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May 18, 2025

Brevard Board Of Adjustment
Brevard NC

Subject: Request for rehearing and variance reconsideration 188 Ashworth Ave

Dear Members of the Brevard Board of Adjustment,

I am writing to respectfully request a rehearing regarding the denial of my variance application for constructing a deck at my property located at 188 Ashworth Ave. I appreciate your time and consideration of my circumstances and respectfully ask that you review the specifics of my case before reaching a decision.

Background and Hardship Justification

My property is a corner lot, which is considered to have 2 front yards. The lot is situated at the bottom of the hill, receiving runoff from properties above, causing water pooling and historically leading to water intrusion into my crawl space. After the home was built, water issues persisted, leading to the installation of a sump pump and encapsulation of the crawl space.

I seek to build a deck that would encroach into the setbacks by approximately 5 feet on one side and 9 feet on the other, located where a door was initially constructed during the homes build. The deck would sit within the perimeter fence and is intended to improve the usability and appearance of my property.

Efforts to Document and Address Water Issues

I attempted to obtain updated Lidar data, however the last survey was completed in 2018, prior to the development of my property and neighboring ones. A new Lidar or topographical survey would be costly and time consuming.

I was advised that the city should have required a grading or drainage survey during the development process, but no records of such inspections or permits are available.

Neighboring property owners are undertaking drainage improvements, including installing drainage pipe and retaining wall, which could impact my lot.

Contractors have advised that sump pumps are the most feasible solution for maintaining dry conditions, as drainage pipes would be less effective given the wetness of my lot.

Comparison Alternatives and Material Considerations

I have explored alternatives such as filling and pouring a slab, which are considered landscaping under code but serve similar functions as a deck. However, a concrete or fill structure is more prone to erosion and less durable over time. The deck sitting above the wet

area offers more sustainable and visually appealing solution. Letters supporting the deck from surrounding neighbors have been previously submitted. The deck location aligns with the original construction and enhances the properties functionality and appearance.

Unified Development Ordinance Chapter 2.7.2

I understand that the city of Brevard's Unified Development Ordinance Chapter 2.7.2 specifies a minimum front yard setback of 15 feet. However I am seeking approval to construct a deck with a reduced setback, as described below.

Project Detail

The proposed deck will be 12 feet in depth.

One side of the house, the deck will extend into the setback by approximately 5 feet. Resulting in a setback of 10 feet.

On the other side, it will extend into the setback by about 9 feet, resulting in a setback of 6 feet.

The resulting distance will still comply with or be close to the setback requirements, maintaining a minimal encroachment.

Justification For Variance

1. Minimal impact on Surroundings
The proposed setback reductions are modest and will not adversely affect neighboring properties or the overall aesthetics of the neighborhood. The decks location minimizes visual intrusion and does not obstruct views or access.

2. Neighborhood Context
Similar structures and decks in the neighborhood have been constructed within comparable setback distances demonstrating that the proposed variance aligns with existing residential patterns.

3. Property Use and Enhancement
The deck will enhance the usability and enjoyment of my property without compromising public safety or welfare. It will be constructed in a manor consistent with existing structures and will not interfere with any other setbacks or utility easements.

4. Unique Circumstances
The lots corner location and existing setback configuration create circumstances that make strict adherence to the 15 foot setback challenging, especially when maintaining functional outdoor space.

North Carolina Hardship Laws

I sought to build a deck within the perimeter fence to enhance my property's usability and safety. However my variance was denied, reportedly because I did not sufficiently demonstrate hardship meeting the 4 NC hardship criteria. I believe the natural topography, ongoing drainage issue, and the lots history constitute exceptional circumstances that justify the variance.

1. **The hardship is due to exceptional or extraordinary conditions related to the property itself (not general conditions affecting all properties in the area)**

My lot is uniquely situated at the bottom of a hill, receiving runoff from higher elevations, which causes persistent water pooling.

The natural topography and water flow are specific to my property and not shared by neighboring lots.

Historically water intrusion issues, despite mitigation measures, demonstrate the exceptional conditions of my lot.

A deck design is more compatible with the lots conditions and that it would improve usability without exacerbating additional water issues.

2. **The hardship is not caused by the applicants own action or negligence**

The home was built following all city permits and inspections available at the time.

