



Town of Beaufort, NC

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

Town of Beaufort Board of Adjustment Regular Meeting 6:00 PM Monday, May 23, 2022 - Train Depot, 614 Broad Street, Beaufort, NC 28516 Monthly Meeting

Call to Order

Roll Call

Agenda Approval

Minutes Approval

- [1.](#) BOA Draft Minutes for 3.28.22

Items of Consent

- [1.](#) Approval of the Order for 204 Second Street Variance

Administration of Oaths

New Business

- [1.](#) Variance Request for 1314 Ann Street
- [2.](#) Variance Request for 215 Turner Street

Commission / Board Comments

Staff Comments

Adjourn

DRAFT



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**Town of Beaufort Board of Adjustment Regular Meeting
6:00 PM Monday, March 28, 2022
Minutes**

Call to Order

Chair Oliver called the March 28, 2022 Board of Adjustment regular meeting to order at 6:00 pm.

Roll Call

Board Secretary Anderson took roll call and the following members were present: Wendi Oliver, Cathy Reeve, Ann Carter, Barry Evans, and Nick Wilson. A quorum was declared with five members present.

Also present for the meeting were Town Attorney Jill Quattlebaum, Kyle Garner, and Laurel Anderson.

Agenda Approval

Chair Oliver asked if there were any changes to the Agenda and hearing none, the Chair asked for a motion.

Member Carter made the motion to approve the Agenda and Member Evans made the second. Chair Oliver took a vote that was unanimous.

Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Evans, Member Wilson

Minutes Approval

Chair Oliver asked if there were any changes to the February 28, 2022 Meeting Minutes and asked for a motion to approve them. Member Wilson abstained from the vote as he had not been at the meeting.

Vice-Chair Reeve made the motion to approve the Minutes as previously corrected and Member Evans made the second. Secretary Anderson took a vote.

Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Evans

Administration of Oaths

Secretary Anderson administered the Oath to Mr. Garner and the applicant, Jonathan Sprowl.

New Business

- 1. Variance Request for 204 2nd Street

Chair Oliver read a statement regarding how quasi decisions are made and who had standing and could participate. She opened the hearing and Mr. Garner presented on behalf of staff. The applicants

requested a reduction of southwestern rear setback from 25 feet to 23 feet (for a 2 foot encroachment) and a reduction of the southeastern rear setback from 25' feet to 12 feet (for a 13 foot encroachment) for a total area of 136 sq. ft.

After hearing testimony from the applicant and some discussion, the Board voted on the following Findings of Fact:

That unnecessary hardship would result from strict application of the chapter.

Member Evans made the motion for Finding of Fact #1 and Vice-Chair Reeve made the second. Secretary Anderson took a vote:

Voting yea: Chair Oliver, Vice-Chair Reeve, Member Evans, Member Wilson

Voting nay: Member Carter

The hardship was peculiar due to the unusual location of the house on the lot and unusual fashion and no further hardship would be created if the variance were granted.

Member Carter made the motion for Finding of Fact #2 and Chair Oliver made the second. Secretary Anderson took a vote that was unanimous:

Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Evans, Member Wilson
The Owners did nothing to create the hardship.

Vice-Chair Reeve made the motion for Finding of Fact #3 and Member Evans made the second. Secretary Anderson took a vote:

Voting yea: Chair Oliver, Vice-Chair Reeve, Member Evans, Member Wilson

Voting nay: Member Carter

Based on the neighbors being consulted and testimony of the applicant the spirit of the ordinance was being upheld.

Chair Oliver made the motion for Finding of Fact #4 and Vice-Chair Reeve made the second. Secretary Anderson took a vote that was unanimous:

Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Evans, Member Wilson

Chair Oliver then asked for a motion for the approval of the variance.

Member Evans made the motion for the approval of the variance and Member Wilson made the second.

Secretary Anderson took a vote:

Voting yea: Chair Oliver, Vice-Chair Reeve, Member Evans, Member Wilson

Voting nay: Member Carter

Public Comment

There was no public comment.

Commission / Board Comments

There were no Board comments.

Staff Comments

Mr. Garner notified the Members that training would be held on April 22, 2022 for all Boards, and he welcomed Member Wilson to the Board.

Adjourn

Chair Oliver asked for a motion to adjourn the meeting.

Member Evans made the motion to adjourn and Vice-Chair Reeve made the second. Chair Oliver took a vote that was unanimous.

Voting yea: Chair Oliver, Vice-Chair Reeve, Member Carter, Member Evans, Member Wilson

Wendi Oliver, Chair

Laurel Anderson, Board Secretary



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**Town of Beaufort Board of Adjustment Regular Meeting
6:00 P.M. May 23, 2022 – Via Zoom**

AGENDA CATEGORY: Consent
SUBJECT: Approval of the Order for 204 Second Street Variance

BRIEF SUMMARY:

As part of the new General Statutes (160D), prior to Evidentiary Hearing Orders being signed and sent to the applicant/property owners, the Board in which conducted the hearing is to review the order for accuracy.

Staff has consulted with the Town Attorney and now asks that the Board of Adjustment Members review the order for such accuracy and be prepared to make a motion to recommend approval of the Order or to approve with Board recommend changes.

REQUESTED ACTION:

Review the order for such accuracy and be prepared to make a motion to recommend approval of the Order or to approve with Board recommend changes
Conduct Evidentiary Hearing

EXPECTED LENGTH OF PRESENTATION:

0 Minutes (Presentation From Staff)

SUBMITTED BY:

Kyle Garner, AICP Planning Director

BUDGET AMENDMENT REQUIRED:

N/A



TOWN OF BEAUFORT ORDER APPROVING A VARIANCE

The Board of Adjustment for the Town of Beaufort, having held an evidentiary hearing on March 28, 2022, to consider Case # 22-02, submitted by Jonathan and Robin Sprowl, a request for a reduction of the southwestern rear setback from 25 feet to 23 feet, and a reduction of the southeastern rear setback from 25 feet to 12 feet, to build an addition to the property located at 204 2nd Street, PIN # 730619516016000, Beaufort, NC, in a manner not permissible under the literal terms of the Town’s *Land Development Ordinance* (hereby known as “the *Ordinance*”), and having heard all of the evidence and arguments presented at the hearing, makes the following **FINDINGS OF FACT** and draws the following **CONCLUSIONS**:

1. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that strict application of the *Ordinance*, which would result in the denial of the requested variance, **would** result in an unnecessary hardship due to the size and shape of the lot, and due to the strict application of the setbacks required by the Ordinance, which were not in existence when the structure was built.
2. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the hardship of which the applicant complains **does** result from conditions peculiar to the applicant’s property, including existing setbacks; the small size of the lot; and that the lot is non-conforming and irregularly shaped.
3. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that the applicant purchased the property in its present configuration and therefore the hardship of which the applicant complains **did not** result from the applicant’s own actions, and furthermore that the applicant has attempted to ameliorate the conditions through the purchase of additional property.
4. It is the Board’s **CONCLUSION/FINDING OF FACT** after hearing testimony and reviewing the staff report and exhibits that if granted, the variance **would** be consistent with the general spirit, purpose and intent of the *Ordinance*, such that public safety is secured, and substantial justice achieved, the variance as granted will provide for an addition to the existing historical structure.

Therefore, on the basis of all the foregoing, **IT IS ORDERED** that the application for a **VARIANCE** be **APPROVED TO ALLOW A REDUCTION OF THE SOUTHEASTERN REAR SETBACK FROM 25 FEET TO 12 FEET AND A REDUCTION TO THE SOUTHWESTERN REAR SETBACK FROM 25 FEET TO 23 FEET.**

Ordered this ___ day of _____, 2022.

Wendi Oliver
Chair

Laurel Anderson
Board Secretary

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Clerk of Superior Court of Carteret County within thirty (30) days after the date this order is served on you. See Section 21-M of the Town of Beaufort’s *Land Development Ordinance*.



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**Town of Beaufort Board of Adjustment Regular Meeting
6:00 P.M. May 23, 2022 – 614 Broad Street – Train Depot**

AGENDA CATEGORY: New Business
SUBJECT: Variance Request for 1314 Ann Street

BRIEF SUMMARY:

Bradley Cummins & Kristen Prescott are requesting a variance to allow for:

A reduction of:

- ◆ 6’2” EXTENDING NORTHERLY FROM NW CORNER OF HOME FOR A PORCH DEPTH OF 10’ and:

A reduction of:

- ◆ 4’ 6” EXTENDING NORTHERLY FROM NE CORNER OF HOME FOR A PORCH DEPTH OF 10’

REQUESTED ACTION:

Conduct Evidentiary Hearing
Decision on Request

EXPECTED LENGTH OF PRESENTATION:

15 Minutes (Presentation From Staff)

SUBMITTED BY:

Kyle Garner, AICP Planning Director

BUDGET AMENDMENT REQUIRED:

N/A

Memo

To: Beaufort Board of Adjustment
From: Kyle Garner, AICP, Planning Director
Date: May 23, 2022
Re: Front Yard & Side (ROW) Yard variance request for 1314 Ann Street

Variance Request

Applicant: Bradley Cummins & Kristen Prescott **Property Owner:** Same
Property Address: 1314 Ann Street **PIN:** 730507595006000
Property Zoning District: R-8 (Residential) **Flood Zone:** X

Lot Dimensions: See Attached Survey in application. The lot is non-conforming in that it does not meet the required square footage in the R-8 district. The property has approximately 4,965 square feet and needs 8,000 square feet.

Existing use: Single Family Residential

Request:

- ◆ 6’2” EXTENDING NORTHERLY FROM NW CORNER OF HOME FOR A PORCH DEPTH OF 10’
- ◆ 4’ 6” EXTENDING NORTHERLY FROM NE CORNER OF HOME FOR A PORCH DEPTH OF 10’
- ◆ 24’6” WIDE & 127.5 SQ FT
- ◆ THERE WILL BE NO EVE OVERHANG ON THE PORCH

Description of Project:

This property is an existing lot of record and the structure was created prior to the implementation of the R-8 zoning and the setback requirements. The applicant has submitted a detailed written description as to why they request the variance. Staff has included Section 8 Table of Area, Yard and Height Requirements to aid in your discussion.

SECTION 8. TABLE OF AREA, YARD, AND HEIGHT REQUIREMENTS

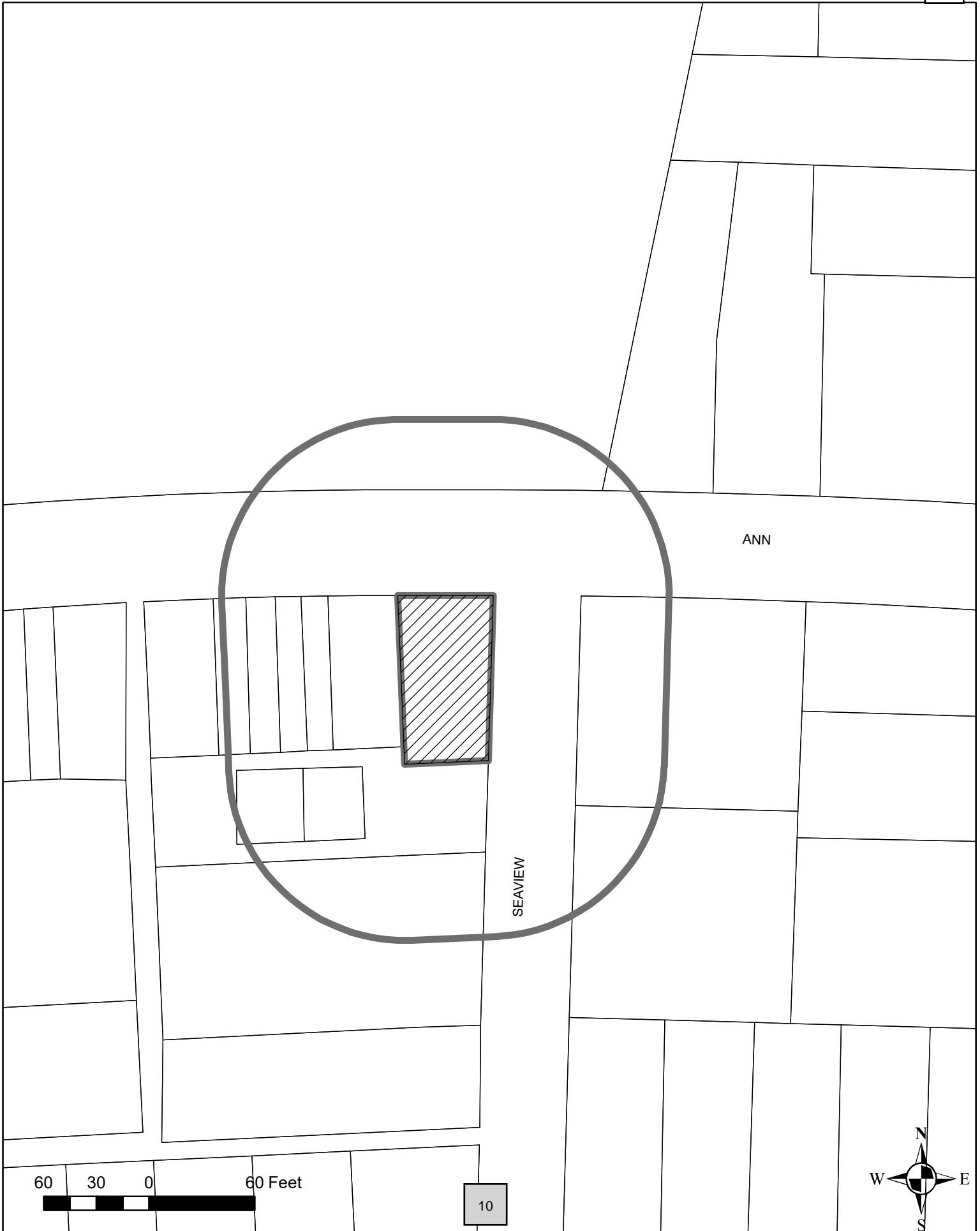
District and Use	Minimum Lot Area (sq.ft.)	Minimum Lot Width (ft.)	Minimum Yards (ft.) Including Corner Lots			Maximum Building Height (ft)
			Front	Side	Rear	
R-8	8,000 sq. ft.	60 ft.	25ft. 20ft.	8ft.	25ft.	35ft.

