

# Pender County Planning and Community Development

## Planning Division

805 S. Walker Street  
PO Box 1519  
Burgaw, NC 28425



Phone: 910-259-1202

Fax: 910-259-1295

[www.pendercountync.gov](http://www.pendercountync.gov)

## AGENDA

**Pender County Board of Adjustment Meeting**

**August 15, 2012 9:00 a.m.**

**Pender County Agricultural Building, Auditorium**

**801 S. Walker Street, Burgaw, North Carolina**

**Call to Order:** Chairman Ferrante

### Invocation:

**Roll Call:** Chairman Ferrante

Pender County Board of Adjustment Members:

Farrante: \_\_\_\_\_ Pullen: \_\_\_\_\_ Kane: \_\_\_\_\_ Newton: \_\_\_\_\_ Thompson: \_\_\_\_\_

Alternates:

Luther: \_\_\_\_\_ Peters: \_\_\_\_\_

### 1. Adoption of the Agenda:

### 2. Approval of Minutes: April 25, 2012

### 3. Public Comment

*\* Public Hearing\**

**4. Variance:** Adam Knierim, applicant and owner, is requesting a five (5') foot variance from the minimum side yard setback requirement of ten (10') feet in the RP, Residential Performance District, as prescribed by the Pender County Unified Development Ordinance, Section 4.14, Zoning District Dimensional Requirements. The property is located at 108 Circle Drive, Hampstead, and may be identified by Pender County PIN 3281-98-9923-0000

**5. Variance:** Anthony Leuci, applicant, on behalf of John Wasterval, owner, is requesting a variance from Sections 5.3.11.F.5; 5.3.11.F.6; and 5.3.11.F.9 of the Pender County Unified Development Ordinance for size limitations and the permanent placement of a portable storage container. The property is located at 14830 US Highway 17, Hampstead, NC, and may be identified by Pender County PIN 3282-97-6579-0000. The property is approximately 2.2 acres and is zoned GB, General Business District.

### 6. Discussion Items:

- a. BOA Members
- b. Planning Staff

### 7. Adjournment:

**PLANNING STAFF REPORT  
VARIANCE**

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**SUMMARY:**

**Hearing Date:** August 15, 2012

**Applicant:** Adam Knierim

**Property Owner:** Same

**Case Number:** 10756

**Property Location and Description:** The property is located at 108 Circle Drive and may be identified as Pender County PIN #3281-98-9923-0000.

**Zoning District of Property:** The property is zoned RP, Residential Performance District.

**Variance Requested:** Adam Knierim, applicant and owner, is requesting a five (5') foot variance from the minimum side yard setback requirement of ten (10') feet in the RP, Residential Performance district as prescribed by the Pender County Unified Development Ordinance Section 4.14, Zoning District Dimensional Requirements.

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**BACKGROUND AND DESCRIPTION OF VARIANCE:**

Adam Knierim, applicant and owner, is requesting a five (5') foot variance from the required ten (10') foot side yard setback as prescribed in Section 4.14, Zoning District Dimensional Requirements, for the addition of a garage to an existing single family home. The placement of the garage addition will require a reduced setback along the eastern property line of five (5') feet. The existing parcel was originally subdivided in 1960, prior to zoning requirements. The existing single family home was constructed in 1996. The property's current lot width measures at approximately 80 feet wide, while the existing single family home's width measures at approximately 49 feet. The single family home is currently setback 19.5 feet from the eastern side property line and 11.5 feet from the western side property line, as shown on the submitted site plan.

Due to geographical, site design, and existing structural constraints, as outlined in the applicant's narrative, the applicant is requesting a variance to locate an attached garage to the existing single family home along the eastern property line. The addition is proposed to measure 22 feet wide in the front of the property narrowing to 14 feet towards the rear of the property. The proposed addition would be located ten feet from the existing structure located on the adjacent property, meeting structure separation requirements.

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**ZONING ADMINISTRATOR'S CONCLUSION:**

Adam Knierim, applicant and owner, is requesting a five (5') foot variance from the minimum side yard setback requirement of ten (10') feet in the RP, Residential Performance district as prescribed by the Pender County Unified Development Ordinance Section 4.14, Zoning District Dimensional Requirements.

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### 3.14 VARIANCE

#### 3.14.1 Applicability

- A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
- B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.
- C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.
- D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.
- E. The need for the variance cannot be a result of the owner's own actions and cannot be for strictly economic reasons.
- F. The Board of Adjustment may grant variances in the following special circumstances, as indicated elsewhere in this Ordinance.

#### 3.14.7 Findings

In granting any variance, the Board of Adjustment shall make the following findings:

- A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;
  - 1) That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Building Official before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;
  - 2) That the strict enforcement of this Ordinance would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Ordinance;
  - 3) That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;
  - 4) That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance;
  - 5) That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and
  - 6) That the variance will not result in the expansion of a nonconforming use.
  - 7) In the case of expansions to nonconforming structures, the variance granted shall be the smallest that is reasonably necessary.
- B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.

#### 4.14 Zoning District Dimensional Requirements

Dimensional Requirements Table

Dimensional Standards (9)	RP
Lot Size	15,000 <sup>(5)</sup> Sq. Ft.
Lot Size Duplex	22,000 Sq. Ft.
Min. Area Rezoning(3)	5 Acres
Min. Lot Width-Ft	80 <sup>(6)</sup>
Min. Chord Length at ROW line for "cul de sac's"	30
Min. Front Yd.-Ft.	30
Min. Side Yard-Ft	10
Min. Rear Yard-Ft	25
Max. Height-Ft	35 <sup>(2)</sup>
Min. Req. Structure Separation	30

#### Appendix A – Definitions

**Addition:** A structure added to the original structure at some time after the completion of the original.

**Building:** Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any persons, animals, processes, equipment, goods or materials of any kind.

**Setback:** The required distance between a building or structure and a lot line.

- 1. Setback, front yard:** The required distance between a street right-of-way line and the front line of a building or structure.
- 2. Setback, rear yard:** The required distance between a building or structure and the rear lot line of the lot containing the building or structure.
- 3. Setback, side yard:** The required distance between a building or structure and the side lot line of the lot containing the building or structure.

