



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, February 26, 2024 - Town Hall Conference Room,
701 Front Street, Beaufort, NC 28516
Monthly Meeting**

Call to Order

Roll Call

Agenda Approval

Election of Officers

Administration of Oaths

Quasi-Judicial Proceeding

1. Variance Request for 307 Front Street

Commission / Board Comments

Staff Comments

Adjourn



Town of Beaufort, NC

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**Town of Beaufort Board of Adjustment Regular Meeting
6:00 P.M. February 26, 2024 – 701 Front Street – Town Hall Conference Room**

AGENDA CATEGORY: New Business
SUBJECT: Variance Request for 307 Front Street

BRIEF SUMMARY:

Mary Ellen Nixon-Moore, owner of subject property 307 Front Street, has requested a variance from LDO Section 9.A. to build an addition onto the back of the house that maintains the 2’6” setback of the existing structure and has a 2’3” setback for the newly added section.

REQUESTED ACTION:

Conduct Evidentiary Hearing
Decision on Request

EXPECTED LENGTH OF PRESENTATION:

15 Minutes (Presentation from Staff)

SUBMITTED BY:

Michelle Eitner, Town Planner

BUDGET AMENDMENT REQUIRED:

N/A



STAFF REPORT



To: Board of Adjustment Members
From: Michelle Eitner, Town Planner
Date: February 26, 2024
Case #24-01 – Variance – 307 Front Street

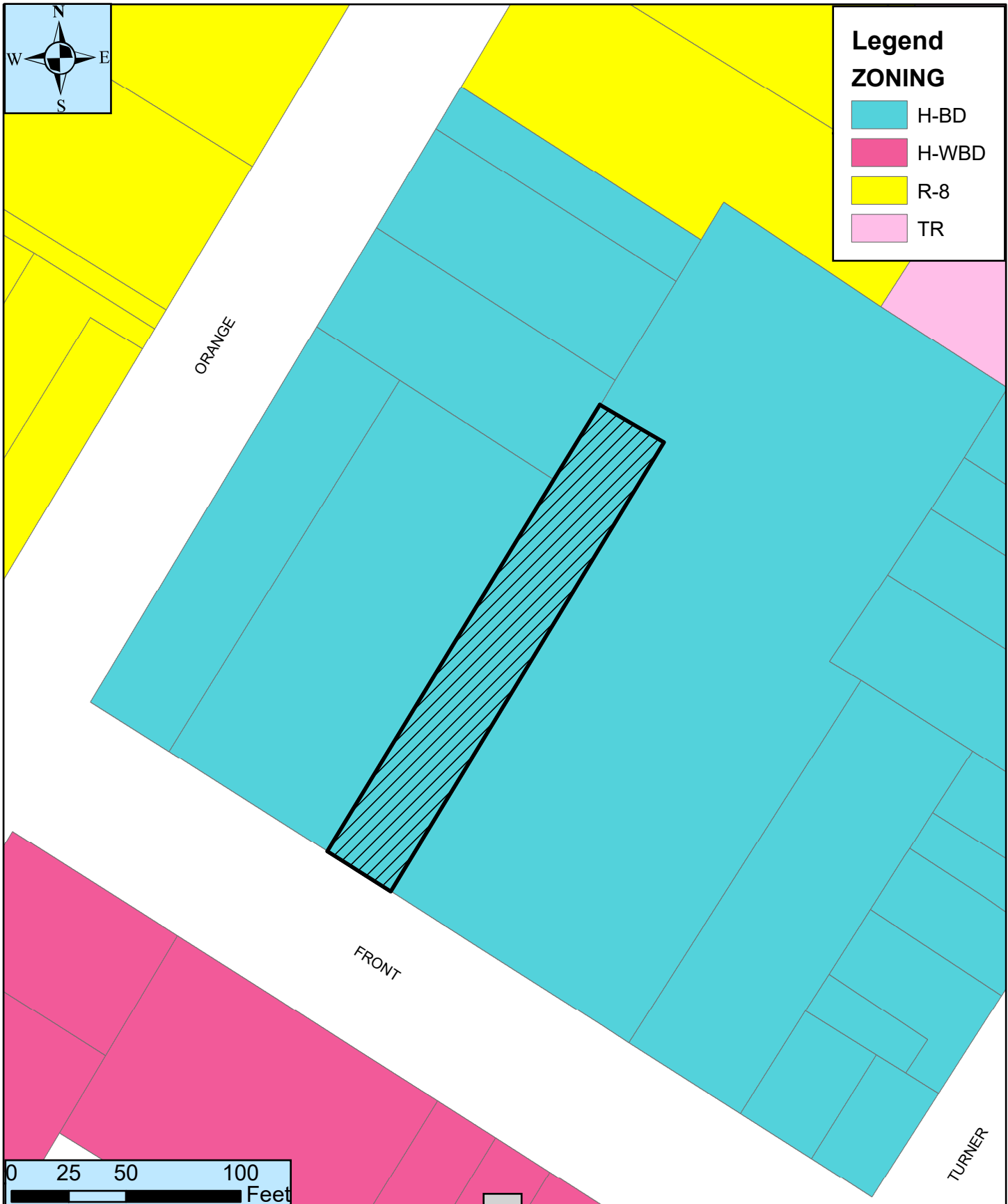
THE REQUEST: Mary Ellen Nixon-Moore, owner of subject property 307 Front Street, has requested a variance from LDO Section 9.A. to build an addition onto the back of the house that maintains the 2’6” setback of the existing structure and has a 2’3” setback for the newly added section.

BACKGROUND:

Applicant: Christina Colucci, Align IAD
Property Owner: Mary Ellen Nixon-Moore
Property Address: 307 Front Street
PIN: 730617100471000
Zoning District: Historic Business District (H-BD)
Flood Zone: Portion of front yard is AE-8, but structure is outside of the Special Flood Hazard Area (aka “100 year floodplain”)
Lot Dimensions: See survey included in application package
Existing Land Use: Multi-family (three units)
Historic Designation: Sabiston House, 1857 (plaque). Within Beaufort’s Local Historic District.
Project Description: Addition on back of house to expand square footage of existing second floor apartment. This proposal includes enclosing an existing second-story deck and adding on a carport with deck above. The existing structure encroaches into the required 8’ side setback by 5’6”. The proposed project would continue that nonconformity on the existing structure and increase the nonconformity by 3 inches on the addition. The applicant has provided a written description of the variance request within the application package.

- EXHIBITS:**
 Exhibit A – Staff Report
 Exhibit B – Vicinity Map
 Exhibit C – Variance Application Package
 Exhibit D – Notification Certification
 Exhibit E – LDO Section 9.A. H-BD Historic Business District

Case #24-01 Variance Request 307 Front Street Vicinity Map





**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: Mary Ellen Nixon-Moore

Applicant Address: 307 Front Street, Beaufort, NC 28516

Phone Number: (609) 577-7472 Email: toby8more@aol.com

Property Owner Name: Mary Ellen Nixon-Moore

Address of Property Owner: 307 Front Street, Beaufort, NC 28516

Phone Number: (609) 577-7472 Email: toby8more@aol.com

PROPERTY INFORMATION

Property Address: 307 Front Street, Beaufort, NC 28516

15-Digit PIN: 730617100563000 Lot/Block Number: _____

Size of Property (in square feet or acres): 0.1771 acres

Current Zoning: H-BD Is the property in the Historic District? Yes

Current Use of Property: Residential Vacant Commercial Other: _____

Date of Signature: 1/29/2024

Applicant Signature _____ Date of 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.