Facts:

- The property is zoned R-8 (Residential 8).
- The property and structure have been in existence prior to adoption of any zoning standards.
- The lot is non-conforming as it is less than 8,000 sq. ft. (4,965 sq. ft.)
- The existing lot was created out of a street (Park Street) that was not developed and portions of a residual lot (See Attached Survey of Ocean View Subdivision Dated 1915).
- Based on the current standards the structure at 1314 Ann Street is non-conforming as it does not meet any of the required street setbacks.

Case # 22-03 - Variance Request - 1314 Ann Street

1.



60 30 0 60 Feet

10



<u>OWNER</u>	<u>MAIL_HOUS</u>	<u>MAIL_ST</u>	<u>MAIL_CITY</u>	<u>IL_ST</u>	<u>MAIL_ZI</u>	<u>MAIL_ADD2</u>
BAGWELL,LARRY K	133	QUAIL RUN	SMITHFIELD	NC	27577	
BEAUFORT VILLAGE PROP. INC	106	LEONDA DRIVE	BEAUFORT	NC	28516	
CUMMINS,BRADLEY ETUX PRESCOTT	1505	FRONT STREET	BEAUFORT	NC	28516	
JONES,AMY JEAN ETAL HARRISON	103	SEAVIEW STREET #B	BEAUFORT	NC	28516	
LANTZ,WENDELL R ETUX DAWN	102	SEAVIEW STREET	BEAUFORT	NC	2326	28516
LEACH,DAVID LEO ETUX PAMELA S	212	FULFORD STREET	BEAUFORT	NC	2016	28516
MCKENZIE-TERVO,BARBARA	103-A	SEAVIRE STREET	BEAUFORT	NC		28516
MORRIS,MARISSA ETAL YUST			LAKE HARMONY	PA	0009	18624 P O BOX 9
PLAAS,HALEY ETAL JOEL	1312	ANN STREET	BEAUFORT	NC		28516 UNIT 1
TAYLOR,CALVIN MICHAEL			BEAUFORT	NC		28516 PO BOX 28
TERVO,JAY C ETUX BARBARA M	103-A	SEAVIEW STREET	BEAUFORT	NC	2325	28516
WAY,BRADY C ETUX SHIRLEY	101	SEAVIEW ST	BEAUFORT	NC		28516

SECTION 21 Board of Adjustment

The Board of Adjustment (BOA) is a “quasi-judicial” administrative body whose purpose is (i) to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Ordinance; (ii) to issue variances as authorized by this section and state law; and, (iii) to issue special use permits when required by this Ordinance. The responsibilities of the BOA are authorized and set forth by N.C.G.S. 160A, Article 19 (3).

A) Organization of the Board of Adjustment.

1) Board Membership.

The BOA shall consist of five regular and two alternate members. Three regular and one alternate member shall reside within the corporate limits of the Town of Beaufort and be appointed by the Town’s Board of Commissioners (BOC). Two regular and one alternate member shall be appointed by the Carteret County Board of Commissioners (CC BOC) and shall reside within the Town’s extraterritorial jurisdiction (ETJ). If despite good faith efforts, enough residents of the ETJ cannot be found to fill the seats reserved for such residents, the CC BOC may appoint other residents of the county to fill these seats. If the CC BOC fails to appoint ETJ members needed within ninety days after receiving a resolution requesting such action from the Town, the BOC may make the necessary appointments.

2) Term Limits.

BOA regular members and alternate members shall be appointed to serve a three-year staggered term and members may continue to serve until their successors have been appointed. Members may be reappointed to successive terms without limitation. Vacant seats and unexpired terms shall be filled by the BOC or the CC BOC as necessary.

3) Removal from Board.

a) Regular BOA members may be removed by the BOC at any time for failure to attend three consecutive meetings or for failure to attend seventy-five percent (75%) of the meetings within any twelve month period or for any other good cause related to performance of duties. Such failure will constitute a voluntary resignation of the member. Upon the request of the member proposed for removal, the BOC shall hold a hearing on the removal before it becomes effective.

b) Alternate members may also be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with BOA established procedures. Upon request of the alternate member proposed for removal, the Town’s BOC shall hold a hearing on the removal before it becomes effective.

c) If a regular member or alternate member moves outside their particular planning jurisdiction within the Town it shall constitute a resignation of the member from the BOA.

d) If for reasons other than mentioned herein a member resigns from the board, a written notice shall be delivered to the Town Clerk at the member’s earliest convenience.

4) ETJ Members Rights.

ETJ regular members shall have equal rights, privileges, and duties as town members and may vote on all matters considered by the board regardless of whether or not the property affected lies within their planning jurisdiction.

5) Notification of Absences.

Regular members shall promptly notify the board secretary if they are unable to attend or participate in an upcoming meeting. The secretary shall notify an alternate member to attend when necessary. Assignments shall be rotated among the alternate members. When seated, any alternate member in attendance shall have the same powers and duties as the regular member they replace, including the ability to constitute a quorum for the purpose of the meeting regardless of whether the alternate is a regular or ETJ member.

B) **Meetings of the Board of Adjustment.**

- 1) The BOA shall establish a regular meeting schedule and shall meet frequently enough so the board can take action on the issues for which they are appointed.
- 2) All meetings of the board shall be open to the public and whenever feasible, the agenda for each board meeting shall be made available to the public at least three business days in advance of the meeting.
- 3) The minutes of all meetings and hearings of the BOA shall be retained by the board secretary or his/her designee and all minutes shall be a public record once adopted by the BOA. This shall include all findings of fact and decisions of the board.
- 4) The Chairman of the BOA will have the authority to cancel a meeting of the BOA when notified by the Planning and Inspections Department there is no business to be considered at the meeting.

C) **Quorum.**

1) Quorum Requirements.

- a) A majority of the members of the BOA board in attendance shall constitute a quorum at all meetings of the BOA. A quorum for the Board of Adjustment shall consist of a minimum of four members of the board qualified to vote.
- b) All actions of the BOA shall be taken by majority vote, a quorum being present.

2) Withdrawal from Meeting.

Any member who has withdrawn from the meeting without being excused shall be counted as present for the purposes of determining whether a quorum is present.

D) **Deciding Cases.**

1) Voting.

- a) The concurring vote of four-fifths of the board shall be necessary to grant a variance.
- b) A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.
- c) 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 if there are no qualified alternates available to take the place of such members.

2) Failure to Vote.

Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection D-3 of this section or has been allowed to withdraw from the meeting in accordance with subsection D-4 of this section.

3) Conflicts.

A member of the board shall not participate in or vote on any quasi-judicial matter in a manner which would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include but are not limited to the following:

- a) A member having a fixed opinion prior to hearing the matter which is not susceptible to change;
- b) A member having undisclosed ex-parte communications;
- c) A member having a close familial business, or other associational relationship with an affected person;
- d) A member having direct or indirect financial interest in the outcome of the matter.

4) Voting Procedures Due to Conflict.

If an objection is raised to a member's participation and the member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

5) Roll Call Vote.

A roll call vote shall be taken upon request of any member.

E) **Board of Adjustment Officers.**

1) Election of Officers.

- a) Officers will be elected during the first February meeting of the year of the BOA and by majority vote of its entire membership (excluding vacant seats).
- b) The board shall elect one of its members to serve as chairperson (chair) and preside over the board's meetings. The chair should always be one of the regular members. No chair may succeed them self for more than two consecutive terms.
- c) The board shall elect one member to serve as vice-chairperson (vice-chair). The vice-chair shall serve as acting chair in the chair's absence and at such times, he/she shall have the same powers and duties as the chair.
- d) A secretary will be appointed by majority vote of the members either from within its membership or outside. The secretary shall produce all necessary clerical items for the board including public notices, minutes, correspondence, etc. as directed by the chair.
- e) The persons so designated to fill these positions shall serve in these capacities for a term of one year. The officers may be eligible for reappointment.
- f) Vacancies may be filled for the unexpired terms of the chair and vice-chair only by majority vote of the board membership (excluding vacant seats).

2) Rules of Order.

The chair shall decide on all points of order and procedure consistent with the *The Zoning Board of Adjustment*, by Michael B. Brough and Philip P. Green, Jr., as updated; and the modified version of *Roberts Rules of Order*, as updated.

3) Chairpersons Rights.

- a) The chair or any member temporarily acting or appointed by the chair may administer oaths to witnesses coming before the board.
- b) The chair and vice-chair may take part in all deliberations and vote on all issues.

F) **Powers and Duties of Board of Adjustment.**

1) The BOA shall hear and decide:

Land Development Ordinance for the Town of Beaufort

- a) Appeals from and review of any order, decision, requirement, or determination made by the administrative official charged with the enforcement of this Ordinance, as provided in subsection H of this section.
 - b) Applications for variances, as provided in subsection I of this section.
 - c) Questions involving interpretations of the location boundary lines on the Official Zoning Map or ordinance text requirements as provided in subsection J of this section.
 - d) Any other matter the board is required to act upon by any other Town Ordinance or state law.
- 2) The board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this chapter.

G) *Public Notice of Hearings of the Board.*

- 1) Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property which is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land which is the subject of the hearing, and to all owners of parcels within 100 feet of such land, and to any other persons entitled to receive notice as provided by this section. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within the same time period, the planning staff shall also prominently post a notice of the hearing sign on the site which is the subject of the hearing or on an adjacent street or highway right-of-way. Such sign(s) shall be at least eighteen inches by twenty-four inches (18"x24") in dimension. The sign shall contain the following message:

NOTICE

This property is subject to a Zoning Hearing.

Contact Town Hall for more information at 252-728-2141.

Such sign may include additional information deemed relevant by the administrator of this Ordinance. If more than one contiguous lot or parcels of land are included in the variance application proposal, the Town may nonetheless post only one sign.

- 2) A public hearing shall be held by the BOA for an appeal, a variance, or an interpretation as described in subsection F of this section. A notice of the public hearing shall be given once a week for two successive calendar weeks and published in a newspaper having general circulation in Town. The notice shall be published the first time not less than ten days or not more than twenty-five days before the date affixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- 3) The person or persons mailing the notice of hearing pursuant to this section shall certify to the BOA the proper notice has been provided and such certificate shall be deemed conclusive in the absence of fraud.

H) *Appeals.*

1) Appeal Procedures.

- a) An appeal from any final order, decision, requirement, or determination of a Town official charged with the enforcement of this Ordinance may be taken to the BOA

Land Development Ordinance for the Town of Beaufort

by any person aggrieved. An appeal is taken by filing a written notice of appeal specifying the grounds thereof to the Town and the BOA. A notice of appeal shall be considered filed with the Town and the BOA when delivered to the Town’s Planning and Inspections Department, and the date and time of filing shall be entered on the notice of appeal by staff.

- b) An appeal must be made within thirty days after the date of the decision or order appealed from.
- c) Whenever an appeal is filed, Town staff shall forthwith transmit to the BOA all papers constituting the record relating to the action of the appeal.

2) Stay of the Appeal.

An appeal stays all actions by the Town official seeking enforcement of or compliance with the order or decision appealed from, unless the official certifies to the BOA, because of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the BOA or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the official.

3) Modifications to Appeals.

The BOA may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination which in its opinion should be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal was taken.

D) ***Variances.***

The power of variances is to be sparingly exercised and only in rare instances and under exceptional circumstances and with due regard to the main purpose of this Ordinance: to preserve the property rights of others. No change in permitted uses may be authorized by variance.

1) Application Submittal.

An application for a variance shall be submitted to the BOA by filing a copy of the application with the Town.

2) Findings for the Variance.

When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this Ordinance, the BOA shall have the power to vary or modify any of the regulations or provisions of the Ordinance so the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted only upon an affirmative finding of the following:

- a) Unnecessary hardship would result from the strict application of this Chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
- b) 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;
- c) 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

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may justify the granting of a variance shall not be regarded as a self-created hardship; and,

- d) The requested variance is consistent with the spirit, purpose, and intent of this Chapter, such that public safety is secured, and substantial justice is achieved.

J) Interpretations.

- 1) The BOA is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the zoning official, they shall be handled as provided in subsection H of this section.
- 2) An application for a map interpretation shall be submitted to the BOA by filing a copy of the application with the Town. The application shall contain sufficient information to enable the board to make the necessary interpretation.
- 3) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
 - a) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;
 - b) Boundaries indicated as approximately following lot lines in the Town or ETJ limits shall be construed as following such lines, limits, or boundaries;
 - c) Boundaries indicated as following shorelines shall be construed to follow such shorelines and in the event of a change in the shoreline shall be construed as continuing to follow such shorelines;
 - d) Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement using the scale of the Official Zoning Map; and,
 - e) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply only to the portion of such streets or alleys added thereto by virtue of such vacation or abandonment.