**Board of Adjustment: Finding of Facts**

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **does/does not** result from extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district. This conclusion is based on the following FINDINGS OF FACT:
2. It is the Board's CONCLUSION that, granting the variance requested **will/will not** confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board's CONCLUSION that a literal interpretation of the provisions of this ordinance **would/would not** deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:
4. It is the Board's CONCLUSION that the requested variance **will/will not** be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. This conclusion is based on the following FINDINGS OF FACT:
5. It is the Board's CONCLUSION that, the special circumstances **are / are not** the result of the actions of the applicant. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:

**Board Action:**

**Motion:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

**Approved:** \_\_\_\_\_ **Denied:** \_\_\_\_\_ **Unanimous:** \_\_\_\_\_

**Ferrante:** \_\_\_\_ **Pullen:** \_\_\_\_ **Kane:** \_\_\_\_ **Newton:** \_\_\_\_ **Thompson:** \_\_\_\_

**Alternates:**

**Luther:** \_\_\_\_ **Peters:** \_\_\_\_

## APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE			
Application No.	VA 10756	Date	7/2/2012
Application Fee	\$ 250.00	Receipt No.	121149
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	Adam C. Knierim	Owner's Name:	Adam C. Knierim
Applicant's Address:	108 Circle Drive	Owner's Address:	108 Circle Drive
City, State, & Zip	Hampstead, NC 28443	City, State, & Zip	Hampstead, NC 28443
Phone Number:	910-270-4058	Phone Number:	910-270-4058
Legal relationship of applicant to land owner:			
<b>SECTION 2: PROJECT INFORMATION</b>			
Property Identification Number (PIN):	3281-98-9923-0000	Total property acreage:	0.3
Zoning Classification:	R40 RP Residential Performance	Variance Size:	5'
Variance Location & Address	Eastern property boundary of parcel located at 108 Circle Drive, Hampstead, NC 28443		
Describe Variance and amount or type requested:	Request to build within 10' Setback on eastern property boundary.		
<b>SECTION 3: SIGNATURES</b>			
Applicant's Signature		Date:	6/27/12
Owner's Signature		Date:	6/27/12
<b>NOTICE TO APPLICANT:</b>			
<ol style="list-style-type: none"> <li>1. The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements.</li> <li>2. All applicants seeking a variance shall schedule a pre-application conference with the administrator to discuss the procedures, standards, and regulations required for variance approval.</li> <li>3. An application for a variance shall be submitted in accordance with application requirements.</li> <li>4. Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage.</li> <li>5. The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.</li> <li>6. Applicant must also submit the information described in the Variance Checklist provided below.</li> <li>7. Applicant or agent authorized in writing must attend the public hearing.</li> <li>8. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing.</li> </ol>			
<b>OFFICE USE ONLY</b>			
<input checked="" type="checkbox"/> VA Fees \$250		Total Fee Calculation \$ 250.00	
Payment Method:	Cash: <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input checked="" type="checkbox"/> Check # 1409
Application received by:		Date:	
Application completeness approved by:	Ashley Miranda	Date:	7/9/2012
Date scheduled for public hearing:	August 15, 2012		

### Variance Checklist

<input checked="" type="checkbox"/>	Signed application form
<input checked="" type="checkbox"/>	Application fee
<input checked="" type="checkbox"/>	Legible list of all property owners adjacent to the property upon which the use is to be located. The list shall include the mailing address & physical address of these property owners (The application will not be advertised for public hearing until the list is accurate & complete--the list maybe compiled from the public PC terminal in the Pender County Tax Office).
<input checked="" type="checkbox"/>	One business size envelope legibly addressed with <b>first class</b> postage for each of the adjacent property owners on the above list.
<input checked="" type="checkbox"/>	<u>Variance Description</u> : Written description of the Variance requested meeting the approval criteria described on pages 1 & 2.
<input checked="" type="checkbox"/>	<p><u>Project Map(s)</u>—Applicant shall supply 15 (11"x17") project maps at a readable scale, clearly showing the following (as applicable):</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Property Location</li> <li><input type="checkbox"/> Building Separation Distances</li> <li><input type="checkbox"/> Dimensions of Property</li> <li><input type="checkbox"/> Proposed Building Height</li> <li><input type="checkbox"/> Building Distances From Property Lines (Front, Sides, Rear)</li> <li><input type="checkbox"/> Location of All Existing Utilities On-Site</li> <li><input type="checkbox"/> Existing Structures</li> <li><input type="checkbox"/> Acreage of Property</li> <li><input type="checkbox"/> Any Proposed Structures</li> <li><input type="checkbox"/> Additional Information Pertinent to the Variance Request (Pictures, Other Permits, etc.)</li> </ul>
<p><b>RETURN COMPLETED APPLICATION TO:</b>  Pender County  Planning &amp; Community Development  P.O. Box 1519  Burgaw, NC 28425</p>	

**Print Form**

## VARIANCE DESCRIPTION

The attached variance request is for the construction of a garage addition to an existing dwelling located at 108 Circle Drive in Hampstead. Construction of the proposed structure requires waiver of the 10' Setback due to dimensional constraints of the existing and neighboring parcels and associated structures. Existing site conditions and a relatively narrow parcel located at 108 Circle Drive in Hampstead, NC (PIN – 3281-98-9923-0000) make meeting setback requirements impossible for the construction of an attached garage addition to the existing dwelling. Numerous construction layouts have been examined thoroughly and have resulted in the designation of a suitable design and location for the proposed garage addition as indicated within the attached planset. The proposed design attaches the garage addition to the east side of the existing dwelling as indicated within the application drawings. The proposed structure is 22' in width at the front and narrows to 14' in width at the rear of the house (Figure 1). The typical conventional garage within the surrounding area attached to a similar-sized dwelling is approximately 24' in width. Neighboring houses reinforce this contention with most measuring in the 24' – 26' range.

The proposed addition will extend to within 5.5' of the existing property boundary. The purchase of additional property from the neighboring property owner has been examined, however deemed unfeasible due to the location of the neighboring structure approximately 11' from the existing property boundary.



**Figure 1.** Photographs depicting existing site conditions in area of proposed garage addition. **Tile A.** Photograph showing south view from street and approximate garage boundaries as proposed. **Tile B.** Photograph showing north view from backyard and approximate garage boundaries as proposed.

Alternative construction layouts examined included placement of the structure in front of the dwelling on the west side (west side front) and in the rear of the dwelling on the west side of the property (west side rear). The west side front layout was deemed unsuitable due to the location of the property's septic system as indicated within the attached drawings. Due to the parcel's location on an adjacent canal, the septic system cannot be relocated to the rear of the

property. The west side rear layout was also deemed unsuitable due to the existing topography of the property shown in Figures 1 and 2. As indicated, the elevation of the rear of the property drops at a 1:1 slope from approximately 24' (MLW) to 5' (MLW) at the existing canal. Storm-induced erosion has historically plagued the back portion of the property occasionally creating scour swales several feet in depth. Construction of a structure in the area would make it susceptible to undermining and potential structural complications.