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.

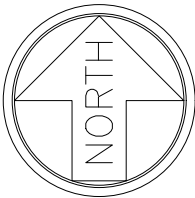
L) Board Action on Variances.

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).



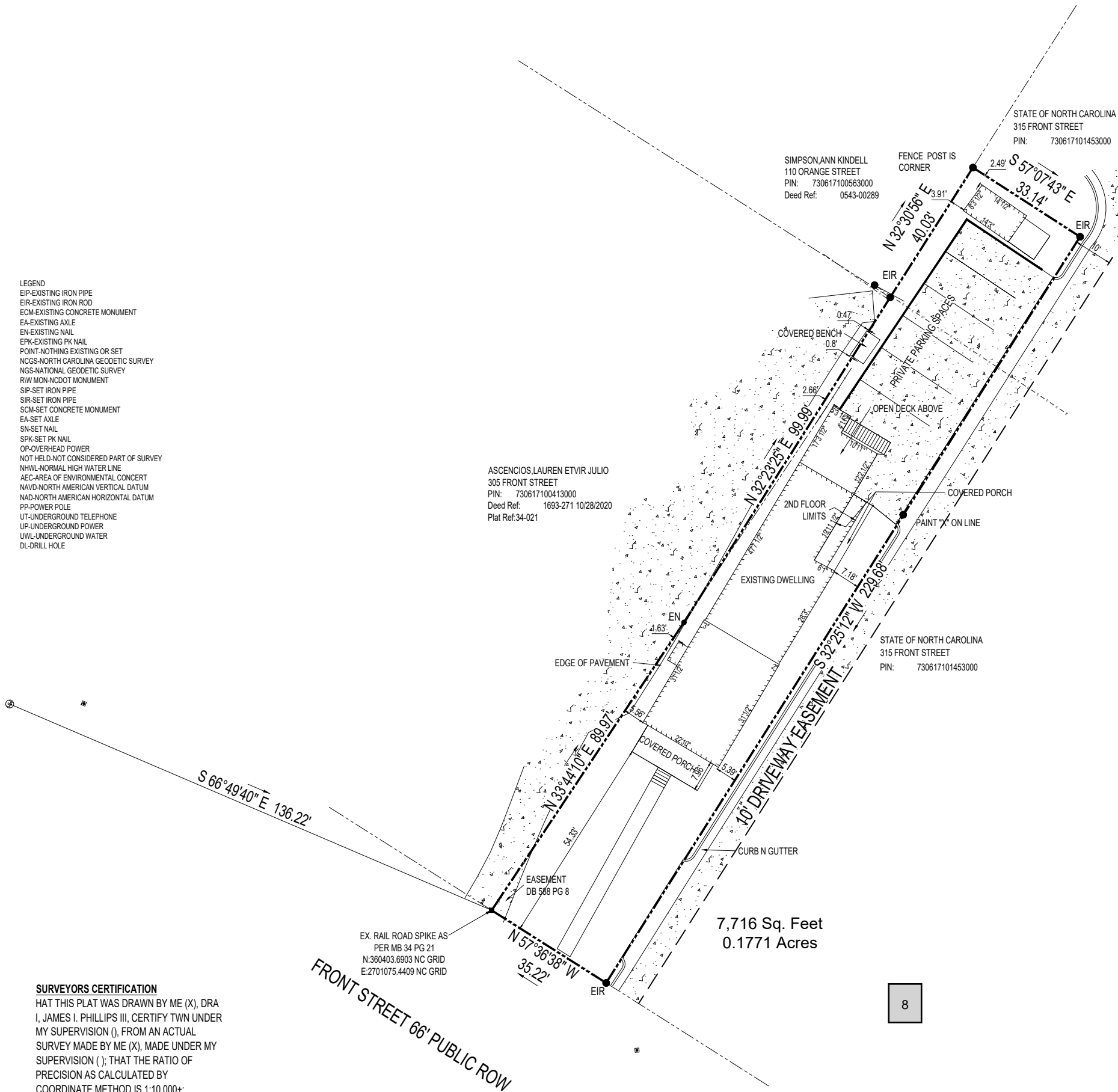
NC GRID NAD 1983 (2018)

- LEGEND
- EIP-EXISTING IRON PIPE
 - EIR-EXISTING IRON ROD
 - ECM-EXISTING CONCRETE MONUMENT
 - EA-EXISTING AXLE
 - EN-EXISTING NAIL
 - EPK-EXISTING PK NAIL
 - POINT-NOTHING EXISTING OR SET
 - NCGS-NORTH CAROLINA GEODETIC SURVEY
 - NGS-NATIONAL GEODETIC SURVEY
 - R/W MON-NC DOT MONUMENT
 - SIP-SET IRON PIPE
 - SIR-SET IRON PIPE
 - SCM-SET CONCRETE MONUMENT
 - EA-SET AXLE
 - SN-SET NAIL
 - SPK-SET PK NAIL
 - OP-OVERHEAD POWER
 - NOT HELD-NOT CONSIDERED PART OF SURVEY
 - NHWL-NORMAL HIGH WATER LINE
 - AEC-AREA OF ENVIRONMENTAL CONCERN
 - NAVD-NORTH AMERICAN VERTICAL DATUM
 - NAD-NORTH AMERICAN HORIZONTAL DATUM
 - PP-POWER POLE
 - UT-UNDERGROUND TELEPHONE
 - UP-UNDERGROUND POWER
 - UWL-UNDERGROUND WATER
 - DL-DRILL HOLE

ASCENCIOS, LAUREN ETVIR JULIO
 305 FRONT STREET
 PIN: 730617100413000
 Deed Ref: 1693-271 10/28/2020
 Plat Ref: 34-021

SIMPSON, ANN KINDELL
 110 ORANGE STREET
 PIN: 730617100563000
 Deed Ref: 0543-00289

STATE OF NORTH CAROLINA
 315 FRONT STREET
 PIN: 730617101453000



7,716 Sq. Feet
 0.1771 Acres

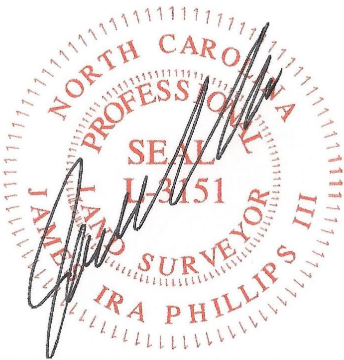
8

SURVEYORS CERTIFICATION

THAT THIS PLAT WAS DRAWN BY ME (X), DRA I, JAMES I. PHILLIPS III, CERTIFY TWN UNDER MY SUPERVISION (), FROM AN ACTUAL SURVEY MADE BY ME (X), MADE UNDER MY SUPERVISION (); THAT THE RATIO OF PRECISION AS CALCULATED BY COORDINATE METHOD IS 1:10,000+; REGISTRATION NUMBER, AND SEAL THIS 15TH DAY OF OCTOBER , A.D. 2023.

