

# CAROLINA BEACH

Board of Adjustment Meeting

Monday, June 19, 2023 – 6:00 PM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



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## AGENDA

### CALL TO ORDER

### APPROVAL OF MINUTES

1. May 2nd, 2023 – BOA Minutes

### PUBLIC DISCUSSION

2. Variance to Chapter 40. Article VII. Fence Regulations from the required 4' height limitation for fences located within the 20' front yard setback for 300 S Lake Park Blvd.

### NON-AGENDA ITEMS

### ADJOURNMENT



## AGENDA ITEM COVERSHEET

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**PREPARED BY:** Gloria Abbotts, Senior Planner

**DEPARTMENT:** Planning &  
Development

**MEETING:** Board of Adjustment – June 19<sup>th</sup>, 2023

**SUBJECT:** May 2<sup>nd</sup>, 2023 – BOA Minutes

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**Action:**

Approve the May 2<sup>nd</sup>, 2023 Minutes

# CAROLINA BEACH

Board of Adjustment Meeting

Tuesday, May 2, 2023 - 6:00 PM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



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## MINUTES

### CALL TO ORDER

Chairman Hartsell called the meeting to order at 6:00 PM.

### PRESENT

Chairman Wayne Hartsell

Vice Chairman Patrick Boykin

Board Member Jullena Shelley

Board Member Paul Levy

Board Member Ken Thompson

### ABSENT

Board Member Tim Howard

### ALSO PRESENT

Planning Director Jeremy Hardison

Senior Planner Gloria Abbotts

### APPROVAL OF MINUTES

1. September 20, 2021 – BOA Minutes

**ACTION:** Motion to accept the minutes

Motion made by Board Member Shelley, seconded by Board Member Thompson

Voting Yea: Chairman Hartsell, Vice Chairman Boykin, Board Member Shelley, Board Member Levy, Board Member Thompson

*Motion passed 5-0*

### PUBLIC HEARING

2. Variance to Chapter 30 Flood Damage Prevention, Article V. - Provisions for Flood Hazard Reduction  
Sec. 30-124. - General standards (d) and Sec 30-125 Specific Standards (d)(4)

Individuals planning to speak on the matter were sworn in.

Chairman Hartsell introduced Town Attorney Noel Fox, who gave a brief overview of the matter.

The applicant, Town of Carolina Beach, is requesting a variance to Chapter 30 Flood Damage Prevention ordinance, specifically to the elevation requirement for plumbing fixtures and relief from

the breakaway wall requirement for just the placement of the utility chases for plumbing. The Town would like to rebuild the current one-story brick-and-cinderblock Boardwalk bathroom that is located oceanfront at 9 Boardwalk. The proposed bathroom footprint would be approximately 700 square feet, and it will be a two-story structure with access from the elevated wooden walkway (second level) while also providing access from the concrete area of the Boardwalk adjacent to businesses (first level).

The bathrooms are located within a special flood hazard area (SFHA) as determined by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), Panel 3130 Map #3720313000, effective August 28, 2018. The property is designated as a coastal high hazard area (VE zone) subject to wave actions.

The National Flood Insurance Program (NFIP) variance procedures are designed to help local governments protect their citizens and property from flood damage. Allowing variances to the local floodplain management standards may significantly increase the property's flood insurance rate and decrease the community's resilience. Therefore, by implementing NFIP variance procedures, a community will ensure that alternative actions are taken to protect and encourage safe development in the floodplain.

A variance is an authorization that grants relief by a community from the terms of a floodplain management regulation. Variances are meant to address unique, site-specific, and individual circumstances where the strict application of the ordinance may result in hardship to a property owner. While the variance is intended to provide relief, it still enables the community to:

- Preserve the purpose and intent of the ordinance
- Protect the safety, health, and welfare of the public and emergency responders

The authority to grant a variance is delegated to the Board of Adjustment. In some cases, a variance granted for floodplain management purposes can result in a project that does not meet NFIP minimum standards.

The current bathrooms are located in a VE-16 flood zone. VE means that flooding may result in wave action from storm surge. The 16 represents base flood elevation (BFE), the height of flooding, including wave height, having a 1 percent chance of being equaled or exceeded in any given year. BFE is the basis of insurance and floodplain management requirements and is shown on the flood map. The Town has adopted added protection to buildings constructed in the flood zone by requiring 2 feet over BFE. The added 2 feet above the required elevation is referred to as freeboard. The property elevation of the grade is 8.3 feet. The required flood protection level of the building is 16 feet + 2 feet = 18 feet.