**Figure 1.** West view from near southeast corner of property showing existing topography.

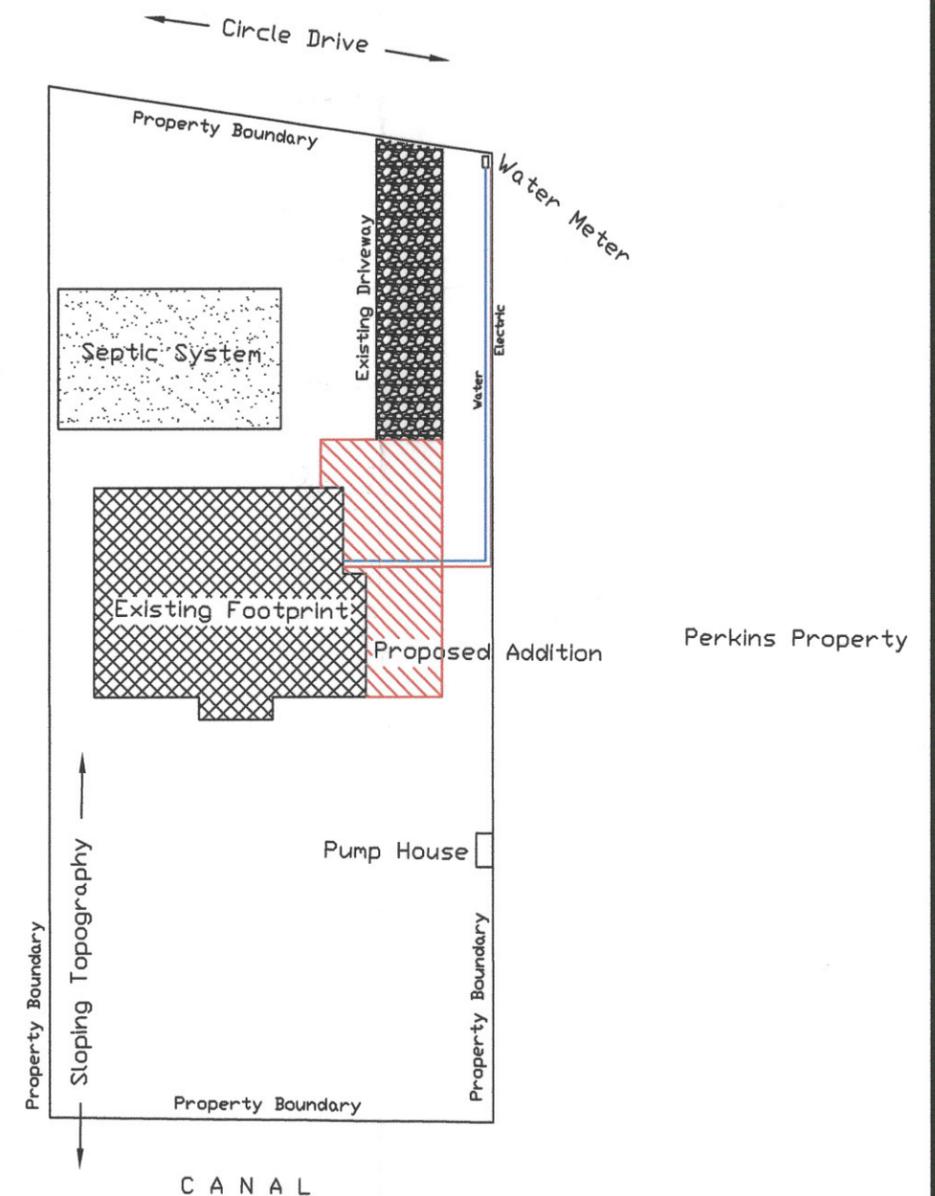
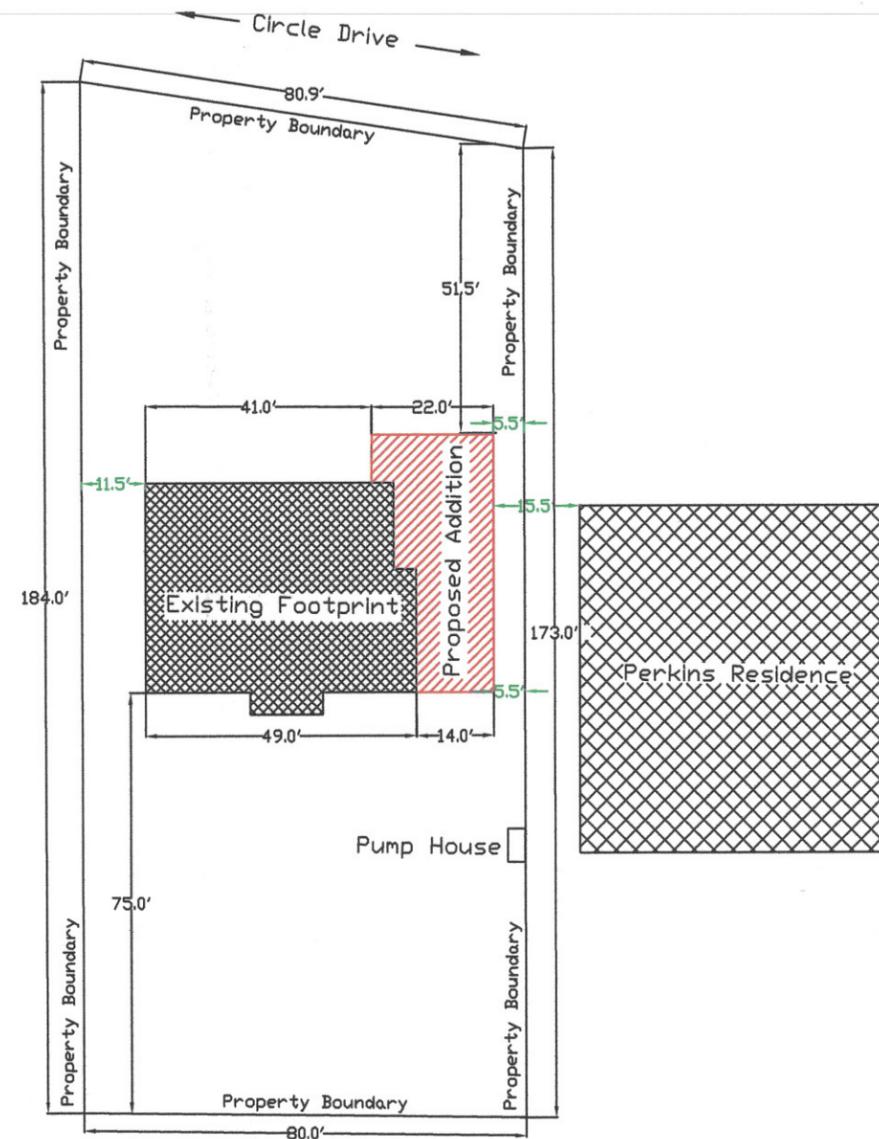


**Figure 2.** North views from southern property line showing existing topography. **Tile A.** Photograph showing elevation change from bulkhead to rear of existing dwelling. **Tile B.** Photograph showing existing elevation change at dock near center of southern property boundary.