JAMES I. PHILLIPS III RLS NO. L-3151

THIS IS AN EXISTING PARCEL OF LAND



BOUNDARY RETRACEMENT AND PHYSICAL SURVEY FOR
MARY ELLEN NIXON-MOORE
 307 FRONT ST
 TOWN OF BEAUFORT, BEAUFORT TOWNSHIP
 CARTERET COUNTY, N.C.
 SCALE 1"=30'

| | | |
|---|-----------------------------|-----------------|
| PRESENT OWNER: SAME | | REVISIONS |
| DEED REF: BOOK PAGE 1706-359 | | |
| MAP REF: BOOK PAGE | | |
| PIN: 730617100471000 | | |
| SHEET: 1 OF 1 | | |
| JOB #: 23-142 | | |
| DATE OF FIELD SURVEY: 11-15-2023 | DATE OF MAPPING: 11-15-2023 | |
| SURVEY BY: JIP | DRAWN BY: JIP | CHECKED BY: JIP |
| JAMES I. PHILLIPS LAND SURVEYING PO BOX 2103, 379 Arrington Rd., Beaufort, N.C. 28516 252-728-5848 phone jphillipsurvey@gmail.com | | |

SURVEYOR DISCLAIMER
 NO ATTEMPT WAS MADE TO LOCATE ANY CEMETERIES, WETLANDS, HAZARDOUS MATERIAL SITES, UNDERGROUND UTILITIES OR ANY OTHER FEATURES ABOVE OR BELOW GROUND OTHER THAN THOSE SHOWN. HOWEVER, NO VISIBLE EVIDENCE OF CEMETERIES OR UTILITIES, ABOVE GROUND OR OTHERWISE, WAS OBSERVED BY THE SURVEYOR OTHER THAN THOSE SHOWN ON THIS MAP.

VARIANCE

REQUEST: 307 FRONT ST

307 Front Street is in Zone H-BD, which requires an 8'-0" side setback. Our request is to align the proposed second-level new construction, as shown in the following pages, with the existing level one structure. This would maintain the existing setback of 2'-8" from the side property line instead of the required 8'-0". This constitutes a request for a 5'-4" reduction in the west side setback requirement.

In the following pages, you will see how the hardship results from the specific property size and shape. The lot's angle, along with the original 1857 structure, has created an overly tight northwest corner. If the current setback requirements are to be met, it would not only result in a less than desirable addition, but it would also compromise the overall aesthetic of the structure that has been maintained through multiple additions and renovations in history.

PREPARED FOR THE TOWN OF
BEAUFORT

16 JANUARY 2024

ALIGN

307 FRONT ST. VARIANCE | 16 JAN 2024



SITE PLAN

ANGLED LOT

The lot, and consequently the home, has been on an angle since its construction in 1857, continuing on that angle with each addition from 1909-1978. Our goal is to maintain consistency in the structure and attempt to square things up. Upon examining the adjacent lots to the left, you'll notice that both 301 and 305 increase in width at the back of their property, while 307 reduces in width towards the back. This domino effect results in a very tight northwest corner, which can be seen enlarged on the next page.