For a variance request to waive the elevation requirement, the community review board must require the "minimum necessary" actions. For example, the minimum actions necessary for a non-residential structure may include meeting other provisions in the local floodplain management ordinance.

The proposed design will meet the following flood requirements:

- Flood vents
- Electrical and mechanical equipment
- Utilizing piling construction

- First horizontal member will meet freeboard (18-foot BFE)
- Constructed using flood-resistant materials

Mr. Hardison presented the details.

Ms. Fox gave a summary of the 11 variance criteria, and Mr. Hardison responded to each.

(1) Danger that materials may be swept onto other lands to the injury of others.

There will be no additional threats to public safety. The new building will be designed to better accommodate flooding than the existing building and will be the minimum possible to afford relief. It will employ flood vents to relieve hydrostatic forces and pressure on the walls to prevent materials from being swept away.

(2) Danger to life and property due to flooding or erosion damage.

The building will be built to be flood-resilient. The current building does not meet flood requirements. The facility will be closed to the public when flooding conditions are expected. The federal storm damage reduction project has served the Town well over the years, and continued nourishment of the project will continue to provide storm damage reduction to the Town's infrastructure and development within the Town. The Town has a beach management plan approved by the Coastal Resources Commission (CRC). The Town must provide a progress report to the CRC every five years describing the condition of the project and an update of the requirements that address the funding sources and construction and maintenance details needed to achieve a design life of shore protection.

(3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

It will be designed to accommodate water-utilizing water-resistant materials. There will not be any finished materials used in the design, and a pressure washer will be utilized to clean the facility that will produce large volumes of water that the facility will be designed to withstand.

(4) Importance of the services provided by the proposed facility to the community.

Lack of access to public bathroom facilities is a detriment to those visiting the beach. There is potential negative biological impact from failing to provide adequate access to public bathroom facilities. Lack of convenient access to public bathroom facilities creates a significant hardship. The proposed two-story bathroom facility will significantly increase the number of stalls and provide direct access to those facilities from the Boardwalk.

The variance requested by the Town will secure public safety and welfare. The proposed two-story bathroom facility will replace the inadequate, non-ADA-compliant existing facilities. The proposed two-story bathroom facility will provide the disabled public the ability to access a bathroom directly from the Boardwalk. As proposed, the two-story bathroom facility is 1) adjacent to a handicap ramp and 2) in close proximity to the location where the Town installs beach mats. The Town routinely allows

organizations supporting those with disabilities to hold special events and camps in this location. Additionally, the two-story bathroom facility will provide adequate access to the general public.

(5) Necessity to the facility of a waterfront location, as defined under Article II of this chapter as a functionally dependent facility, where applicable.

The proposed location to rebuild the public bathroom is on the uniquely Town-owned public beach within the Town's Central Business District (CBD). The bathroom serves beach patrons and the oceanfront Boardwalk area that is in close proximity to the beach and CBD. The expanded bathroom facility will have more total stalls by having two floors and will enhance public access along the beach and Boardwalk by replacing the existing facilities.

The property upon which the proposed two-story bathroom facility is to be located is unique public property. This property was raised from the tides of the Atlantic Ocean by taxpayer-funded beach nourishment efforts first undertaken by the U.S. Army Corps of Engineers in the mid-1960s and uniquely was deeded to the Town by the N.C. General Assembly pursuant to the provisions of the governing 1963 Session Law. The 1963 Session Law balances public and private property rights by recognizing that the Corps' publicly funded beach nourishment project extinguished the common law littoral rights of the impacted oceanfront property owners by deeding the raised lands to the Town and requiring the Town to use those raised lands for public street and public park purposes. This allowed the Town to improve the property in such a manner to significantly increase public access to all able-bodied and disabled individuals to better meet the demand to provide capacity to Boardwalk and beach visitors.

(6) Availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

The Boardwalk area is located in a flood zone, and it would be impossible to locate a bathroom out of the flood zone in this area to serve the visitors and citizens of the Boardwalk and beach.

(7) Compatibility of the proposed use with existing and anticipated development.

The bathrooms will be at the same location as the existing bathroom facility, which is convenient to the Boardwalk, beach mats, and Town-owned area. The variance would secure public safety and welfare and preserve substantial justice. The proposed bathroom expansion is designed to increase access to the public beach and Boardwalk for all disabled visitors and improve restroom access for the public at large through more stalls, including ADA-compliant stalls, and is conveniently located next to and connected to the Boardwalk. The Town is committed to improving access for the increasing and anticipated visitors, especially those with disabilities, and is keeping with the goals of the Town.