In summary, the combination of the existing site conditions and current layout of structures create a hardship for construction of an attached garage to the dwelling at 108 Circle Drive under the current 10' Setback constraints. The proposed structure would require a waiver of the 10' Setback and will ultimately be situated within 5' of the existing property boundary. As discussed, all potential construction alternatives have been examined and deemed unfeasible due to existing site conditions. The proposed layout represents the best possible alternative for construction of the garage addition.

SETBACK PLANVIEW

UTILITIES PLANVIEW



Vacant Lot  
Eubanks Property

Vacant Lot  
Eubanks Property

Perkins Property

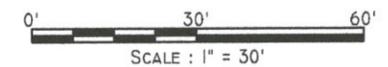
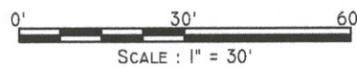
PARCEL INFORMATION

CANAL

ADDRESS - 108 CIRCLE DRIVE, HAMPSTEAD, NC 28443

PIN - 3281-98-9923-0000

PARCEL ACREAGE - 0.3



**MARITECH, LLC**

108 CIRCLE DRIVE  
HAMPSTEAD, NC 28443

OFFICE: 910.270.4058  
FIELD: 910.279.7710  
FAX: 910.270.4058



**KNIERIM VARIANCE APPLICATION**  
PENDER COUNTY, NORTH CAROLINA

**PROPOSED LAYOUT**

DRAWING DATE: 6/21/2012	DRAWING NAME: KNIERIM.DWG	HORIZONTAL DATUM: NAD 83	SCALE: 1" = 30'
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NOTES:

DRAWINGS NOT TO BE USED FOR CONSTRUCTION.  
INFRASTRUCTURE AND UTILITY LOCATIONS INDICATED WITHIN PLANSET ARE APPROXIMATE.

SHEET:  
1 OF 1

# Project Location Map





**Applicant and Owner:**  
Adam Knierim

**Variance**  
Case # 10756

**Legend**



Subject Property



**VICINITY MAP**





**Applicant and Owner:**  
Adam Knierim

**Variance**  
**Case # 10756**

**Legend**



Subject Property



**Aerial Map**



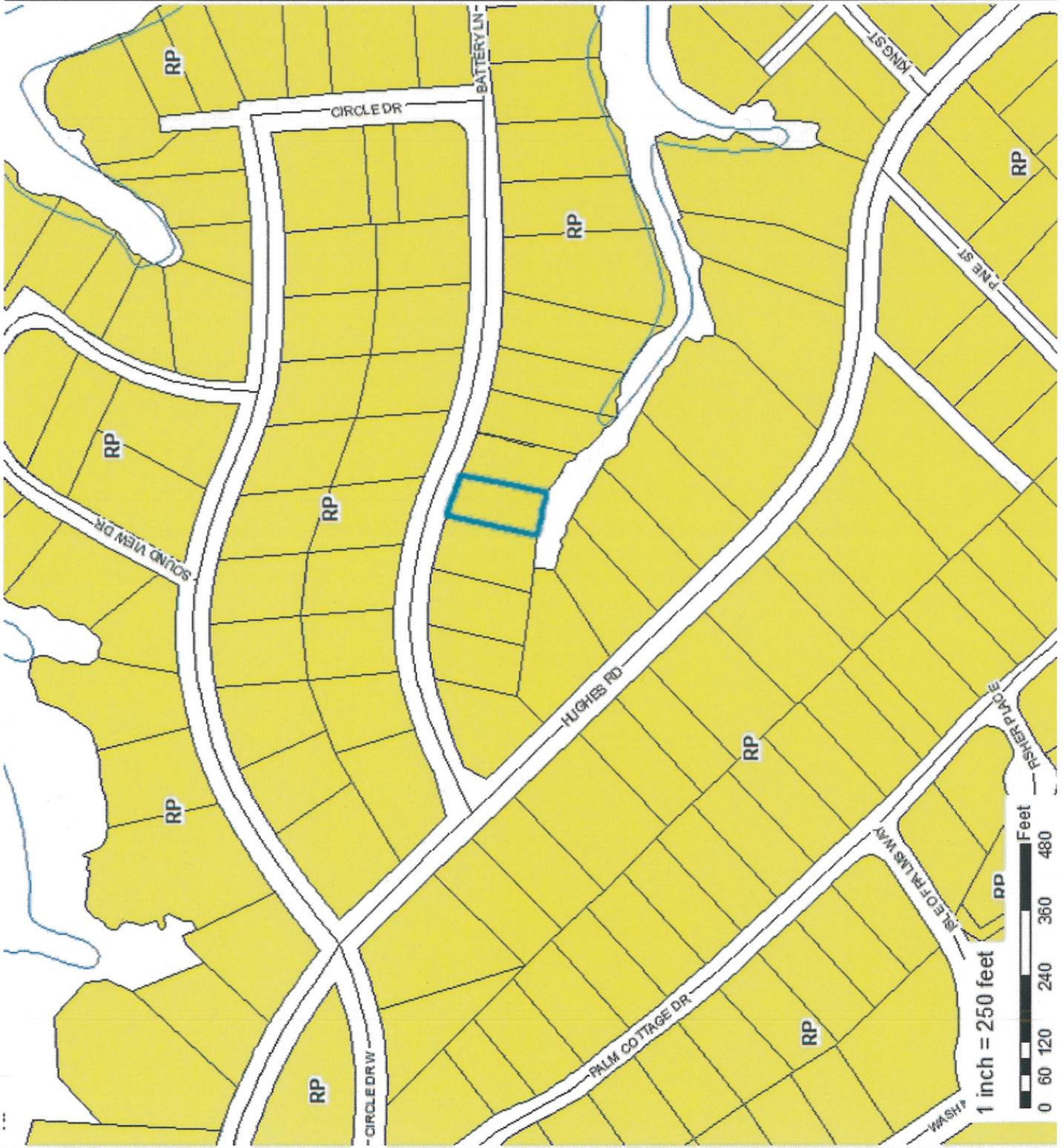


**Applicant and Owner:**  
Adam Knierim

**Variance**  
Case # 10756

**Legend**

- Subject Property
- Zoning Classification
- UDO Zoning
- General Business (GB)
- General Industrial (GI)
- Industrial Transition (IT)
- Office & Institutional (OI)
- Rural Agricultural (RA)
- Planned Development (PD)
- Residential Performance (RP)
- Environmental Conservation (EC)
- Incorporated Areas (INCORP)
- Manufactured Home Park (MH)
- Residential II Med (RM)





**Applicant and Owner:**  
**Adam Knierim**

**Variance**  
**Case # 10756**

**Legend**

-  Subject Property
-  Conservation Area II
-  Transition Areas
-  Urban Growth Areas
-  Rural Clusters
-  Rural Areas



