

MEMORANDUM

TO: Chapel Hill Board of Adjustment

FROM: Tas Lagoo, Long-Range Planning Manager

SUBJECT: 105 Timberlyne Ct: After-the-Fact Dimensional Variance
(PIN 9880-54-9708, Project # BOA-25-5)

DATE: September 4, 2025

VARIANCE REQUEST SUMMARY

The applicant, Beth Elder, on behalf of property owners Barbara and Gove Elder, requests an after-the-fact variance from the interior property setback. The variance will allow the Elders to receive a Certificate of Occupancy for a recently constructed accessory building on their property.

BACKGROUND

Barbara and Gove Elder own the property located at 105 Timberlyne Court. The property is in a Residential-1 (R-1) zoning district. The property includes the Elders' single-family home and a recently constructed accessory building located in the back yard.

The accessory building encroaches into the property's interior setback by approximately 2.4 feet on its southern end and approximately 3.1 feet on its northern end. The encroachment was identified by Town staff when reviewing as-built plans related to the final zoning sign-off for the accessory building.

EXTENT OF VARIANCE

LUMO § 3.8.3 imposes minimum interior setbacks that define how close buildings may be to the property line. If a building is built within a setback, it cannot receive final sign-off from the Town unless a variance is granted or either the building or property line are relocated.

LUMO § 3.8.3 – Dimensional Standards	Current	Requested
Interior Setback	14 feet	10.9 feet

DISCUSSION

In the case of applications for a variance, the board's decision must be based on findings as to each of the determinations required in LUMO Section 4.12. The board may choose to approve, approve subject to conditions, or deny the application. The board may impose reasonable conditions on the granting of any variance to ensure that the public health, safety, and general welfare are protected and substantial justice is done. In its consideration of applications for a variance, the board shall not use the existence of nonconformities in the vicinity as justification for the granting of variances.

Section 4.12.2(a) of the LUMO provides:

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of the ordinance upon a showing of all of the following:

(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.

(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.

(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) 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 attached materials include two resolutions:

- **Resolution A** directs staff to prepare a written order **granting** the variance.
- **Resolution B** directs staff to prepare a written order **denying** the variance.

The board will need to formally adopt the written order prepared by staff at its next meeting.

Attachments:

1. Resolution A (directing staff to prepare a written order **granting** the variance)
2. Resolution B (directing staff to prepare a written order **denying** the variance)
3. Variance Procedures
4. Application Materials
5. As-Built Survey