K) Burden of Proof in Appeals, Interpretations, and Variances.

- 1) When an appeal is taken to the BOA in accordance with subsection H of this section, the appellant has the burden of proof and persuasion.
- 2) The applicant for a variance shall have the burden of proof and persuasion.

L) Board Action on Appeals and Variances.

1) Appeals.

With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include insofar as practicable, a statement of the specific reasons or findings of fact which support the motion. If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption, a motion to uphold the decision appealed from shall be in order. This motion is adopted as the board's decision if supported by more than one-fifth of the board's voting membership in attendance. (excluding vacant seats)

2) Granting a Variance.

Before granting a variance, the BOA must take a separate vote and vote affirmatively by a four-fifths majority, on each of the four required findings stated in subsection I-2

Land Development Ordinance for the Town of Beaufort

of this section. A motion to make an affirmative finding on each of the requirements set forth in subsection I-2 of this section shall include a statement of the specific reasons or findings of fact supporting such motion.

3) Denying a Variance.

A motion to deny a variance shall be made if any one or more of the four required findings set forth in subsection I-2 of this section are not satisfied or if the application is incomplete. A motion to deny a variance shall include a statement of the specific reasons or findings of fact which were not met and therefore caused the denial of the variance. This motion is adopted as the board's decision if supported by more than one-fifth of the board's voting membership in attendance (excluding vacant seats).

M) ***Review of Board's Decisions.***

Every decision of the board shall be subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for review by the Court shall be filed with the Clerk of Superior Court within thirty days after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or the chairperson of the board at the time of its hearing of the case, whichever is later. The decision of the board should be delivered to the aggrieved party either by personal service, or by registered or certified mail.

N) ***Deadlines for Applications to the Board.***

All applications and supporting materials shall be submitted to the Town's Planning and Inspections Department fifteen business days prior to the next regularly scheduled BOA meeting. Informational packets shall be delivered to board members seven days prior to the scheduled meeting.



APPLICATION FOR A VARIANCE OF LAND DEVELOPMENT STANDARDS FOR THE TOWN OF BEAUFORT

Instructions:

Please complete the application below, include all the required attachments, and the **application fee of \$300.00** and return to the Beaufort Town Hall, 701 Front Street or P.O. Box 390, Beaufort, N.C., 28516. Incomplete applications will not be processed but **will be** returned to the applicant. Please contact Planning and Inspections at 252-728-2142 with any questions.

APPLICANT INFORMATION

Applicant Name: Bradley Cummins, Kristen Prescott

Applicant Address: 1314 Ann Street, Beaufort, NC

Phone Number: 252 571 0796 Email: bradleycummins@gmail.com

Property Owner Name: Bradley Cummins, Kristen Prescott

Address of Property Owner: 1314 Ann Street, Beaufort, NC

Phone Number: 252 571 0796 Email: bradleycummins@gmail.com

PROPERTY INFORMATION

Property Address: 1314 Ann Street, Beaufort, NC

15-Digit PIN: 730507595006000 Lot/Block Number: _____

Size of Property (in square feet or acres): 0.114 acres

Current Zoning: R-8 Is the property in the Historic District? No

Current Use of Property: Residential Vacant Commercial Other: _____

[Signature] [Signature] 04/26/2022
Applicant Signature Date of Signature

Property Owner Signature (if different than above) Date of Signature

An application fee of \$300.00, is to be paid by either cash, money order, or check made payable to the "Town of Beaufort" and must accompany this application. The complete application, payment, and supporting material must be received by Town Staff at least 15 working days prior to a regularly scheduled Board of Adjustment meeting date.

Please refer to the Town's **Land Development Ordinance, Section 3** and all other pertinent sections, for the information required to accompany this application.
The Town's website address is www.beaufortnc.com.

OFFICE USE ONLY *Revised 8/2020*

Received by: _____ Reviewed for Completeness By: _____

Date: _____ Date Deemed Complete and Accepted: _____

REQUIRED ATTACHMENTS FOR A VARIANCE TO THE BEAUFORT ZONING REGULATIONS

Please provide the following as attachments to the variance request form:

- 1. A statement explaining the following:
 - The **specific requirements** of the Town of Beaufort that the applicant is asking to be varied (for example: the number of required parking spaces, any yard setbacks, height of a structure etc.) Please reference the exact chapter and section of the Land Development Ordinance (LDO) in question.
 - The **EXACT amount** of variance that is being requested. For example, the reduction of a placement of a structure by 5 feet within a setback area; a reduction of parking spaces by 7; or an increase in the amount of permitted signage by 16 square feet, etc.
 - The **reason for requesting the Variance**, including an explanation of why the Variance should be considered based on the criteria outlined in Section 21-I (1) of the LDO and any other relevant Sections of the Ordinance that may specifically pertain to the project (see attached excerpts of the code).

- 2. A site plan of the property drawn to scale and includes:
 - A North Arrow;
 - All property lines and accurate property line dimensions;
 - The adjacent streets and names;
 - The location of all easements (if applicable);
 - The location of all existing structures (if applicable);
 - The proposed location of new or expanded structures;
 - The current and proposed building setbacks from all property lines; and,
 - All parking areas, landscaping, and any other requirements of the zoning regulations.

- 3. A TYPED list all property owners (with addresses) within 100 feet of the boundary lines of all properties requesting the variance (notification of adjacent property owners by the Town is required by North Carolina law).

- 4. Any additional materials such as photographs of the surrounding properties, elevations of proposed structures or information that the applicant would like to present to the Board of Adjustment relevant to the requested variance.

- 5. Plans or other documents submitted for the Variance should be in an electronic/digital method as well as one paper copy.

APPLICATIONS ARE DUE 15 WORKING DAYS BEFORE A REGULAR BOARD MEETING.

April 25, 2022

Dear Town of Beaufort Board of Adjustment Members,

My wife and I along with our two daughters live at 1314 Ann Street. As part of our efforts to renovate this property we would like to construct a porch along the front of the existing structure.

According to the Carteret County Property Data records our home was built in 1970. We are located in the R-8 Zoning District; however, our lot is Nonconforming in both R-8 Minimum Lot Size and R-8 Minimum Lot Width.

	R-8 District	1314 Ann Street
Minimum Lot Size	8,000 sq ft	4,965 sq ft
Minimum Lot Width Minimum Building Line	60 ft	49 ft

We are requesting a variance from the Front Setback outlined in Section 11 C-1 of the Town of Beaufort LDO for Nonconforming Lots of Record. This variance would only apply to the area needed for construction of the proposed porch. Please find the exact amount of variance requested outlined in the maps attached.

In your deliberation we ask that you consider the peculiarities unique to this property.

One detail we would like to submit is the plat for Ocean View Subdivision recorded in Deed Book 16, Page 553 on February 5, 1915 for Sarah L Hill with the Carteret County Registry. On this plat you will find that our lot was not initially slated for development but was planned to be part of Park Street. Park Street was not constructed and our lot was fashioned out of what was left over to the east of lot 37 and lot 38. This is referenced in our deed, Instrument #1716103 and should account for the reduced size and uncharacteristic shape of our lot as compared to adjacent properties.

A second detail we would like to submit is that even with the addition of the proposed front porch our home will still set back from Ann Street by 37 feet.

A third detail we would like to submit is that the proposed porch will not have an eve overhang extending beyond the requested variance.

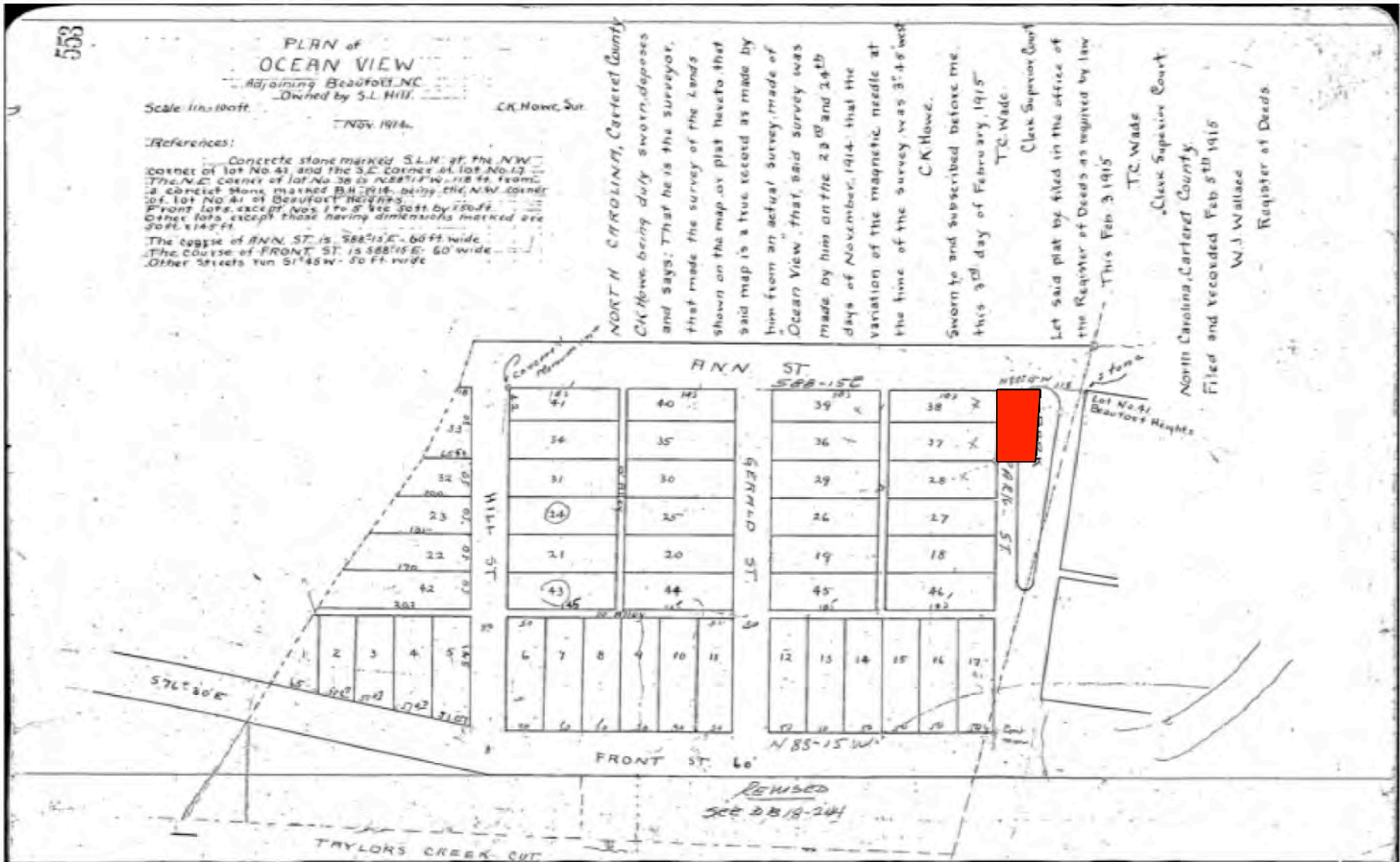
Given the conditions that are peculiar to our property we would like to suggest that the requested variance is consistent with the spirit, purpose and intent of the Town of Beaufort LDO Chapter on Variances.

Please find the attached documentation to aid in your deliberation.

Thank you for your time and attention to our request.

Kind Regards,

Bradley Cummins and Kristen Prescott
1314 Ann Street, Beaufort, NC 28516



553

PLAN of
OCEAN VIEW
Adjoining Beaufort, NC.
Owned by S.L. Hill.

Scale 1 in = 100 ft. CK Howe, Sur.
NOV. 1914.

References:

Concrete stone marked S.L.H. at the NW corner of lot No 41 and the S.E. corner of lot No 17. The N.E. corner of lot No 36 is N 88° 15' W - 118 ft from a concrete stone marked B.H. 118 - being the N.W. corner of lot No 41 of Beaufort Heights.

Front lots, except Nos 1 to 5 are 30 ft by 150 ft. Other lots, except those having dimensions marked are 30 ft x 145 ft.

The course of ANN ST. is S 88° 15' E - 60 ft wide.
The course of FRONT ST. is S 88° 15' E - 60 ft wide.
Other streets run S 1° 45' W - 50 ft wide.

NORTH CAROLINA, Carteret County
CK Howe being duly sworn, deposes and says: That he is the surveyor, that made the survey of the lands shown on the map or plat hereto, that said map is a true record as made by him from an actual survey, made of "Ocean View", that said survey was made by him on the 23rd and 24th days of November, 1914: that the variation of the magnetic needle at the time of the survey was 3° 45' west.

CK Howe.