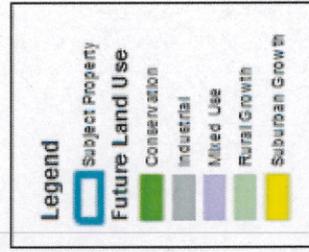
**CAMA (2005)**  
**LAND USE MAP**



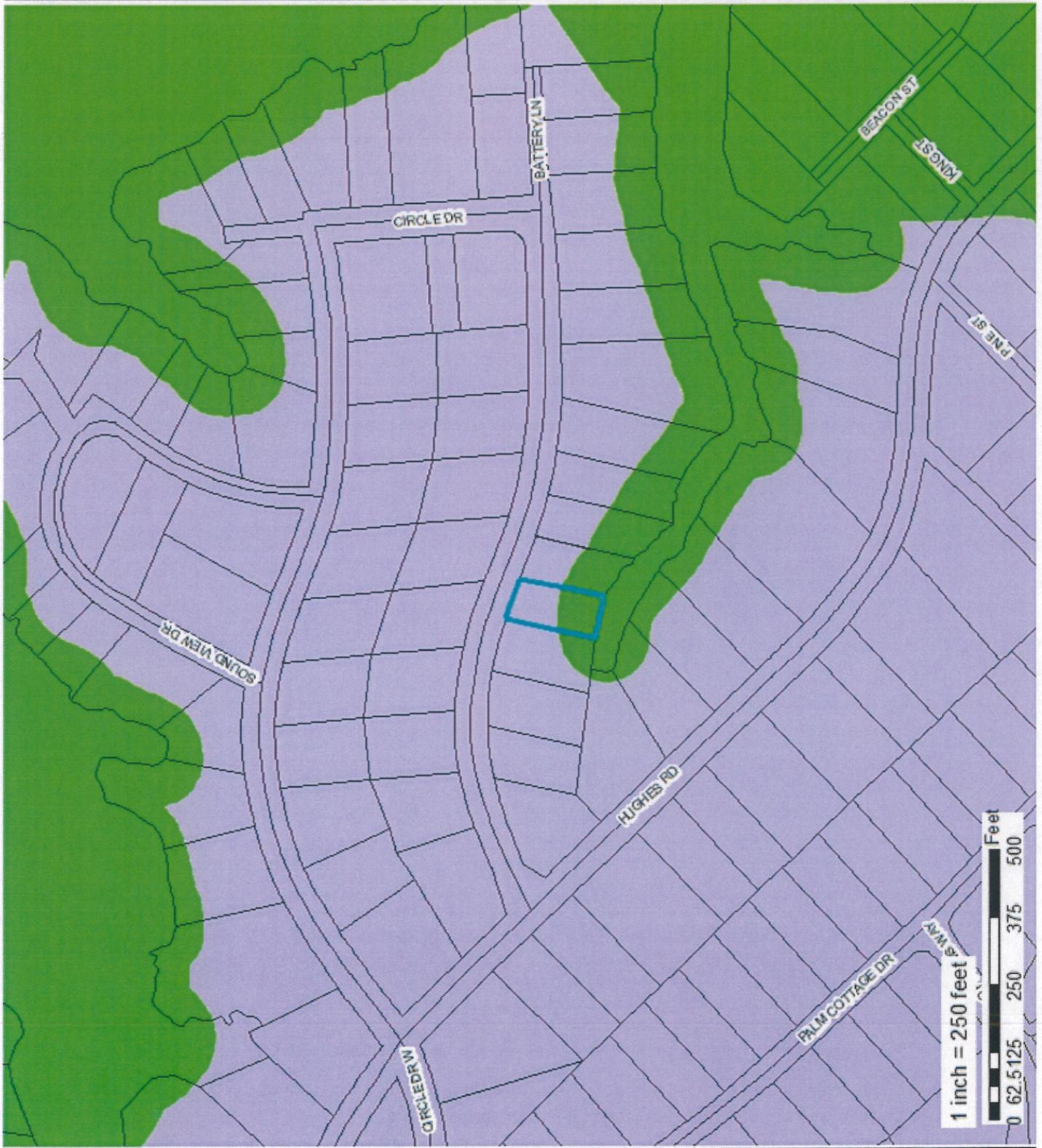


**Applicant and Owner:**  
Adam Knierim

**Variance**  
Case # 10756



2010  
Comprehensive  
Plan



**PLANNING STAFF REPORT**  
**Variance Request**

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**SUMMARY:**

**Hearing Date:** August 15, 2012

**Applicant:** Anthony Leuci

**Property Owner:** John Wasterval

**Case Number:** 10765, Brooklyn Trading Co.

**Property Location and Description:** The subject property is located at 14830 US Highway 17 Hampstead, NC. There is one (1) tract associated with this request totaling ±2.2 acres and may be identified by Pender County PIN # 3282-97-6579-0000.

**Zoning District of Property:** The property is zoned GB, General Business District.

**Variance Requested:** Anthony Leuci, on behalf of John Wasterval, owner, is requesting a variance from § 5.3.11.F of the Pender County Unified Development, specifically §5.3.11.F.5; 5.3.11.F.6; and 5.3.11.F.9, to allow the permanent placement of storage container and the following container size variances: nineteen feet, five inches (19'5") in length, six inches (6") in width, one foot (1') in height, and one hundred and seventy-five feet and five inches (175'5") area (ft<sup>2</sup>).

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**BACKGROUND AND DESCRIPTION OF VARIANCE:**

On November 21, 2012 the Pender County Board of County Commissioners adopted development standards for "Portable Storage Containers" which address the allowable timeframes, placement locations and size guidelines. Prior to development standards being adopted "Portable Storage Containers" were permitted as accessory structures.

The applicant placed the portable storage container on the subject property in mid-April 2012; after inquiring about the permit process for a power pole permit on May 7, 2012 planning staff informed the applicant the request did not meet the current design standards for portable storage containers and the variance process may be an option.

On August 2, 2012 a field inspection was conducted of the subject property, staff documented two (2) additional "Portable Storage Containers" already located on the site not related to this application. According to the Pender County GIS, 2008 and 2010 color *orthophotography*, it appears the two (2) additional Portable Storage Containers were placed on the property sometime prior to 2008. According to Pender County Permitting, the structures appear to have been placed on the property without the necessary approvals.

The applicant is requesting a variance from Section 5.3.11.F of the Pender County Unified Development Ordinance, specifically the design standards prescribed in 5.3.11.F.5, 6 and 9:

5. No portable storage container shall be greater than twenty (20) feet in length, eight (8) feet in width, or eight (8) feet in height.
6. More than one portable storage container shall be allowed on a single lot as long as the total square footage of all containers does not exceed 160 square feet.
9. Portable storage containers shall be allowed no more than two (2) times on a lot for a period no longer than 60 days within a twelve (12) month period when the following items are met. A longer extension may be granted for portable storage containers located in all nonresidential

districts, excluding Environmental Conservation, up to 180 days within a twelve (12) month period approved by the Administrator when the following items are met:

- a. The principal structure is damaged and dilapidated and is undergoing repairs, reconstruction, or renovation.
- b. A building permit has been issued for the repairs, constructions, reconstruction, or renovation, if required, and is valid throughout the extension.