(8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

The bathrooms are located in the Boardwalk commercial area and CBD of the Town. This area is pedestrian-oriented with street-level services. The downtown area and Boardwalk are the recreational

and social hub of the Town, providing a family-friendly experience that has come to define the Town for visitors. The appearance of this area was also identified as an opportunity for improvement in the Town's 2020 Land Use Plan with maintaining the pedestrian-scaled environment with active ground-floor uses. In the 2023 Strategic Plan, it was listed to expand public bathroom facilities at the Boardwalk for priorities and objectives.

(9) Safety of access to the property in times of flood for ordinary and emergency vehicles.

The facility will be closed to the public if flooding is predicted. Once the area is safe for public access, it will be open.

(10) Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

The first horizontal member will be 18 feet BFE, 9.7 feet from the ground. The building will be built better to withstand velocity occurrence. The beach management plan and beach storm reduction project have reduced wave action and impacts of buildings in this area.

(11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

The cost will be minimal, as the fixtures will be designed to accommodate water and the building will be made of flood-resistant materials. The electrical and mechanical components will be elevated 2 feet above flood stage. The horizontal member will be located 2 feet above flood stage as well to allow the flow of water. Backflow preventers will be installed to eliminate infiltration of floodwater into the sanitary sewage system.

The Board of Adjustment may attach conditions to the grant of variances. The proposed conditions for this variance as are as follows:

1. Plumbing fixtures and connections are permitted below BFE provided that the fixtures and connections are designed and installed to minimize or eliminate infiltration of floodwaters into the sanitary sewage system and discharges from sanitary sewage systems into floodwaters.
2. Anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy during conditions of the base flood.
3. Constructed of flood-damage-resistant materials.
4. Install flood vents.
5. Mechanical and electrical systems located above BFE.
6. Install breakaway walls to the maximum extent possible.

Board Engineer Mark Weiss of Ardurra Group North Carolina approached the podium for testimony.

Ms. Fox asked if it's possible to meet the Town's flood ordinance and construct this bathroom as designed. Mr. Weiss said it's not possible as it currently sits without modifications to it.

Ms. Fox asked which parts of the proposed construction would meet the Town's flood ordinance. Mr. Weiss said fixtures on the ground floor and utility chases going up to the second floor.

Ms. Fox asked if the current building meets the flood ordinance. Mr. Weiss said no.

Ms. Fox asked Mr. Weiss to expand on the concept of flood resiliency. Mr. Weiss said it involves the use of flood panels, breakaway walls, or a combination of both to ensure the structure itself with storm surge doesn't impact such a force on the building to where it would overcome the structure and cause it to topple.

Chairman Hartsell opened public comment. No one requested to speak. Chairman Hartsell closed public comment.

Board of Adjustment Attorney Matt Nichols asked the Board to consider the 11 criteria when voting on this item.

**ACTION:** Motion to approve the variance from the Town's Flood Damage Prevention ordinance for minimum relief of the plumbing and breakaway wall requirements where the plumbing fixtures will be located. The variance supports the 11 criteria, and public safety will be secured and substantial justice achieved.

Motion made by Board Member Thompson, seconded by Vice Chairman Boykin

Voting Yea: Chairman Hartsell, Vice Chairman Boykin, Board Member Shelley, Board Member Levy, Board Member Thompson

*Motion passed 5-0*

Chairman Hartsell said it's outstanding for both residents and visitors that Town has decided to do this. He commended Mr. Hardison and his staff for a well-prepared presentation.

## **NON-AGENDA ITEMS**

None

## **ADJOURNMENT**

**ACTION:** Motion to adjourn

Motion made by Board Member Shelley, seconded by Board Member Thompson

Voting Yea: Chairman Hartsell, Vice Chairman Boykin, Board Member Shelley, Board Member Levy, Board Member Thompson

*Motion passed 5-0*

The meeting adjourned at 6:40 PM.





## AGENDA ITEM COVERSHEET

**PREPARED BY:** Haley Moccia, Planner

**DEPARTMENT:** Planning &  
Development

**MEETING:** Board of Adjustment – 6/19/2023

**SUBJECT:** Variance to Chapter 40. Article VII. Fence Regulations from the required 4' height limitation for fences located within the 20' front yard setback for 300 S Lake Park Blvd.

### **BACKGROUND:**

The applicant, Pleasure Island Holdings, LLC, is requesting a variance to allow fencing over 4' within the 20' front yard setback from Sec. 40-204. - Height restrictions that requires no fence shall exceed four feet in height when located in the front yard setback.