Sworn to and subscribed before me, this 30th day of February, 1915

T.C. Wade
Clerk Superior Court

Let said plat be filed in the office of the Register of Deeds as required by law This Feb 3 1915

T.C. Wade
Clerk Superior Court

North Carolina, Carteret County.
Filed and recorded Feb 5th 1915
W.J. Wallace
Register of Deeds

BASED ON THE FOLLOWING RECORDINGS WITH CARTERET COUNTY REGISTER OF DEEDS:
PLAT, BOOK 16, PAGE 553 ON 02/15/1915 SURVEY, INSTRUMENT #29902 FILED ON 04/06/2001 DEED, INSTRUMENT #1716103 FILED ON 04/07/2021

FRONT PORCH ADDITION
APPLICATION FOR VARIANCE

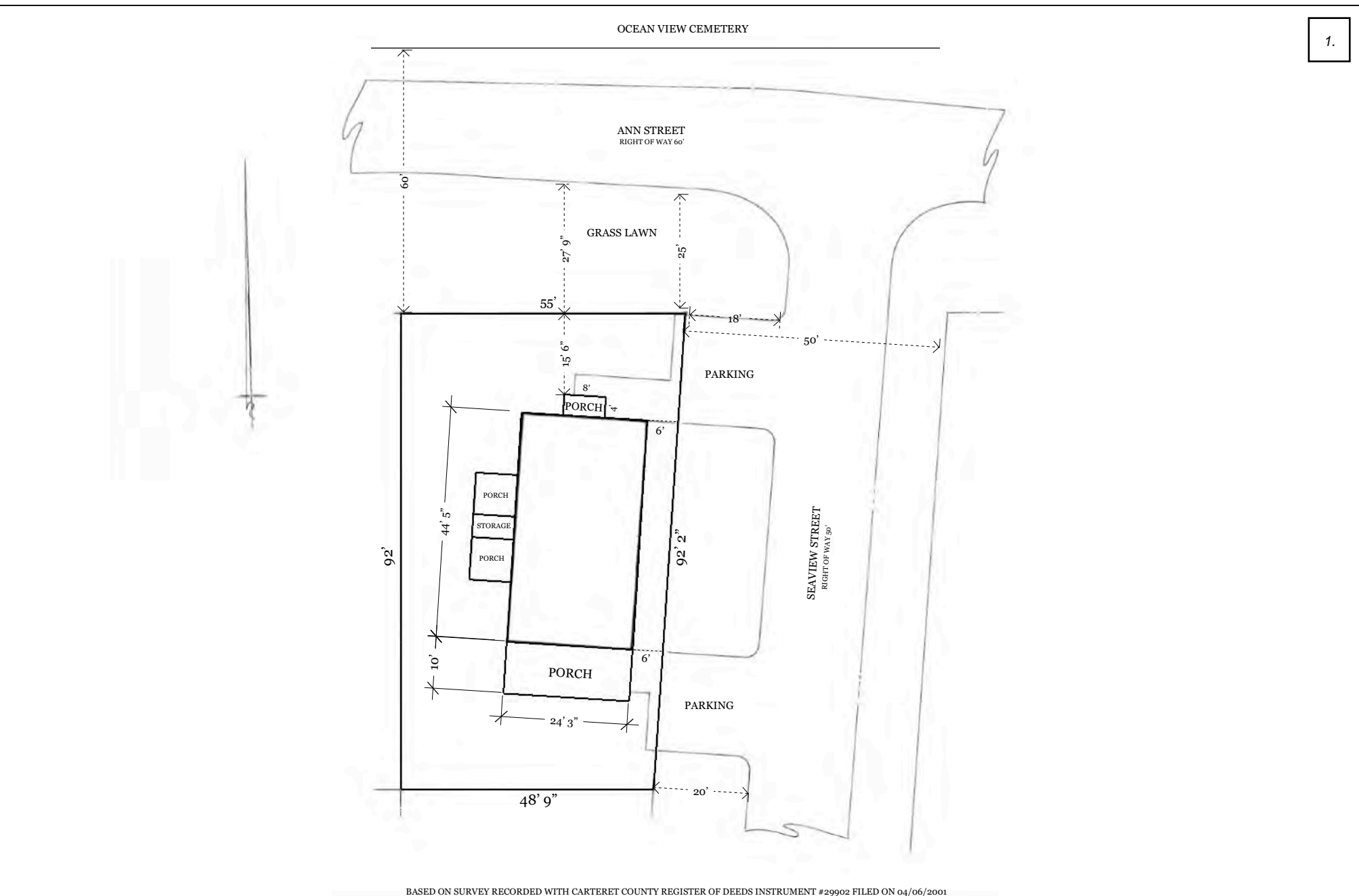
PAN OF OCEAN VIEW
LOT SIZE: 4,965 SQ FT

1314 22 STREET

REVISIONS

	MM/DD/YY	REMARKS
1	--/--/--	...
2	--/--/--	...
3	--/--/--	...
4	--/--/--	...
5	--/--/--	...

A



BASED ON SURVEY RECORDED WITH CARTERET COUNTY REGISTER OF DEEDS INSTRUMENT #29902 FILED ON 04/06/2001

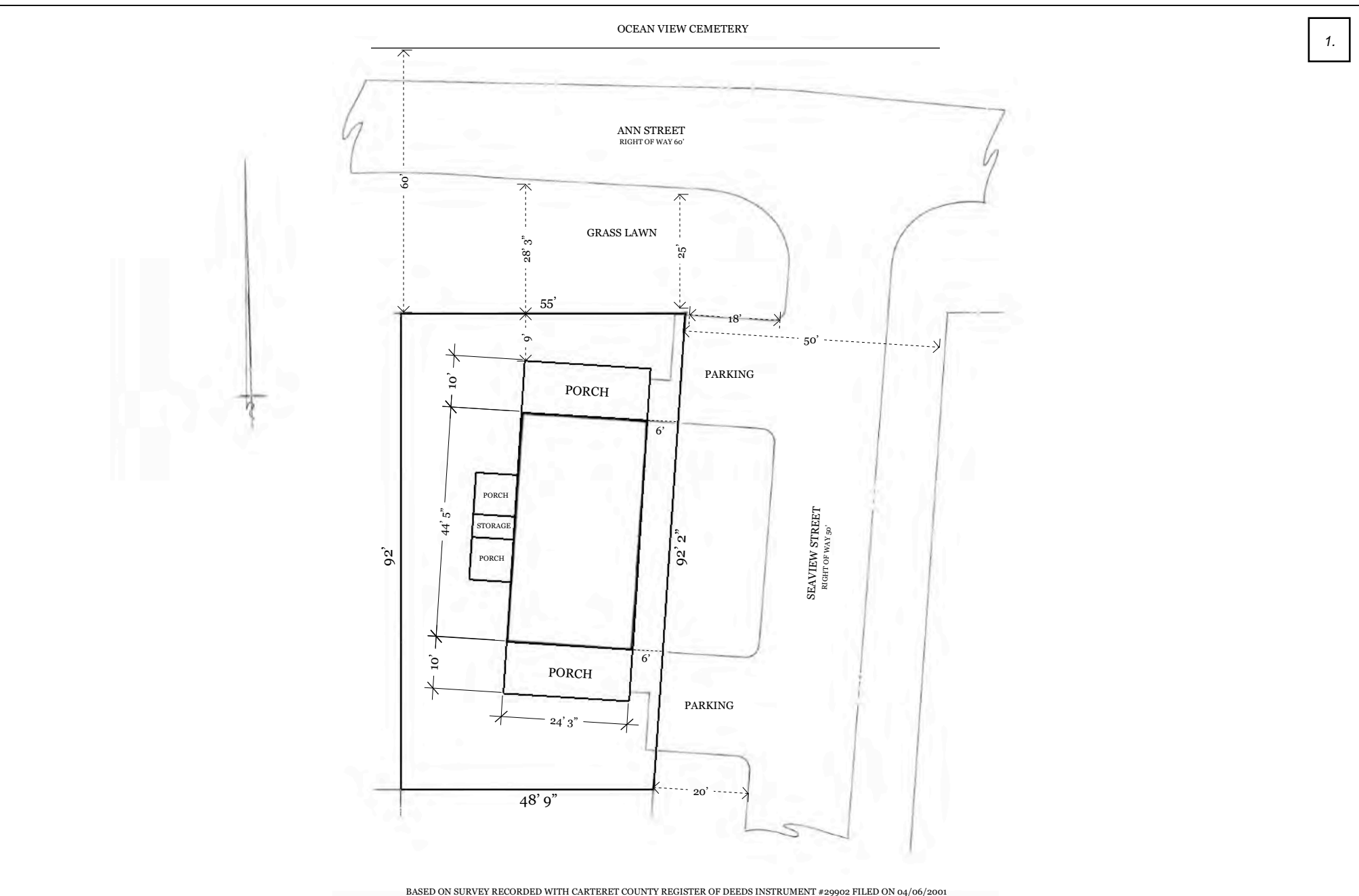
FRONT PORCH ADDITION
APPLICATION FOR VARIANCE

EXISTING LAYOUT
LOT SIZE: 4,965 SQ FT

1314 **23** STREET

REVISIONS		
	MM/DD/YY	REMARKS
1	--/--/--	...
2	--/--/--	...
3	--/--/--	...
4	--/--/--	...
5	--/--/--	...

A 01



BASED ON SURVEY RECORDED WITH CARTERET COUNTY REGISTER OF DEEDS INSTRUMENT #29902 FILED ON 04/06/2001

FRONT PORCH ADDITION
APPLICATION FOR VARIANCE

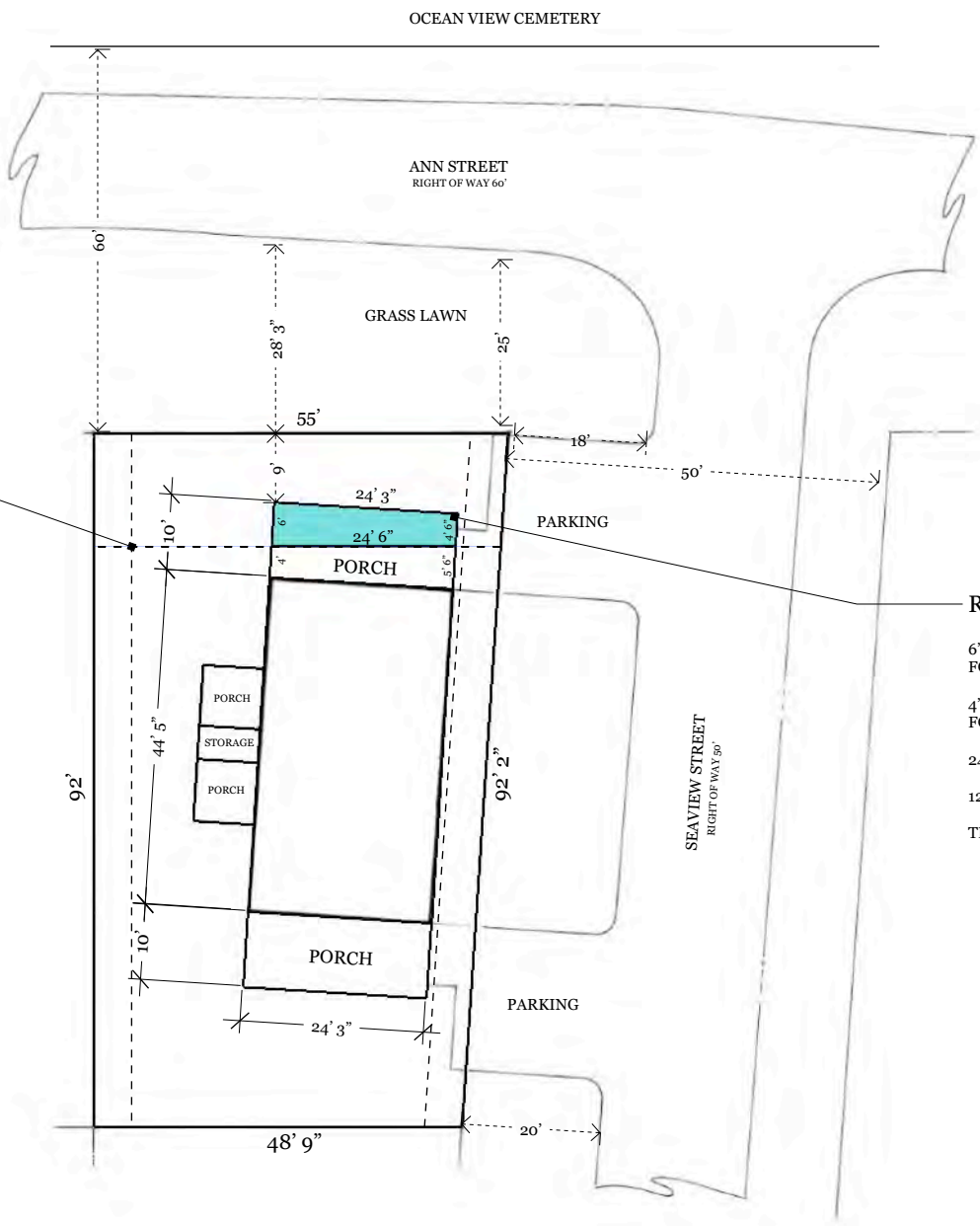
REQUESTED LAYOUT
LOT SIZE: 4,965 SQ FT
1314 **24** STREET

REVISIONS		
	MM/DD/YY	REMARKS
1	--/--/--	...
2	--/--/--	...
3	--/--/--	...
4	--/--/--	...
5	--/--/--	...

**MINIMUM
NONCONFORMING LOT
REQUIREMENTS**

LDO SECTION 11C, PAGE 131

WIDTH LOT OF RECORD 30 - 49'
SIDE SETBACK 5'
FRONT SETBACK 15'



REQUESTED VARIANCE

- 6'2" EXTENDING NORTHERLY FROM NW CORNER OF HOME FOR A PORCH DEPTH OF 10'
- 4' 6" EXTENDING NORTHERLY FROM NE CORNER OF HOME FOR A PORCH DEPTH OF 10'
- 24'6" WIDE
- 127.5 SQ FT
- THERE WILL BE NO EVE OVERHANG ON THE PORCH

BASED ON SURVEY RECORDED WITH CARTERET COUNTY REGISTER OF DEEDS INSTRUMENT #29902 FILED ON 04/06/2001

**FRONT PORCH ADDITION
APPLICATION FOR VARIANCE**

REQUESTED VARIANCE

LOT SIZE: 4,965 SQ FT

1314 **25** STREET

REVISIONS

	MM/DD/YY	REMARKS
1	--/--/--	...
2	--/--/--	...
3	--/--/--	...
4	--/--/--	...
5	--/--/--	...