The applicant is requesting the permanent placement of a refrigerated storage unit to be located at 14830 US Highway 17 in Hampstead. The exterior dimensions of the unit are 39'5" length, 8'6" width and 9' height; totaling 3015.37 cubic feet with an area of 335.04 square feet. The applicant is requesting the following size variances:

1. Nineteen feet, five inches (19'5") in length
2. Six inches (6") in width, and
3. One foot (1') in height
4. One hundred and seventy- five feet and five inches (175'5") area (ft<sup>2</sup>).

The applicant is also requesting a variance from § 5.3.11.F.9 which limits the timeframe a storage container may be placed.

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#### **ZONING ADMINISTRATOR'S CONCLUSION:**

Anthony Leuci, applicant, on behalf of John Wasterval, owner, is requesting a variance from § 5.3.11.F of the Pender County Unified Development, specifically §5.3.11.F.5; 5.3.11.F.6; and 5.3.11.F.9, to allow the permanent placement of storage container and to allow the following dimensional standards variances for the structure: nineteen feet, five inches (19'5") in length, six inches (6") in width, one foot (1') in height, and one hundred and seventy- five feet and five inches (175'5") area (ft<sup>2</sup>).

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### **3.14 VARIANCE**

#### **3.14.1 Applicability**

- A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
- B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.
- C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.
- D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.
- E. The need for the variance cannot be a result of the owner's own actions and cannot be for strictly economic reasons.
- F. The Board of Adjustment may grant variances in the following special circumstances, as indicated elsewhere in this Ordinance.

#### **3.14.7 Findings**

In granting any variance, the Board of Adjustment shall make the following findings:

- A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;

- 1) That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Building Official before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;
- 2) That the strict enforcement of this Ordinance would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Ordinance;
- 3) That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;
- 4) That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance;
- 5) That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and
- 6) That the variance will not result in the expansion of a nonconforming use.
- 7) In the case of expansions to nonconforming structures, the variance granted shall be the smallest that is reasonably necessary.

B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.

#### 4.9.1 GB: General Business District

This district is primarily intended to accommodate uses which require close access to major highways. The district is established to provide convenient locations for businesses which serve the needs of surrounding residents, including office, retail, and personal service uses.

#### 4.14 Zoning District Dimensional Requirements

Dimensional Requirements Table

Dimensional Standards (9)	RA	RP	RM	MH	GB	OI	IT	GI	PD	EC
Lot Size	1 Acre <sup>(8)</sup>	15,000 <sup>(5)</sup> Sq. Ft.	(1)	(7)	15,000 Sq. Ft. <sup>(8)</sup>	15,000 Sq. Ft.	1 Acre	1 Acre	(1)	1 Acre
Lot Size Duplex	60,000 Sq. Ft.	22,000 Sq. Ft.	(1)						(1)	
Min. Area Rezoning(3)	NA	5 Acres	10 Acres	5 Acres	1 Acre	1 Acre	5 Acres	5 Acres	100 acres	NA
Min. Lot Width-Ft	100 <sup>(8)</sup>	80 <sup>(6)</sup>	(1)	(7)	80 <sup>(8)</sup>	80	100	100	(1)	100
Min. Chord Length at ROW line for	45	30	(1)	20	30	30	45	45	(1)	45

“cul de sac’s”										
Min. Front Yd.-Ft.	30 <sup>(8)</sup>	30	(1)	(7)	25 <sup>(8)</sup>	25	40	50	(1)	50
Min. Side Yard-Ft	15 <sup>(8)</sup>	10	(1)	(7)	10 <sup>(8)</sup>	10	25	25	(1)	25
Min. Rear Yard-Ft	30 <sup>(8)</sup>	25	(1)	(7)	10 <sup>(8)</sup>	10	25	25	(1)	25
Max. Height-Ft	35 <sup>(2)</sup>	35 <sup>(2)</sup>	45	35	40	40	50	50	(1)	40
Min. Req. Structure Separation	40 <sup>(8)</sup>	30	(1)		50 <sup>(8)</sup>	50	50	100	(1)	30

**5.2.3 Table of Permitted Uses**

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
<b>MISCELLANEOUS USES</b>											
Portable Storage Containers		D	D	D	D	D	D	D	D	D	D

**5.3.11 F Portable Storage Containers**

- 5) A portable storage container may be placed for fifteen or less consecutive days in any twelve month period without issuance of a permit in all zoning districts, except Environmental Conservation.
- 6) All portable storage containers located on private property to be placed for sixteen or more consecutive days must apply for and obtain a permit. Each individual shall submit a complete application, site plan, and fee for review and approval by the Administrator or their agent.
- 7) All portable storage containers located in the front or side yard must be placed in an area primarily used for vehicular access such as a driveway or other paved surface.
- 8) All containers must adhere to the minimum setbacks for the zoning district when possible and must be five (5) feet from all other structures.
- 9) No portable storage container shall be greater than twenty (20) feet in length, eight (8) feet in width, or eight (8) feet in height.
- 10) More than one portable storage container shall be allowed on a single lot as long as the total square footage of all containers does not exceed 160 square feet.
- 11) Stacking of portable storage containers shall not be permitted.
- 12) No sign shall be attached to a portable storage container other than the provider’s contact information.
- 13) Portable storage containers shall be allowed no more than two (2) times on a lot for a period no longer than 60 days within a twelve (12) month period when the following items are met. A longer extension may be granted for portable storage containers located in all nonresidential districts, excluding Environmental Conservation, up to 180 days within a twelve (12) month period approved by the Administrator when the following items are met:

- a) The principal structure is damaged and dilapidated and is undergoing repairs, reconstruction, or renovation.
- b) A building permit has been issued for the repairs, constructions, reconstruction, or renovation, if required, and is valid throughout the extension.

## **Appendix A**

**ACCESSORY OR SECONDARY USE:** A use of land or of a building or portion thereof customarily associated with and incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A secondary use shall be a use not already permitted by right in a zoning district but may be permitted in conjunction with a permitted use. In no instances shall an accessory or secondary use be permitted without the presence of a primary use.

**BUILDING:** Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any persons, animals, processes, equipment, goods or materials of any kind.