The property is located at 300 S Lake Park Blvd and is in the MX zoning district. The Dry Dock Inn and its pool are located on the property. The property consists of one 15,379 sq ft lot. This property is a corner lot adjacent to Fayetteville Ave. and S Lake Park Blvd. The building and pool on the lot are considered legal non-conforming structures since they do not meet the minimum setback standards for the zoning district. Due to its nonconforming status, either Fayetteville Ave or S Lake Park Blvd could be established as a front setback. The favorable side to establish the front setback would be S Lake Park Blvd since it would impact the least amount of fencing (see attachment 2).

The pool decking the fence is located on is raised above the natural grade of the lot. The town ordinance requires fence height to be measured from the highest point of the fence, not including columns or posts, to the existing natural grade. NC Building Code requires, "the top of the barrier shall be at least 48 inches above grade measured on the side of the barrier that faces away from the swimming pool." Since the elevated pool deck is raised above the natural grade of the lot and could be used as a step to climb a shorter fence, the fence height would need to be measured from the height of the raised pool deck. Therefore, the town would approve a 4' fence measured from the pool deck rather than the natural grade because the NC Building Code requires an adequate barrier.

Gator Strong Services, a fence contractor, applied for a fence permit (see attachment 3) on behalf of the property owner in March 2022 to replace the fencing surrounding the pool located on the property. The application and supporting site plan materials proposed a 54" fence. Gator Strong Services was advised by the planning reviewer that the fencing within the front setback could not

exceed 4'. They were told they would need to provide an updated site plan with an adjusted fence height to meet the town ordinance regulations. Danny, from Gator Strong Services, inquired about any fence exceptions or variance process. Jeremy Hardison and Haley Moccia advised Danny there were no exceptions in the ordinance and spoke to him about the variance process. Danny did not indicate a desire to apply for a variance at the time and was told to submit an updated site plan with a conforming fence height for fence permit approval.

No updated site plan was submitted, and the fence permit was left unissued. It was discovered in March 2023, through a code enforcement audit of all the unissued and open permit applications, that a fence was installed surrounding the pool at the Dry Dock Inn without an issued permit. The fence height surrounding the pool measured 56.5". Town staff contacted Danny, the fence contractor, and Deanna Lanni, the property owner listed on the fence application, to inform them the fence was too tall within the front setback, and it would need to be reduced to 48" to meet the Town's 4' fence height requirements. Danny stated the owner contacted the county, who sent the North Carolina Administrative Code addressing fence requirements surrounding pools (15A NCAC 18A .2528 FENCES). Deanna stated she sent the information sent from the county to Danny and was unaware he proceeded without a permit (See attachment 4).

Danny and the owner of the Dry Dock Inn met onsite to determine appropriate avenues to meet the Town ordinance. It was suggested they could alter or replace the section of fencing located within the front setback to meet the fence height requirements.

To resolve the situation the applicant is seeking a Variance to the required 4' fence height limitation for fences located within the 20' front yard setback for 300 Lake Park Blvd. S. If approved, the fence would not need to be replaced or altered to meet the 4' fence requirement.

#### **REQUIRED FINDINGS:**

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist

that may justify the granting of a variance shall not be regarded as a self-created hardship.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

**CONDITIONS:**

In granting any variance, the Board may prescribe reasonable and appropriate conditions and safeguards, in conformity with this ordinance. Violation of any such conditions or safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article 19 of the Zoning Ordinance:

If the board supports the findings staff recommends the below condition for the variance

The variance is granted for the proposed pool fencing only and any new fencing on the property shall conform to the setback requirements.

Attachments

1. Variance Application
2. Setback Site Plan
3. Fence Permit Application
4. Email Communications
5. Photos



Application for Variance  
**TOWN OF CAROLINA BEACH, N.C.**

Item 2.

Permit Number: \_\_\_\_\_

Each application must be printed or typewritten and have all information answered. **It is strongly recommended that the applicant set up a meeting with Planning Staff prior to the submission deadline to ensure the application is complete.** The Town of Carolina Beach requires a licensed attorney to appear in a representative capacity to advocate the legal position of another person, firm, or corporation who is the applicant/owner of record.

Fee: \$450.00 to be submitted with application

This petition will be scheduled for the next possible regular Board of Adjustment meeting. The applicant or a representative should be present at the meeting to answer any questions the Board may have. Board of Adjustment meetings are held on the third (3<sup>rd</sup>) Monday of each month at 6:00 P.M. in the Council Room at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Applicants will be informed of any changes in date, time, or location of meetings. Applications and supplementary time for processing and postings are required by the General Statutes of North Carolina.