A 03

A







PLAN of OCEAN VIEW

Adjoining Beaufort, N.C.
Owned by S.L. Hill.

Scale: 1 in = 190 ft.

CK. Howe, Sur.

Nov. 1914

References:

Concrete stone marked S.L.H. at the N.W. corner of lot No. 41 and the S.E. corner of lot No. 17.
 The N.E. corner of lot No. 38 is N88°15'W - 118 ft. from a concrete stone marked B.H. 1914, being the N.W. corner of lot No. 41 of Beaufort Heights.
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 The course of FRONT ST. is S88°15'E - 60 ft wide.
 Other Streets run S1°45'W - 50 ft wide.

NORTH CAROLINA, Carteret County

CK. Howe, being duly sworn, deposes and says: That he is the surveyor, that made the survey of the Lands shown on the map or plat hereto, that said map is a true record as made by him from an actual survey, made of "Ocean View", that, said survey was made, by him on the 23rd and 24th days of November, 1914, that the variation of the magnetic needle at the time of the survey was 3° 45' west.

CK. Howe,

Sworn to and subscribed before me, this 3rd day of February, 1915

T.C. Wade

Clerk Superior Court

Let said plat be filed in the office of the Register of Deeds as required by law

This Feb. 3, 1915

T.C. Wade

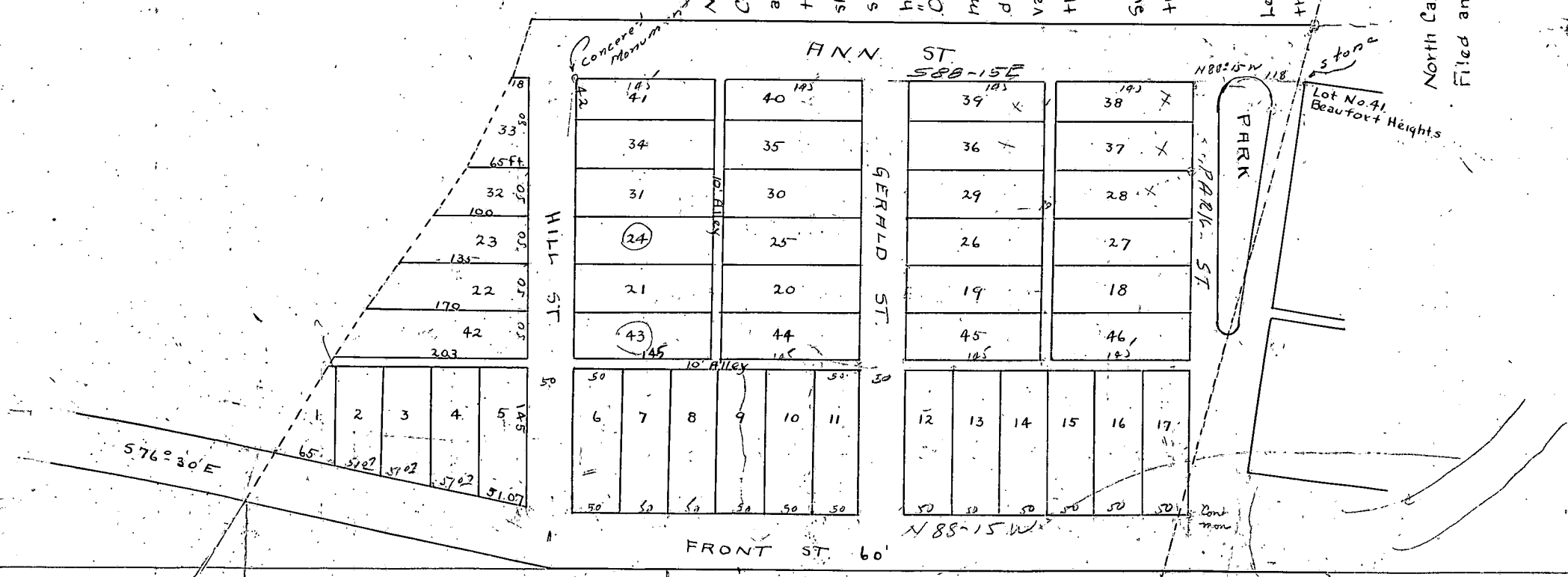
Clerk Superior Court

North Carolina, Carteret County.

Filed and recorded Feb. 5th 1915

W.J. Wallace

Register of Deeds.



REVISOR
 DE 2818-244

Karen S. Hardesty
Carteret County, NC
April 7, 2021 10:36:15 AM

DEED # Pages: 2

Fee: \$26.00

NC Revenue Stamp: \$830.00

FILE # 1716103

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$830.00

Parcel Identifier No. **730507595006000** Verified by _____ County on the ____ day of _____, 20____
By: _____

Mail/Box to: Kirkman, Whitford, Brady, Berryman & Gordon, P.A.

This instrument was prepared by: Kirkman, Whitford, Brady, Berryman & Gordon, P. A.

Notice per N.C.G.S. §105-317.2: The property herein is not the primary residence of the Grantor.

Brief description for the Index: **Lot Ann St., Ocean View Park**

THIS DEED made this 2nd day of April, 2021, by and between

GRANTOR	GRANTEE
Phillip E. Pollet, unmarried	Bradley Keith Cummins and wife, Kristen D. Prescott
P.O. Box 523 Seagrove, NC 27341	1505 Front Street Beaufort, NC 28516

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Beaufort, Beaufort Township, Carteret County, North Carolina and more particularly described as follows:

Beginning at an existing iron pipe on the south line of Ann Street at the northeast corner of Lot 38, Ocean View Subdivision, as shown on a plat recorded in Deed Book 16, Page 553, Carteret County Registry; running thence form said point of beginning South 88-15 East with the south line of Ann Street 55.00 feet to the west line of Seaview Street; thence with the west line of Seaview Street South 5-38 West 92.21 feet to an iron pipe on the west line of Seaview Street, thence North 88-15 West 48.75 feet to an existing iron pipe at the southeast corner of Lot 37, Ocean View Subdivision, thence with the east lines of Lots 37 and 38, Ocean View Subdivision, North 1-45 East 92.00 feet to the point beginning and being shown on a Powell Surveying Company plat recorded in Map Book 29, Page 902.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 904, Page 120.

A map showing the above described property is recorded in Book 16, Page 553 and Map Book 29, Page 902.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

Any all restrictions, covenants and easements of record.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

(Entity Name) Phillip E. Pollet (SEAL)
Phillip E. Pollet

By: _____ (SEAL)

Title: _____

SEAL-STAMP State of North Carolina - County of Randolph
I, the undersigned Notary Public of the County and State aforesaid, certify that **Phillip E. Pollet** personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 2 day of April, 2021.

Gina Davis
Notary Public
Randolph County, NC
Commission Expires 09/11/2024

Gina Davis
Notary Public

SEAL-STAMP State of North Carolina - County of Randolph
I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me

Gina Davis
Notary Public
Randolph County, NC
Commission Expires 09/11/2024

this day and acknowledged that he is the _____ of _____, a North Carolina or _____ corporation/limited liability company/general partnership/limited partnership (whichever is applicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this 2 day of April, 2021.

Gina Davis
Notary Public

The foregoing Certificate(s) of _____ is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By: _____ Register of Deeds for _____ County
Deputy/Assistant - Register of Deeds

PROPERTY OWNERS WITHIN 100 FEET

MARISSA MORRIS ETAL YUST
1401 ANN STREET
BEAUFORT, NC 28516

BARBARA MCKENZIE-TERVO
1312 ANN STREET, UNIT 4
BEAUFORT, NC 28516

CALVIN MICHAEL TAYLOR
1402 ANN STREET
BEAUFORT, NC 28516

LARRY K BAGWELL,
1312 ANN STREET UNIT 5
BEAUFORT, NC 28516

BRADY C WAY ETUX SHIRLEY
101 SEAVIEW STREET
BEAUFORT, NC 28516

WENDELL R LANTZ ETUX DAWN
102 SEAVIEW STREET
BEAUFORT, NC 28516

JAY C TERVO ETUX BARBARA M
103 SEAVIEW STREET, UNIT A
BEAUFORT, NC 28516

AMY JEAN JONES ETAL HARRISON
103 SEAVIEW STREET, UNIT B
BEAUFORT, NC 28516

HALEY PLAAS ETAL JOEL
1312 ANN STREET, UNIT 1
BEAUFORT, NC 28516

DAVID LEO LEACH ETUX PAMELA S
1312 ANN STREET, UNIT 2
BEAUFORT, NC 28516

DAVID LEO LEACH
1312 ANN STREET, UNIT 3
BEAUFORT, NC 28516



Town of Beaufort, NC

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

**Town of Beaufort Board of Adjustment Regular Meeting
6:00 P.M. May 23, 2022 – 614 Broad Street – Train Depot**

AGENDA CATEGORY: New Business
SUBJECT: Variance Request for 215 Turner Street

BRIEF SUMMARY:

John Griffin is requesting a variance to allow for:

- ◆ Reduction of northeastern side yard setback from 5 feet to 3 feet (for a 2 foot encroachment) a total area of 218 sq. ft.

REQUESTED ACTION:

Conduct Evidentiary Hearing
Decision on Request

EXPECTED LENGTH OF PRESENTATION:

15 Minutes (Presentation From Staff)

SUBMITTED BY:

Kyle Garner, AICP Planning Director

BUDGET AMENDMENT REQUIRED:

N/A

Memo

To: Beaufort Board of Adjustment
From: Kyle Garner, AICP, Planning Director
Date: May 23, 2022
Re: Side Yard variance request for 215 Turner Street

Variance Request

Applicant: John Griffin **Property Owner:** Same
Property Address: 215 Turner Street **PIN:** 730617117012000
Property Zoning District: TR (Transitional) **Flood Zone:** Shaded X

Lot Dimensions: See Attached Survey as part of the application. The survey shows a lot frontage of 49.93 feet. (In 2018 the frontage was 54.92 feet.) The lot is non-conforming in that it does not meet the required lot width nor square footage in the TR district. (Approximately 5,300 sq. ft. and 8,000 sq. ft. needed)

Existing use: Vacant

Request:

- ◆ Reduction of northeastern side yard setback from 5 feet to 3 feet (for a 2 foot encroachment) a total area of 218 sq. ft.

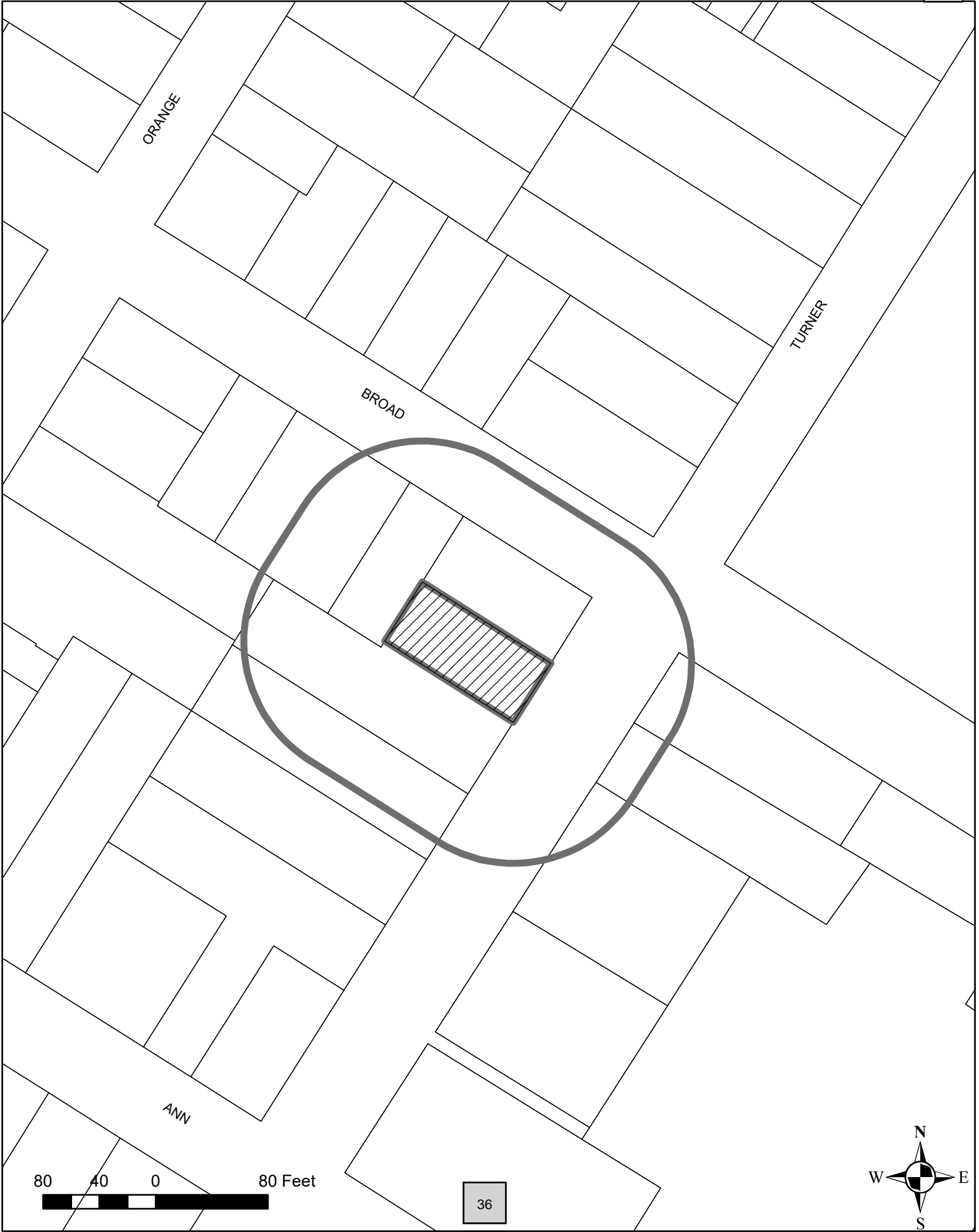
Description of Project:

This property is an existing lot of record and was created prior to the implementation of the TR zoning and the setback requirements. The applicant has submitted a detailed written description as to why they request the variance. Staff has been working with the applicant since they purchased the property and was looking to apply for a Certificate of Appropriateness from the Historic Commission. When the applicant did submit for the COA, staff noticed that a survey/site plan was missing. It was then that the applicant found out through an updated survey that the property was actually 5 feet narrower than what the deed stated.