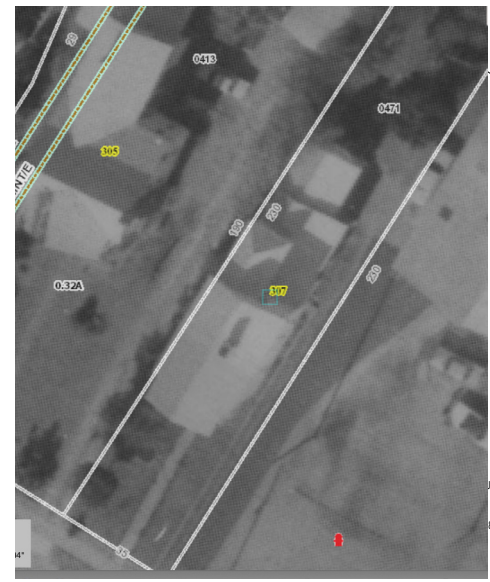
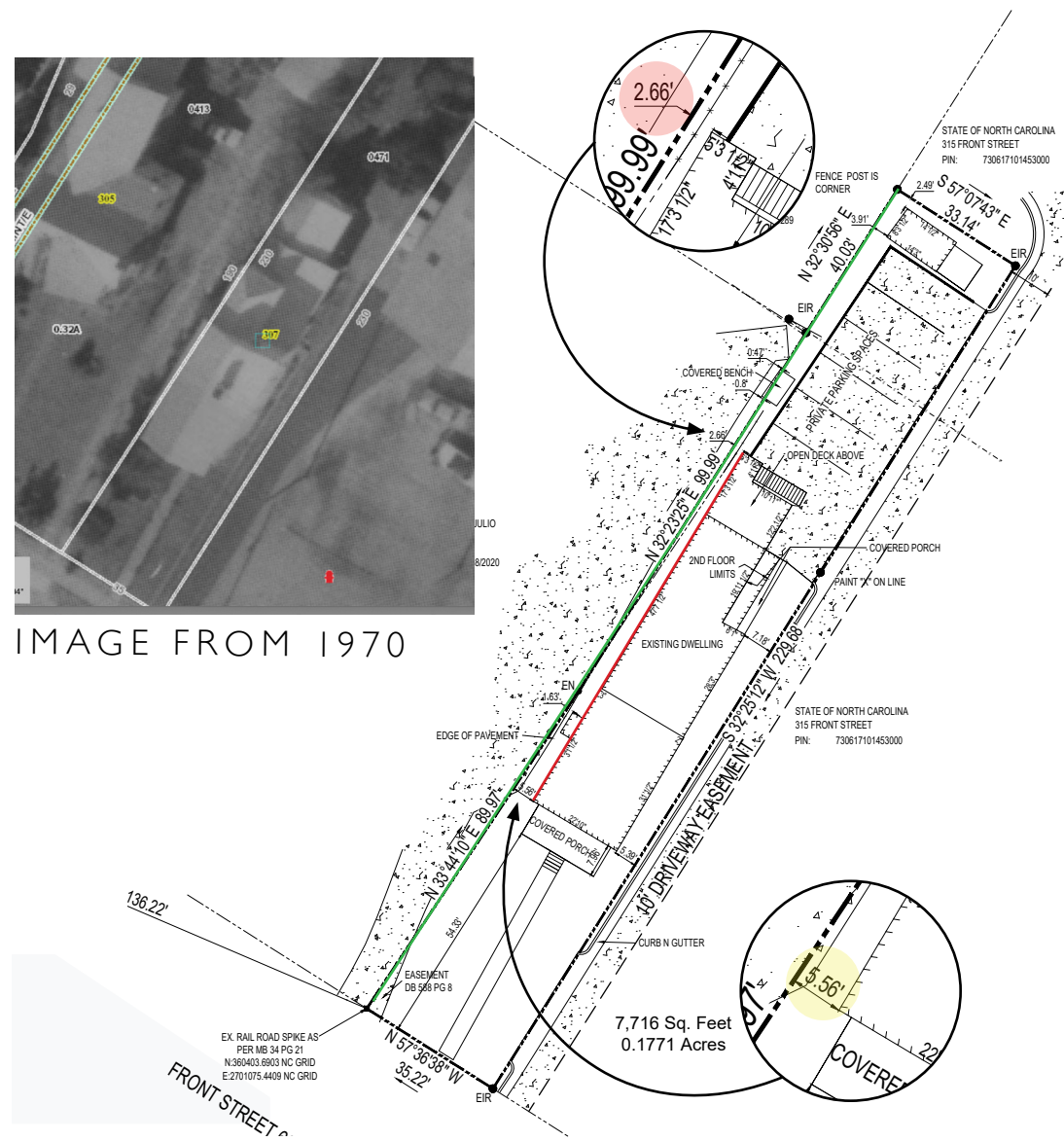
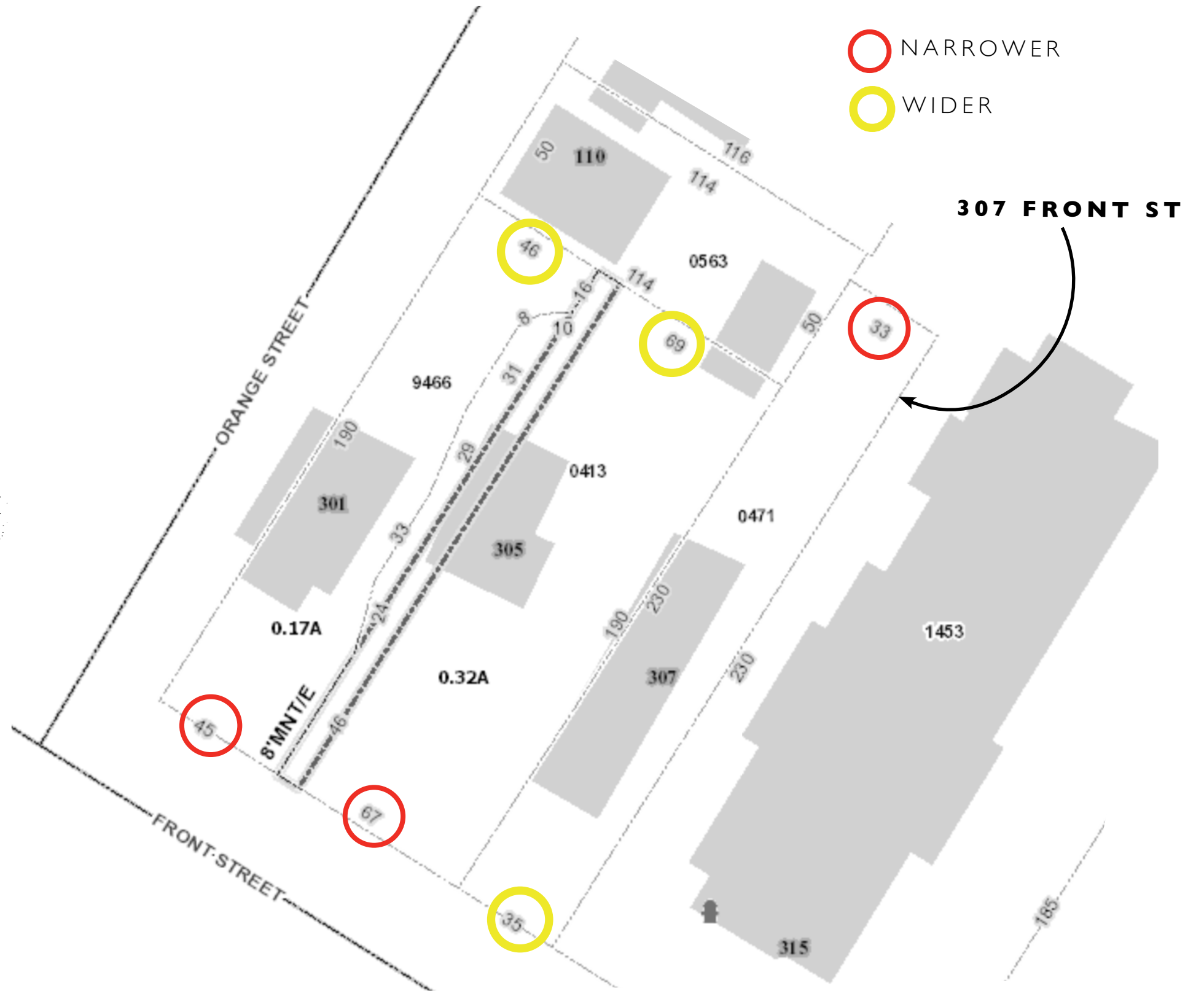


IMAGE FROM 1970



SITE PLAN NORTHWEST CORNER

The current northwest corner of the house sits 2.66' (2'-8") from the existing property line due to the angle of the lot. The lower-level apartment is currently situated under the second-level deck, as shown in the first two photographs below. This apartment was built in or around 1978. The third photo, taken from 305's side yard, shows the current appearance of the 2'-8" setback.