**Applicant**

Name: Dry Dock Inn

Applicant Mailing Address:

300 Lake Park Blvd S. Carolina Beach NC 28428

Street Address City State Zip

Applicant Phone Number: mobile/work/home (circle one): 910-408-8390

Applicant Email Address:

deanna@reachprop.com

**Property Owner**

Name: Pleasure Island Holdings LLC

Property Owner Mailing Address:

1001 Military Cutoff Rd Ste 101 Wilmington, NC 28405

Street Address City State Zip

Property address of variance being requested:

300 Lake Park Blvd S. Carolina Beach NC 28428

Property Size: 6848 sq. ft. Zoning Designation: Commercial


Please give a brief description of requested action:  
Please see attached.

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Owner Signature:   
Date: 5 / 26 / 23

Owner Printed Name: Ladd Gasparovic

### Variance Requirements

1. The Board of Adjustment conducts a quasi-judicial hearing. You may not contact the Board members once the application has been filed.
2. The Board of Adjustment is not empowered to modify zoning lines or grant a use variance.
3. The Board of Adjustment may attach conditions of approval to a variance to protect surrounding properties.
4. Town Staff will place a public hearing sign on the subject property. The sign must be prominently displayed on the property for at least ten days before the hearing. The property owner is responsible for maintaining the sign during this ten day period.

### Variance Considerations

The Board of Adjustment will review all variance requests against the criteria below. In the spaces provided, please indicate the *facts* that you intend to show and the *arguments* that you intend to make to the Board.

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made from the property.

- (1) This was an honest and actual mistake where both the General Manager of Dry Dock and Gator Fencing both actually believed that New Hanover County had the ability to approve.
- (2) The 54" fence that was constructed looks great, is not obstructive, and it's not even noticeable from the street that it's higher than 48".
- (3) 54" is a generally accepted **minimum** height for swimming pool safety to keep young children from drowning. The new fence looks great, isn't obstructive and is far more safe.
- (4) There are many fences along Lake Park Blvd that are over 48", including the fence directly across the street which appears to be fairly new and is 78" (see picture).
- (5) The fence was custom made and can not reasonably be modified or moved. Requiring owner of Gator Fencing to move the fence would cost more than \$15,000.

2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

- (1) Because a pool for a fairly large motel borders the street, this presents a clear public safety hazard. It is a well accepted safety code nationally that 54" is the minimum height requirement for swimming pool fencing.
- (2) The fence was custom made and can not reasonably be modified or moved. Requiring the owner of Gator Fencing to move the fence would cost more than \$15,000.
- (3) The swimming pool next to the street makes it peculiar and allows more safety by following the swimming pool safety guidelines.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

- (1) As discussed in Background Statement (attached), property owner and Gator Fence both actually believed that New Hanover County had the ability to authorize the fence, AND believed that 54" was required due to swimming pool safety.

4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

- (1) The new fence looks much better than the 8' wooden privacy fence it replaced (see pictures) and it provides much better visibility than the previous fence.
- (2) The property owner has spent significant money and time renovating and beautifying the Dry Dock Motel, staying open year round, hiring local workers, and helping to beautify this area of Carolina Beach.
- (3) Because a swimming pool is next to the street and right next to the sidewalk, the safety of visitors and children is served by allowing the 54" fence to remain.
- (4) Neighboring fences and many fences along Lake Park Blvd are greater than 48" and it's doubtful that anyone would ever know

We (local owners/investors) purchased the Dry Dock in December 2021. It was an older, dilapidated motel that needed a ton of work. It's on the main street and very close to the lake and was considered by most to be an "eyesore." We've invested well over \$500,000 in renovations (interior, exterior, and staffing) that have made it much more attractive and we now keep it open year round. We found out (the hard way) that prior owners didn't permit much of the work. We've done everything 100% by the book, always pulling the appropriate permits for our permits.

However, with the fence on the pool facing Lake Park Blvd (the "new fence"), a mistake was made. This was an honest mistake, and we're providing the background so that the Board can understand this was an honest mistake by all parties involved, and we're asking that the Board allow the current fence to remain in place.