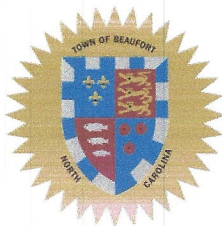
Facts:

- The property is zoned TR (Transitional).
- The lot is a vacant lot of record.
- The property has been in existence prior to adoption of any zoning standards.
- The lot is non-conforming as it is less than 8,000 sq. ft. (Approximately 5,300 sq. ft.)
- This lot was almost 55 feet wide and 6,000 sq. ft. in 2018 per survey.
- Deed of Applicant indicates a 55 foot wide lot.
- Recent survey shows a 49 foot wide lot.
- Based on recent survey the property has lost approximately 700 sq. ft. of lot area.
- The Applicant will have to go before the Historic Commission for a Certificate of Appropriateness prior to construction of any structure.

Case # 22-04 - Variance Request - 215 Turner Street



<u>OWNER</u>	<u>AIL_HOU:</u>	<u>MAIL_ST</u>	<u>MAIL_CITY</u>	<u>IL_ST/MAIL_ZI</u>	<u>MAIL_ADD2</u>
ADAMS,ISAAC ETUX LAURA MCCLUNG	1315	22ND STREET NW	WASHINGTON	DC	20037
CARTERET COUNTY	302	COURTHOUSE SQUARE	BEAUFORT	NC	28516 SUITE 200
CONCORDIA LODGE 11		TURNER ST	BEAUFORT	NC	28516
GRIFFIN,JOHN ETUX ANNA	10217	LOBLEY HILL LANE	RALEIGH	NC	27613
HAAS,JONATHAN R ETAL BELL KIMB	217	TURNER STREET	BEAUFORT	NC	28516
JOHNSON,DOROTHY TAYLOR	308	BROAD ST	BEAUFORT	NC	28516
KRALICK,SHARON ETVIR CHARLES	136	STEEPLECHASE ROAD	ROCKY MOUNT	NC	27804
WILLIS,ADAM DANIEL	2103	HIGHWAY 101	BEAUFORT	NC	28516
WILSON,ROBERT MANTON L/T	209	TURNER ST	BEAUFORT	NC	28516



APPLICATION FOR A VARIANCE OF LAND DEVELOPMENT STANDARDS FOR THE TOWN OF BEAUFORT

Instructions:

Please complete the application below, include all the required attachments, and the **application fee of \$300.00** and return to the Beaufort Town Hall, 701 Front Street or P.O. Box 390, Beaufort, N.C., 28516. Incomplete applications will not be processed but **will be** returned to the applicant. Please contact Planning and Inspections at 252-728-2142 with any questions.

APPLICANT INFORMATION

Applicant Name: John Griffin

Applicant Address: 10217 Lobley Hill Lane Raleigh NC 27613

Phone Number: (919) 345-4153 Email: john@thegriffinrealtygroup.net

Property Owner Name: Same as above

Address of Property Owner: _____

Phone Number: _____ Email: _____

PROPERTY INFORMATION

Property Address: 215 Turner Street Beaufort NC 28516

15-Digit PIN: 730617117012000 Lot/Block Number: Lot 103

Size of Property (in square feet or acres): 5358 sft. / .12

Current Zoning: R-8 Is the property in the Historic District? Yes

Current Use of Property: Residential Vacant Commercial Other: _____

Applicant Signature: [Signature] Date of Signature: 5/2/22

Property Owner Signature (if different than above) _____ Date of Signature _____

An application fee of \$300.00, is to be paid by either cash, money order, or check made payable to the "Town of Beaufort" and must accompany this application. The complete application, payment, and supporting material must be received by Town Staff at least 15 working days prior to a regularly scheduled Board of Adjustment meeting date.

Please refer to the Town's **Land Development Ordinance, Section 3** and all other pertinent sections, for the information required to accompany this application.
The Town's website address is www.beaufortnc.com.

OFFICE USE ONLY Revised 8/2020

Received by: _____ Reviewed for Completeness By: _____
Date: _____ Date Deemed Complete and Accepted: _____

JOHN B GRIFFIN
ANNA H GRIFFIN
10217 LOBLEY HILL LN
RALEIGH, NC 27613-5462

3990
66-19/530 NC
58449

5/2/22 DATE

Member Since

PAY TO THE ORDER OF TOWN OF BEAUFORT \$ 300.00
THREE HUNDRED AND 00/100 DOLLARS

Photo Safe Deposit®
Details on back

Bank of America

Wealth Management Banking

ACH R/T 053000196

215 TURNER App FOR VARIANCE 

⑆053000196⑆ 000689576777⑆3990

REQUIRED ATTACHMENTS FOR A VARIANCE TO THE BEAUFORT ZONING REGULATIONS

Please provide the following as attachments to the variance request form:

- 1. A statement explaining the following:
 - The **specific requirements** of the Town of Beaufort that the applicant is asking to be varied (for example: the number of required parking spaces, any yard setbacks, height of a structure etc.) Please reference the exact chapter and section of the Land Development Ordinance (LDO) in question.
 - The **EXACT amount** of variance that is being requested. For example, the reduction of a placement of a structure by 5 feet within a setback area; a reduction of parking spaces by 7; or an increase in the amount of permitted signage by 16 square feet, etc.
 - The **reason for requesting the Variance**, including an explanation of why the Variance should be considered based on the criteria outlined in Section 21-I (1) of the LDO and any other relevant Sections of the Ordinance that may specifically pertain to the project (see attached excerpts of the code).

- 2. A site plan of the property drawn to scale and includes:
 - A North Arrow;
 - All property lines and accurate property line dimensions;
 - The adjacent streets and names;
 - The location of all easements (if applicable);
 - The location of all existing structures (if applicable);
 - The proposed location of new or expanded structures;
 - The current and proposed building setbacks from all property lines; and,
 - All parking areas, landscaping, and any other requirements of the zoning regulations.

- 3. A TYPED list all property owners (with addresses) within 100 feet of the boundary lines of all properties requesting the variance (notification of adjacent property owners by the Town is required by North Carolina law).

- 4. Any additional materials such as photographs of the surrounding properties, elevations of proposed structures or information that the applicant would like to present to the Board of Adjustment relevant to the requested variance.

- 5. Plans or other documents submitted for the Variance should be in an electronic/digital method as well as one paper copy.

APPLICATIONS ARE DUE 15 WORKING DAYS BEFORE A REGULAR BOARD MEETING.

Section 21. Board of Adjustment

I) Variances.

The power of variances is to be sparingly exercised and only in rare instances and under exceptional circumstances and with due regard to the main purpose of the *Land Development Ordinance* (herein known as *the LDO* or *the Ordinance*): to preserve the property rights of others. No change in permitted uses may be authorized by variance.

1) Application Submittal.

An application for a variance shall be submitted to the Board of Adjustment (BOA) by filing a copy of the application with the Town.

2) Findings for the Variance.

When practical difficulties or unnecessary hardships would result from carrying out the strict letter of the LDO, the BOA shall have the power to vary or modify any of the regulations or provisions of the Ordinance so the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted only upon affirmative finding of the following:

- a) Unnecessary hardship would result from the strict application of this Chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
- b) 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;
- c) 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; and,
- d) The requested variance is consistent with the spirit, purpose, and intent of this Chapter, such that public safety is secured and substantial justice is achieved.

K) *Burden of Proof for Variances.*

2) The applicant for a variance (request) shall have the burden of proof and persuasion.

L) *Board Action on Variances.*

2) Granting a Variance.

Before granting a variance, the BOA must take a separate vote and vote affirmatively by a four-fifths majority, on each of the four required findings stated in subsection I-2 of this Section. A motion to make an affirmative finding on each of the requirements set forth in subsection I-2 (see above reference) of this Section shall include a statement of the specific reasons or findings of fact supporting such motion.

3) Denying a Variance.

A motion to deny a variance shall be made if any one or more of the four required findings set forth in subsection I-2 (see above reference) of this Section are not satisfied or if the application is incomplete. A motion to deny a variance shall include a statement of the specific reasons or findings of fact which were not met and therefore caused the denial of the variance. The motion is adopted as the board's decision if supported by more than one-fifth of the board's voting membership in attendance (excluding vacant seats).

215 Turner Street Variance application explanations

Statement of Explanation:

1. We are asking for the relief of the LDO side property setback which currently requires a 5' setback from the side of a structure.
2. The exact amount is a reduction of the setback from 5' to 3' (2') on the north eastern side of the property for approximately 218 sft.
3. Reason for requesting the variance.

Section 21 I (2)

Unnecessary hardships would result from carrying out the strict letter of the LDO, the BOA shall have the power to vary or modify any of the regulations or provisions of the Ordinance so the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted only upon affirmative finding of the following:

- a) Unnecessary hardship would result from the strict application of this Chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;

Explanation:

The size and shape of this lot are the hardship. Prior to closing on the lot May 11, we were under the impression it was 55' wide based on (see enclosed) a survey we obtained from Bell and Phillips dated November 26, 2018. On March 8, 2022 Byrd Surveying surveyed the property and we were informed our property was actually 49.93' wide. Our plans had been drafted based on a 55' wide lot and 38' wide home. We have reduced the width of the home plan to 37' but still require a variance to accommodate a driveway. Allowing for the requested 2' variance on the eastern side (right side) of the lot would allow for a reasonably sized home on a very small lot and keep in good standing with the streetscape of other homes on the block.

- b) 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;

Explanation:

The size of this lot is the hardship as this lot currently stands 5' (50') narrower than every other lot on Turner Street and is a non-conforming lot. This lot will require a driveway 10' wide, and in order to build a structure in keeping with neighboring properties on the street will require a minimum of 37' width requiring a 2' variance.

c) 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;

Explanation:

The lot size and shape is not the result of any action taken by us – we are trying to build a home in the historic district that is in good keeping, with neighboring properties on the block and sits proportionally to adjoining homes.

d) The requested variance is consistent with the spirit, purpose, and intent of this Chapter, such that public safety is secured and substantial justice is achieved.

Explanation:

The only neighbor potentially impacted by the variance is 217 Turner Street (corner lot Turner and Broad) whose existing structure sits 12' from the property line. Additionally there is an existing privacy fence and large oak tree that separates the two properties. A 2' variance would have no impact on the streetscape and would allow the our house to reside proportionally in balance with our neighbors on either side.