**PARCEL:** A lot or tract of land.

**PARKING LOT:** An off-street, paved parking area containing parking spaces, aisles and other improvements.

**PORTABLE STORAGE CONTAINERS:** A container designed to store personal property which are typically rented and intended to be delivered, temporarily used, and removed by truck. Portable storage containers shall not be used as an accessory structure or dwelling and shall not impede public vehicular or pedestrian access or create a public safety hazard. This definition includes shipping containers and other portable self-storage units.

**SETBACK:** The required distance between a building or structure and a lot line.

1. **SETBACK, FRONT YARD:** The required distance between a street right-of-way line and the front line of a building or structure.
2. **SETBACK, REAR YARD:** The required distance between a building or structure and the rear lot line of the lot containing the building or structure.
3. **SETBACK, SIDE YARD:** The required distance between a building or structure and the side lot line of the lot containing the building or structure.

**STRUCTURE:**

1. Any man-made object having an ascertainable stationary location on or in land or water, whether or not it is affixed to the ground. All buildings are "structures."

**TEMPORARY USE:** A use established for a designated fixed period of time with the intent to discontinue such use upon the expiration of the time period.

**VARIANCE:** A reasonable deviation from those provisions regulating the size or area of a lot or parcel of land or the size, area, bulk or location of a building or structure when the strict application of this Ordinance would result in unnecessary or unreasonable hardship to the property owners and such need for a variance would not be shared generally by other properties, and provided that such variance is not contrary to the intended spirit and purpose of this Ordinance and would result in substantial justice being done.

**August 2, 2012**

Photographs taken by Pender County Planning and Community Development



Above: The Portable Storage Container for this application.

Below: The two (2) Portable Storage Containers not a part of this application.



Below: The area between the Portable Storage Containers.



**Board of Adjustment: Finding of Facts**

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **does/does not** result from extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district. This conclusion is based on the following FINDINGS OF FACT:
2. It is the Board's CONCLUSION that, granting the variance requested **will/will not** confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board's CONCLUSION that a literal interpretation of the provisions of this ordinance **would/ would not** deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:

4. It is the Board's CONCLUSION that the requested variance **will/will not** be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. This conclusion is based on the following FINDINGS OF FACT:
5. It is the Board's CONCLUSION that, the special circumstances **are / are not** the result of the actions of the applicant. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:

**Board Action:**

**Motion:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

**Approved:** \_\_\_\_\_ **Denied:** \_\_\_\_\_ **Unanimous:** \_\_\_\_\_

**Ferrante:** \_\_\_\_\_ **Pullen:** \_\_\_\_\_ **Kane:** \_\_\_\_\_ **Newton:** \_\_\_\_\_ **Thompson:** \_\_\_\_\_

**Alternates:**

**Luther:** \_\_\_\_\_ **Peters:** \_\_\_\_\_

\$250.00

121162

### APPLICATION FOR VARIANCE

#### THIS SECTION FOR OFFICE USE

Application No.	VA 10765	Date	7.2.2012
Application Fee	\$ 250.00	Receipt No.	Kelly # 121162

#### SECTION 1: APPLICANT INFORMATION

Applicant's Name:	ANTHONY LEUCI	Owner's Name:	John Wastervai
Applicant's Address:	311 HUMPHREY DRIVE	Owner's Address:	723 Bay Shore Dr
City, State, & Zip	WILMINGTON, NC 28411	City, State, & Zip	Wilmington.
Phone Number:	910-617-2110	Phone Number:	N.C. 28411

Legal relationship of applicant to land owner:

#### SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	3282-97-6579	Total property acreage:	+/- 2.02
Zoning Classification:	GB	Variance Size:	
Variance Location & Address	14830 US Hwy 17, Hampstead NC 28473		
Describe Variance and amount or type requested:			

#### SECTION 3: SIGNATURES

Applicant's Signature		Date:	7/2/12
Owner's Signature		Date:	7/2/12

#### NOTICE TO APPLICANT:

- The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements.
- All applicants seeking a variance shall schedule a pre-application conference with the administrator to discuss the procedures, standards, and regulations required for variance approval.
- An application for a variance shall be submitted in accordance with application requirements.
- Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage.
- The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.
- Applicant must also submit the information described in the Variance Checklist provided below.
- Applicant or agent authorized in writing must attend the public hearing.
- Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing.

#### OFFICE USE ONLY

<input type="checkbox"/> VA Fees \$250	Total Fee Calculation \$		
Payment Method:	Cash: <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input type="checkbox"/> Check # _____
Application received by:	Ashley Frank	Date:	7/2/12
Application completeness approved by:		Date:	7/2/12
Date scheduled for public hearing:	8.15.2012		

Re: Variance for 14830 US Highway 17N, Hampstead, NC 28443

Brooklyn Trading Co., owner Anthony Leuci, is requesting the variance for a portable, freezer container located at above-mentioned site for the purpose of food storage. The current code allows for a portable container measuring 8 feet x 8 feet x 20 feet. The variance request is for a portable container measuring 9 feet x 9 feet x 40 feet. The exact dimensions are as follows:

Exterior: Length 39' 5"  
Width 8' 6"  
Height 9' 0"

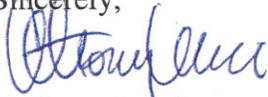
Interior: Length 37' 7"  
Width 7' 6"  
Height 8' 2"

The interior volume is 2302 cubic feet.

Attached please find a site plan with measurements from the tree lines and highway 17N.

Thank you for your consideration. Please feel free to call me if there are any questions.

Sincerely,



Anthony Leuci, owner  
Brooklyn Trading Co.  
(910) 617-2110





\* View from US Highway 17



\* Photos Supplied by Applicant



View from US Highway 17



\* Back of freezer to tree line 11'8"