The new fence replaced an old 8' wooden fence that totally blocked visibility from Lake Park Blvd. We wanted our guests to be able to see out, and we wanted passers by to be able to see our new and improved pool and overall motel accommodations. In doing so, we hired Gator Fencing, a locally owned, highly reputable company. We made sure Gator would apply for a fence permit with the town, and they did. There was confusion about the size of the fence. In our permitting with the motel renovations, we've dealt with both the Town of Carolina Beach and New Hanover County. Specifically with the pool, we've had to work with New Hanover County for pool safety. Back on March 31, 2022, Gator Fence applied and was denied a permit for the new fence of 54". At the same time, our general manager Dee Lanni was dealing with New Hanover County on the pool safety and inspections (as well as Danny) and got approval from New Hanover County for a 54" fence. Note that our group has experience dealing with hospitality and rentals and pools. Generally speaking, 54" is the required height for pool code safety and we were assuming this nationally accepted standard of 54" for pool safety would prevail. In any event, New Hanover County approved the 54" pool fence height, and we let Gator Fence know that the County approved it. At that time, both our General Manager and Danny, the owner of Gator Fencing, both believed that the County was in charge of the pool and that it had approved the 54" fence. We realize now that this was an error, however, for the reasons below we're asking that the Board grant a variance.

4/18/23, 11:04 AM



Margaret Cratch  
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Item 2.

4/18/23, 11:04 AM



Ben C

Content may be subject to copyright



4/18/23, 11:04 AM



Diane Kempisty  
Content may be subject to copyright







300 Lake Park Blvd s, Carolina E X



Show search results for 300 Lake Park...

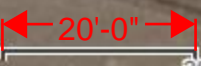


Item 2.

FAYETTEVILLE



20'-0"



20ft

-77.896 34.031 Degrees

20

Esri Community I



Town of Carolina Beach  
Planning/Inspections Department  
1121 N. Lake Park Boulevard  
Carolina Beach, NC 28428  
Tel (910)458-2978 or Fax (910)458-2997

Permit # \_\_\_\_\_

### FENCE APPLICATION

(Applications must be printed or typewritten and have all information answered. Please include a copy of the property plat illustrating the placement of the structure/fence). This APPLICATION is hereby presented for a Zoning permit to erect a fence/structure in accordance with the Town Ordinance. If you have any questions you can call our Zoning Administrator at (910)-458-2991. After construction, please call (910) 458-2991 for a Final Inspection. There is a \$25 Zoning Fee.

Project Location DRY DOCK MOTEL - 300 LAKE PARK BLVD SOUTH

Property Owner DEE LANNI

Property Owner Address (if other than project location) \_\_\_\_\_

Property Owner Phone# 910.408.8390

Applicant (if other than property owner) Gator Strong Services

Applicant's Address (if other than property owner) 6319-A Carolina Beach Rd Wilmington NC 28412

Applicant's Phone# 910-520-3297

Contact person for project Dylan, Erin Phone # 910.520.3297

Email Address erin@gator-strong.com

**Fill dirt is NOT allowed in order to build up the height of a fence.**

Description of Proposed Construction (please include height and location of fence/structure in the description):

Height of fence/structure 54" Location of fence/structure Front Pool (closest to Lake Park Rd)

Residential \_\_\_\_\_ OR Commercial

Construction Cost \$ 10,346.<sup>00</sup>

I hereby certify that I have examined this complete application and the statements are therein true and correct and meet all Zoning requirements.

Print Name ERIN SCOTT Date Submitted 3/28/22

Signature of owner or authorized agent

**\*\* Please submit all permit applications, plans, and additional materials to \*\***  
[permits@carolinabeach.org](mailto:permits@carolinabeach.org)