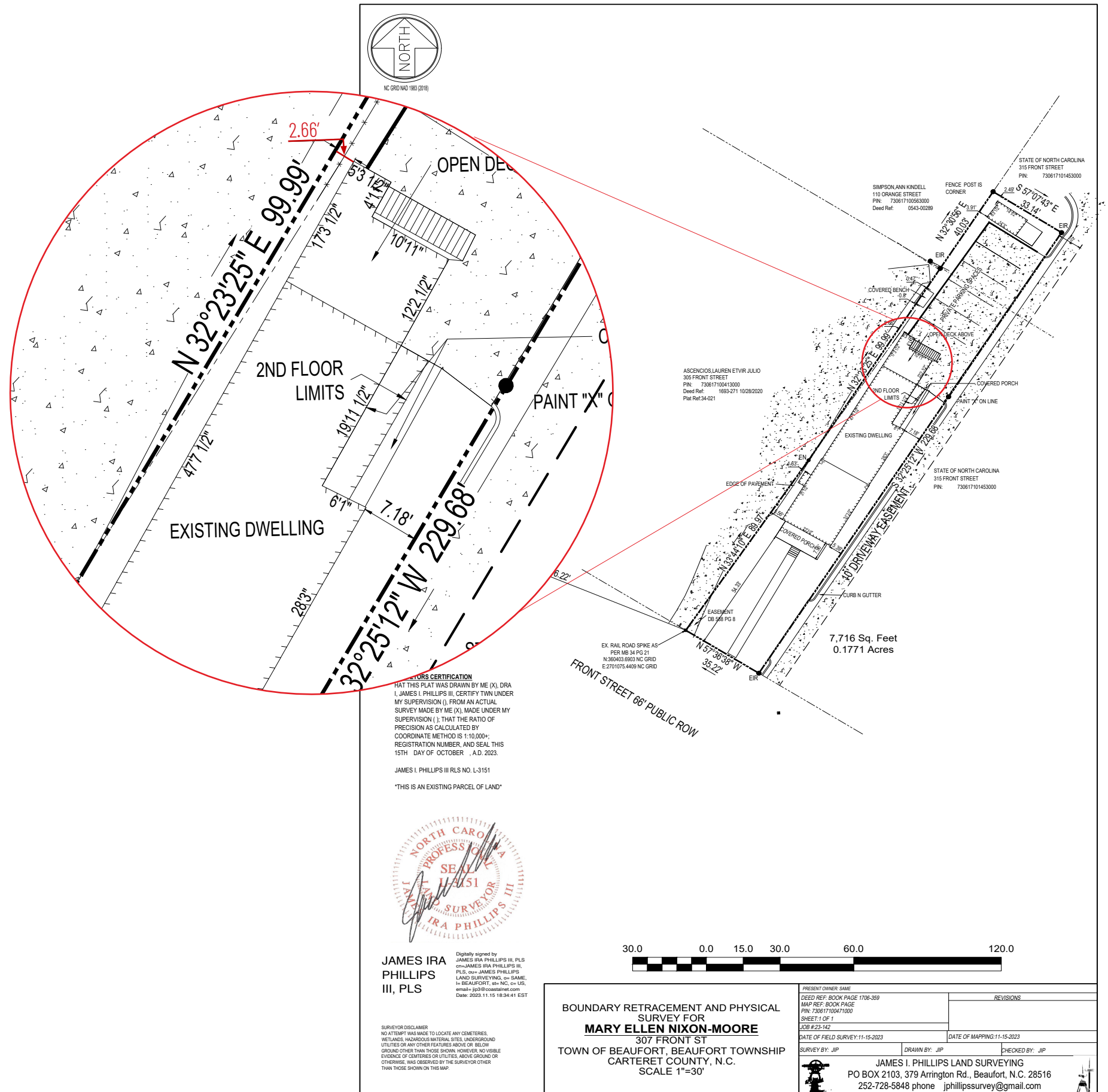
LOOKING AT BACK OF HOUSE



SOUTHEAST CORNER
TAKEN FROM DRIVEWAY



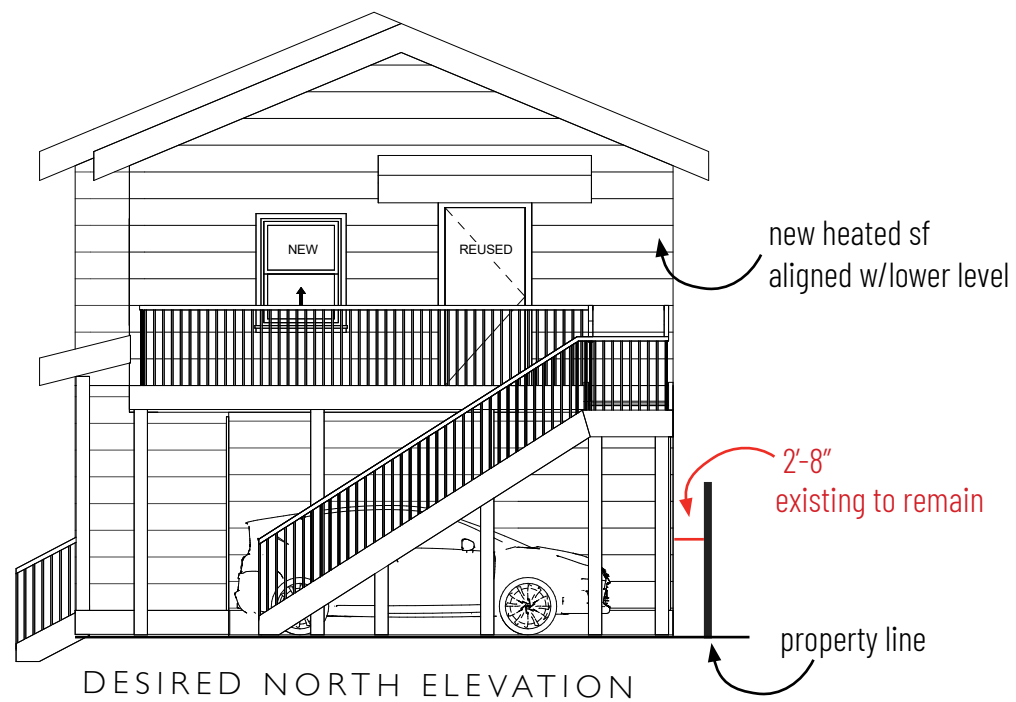
NORTHWEST CORNER
TAKEN FROM 305'S LOT



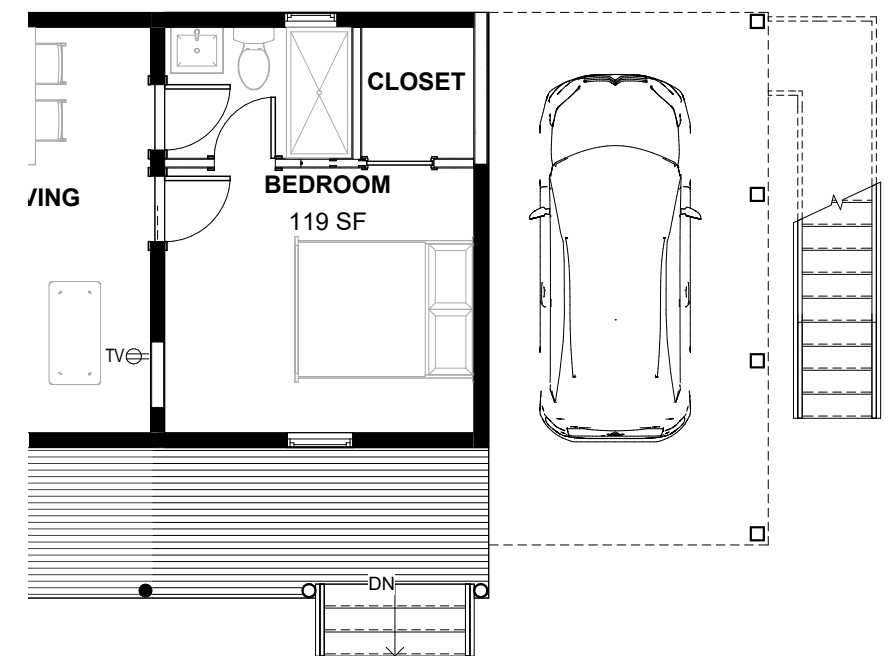
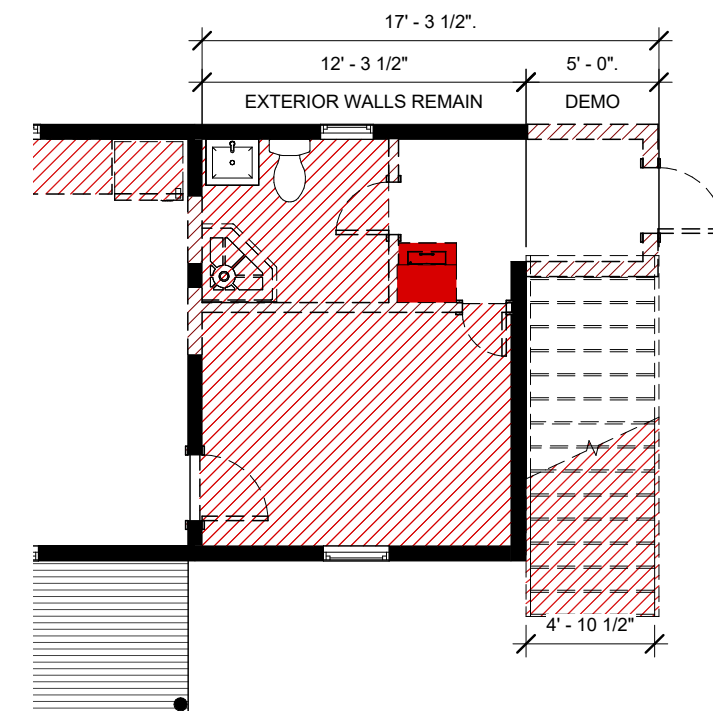
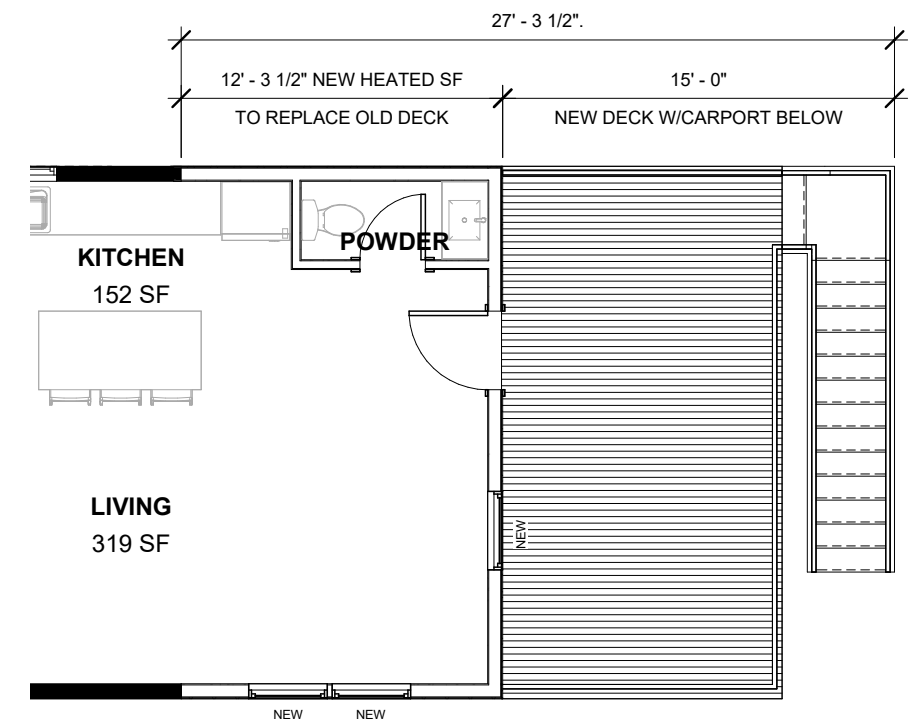
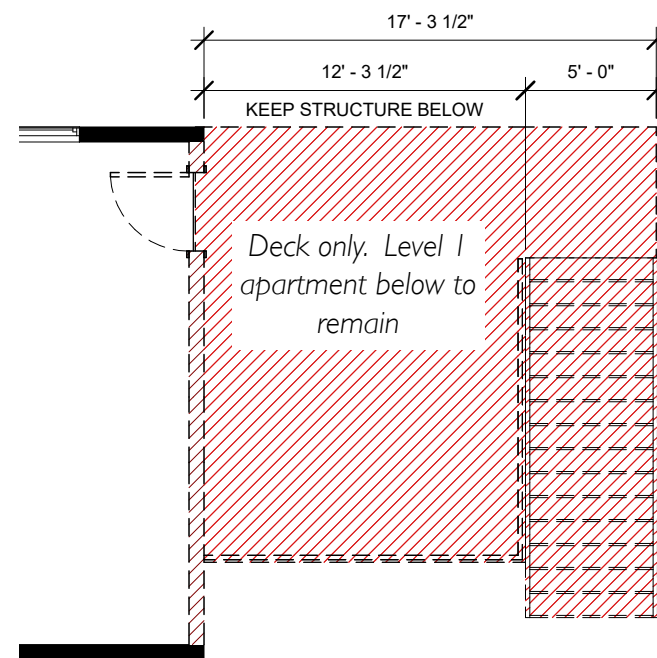
PLANS

The plan is to enclose the upper-level deck to expand the overall square footage of the second-level apartment.

Essentially, we will extend the second-level northeast wall, aligning it with the lower-level exterior wall below. Additionally, we will add a new 15' deck, including steps, to facilitate a covered carport below. The final design will extend an additional 10' into the backyard compared to the existing structure.



 Existing items to be removed
  Existing walls to remain
  New proposed walls



OVERVIEW

Beyond the request for a 5'- 4" setback reduction, it should be known that, given the angle of the property line, the extension of the additional 10' of structure may result in an even narrower distance between the property and the new deck (see desired site plan overlay). The current estimation is 2'-3". However, this has not been verified. In the event that this could pose an issue for variance acceptance, we could inset the deck by 6" to ensure it maintains the requested 2'-8" distance from the property line.