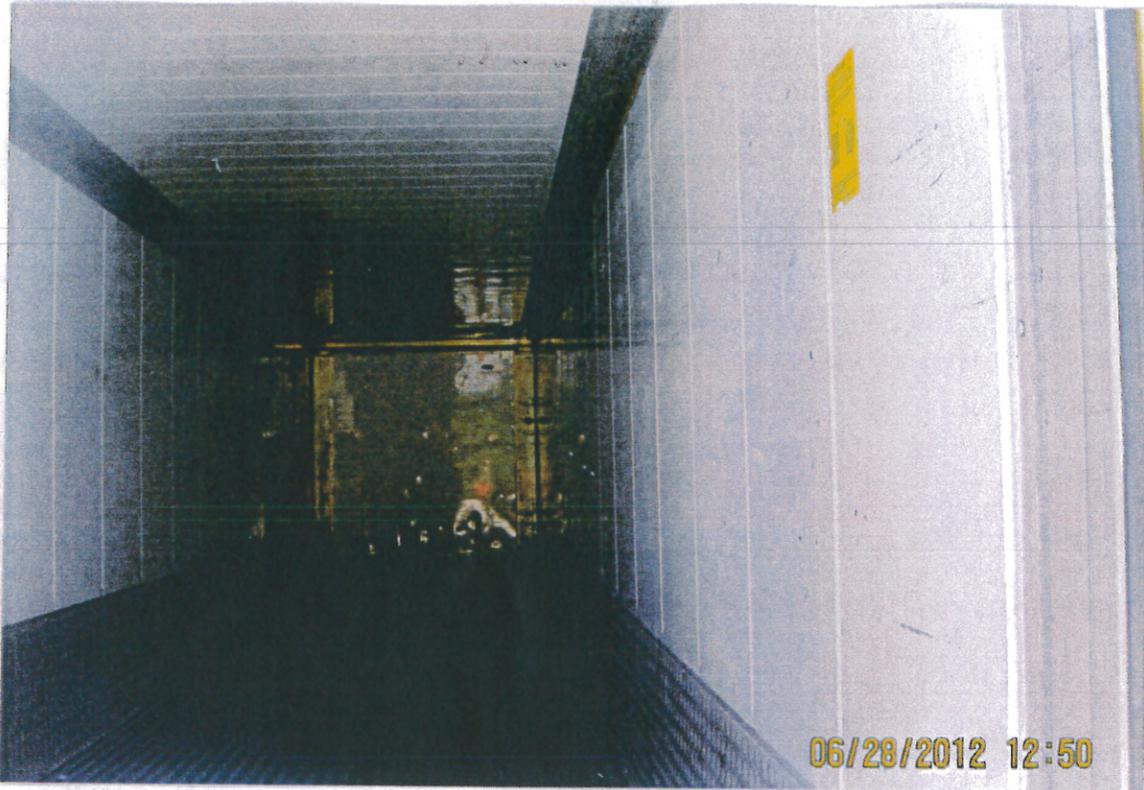
\* Photos supplied by Applicant



distance between container and shed



\* Photos Supplied by Applicant



inside of freezer container

\* Photos Supplied by Applicant



**Applicant:**  
Anthony Leuci

**Owner:**  
John Waterval

**Case #** 10765

**Variance**

**Legend**



Subject Property



**VICINITY MAP**





**Applicant:**  
Anthony Leuci

**Owner:**  
John Waterval

**Case # 10765**

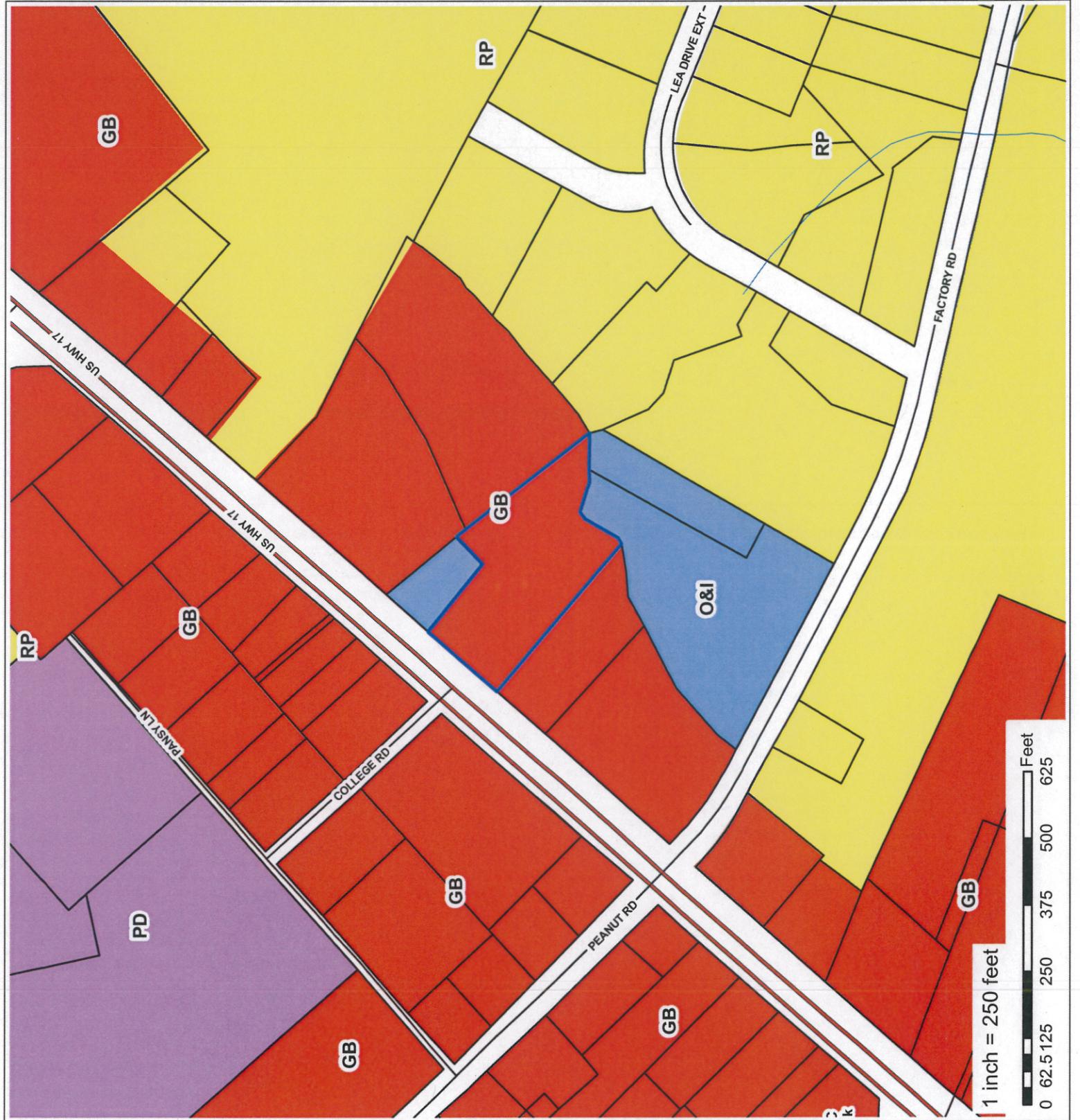
**Variance**

**Legend**

-  Subject Property
- Zoning Classification**
-  General Business (GB)
-  General Industrial (GI)
-  Industrial Transition (IT)
-  Office & Institutional (OI)
-  Rural Agricultural (RA)
-  Planned Development (PD)
-  Residential Performance (RP)
-  Environmental Conservation (EC)
-  Incorporated Areas (INCORP)
-  Manufactured Home Park (MH)
-  Residential Mixed (MF)



**Zoning Map**





**Applicant:**  
Anthony Leuci

**Owner:**  
John Waterval

**Case #** 10765

**Variance**



**Aerial Map**





**Applicant:**  
Anthony Leuci

**Owner:**  
John Waterval

**Case #** 10765

**Variance**



**Aerial Map**