Customer: **Dec Lanny**

Phone: **910-408-8390**

Date: **3/3/22**

Address: **300 Lake Park**

City: **CB**

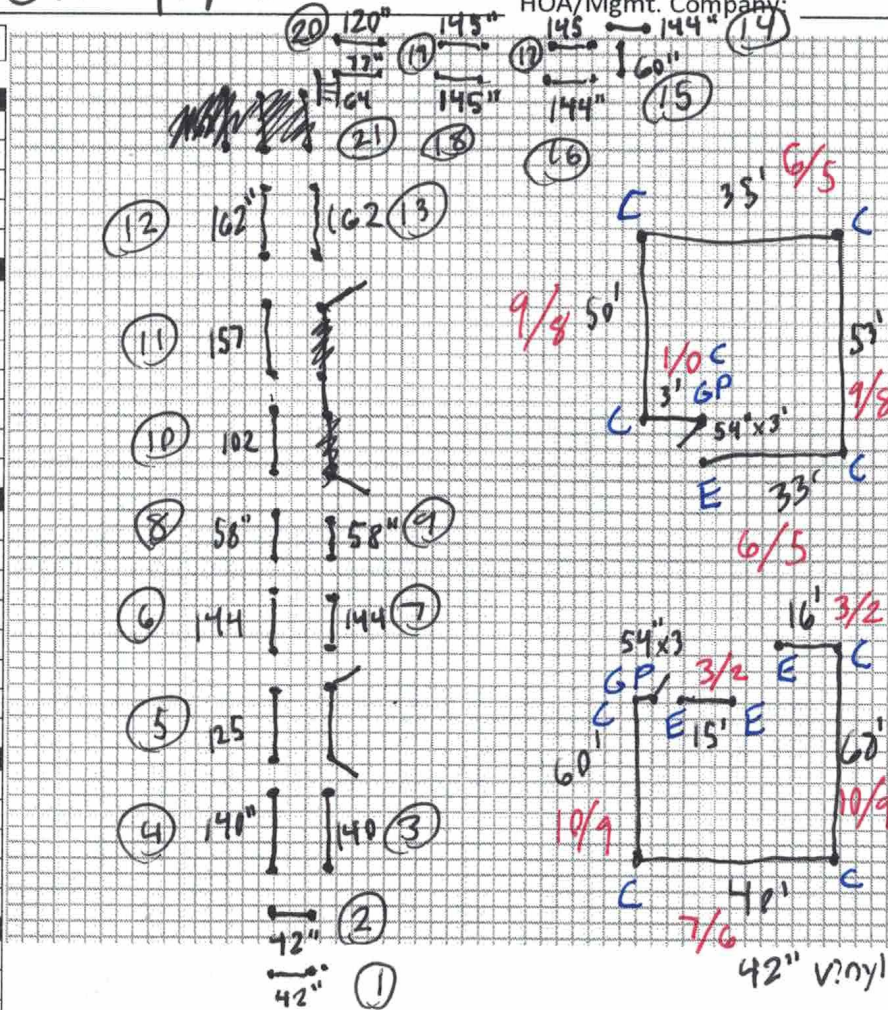
Zip: **29428**

Subdivision: \_\_\_\_\_

Email: **Vienna@reachprop.com**

HOA/Mgmt. Company: \_\_\_\_\_

POOL CODE	
<b>VINYL PRIVACY</b>	
Top Style	
Height	
Color	
Gates /	/
Total Ft.	
<b>VINYL SEMI PICKET</b>	
Top Style	
Picket Size 1.5" / 3" / 6"	
Spacing <2" / <4"	
Height	
Color	
Gates /	/
Total Ft.	
<b>ALUMINUM</b>	
Grade <b>FS or Com.</b>	
Style <b>54" 3 rail</b>	
Spacing <b>Std</b> PP / DP	
Bottom <b>Std</b> <b>Flush</b>	
Height <b>54"</b>	
Color <b>B/K</b>	
Gates <b>(2) 54" x 3'</b>	
Total Ft.	
<b>CHAIN LINK</b>	
Grade	
Height	
Color	
Gates /	/
Total Ft.	
<b>WOOD</b>	
Material	
Style	
Posts	
Height	
Gates /	/
Total Ft.	



LOCATION	
Stakes	
Plot/Survey	
Steep Grade (Add'l \$)	
INSTALLATION	
Follow Ground	
Level Top	
Clearance Under Fence	
ADDITIONAL COSTS	
Permits	
HOA	
Core Drill	
Blacktop/Concrete	
Deck Mount	
Missile Post	
Fence Removal	
Dirt Removal	
UPGRADES	
Pool Hardware	
Post Caps	
Finials	
Scrolls	
Circles (O-rings)	
Butterflies	
Solar Lights	
UTILITIES	
Water	
Electric	

ADDITIONAL NOTES:

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PROJECT COST	
Total:	
Deposit:	
Balance*:	

\*does not include any additional fees.

**PLEASE NOTE:** This quote is good for 15 days from date signed and becomes an agreement once executed by the Customer. This agreement is contingent on supplier prices staying the same. **Due to COVID-19 and a low supply – high demand market, our vendors have advised us to let all our customers know that price increases MAY increase weekly. If this occurs, customers will be responsible for the difference in material cost.**

Item 2.



## Comments

Add Comment

Item 2.

▼ **hmoccia**



03/31/2022 4:59 PM

The height of the fence around the pool can only be 4 ft, not 54", because the pool is located within the front setback of the property. Therefore, I need new plans which show the pool fencing will only be 4 ft.

Additionally, the Gator Strong Services document seems to show 2 pools getting new fencing. If this is the case, then you will need to get a second fence permit for the other Dry Dock Motel pool that is addressed to 201 Fayetteville. Since these pools are technically on 2 separate parcels, we need two permits.