LOCATION AND NEIGHBORS

Beaufort Maritime Museum

Physical Address: 315 FRONT ST BEAUFORT, NC 28516

Mailing Address: 315 FRONT ST BEAUFORT, NC 28516

Lauren & Julio Ascencios

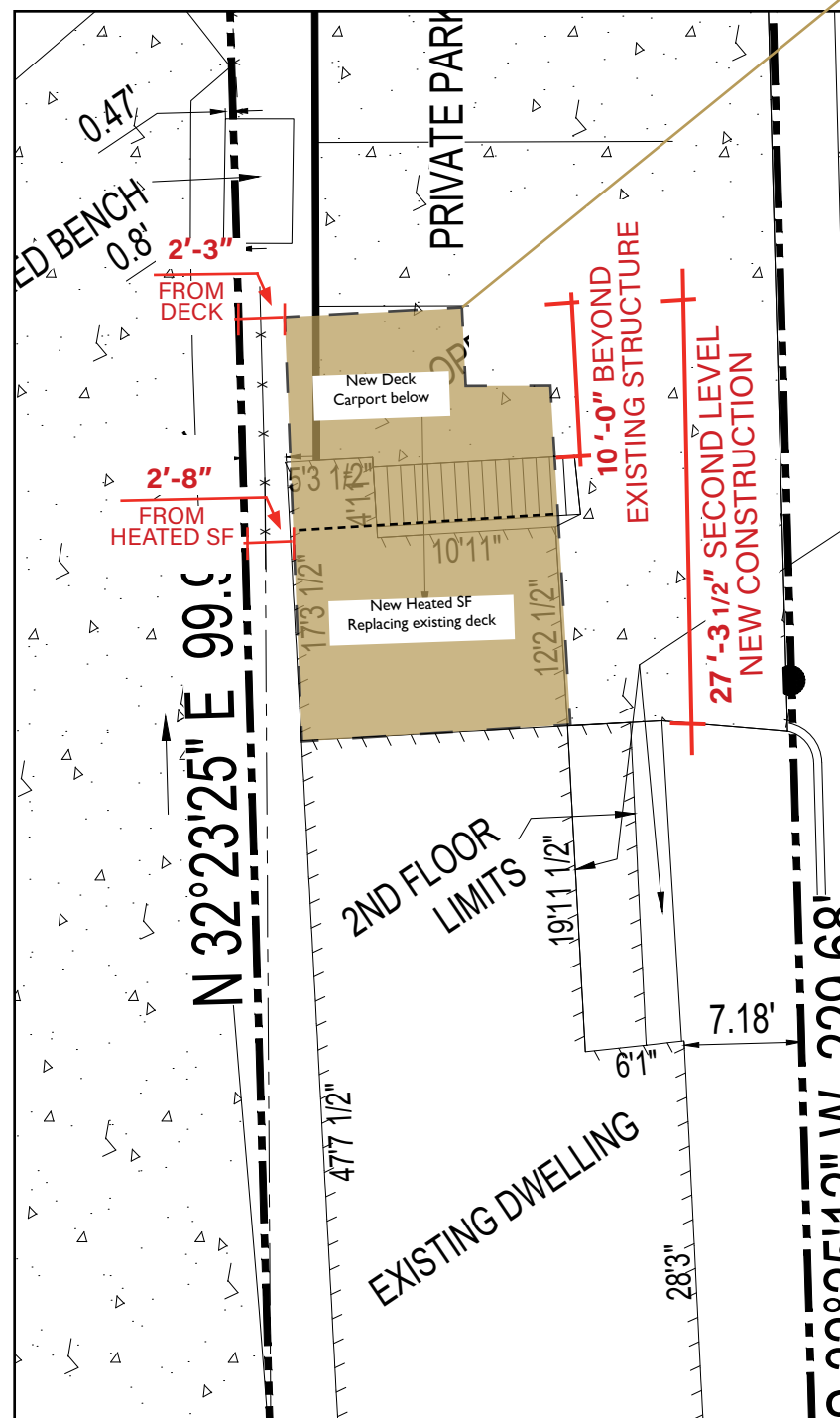
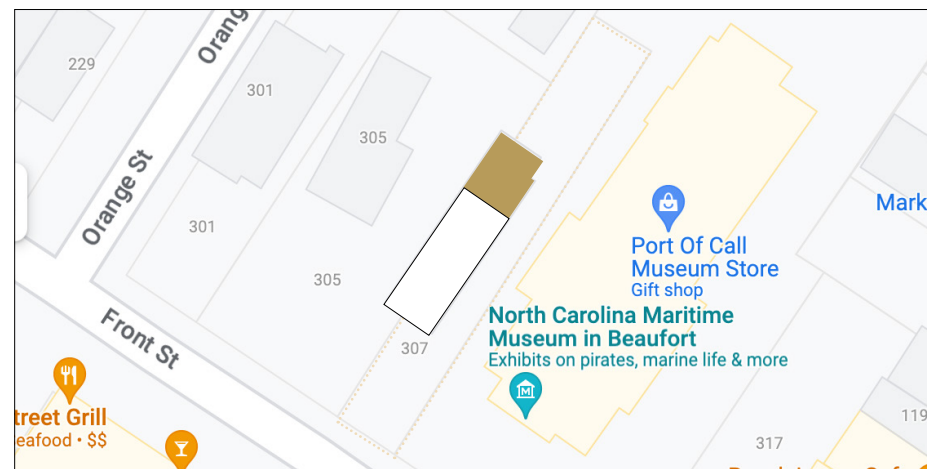
Physical Address: 305 FRONT STREET BEAUFORT, NC 28516

Mailing Address: 6875 BOWMAN DIARY ROAD, LIBERTY, NC, 27298

Ann Cary Kindell

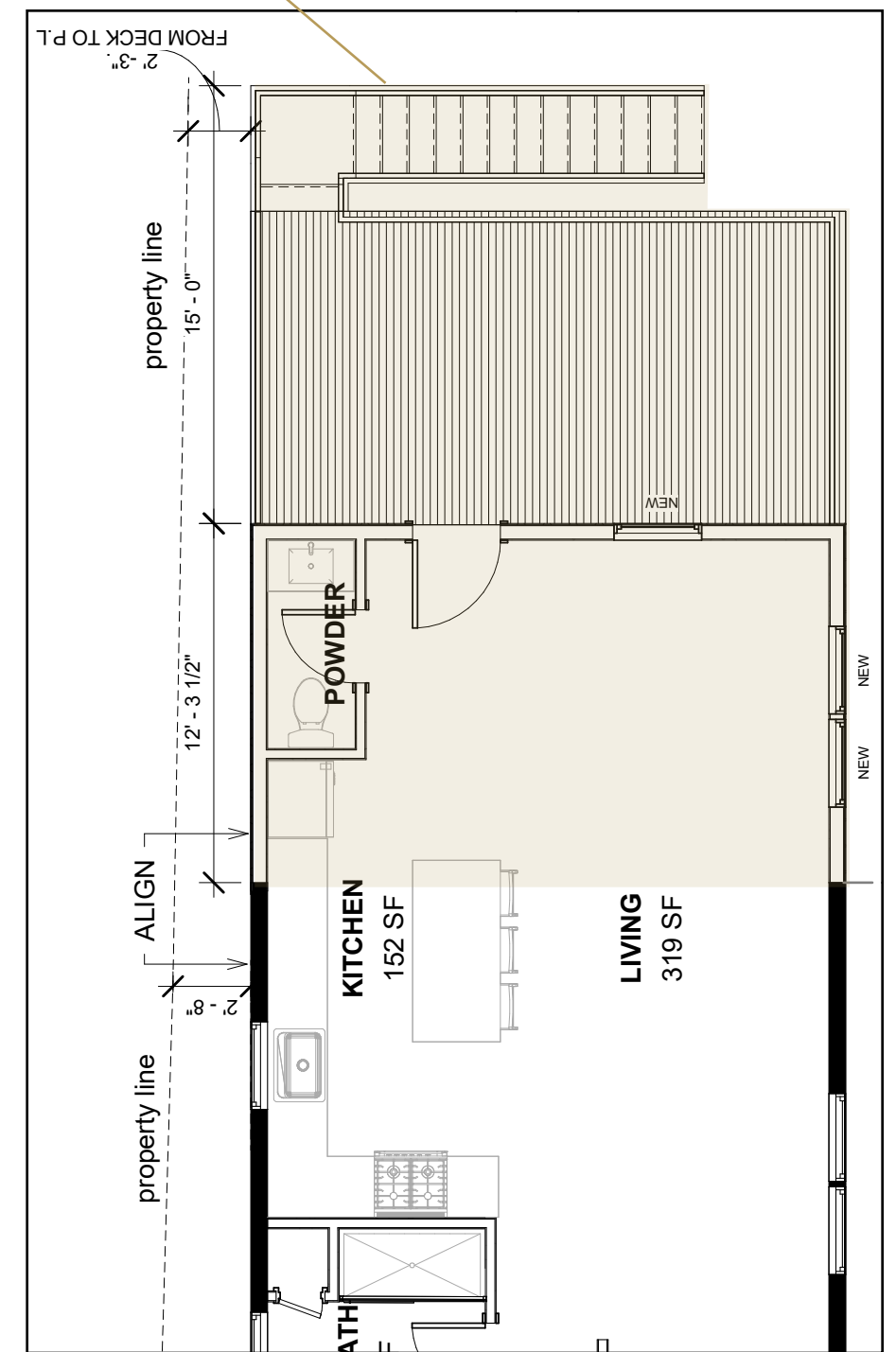
Physical Address: 110 ORANGE STREET BEAUFORT, NC 28516