The water issues predate my ownership and are due to the natural land conditions, not any neglect or improper development on my part.

3. **The variance is necessary to enable reasonable use and enjoyment of the property**

Building a deck in the proposed location would significantly enhance my properties usability, safety, and appearance.

Without the variance, I am limited in how I can improve or use my property effectively given the water challenges.

4. **The hardship would not be alleviated by the applicants own actions, and granting a variance would not provide a special privilege not available to others in the area**

Alternatives like concrete slabs or fill are less durable and more prone to erosion, making the deck the most practical solution.

The proposed smaller deck would not grant me a special privilege but would instead address the unique conditions of my lot.

The variance would not confer a benefit beyond what is necessary to accommodate the specific hardships of my property.

Request for Reconsideration

Given the circumstances, I kindly request the Board of Adjustment consider my case anew. I am proposing a smaller deck that would not encroach as far into the setbacks, which I believe balances the needs of my property with the requirements of the zoning regulations.

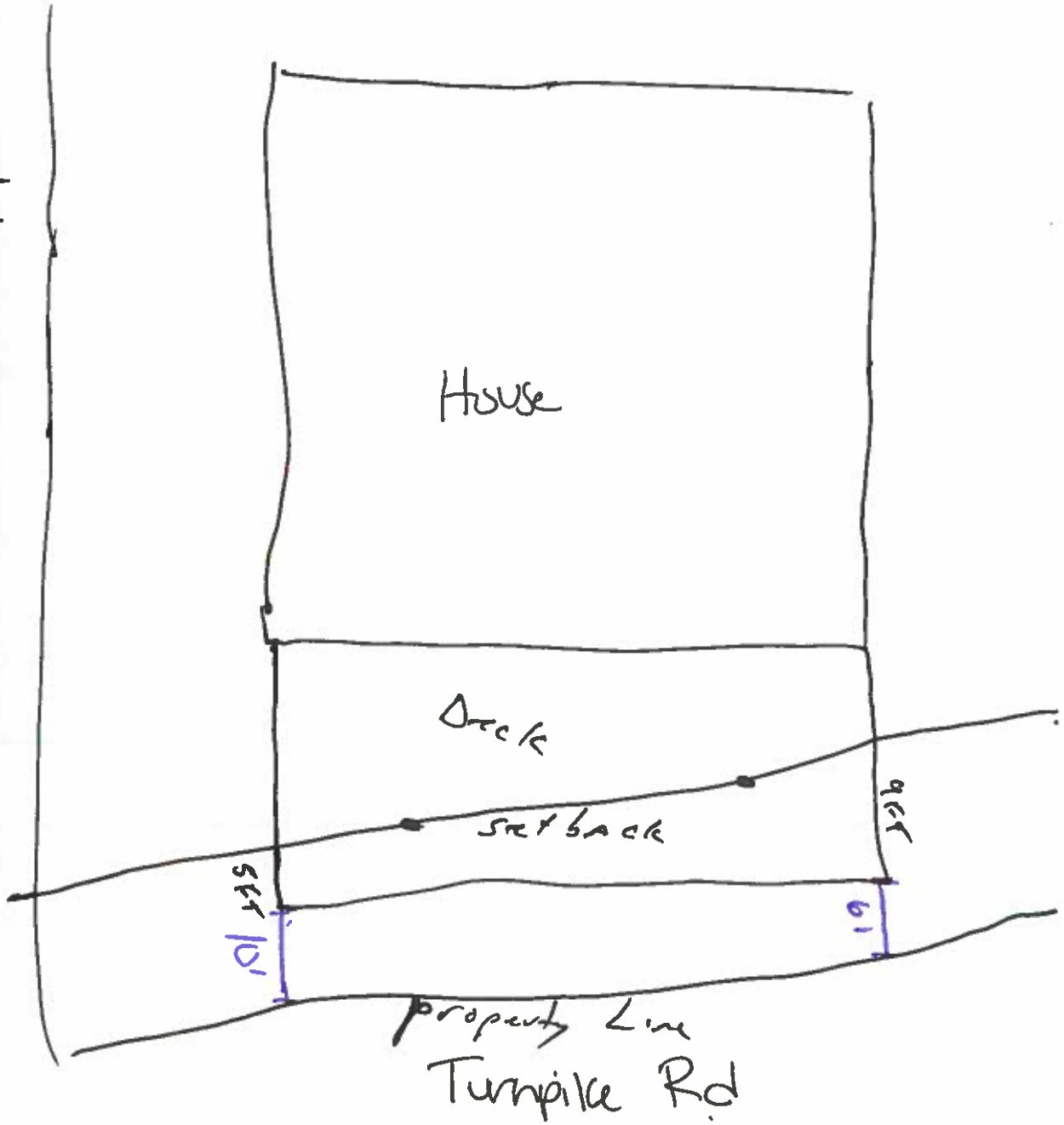
I appreciate the considerations from the previous hearing and have taken steps to address potential concerns about any visual impact and neighborhood compatibility. In am committed to working with the city to ensure that this project aligns with city standards.

