parcel was developed with a one-story commercial building, paved areas, and gravel surfacing under a different set of ordinance regulations (prior to the consolidation of the Town of Yaupon Beach and the Town of Long Beach into the Town of Oak Island). As a result, the site's impervious surface coverage is nearly 100%. Consequently, no greenspace areas are available for the installation of a freestanding sign.

Under the current Unified Development Ordinance regulations, sites are limited to a maximum impervious surface coverage of 80%, which would require portions of the site to remain as greenspace and would prohibit development of the entire parcel. In return, this allows pockets of greenspace for the installation of freestanding signs that comply with the 10 ft setback requirement in Section 10.23.4.

This nearly fully impervious site, combined with the existing parking lot and building configuration, creates a condition that is unique to the property. Additionally, as illustrated in Exhibit 5, there are no feasible locations for a freestanding sign that would not impede vehicular or golf cart ingress and egress on the site.

The proposed location for the freestanding sign (see Exhibit 6) is approximately 20 feet behind the existing sidewalk and is not located within any sight distance triangle or line of sight. The sign is also proposed within an area that is already striped to limit parking and control traffic flow.

Due to the existing site layout, parking configuration, building orientation, and impervious surface coverage, all of which are unique to this property, Section 10.23.4, Setbacks, effectively prohibits the installation of a freestanding sign.

4.10.2.2.3. 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 a variance shall not be regarded as a self-created hardship.

The hardship is not as a result of actions taken by the property owner. Specifically, the 10 ft setback prohibits the installation of a freestanding sign in any location that does not negatively impact the ingress and egress vehicles or golf carts on an existing parking lot. See Exhibits 1 and 5. The property was developed prior to the current Unified Development Ordinance requirements, and the circumstances necessitating the variance are inherent to the site itself and not as a result of actions taken by the property owner.

4.10.2.2.4. 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.

The proposed variance is consistent with the spirit, purpose, and intent of the Unified Development Ordinance (UDO). Several provisions within the Purpose and Intent sections of the UDO support the requested variance:

- Section 10.22.1 of the UDO states that the Town of Oak Island Council recognizes “the outdoor placement of signs to be a legitimate use of private property.” Additionally, the section states that the UDO is intended to “allow adequate communication through signage while encouraging aesthetic quality in the design, location, size, safety, and purpose of all signs,” as well as to “encourage economic development.”
- Section 10.22.2 states that signs placed on land serve the purpose of “identification, protection, or directing persons to a use.”
- Section 10.22.6 acknowledges that sign regulations cannot address every possible circumstance related to signage and states, “[t]hese regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.”

Therefore, the requested variance is consistent with the stated purpose and intent of the Town of Oak Island UDO, as the proposed sign would provide reasonable site identification while maintaining safe traffic circulation. While the ordinance seeks to balance competing purposes and needs, this site clearly demonstrates a unique condition for which the variance process was established, ensuring that the spirit, purpose, and intent of the UDO are upheld while still allowing a freestanding sign consistent with those permitted for other commercial uses within the CB Zoning District.

Lastly, “economic development” is specifically identified within the Purpose and Intent section of the UDO, and strict application of the 10-foot setback requirement in Section 10.23.4 effectively prevents the installation of a freestanding sign on the property and could negatively impact the continued viability of a business that has operated on the site since the 1980s.

Exhibit 1: Aerial



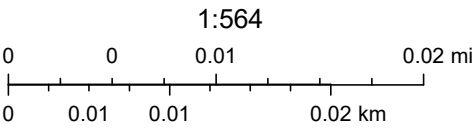
5/7/2026, 11:24:31 AM

 Parcels

Roads

 State Road

 Minor



State of North Carolina DOT, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA

Exhibit 2: Legal Non-Conforming Signs



Exhibit 3: Sign Damaged by Hurricane



Exhibit 4: Termination of Operating Agreement



Dairy Queen of Wilmington, Inc.

122 CARDINAL DR. EXT. UNIT 103
WILMINGTON, NC 28405

**Mr. Andy Beacham
Store # 18207**

This letter is official notice of default of your operating agreement for store #18207. Under your agreement it is required that you have and maintain a pole/pylon signage for this location.

This default must be corrected within 90 days of receipt of this notice. Failure to do so may result in termination of your operating agreement.

A handwritten signature in black ink, appearing to read "Clyde Whisenant".

**Clyde Whisenant
President
Dairy Queen of Wilmington Inc.**

Exhibit 5: UDO Setback



5/7/2026, 2:03:22 PM

County Boundary

Parcels

Roads

State Road

Minor

Addresses

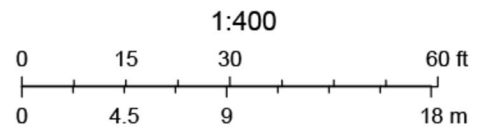


Exhibit 6: Proposed Sign Location



5/7/2026, 2:03:22 PM

County Boundary Addresses

Parcels

Roads

State Road

Minor

1:400
0 15 30 60 ft
0 4.5 9 18 m