All adjacent neighbors within 100'

Jonathon and Kimberly Haas
217 Turner Street
Beaufort NC 28516

Sharon and Charles Kralick
312 Broad Street
Beaufort NC 28516

Dorothy Johnson
308/310 Broad Street
Beaufort NC 28561

Issac and Laura Adams
211 Turner Street
Beaufort NC 28516

Robert Wilson
209 Turner Street
Beaufort NC 28516

Carteret County
214 Turner Street
Beaufort NC 28516

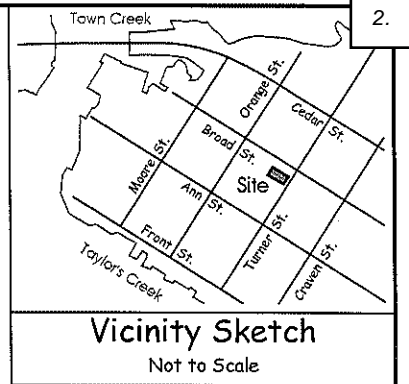
Concordia Lodge
212 Turner Street
Beaufort NC 28516

Carteret County
210 Turner Street
Beaufort NC 28516

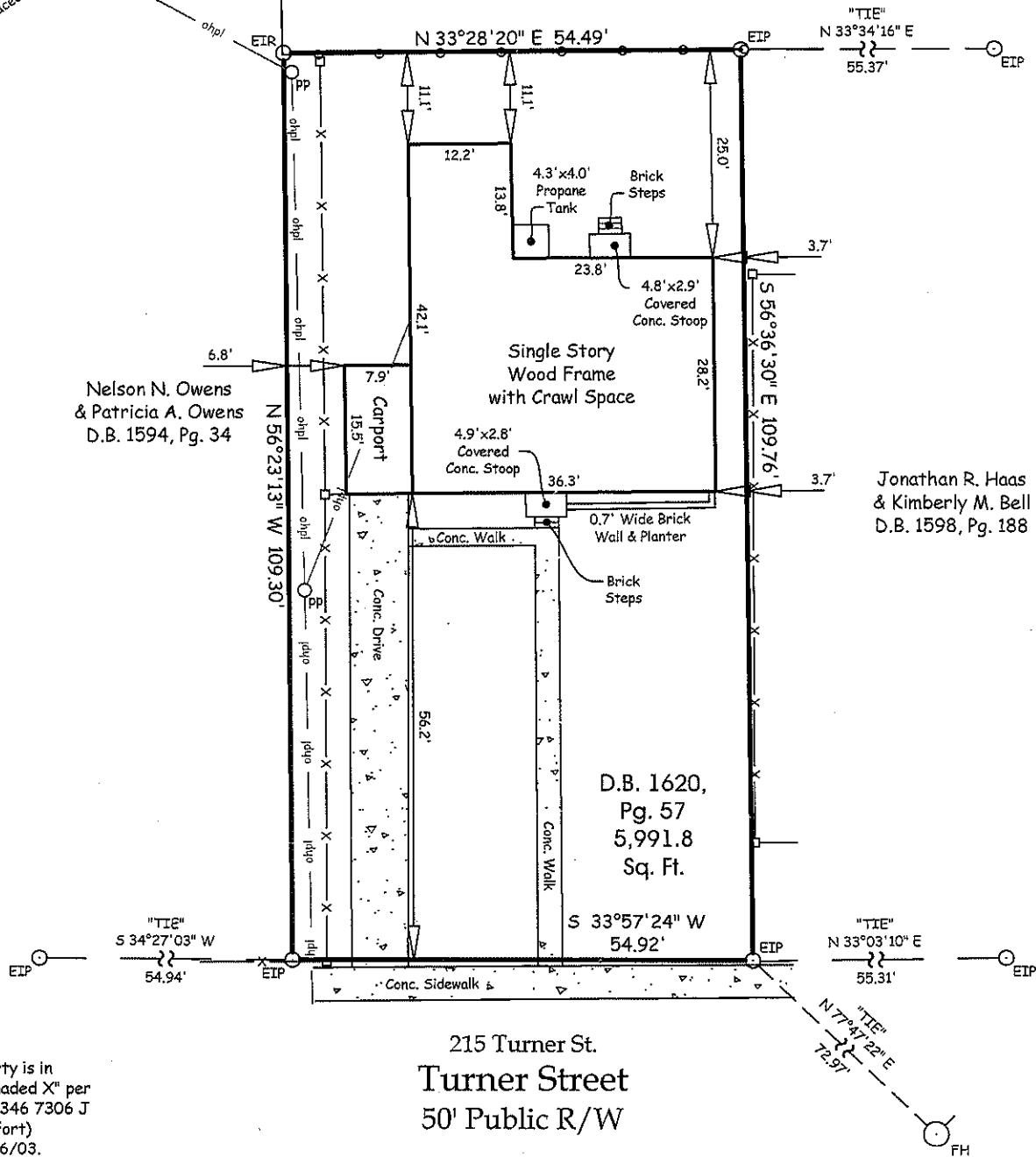
Legend:

- D.B. - Deed Book
- EIP - Existing Iron Pipe
- EIR - Existing Iron Rod
- fh - Fire Hydrant
- MBL - Minimum Building Line
- ohpl - Overhead Powerline
- Pg. - Page
- pp - Power Pole
- R/W - Right-of-way

North as per
Unrecorded Plat Entitled:
"Plan Of Beaufort, N.C."
Traced: 1/19/1947



Sharon Kralick
& Charles Kralick
D.B. 1513, Pg. 85



Nelson N. Owens
& Patricia A. Owens
D.B. 1594, Pg. 34

Jonathan R. Haas
& Kimberly M. Bell
D.B. 1598, Pg. 188

D.B. 1620,
Pg. 57
5,991.8
Sq. Ft.

Subject Property is in
Flood Zone "Shaded X" per
FIRM CPN 375346 7306 J
(Town of Beaufort)
Effective 07/16/03.

NO RECORD SEARCH DONE BY
OR FURNISHED TO SURVEYOR IN
REGARD TO ZONING, SETBACKS,
EASEMENTS OR RESTRICTIONS.

THIS MAP NOT FOR
RECORDING PURPOSES

PHYSICAL SURVEY

**ALL DISTANCES ARE
HORIZONTAL GROUND,
U.S. SURVEY FEET.**

AREA CALCULATED
BY COORDINATES

I certify that this map was drawn under my supervision from an actual survey made under my supervision with reference source noted; that the boundaries not surveyed are indicated as dashed/computed from reference source; that this map meets the requirements of the standards of practice for Land Surveying in NC (N.C.A.C. 56.1600) Ratio of precision/average positional accuracy is 1:16,000

Signature of Jonathan R. Haas
DATE OF SURVEY: 10/30/18 P. 11/26/18

Lot No. PART OF 103 Block -
SUBD. PLAN OF BEAUFORT, N.C. REF.: BK. 1620, PG. 57
BEAUFORT TOWNSHIP CARTERET COUNTY, N.C.
SURVEY FOR: NELSON N. OWENS
PATRICIA A. OWENS

GRAPHIC SCALE: 1"=20'

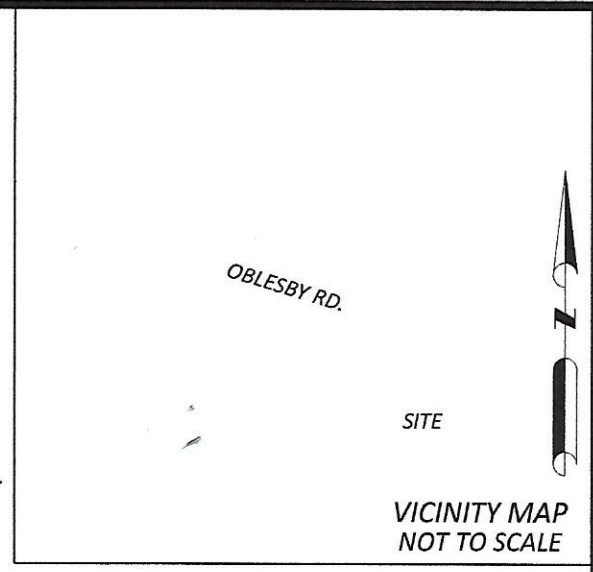


BELL AND PHILLIPS
Engineers - Surveyors - Planners
Cedar Point, North Carolina
604E Cedar Point Blvd.
Phone (252) 393-6101 - www.BellandPhillips.com
N.C. Firm License Number: F-0108

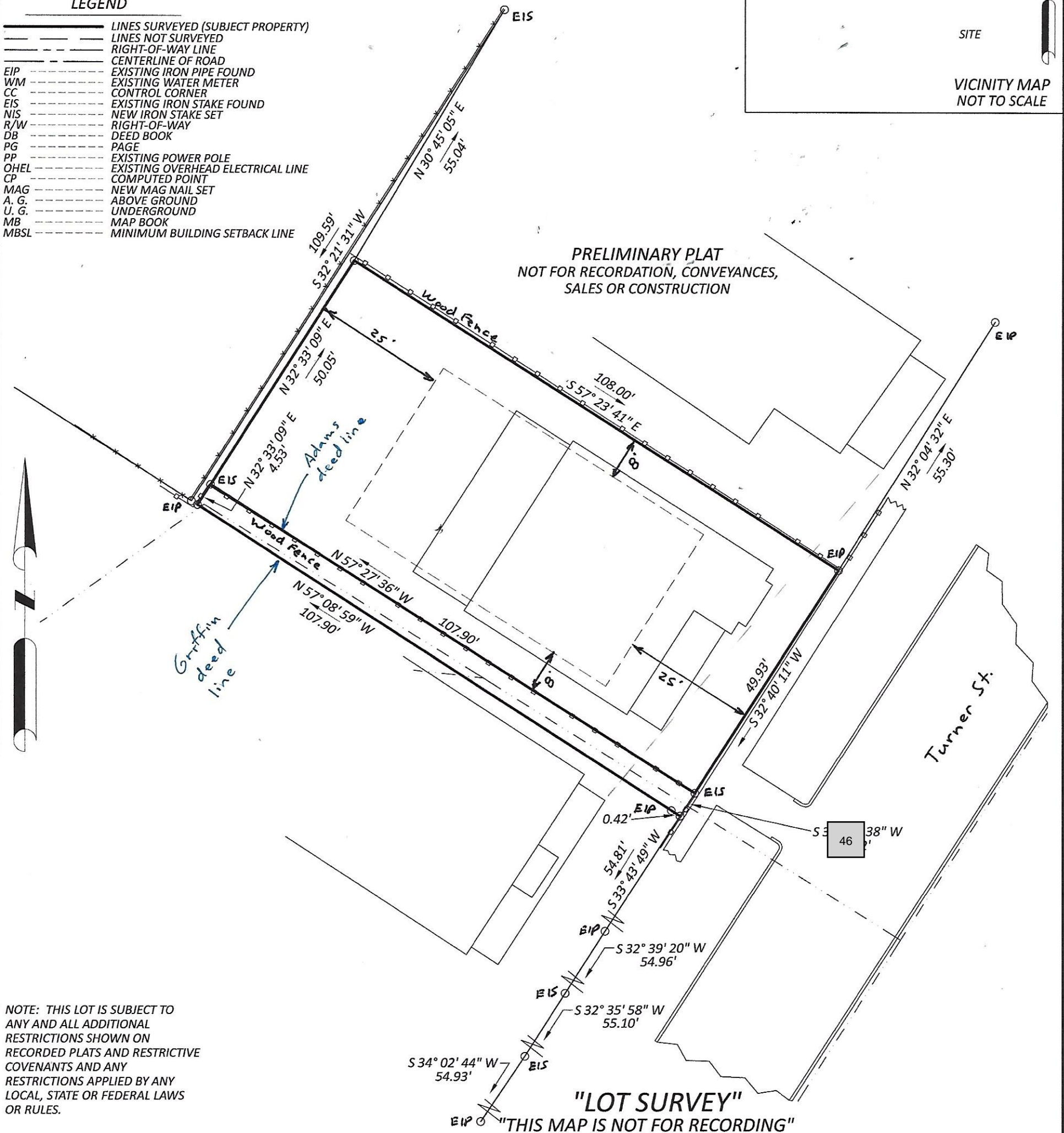


UPDATE: _____
DWN JJS_CHK JOB # 18-344 FILENAME: 18344.dwg

SURVEYORS DECLARATION TO WHOM IT MAY CONCERN: It is the responsibility of the present owner(s) or future owner(s) of the property shown hereon to check for any wetlands, buffers, high water table or other water conditions which may cause a portion of this property to be unusable for certain uses. No responsibility of any nature is assumed by the surveyor for any conditions which may presently exist on the property shown hereon but are unknown to the surveyor such as: Cemeteries, Family Burying Grounds, Toxic or Hazardous Waste Materials, Underground Utilities, Existing or Proposed easements or right-of-ways, etc. not shown hereon. Any utilities or features and any easements, right-of-ways or buffers associated with said utilities or features shown hereon are shown according only to what was known or visible at the time of this survey by the surveyor. This property may be subject to additional easements or right-of-ways unknown to the surveyor at this time that a complete title examination may reveal. There shall not be any construction in the area of any utilities, easements or right-of-ways without a complete title examination and additional surveying to identify the accurate widths and correct locations of record of any easements or right-of-ways. The surveyor is NOT an Attorney at Law and it is advised that the owner of this property consult with a Licensed Attorney at Law to perform a complete title examination to confirm all known encumbrances and reveal any potential encumbrances or title issues associated with this property.



- LEGEND**
- LINES SURVEYED (SUBJECT PROPERTY)
 - LINES NOT SURVEYED
 - - - RIGHT-OF-WAY LINE
 - +— CENTERLINE OF ROAD
 - EIP ——— EXISTING IRON PIPE FOUND
 - WM ——— EXISTING WATER METER
 - CC ——— CONTROL CORNER
 - EIS ——— EXISTING IRON STAKE FOUND
 - NIS ——— NEW IRON STAKE SET
 - R/W ——— RIGHT-OF-WAY
 - DB ——— DEED BOOK
 - PG ——— PAGE
 - PP ——— EXISTING POWER POLE
 - OHEL ——— EXISTING OVERHEAD ELECTRICAL LINE
 - CP ——— COMPUTED POINT
 - MAG ——— NEW MAG NAIL SET
 - A. G. ——— ABOVE GROUND
 - U. G. ——— UNDERGROUND
 - MB ——— MAP BOOK
 - MBSL ——— MINIMUM BUILDING SETBACK LINE



NOTE: THIS LOT IS SUBJECT TO ANY AND ALL ADDITIONAL RESTRICTIONS SHOWN ON RECORDED PLATS AND RESTRICTIVE COVENANTS AND ANY RESTRICTIONS APPLIED BY ANY LOCAL, STATE OR FEDERAL LAWS OR RULES.

NOTE: PIN NUMBERS SHOWN ARE CURRENT AS OF THE DATE OF THIS SURVEY AND ARE SUBJECT TO CHANGE IN THE FUTURE.