Additionally I respectfully ask that the Board consider visiting my lot in person to better understand the site conditions, water flow, and the practical implications of my proposed deck.

Thank you very much for your time and understanding. I am willing to provide any additional documentation or meet with the Board to discuss this matter further.

Sincerely,
Lindy Curran

EIR P-2072
N20°13'58"W 41.80'
EIR P-2072
S67°16'02"W 58.27'
(Area by coordinates)
0.13 Acres
LOT B-3
EIR P-2072
S67°16'02"W 75.30'
HAMILTON PRESERVE
LOT B-4
P.F. 23 SLD. 42
HAMILTON PRESERVE
LOT B-2
P.F. 23 SLD. 42
25' SB LINE
22.2'
13.2'
6' SB LINE
S22°43'58"E 82.90'
PROPOSED
HOUSE
15' SB LINE
S20°13'58"E
98.40'
GRAVEL DITCH
7.2'
16.7'
15' SB LINE
24.5'
N53°26'15"E
64.43'
EIR P-2072
EIR P-2072
PP
PP
MH
SS
SS
SS
SS
T1
5"x6" CMF
4.35' ABG
(ASPHALT)


Ashworth Ave
House
Deck
setback
25ft
10'
9'
property Line
Turnpike Rd

The City of Brevard North Carolina

City of Brevard Planning Department
95 West Main Street
Brevard, North Carolina 28712
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VAR File # VAR-25-001

APPLICATION FOR A VARINACE (VAR)
BREVARD BOARD OF ADJUSTMENT

PURPOSE OF VARIANCE – A variance is the official allowance of a variation from the dimensional requirements of the City of Brevard Unified Development Ordinance or other development regulations. An applicant for a variance must demonstrate valid reasons which create a need for a Variance. These reasons cannot be strictly economic in nature and must generally involve some physical problem with the subject property which will not allow it to be developed in a reasonable manner if City development regulations are followed literally, such as a lot which is substandard in area or width.

BOARD OF ADJUSTMENT - The Board of Adjustment or BOA, is the official City Board that considers request for variances. The BOA receives sworn testimony at its meetings and issues decisions on variance requests based on this testimony. It is the responsibility of each applicant for a variance to attend the BOA meeting and present sworn testimony in support of the request. Authority to grant a variance is found in 16.8.E of the City of Brevard's Unified Development Ordinance pursuant to North Carolina General Statute's 160D-705. The Unified Development Ordinance requires that the Brevard Board of Adjustment, when granting a variance must find that all four (4) of the following standards found in UDO Chapter 16.8.E.2. exist. In the spaces provided below, indicate the standards that you intend to show and the arguments that you intend to convince the Brevard Board of Adjustment that it can properly reach the four (4) required conclusions:

REASONS FOR VARIANCE REQUEST - Explain in your own words why you are requesting a Variance. Be sure to clearly indicate the problem(s) you will experience in complying with the City development regulations. (Attach additional sheets if needed.)

Please see Attached

Address: 188 Ashworth Ave
Brevard NC 28712

Phone: 239 272-1329 Email: LindyCorrin@gmail.com

ATTACH AGENT FORM IF THE APPLICANT IS NOT OWNER

DATE: 5/15/25

APPLICANT'S SIGNATURE Lindy C

Please refer to the City of Brevard Planning Department Board of Adjustment Category III Application Timeline for Variances.

VARIANCE REQUEST TO BE HEARD BY BOA ON: _____.