Mailing Address: 3100 MORROW FARM LN, CHAPEL HILL, NC 27516



DESIRED SITE PLAN OVERLAY

Proposed new construction



DESIRED FLOOR PLAN



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

Notification Certification
Case #24-01 307 Front Street Adjacent Neighbors
Variance Request – February 26, 2024 Board of Adjustment meeting

| | |
|---|--|
| SIMPSON ANN KINDELL 3100 MORROW FARM LANE CHAPEL HILL, NC 27516 | ASCENCIOS LAUREN ETVIR JULIO 6875 BOWMAN DAIRY RD LIBERTY, NC 27298 9140 |
| STATE OF NORTH CAROLINA 1321 MAIL SERVICE CENTER RALEIGH, NC 27699 1321 | NIXON-MOORE MARY ELLEN 307 FRONT ST BEAUFORT, NC 28516 |

I, *Michelle Eitner*, Town Planner for the Town of Beaufort NC, do hereby certify the above property owners, applicants, and adjacent property owners were each mailed a letter and vicinity map on February 9, 2024, regarding a request for a Variance at 307 Front Street. A sign was posted on the subject property on February 9, 2024 regarding the same. The variance request will be heard at the February 26, 2024 Board of Adjustment meeting at the Town Hall Conference Room, 701 Front Street, Beaufort, NC, at 6:00 p.m.

Michelle Eitner

Signed

February 9, 2024

Date

SECTION 9 Nonresidential Zoning Districts

A) *H-BD Historic Business District.*

The intent of this zoning district is to allow land and structures which provide personal services, retailing, and business services compatible with the district’s historic character. This district should be limited to the Town’s Historic Overlay District and may be subject to additional requirements found within the “*Design Guidelines for the Beaufort Historic District & Landmarks.*” Uses in this district which require potable water or sanitary sewer must be connected to both municipal water and municipal sewer.

1) Minimum Lot Size.

The H-BD district will not have a minimum lot size.

2) Minimum Lot Width.

No minimum lot width is required in the H-BD district at the minimum building line.

3) Building Setback and Building Height Requirements and Limitations.

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 9-1 Interior Lot Requirements for Residential Use

| <i>District</i> | <i>Front Setback (Right-of-Way)</i> | <i>Rear Setback</i> | <i>Side Setback</i> | <i>Building Height Limitation</i> |
|-----------------|-------------------------------------|---------------------|---------------------|-----------------------------------|
| H-BD | 25 feet | 30 feet | 8/0* feet | 35 feet |

*0 feet if it connects to a common wall.

Table 9-2 Corner Lot Requirements for Residential Use

| <i>District</i> | <i>Designated Front (Right-of-Way) Setback</i> | <i>Designated Side (Right-of-Way) Setback</i> | <i>Rear Setback</i> | <i>Side Setback</i> | <i>Building Height Limitation</i> |
|-----------------|--|---|---------------------|---------------------|-----------------------------------|
| H-BD | 25 feet | 25 feet | 30 feet | 8 feet | 35 feet |

Table 9-3 Corner Lot and Interior Lot Requirements for Commercial Use

| <i>District</i> | <i>Designated Front (Right-of-Way) Setback</i> | <i>Designated Side (Right-of-Way) Setback</i> | <i>Rear Setback</i> | <i>Side Setback</i> | <i>Building Height Limitation</i> |
|-----------------|--|---|---------------------|---------------------|-----------------------------------|
| H-BD | 0 feet | 0 feet | 0 feet | 0 feet | 35 feet |

4) Accessory Building Setback Requirements.

All accessory buildings shall comply with all setback provisions of this Ordinance, including but not limited to Section 2(F), Section 6 and Section 15 of this Ordinance.

5) Permitted Uses.

Antenna Co-Location on Existing Tower
Bed & Breakfast

Boat Sales/Rentals
Club, Lodge, or Hall
Commercial Indoor Recreation Facility

- | | |
|--|--------------------------------------|
| Community Garden | Medical |
| Concealed (Stealth) Antennae & Towers | Park, Public |
| Day Care Center | Parking Lot |
| Dock | Parking Structure |
| Dwelling, Single-Family | Personal Service Establishment |
| Financial Institution | Pool Hall or Billiard Hall |
| Government/Non-Profit Owned/Operated Facilities & Services | Public Safety Station |
| Hospital | Public Utility Facility |
| Hotel or Motel | Resource Conservation Area |
| Library | Restaurant with Indoor Operation |
| Mixed Use | Retail Store |
| Moped/Golf Cart Sales, Rentals | Shed |
| Mortuary/Funeral Home/ Crematorium | Swimming Pool (Personal Use) |
| Museum | Signs, Commercial Free-Standing |
| Neighborhood Recreation Center, Public | Tavern/Bar/Pub with Indoor Operation |
| Office: Business, Professional, or | Temporary Construction Trailer |
| | Theater, Small |
| | Transportation Facility |
| | Utility Minor |
- 6) Special Uses (*Special Uses* requirements may be found in Section 20 of this Ordinance).
- | | |
|--|---------------------------------------|
| Commercial Outdoor Amphitheater | Preschool |
| Commercial Waterfront Facility | Produce Stand/Farmers' Market |
| Convenience Store | Restaurant with Outdoor Operation |
| Gas/Service Station | Satellite Dish Antenna |
| Golf Driving Range | School, K-12 |
| Marina | School, Post-Secondary |
| Microbrewery | Tavern/Bar/Pub with Outdoor Operation |
| Microdistillery | Theater, Large |
| Other Building-Mounted Antennae & Towers | Utility Facility |
| Other Freestanding Towers | Vehicle Service |
| Outdoor Amphitheater, Public | |

B) H-WBD Historic Waterfront Business District.

The function of this district is to protect the character of the commercial development along the historic waterfront of the Town. This district is also part of the Town's Historic Overlay District and may be subject to additional requirements found within the "Design Guidelines for the Beaufort Historic District & Landmarks."

- 1) Minimum Lot Size.
All lots in the H-WBD shall be a minimum of three thousand square feet (3,000 ft²).
- 2) Minimum Lot Width.
No minimum lot width is required in the H-WBD district at the minimum building line.
- 3) Building Setback and Building Height Requirements and Limitations.
Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section.