I, LINWOOD E. BYRD, JR., CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DB 1749, PG 442 & MAP BOOK 25, PG 584); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND AS REFERENCED ON THIS PLAT; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1 : 10,000+; THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600)
THIS THE 8th DAY
OF MARCH, 2022

PRELIMINARY PLAT
NOT FOR RECORDATION, CONVEYANCES,
SALES OR CONSTRUCTION

PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-4662

SURVEY FOR		
TOWNSHIP BEAUFORT	COUNTY CARTERET	STATE NORTH CAROLINA
SURVEYED BY LEBJ		ZONE
DRAWN BY LEBJ		CITY / TOWN BEAUFORT
CHECKED BY LEBJ		PIN:
ACREAGE COMPUTED BY COORDINATE METHOD ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES IN US SURVEY FEET UNLESS OTHERWISE NOTED		
SCALE: 1" = 20'		

BYRD C-0719
SURVEYING, P.A.

LAND SURVEYING
5058 US 70 WEST, SUITE N-3
MOREHEAD CITY, NC 28557
PHONE: 252-515-1039
www.byrdsurvey.com

DATE 3-8-2022	DRAWING NO. 22-015
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SECTION 21 Board of Adjustment

The Board of Adjustment (BOA) is a “quasi-judicial” administrative body whose purpose is (i) to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Ordinance; (ii) to issue variances as authorized by this section and state law; and, (iii) to issue special use permits when required by this Ordinance. The responsibilities of the BOA are authorized and set forth by N.C.G.S. 160A, Article 19 (3).

A) Organization of the Board of Adjustment.

1) Board Membership.

The BOA shall consist of five regular and two alternate members. Three regular and one alternate member shall reside within the corporate limits of the Town of Beaufort and be appointed by the Town’s Board of Commissioners (BOC). Two regular and one alternate member shall be appointed by the Carteret County Board of Commissioners (CC BOC) and shall reside within the Town’s extraterritorial jurisdiction (ETJ). If despite good faith efforts, enough residents of the ETJ cannot be found to fill the seats reserved for such residents, the CC BOC may appoint other residents of the county to fill these seats. If the CC BOC fails to appoint ETJ members needed within ninety days after receiving a resolution requesting such action from the Town, the BOC may make the necessary appointments.

2) Term Limits.

BOA regular members and alternate members shall be appointed to serve a three-year staggered term and members may continue to serve until their successors have been appointed. Members may be reappointed to successive terms without limitation. Vacant seats and unexpired terms shall be filled by the BOC or the CC BOC as necessary.

3) Removal from Board.

a) Regular BOA members may be removed by the BOC at any time for failure to attend three consecutive meetings or for failure to attend seventy-five percent (75%) of the meetings within any twelve month period or for any other good cause related to performance of duties. Such failure will constitute a voluntary resignation of the member. Upon the request of the member proposed for removal, the BOC shall hold a hearing on the removal before it becomes effective.

b) Alternate members may also be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with BOA established procedures. Upon request of the alternate member proposed for removal, the Town’s BOC shall hold a hearing on the removal before it becomes effective.

c) If a regular member or alternate member moves outside their particular planning jurisdiction within the Town it shall constitute a resignation of the member from the BOA.

d) If for reasons other than mentioned herein a member resigns from the board, a written notice shall be delivered to the Town Clerk at the member’s earliest convenience.

4) ETJ Members Rights.

ETJ regular members shall have equal rights, privileges, and duties as town members and may vote on all matters considered by the board regardless of whether or not the property affected lies within their planning jurisdiction.

5) Notification of Absences.

Regular members shall promptly notify the board secretary if they are unable to attend or participate in an upcoming meeting. The secretary shall notify an alternate member to attend when necessary. Assignments shall be rotated among the alternate members. When seated, any alternate member in attendance shall have the same powers and duties as the regular member they replace, including the ability to constitute a quorum for the purpose of the meeting regardless of whether the alternate is a regular or ETJ member.

B) ***Meetings of the Board of Adjustment.***

- 1) The BOA shall establish a regular meeting schedule and shall meet frequently enough so the board can take action on the issues for which they are appointed.
- 2) All meetings of the board shall be open to the public and whenever feasible, the agenda for each board meeting shall be made available to the public at least three business days in advance of the meeting.
- 3) The minutes of all meetings and hearings of the BOA shall be retained by the board secretary or his/her designee and all minutes shall be a public record once adopted by the BOA. This shall include all findings of fact and decisions of the board.
- 4) The Chairman of the BOA will have the authority to cancel a meeting of the BOA when notified by the Planning and Inspections Department there is no business to be considered at the meeting.

C) ***Quorum.***

1) Quorum Requirements.

- a) A majority of the members of the BOA board in attendance shall constitute a quorum at all meetings of the BOA. A quorum for the Board of Adjustment shall consist of a minimum of four members of the board qualified to vote.
- b) All actions of the BOA shall be taken by majority vote, a quorum being present.

2) Withdrawal from Meeting.

Any member who has withdrawn from the meeting without being excused shall be counted as present for the purposes of determining whether a quorum is present.

D) ***Deciding Cases.***

1) Voting.

- a) The concurring vote of four-fifths of the board shall be necessary to grant a variance.
- b) A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.
- c) 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 if there are no qualified alternates available to take the place of such members.

2) Failure to Vote.

Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection D-3 of this section or has been allowed to withdraw from the meeting in accordance with subsection D-4 of this section.

3) Conflicts.

A member of the board shall not participate in or vote on any quasi-judicial matter in a manner which would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include but are not limited to the following:

- a) A member having a fixed opinion prior to hearing the matter which is not susceptible to change;
- b) A member having undisclosed ex-parte communications;
- c) A member having a close familial business, or other associational relationship with an affected person;
- d) A member having direct or indirect financial interest in the outcome of the matter.

4) Voting Procedures Due to Conflict.

If an objection is raised to a member's participation and the member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

5) Roll Call Vote.

A roll call vote shall be taken upon request of any member.

E) **Board of Adjustment Officers.**

1) Election of Officers.

- a) Officers will be elected during the first February meeting of the year of the BOA and by majority vote of its entire membership (excluding vacant seats).
- b) The board shall elect one of its members to serve as chairperson (chair) and preside over the board's meetings. The chair should always be one of the regular members. No chair may succeed them self for more than two consecutive terms.
- c) The board shall elect one member to serve as vice-chairperson (vice-chair). The vice-chair shall serve as acting chair in the chair's absence and at such times, he/she shall have the same powers and duties as the chair.
- d) A secretary will be appointed by majority vote of the members either from within its membership or outside. The secretary shall produce all necessary clerical items for the board including public notices, minutes, correspondence, etc. as directed by the chair.
- e) The persons so designated to fill these positions shall serve in these capacities for a term of one year. The officers may be eligible for reappointment.
- f) Vacancies may be filled for the unexpired terms of the chair and vice-chair only by majority vote of the board membership (excluding vacant seats).

2) Rules of Order.

The chair shall decide on all points of order and procedure consistent with the *The Zoning Board of Adjustment*, by Michael B. Brough and Philip P. Green, Jr., as updated; and the modified version of *Roberts Rules of Order*, as updated.

3) Chairpersons Rights.

- a) The chair or any member temporarily acting or appointed by the chair may administer oaths to witnesses coming before the board.
- b) The chair and vice-chair may take part in all deliberations and vote on all issues.

F) **Powers and Duties of Board of Adjustment.**

1) The BOA shall hear and decide:

Land Development Ordinance for the Town of Beaufort

- a) Appeals from and review of any order, decision, requirement, or determination made by the administrative official charged with the enforcement of this Ordinance, as provided in subsection H of this section.
 - b) Applications for variances, as provided in subsection I of this section.
 - c) Questions involving interpretations of the location boundary lines on the Official Zoning Map or ordinance text requirements as provided in subsection J of this section.
 - d) Any other matter the board is required to act upon by any other Town Ordinance or state law.
- 2) The board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this chapter.

G) Public Notice of Hearings of the Board.

- 1) Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property which is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land which is the subject of the hearing, and to all owners of parcels within 100 feet of such land, and to any other persons entitled to receive notice as provided by this section. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within the same time period, the planning staff shall also prominently post a notice of the hearing sign on the site which is the subject of the hearing or on an adjacent street or highway right-of-way. Such sign(s) shall be at least eighteen inches by twenty-four inches (18"x24") in dimension. The sign shall contain the following message:

NOTICE

This property is subject to a Zoning Hearing.

Contact Town Hall for more information at 252-728-2141.

Such sign may include additional information deemed relevant by the administrator of this Ordinance. If more than one contiguous lot or parcels of land are included in the variance application proposal, the Town may nonetheless post only one sign.

- 2) A public hearing shall be held by the BOA for an appeal, a variance, or an interpretation as described in subsection F of this section. A notice of the public hearing shall be given once a week for two successive calendar weeks and published in a newspaper having general circulation in Town. The notice shall be published the first time not less than ten days or not more than twenty-five days before the date affixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- 3) The person or persons mailing the notice of hearing pursuant to this section shall certify to the BOA the proper notice has been provided and such certificate shall be deemed conclusive in the absence of fraud.

H) Appeals.

1) Appeal Procedures.

- a) An appeal from any final order, decision, requirement, or determination of a Town official charged with the enforcement of this Ordinance may be taken to the BOA

Land Development Ordinance for the Town of Beaufort

by any person aggrieved. An appeal is taken by filing a written notice of appeal specifying the grounds thereof to the Town and the BOA. A notice of appeal shall be considered filed with the Town and the BOA when delivered to the Town’s Planning and Inspections Department, and the date and time of filing shall be entered on the notice of appeal by staff.

- b) An appeal must be made within thirty days after the date of the decision or order appealed from.
- c) Whenever an appeal is filed, Town staff shall forthwith transmit to the BOA all papers constituting the record relating to the action of the appeal.

2) Stay of the Appeal.

An appeal stays all actions by the Town official seeking enforcement of or compliance with the order or decision appealed from, unless the official certifies to the BOA, because of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the BOA or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the official.

3) Modifications to Appeals.

The BOA may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination which in its opinion should be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal was taken.

D) ***Variances.***

The power of variances is to be sparingly exercised and only in rare instances and under exceptional circumstances and with due regard to the main purpose of this Ordinance: to preserve the property rights of others. No change in permitted uses may be authorized by variance.

1) Application Submittal.

An application for a variance shall be submitted to the BOA by filing a copy of the application with the Town.

2) Findings for the Variance.

When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this Ordinance, the BOA shall have the power to vary or modify any of the regulations or provisions of the Ordinance so the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted only upon an affirmative finding of the following:

- a) Unnecessary hardship would result from the strict application of this Chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
- b) 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;
- c) 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

Land Development Ordinance for the Town of Beaufort

may justify the granting of a variance shall not be regarded as a self-created hardship; and,

- d) The requested variance is consistent with the spirit, purpose, and intent of this Chapter, such that public safety is secured, and substantial justice is achieved.

J) Interpretations.

- 1) The BOA is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the zoning official, they shall be handled as provided in subsection H of this section.
- 2) An application for a map interpretation shall be submitted to the BOA by filing a copy of the application with the Town. The application shall contain sufficient information to enable the board to make the necessary interpretation.
- 3) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
 - a) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;
 - b) Boundaries indicated as approximately following lot lines in the Town or ETJ limits shall be construed as following such lines, limits, or boundaries;
 - c) Boundaries indicated as following shorelines shall be construed to follow such shorelines and in the event of a change in the shoreline shall be construed as continuing to follow such shorelines;
 - d) Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement using the scale of the Official Zoning Map; and,
 - e) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply only to the portion of such streets or alleys added thereto by virtue of such vacation or abandonment.

K) Burden of Proof in Appeals, Interpretations, and Variances.

- 1) When an appeal is taken to the BOA in accordance with subsection H of this section, the appellant has the burden of proof and persuasion.
- 2) The applicant for a variance shall have the burden of proof and persuasion.

L) Board Action on Appeals and Variances.

1) Appeals.

With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include insofar as practicable, a statement of the specific reasons or findings of fact which support the motion. If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption, a motion to uphold the decision appealed from shall be in order. This motion is adopted as the board's decision if supported by more than one-fifth of the board's voting membership in attendance. (excluding vacant seats)

2) Granting a Variance.

Before granting a variance, the BOA must take a separate vote and vote affirmatively by a four-fifths majority, on each of the four required findings stated in subsection I-2

Land Development Ordinance for the Town of Beaufort

of this section. A motion to make an affirmative finding on each of the requirements set forth in subsection I-2 of this section shall include a statement of the specific reasons or findings of fact supporting such motion.

3) Denying a Variance.

A motion to deny a variance shall be made if any one or more of the four required findings set forth in subsection I-2 of this section are not satisfied or if the application is incomplete. A motion to deny a variance shall include a statement of the specific reasons or findings of fact which were not met and therefore caused the denial of the variance. This motion is adopted as the board's decision if supported by more than one-fifth of the board's voting membership in attendance (excluding vacant seats).

M) ***Review of Board's Decisions.***

Every decision of the board shall be subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for review by the Court shall be filed with the Clerk of Superior Court within thirty days after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or the chairperson of the board at the time of its hearing of the case, whichever is later. The decision of the board should be delivered to the aggrieved party either by personal service, or by registered or certified mail.

N) ***Deadlines for Applications to the Board.***

All applications and supporting materials shall be submitted to the Town's Planning and Inspections Department fifteen business days prior to the next regularly scheduled BOA meeting. Informational packets shall be delivered to board members seven days prior to the scheduled meeting.