Please email me confirming the height of the fence at 300 Lake Park Blvd. S. - [haley.moccia@carolinabeach.org](mailto:haley.moccia@carolinabeach.org). And if you are doing the second pool off of Fayetteville, please apply for a second fence permit.

Best,

Haley

[haley.moccia@carolinabeach.org](mailto:haley.moccia@carolinabeach.org)

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Close



## Haley Moccia

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**From:** Haley Moccia  
**Sent:** Monday, March 13, 2023 9:43 AM  
**To:** Deanna Lanni  
**Subject:** RE: Dry Dock Fence

Hi Deanna,

Based off building code, the fence needs to be a minimum of 48" and since the pool is located within the front setback it can be no taller than 48". Therefore, the fence height will need to change to be 48". If you can modify the fencing material to bring it down to 48" inches, we would accept that, but either way it needs to be reduced. The posts can stay the same since our ordinance allows posts to be at most up to 18" above the fence.

Before any modification can occur, we will need new plans showing the fence will be 48" and the permit will need to be paid.

Best,

Haley

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**From:** Deanna Lanni <deanna@reachprop.com>  
**Sent:** Friday, March 10, 2023 5:42 PM  
**To:** Haley Moccia <haley.moccia@carolinabeach.org>  
**Subject:** Re: Dry Dock Fence

**Be Advised: This email originated from outside of the Town of Carolina Beach, NC**

Andrea Thomas was who I was originally going back and forth with. And I saw in all of her emails that I have gone back through that she had forwarded all of the codes to us, which I directly forwarded right to Gator Strong. They are definitely trying to deny responsibility here and I'm not sure what to do. These were the specs we received:

### 15A NCAC 18A .2528 FENCES

(a) Public Swimming pools shall be completely enclosed by a fence, wall, building, or other enclosure, or any combination thereof, which encloses the swimming pool area such that all of the following conditions are met:

(1) The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two inches measured on the side of the barrier that faces away from the swimming pool;

- (2) Openings in the barrier shall not allow passage of a four-inch-diameter sphere and shall provide no external handholds or footholds. Solid barriers that do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints;
- (3) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches or more, spacing between the vertical members shall not exceed four inches. Where there are decorative cutouts within the vertical members, spacing within the cutouts shall not exceed 1.75 inches in width;
- (4) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between the vertical members shall not exceed 1.75 inches in width. Where there are decorative cutouts within the vertical members, spacing within the cutouts shall not exceed 1.75 inches in width;
- (5) Maximum mesh size for chain link fences shall be a 2.25 inch square unless the fence is provided with slats fastened at the top or the bottom that reduce the openings to no more than 1.75 inches;
- (6) Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be no more than 1.75 inches;
- (7) Access gates shall comply with the dimensional requirements for fences and shall be equipped to accommodate a locking device. Effective April 1, 2011, pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device except where a gate attendant and lifeguard are on duty. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism shall require the use of a key, combination or card reader to open or shall be located on the pool side of the gate at least three inches below the top of the gate, and the gate and barrier shall have no openings greater than 0.5 inch within 18 inches of the release mechanism; and
- (8) Ground level doors and windows opening from occupied buildings to inside the pool enclosure shall be self-closing or child protected by means of a barrier or audible alarm.

On Fri, Mar 10, 2023 at 4:48 PM Haley Moccia <[haley.moccia@carolinabeach.org](mailto:haley.moccia@carolinabeach.org)> wrote:

Hi Deanna,

Could you provide me with the County contact who told you it needed to be higher? Or any documentation from someone stating it needed to be the height it currently is?

Best,

Haley

-----Original Message-----

From: Deanna Lanni <[deanna@reachprop.com](mailto:deanna@reachprop.com)>  
Sent: Friday, March 10, 2023 4:44 PM  
To: Haley Moccia <[haley.moccia@carolinabeach.org](mailto:haley.moccia@carolinabeach.org)>  
Subject: Re: Dry Dock Fence

Be Advised: This email originated from outside of the Town of Carolina Beach, NC

Haley,

First of all I apologize on behalf of Dry Dock Inn. We are new at this business and did not realize we were responsible for pulling a permit for the pool fence from the Town of Carolina Beach, hence why I hired Gator Strong and thought that they were handling that with you- and it looks like they did start the permit process and were explicitly told it had to be 4'. I never saw that email till today. I in the meantime was working last year with the county who had come by and told us that our current fence did not meet code and would not pass county inspection and therefore would not be able to open on time if we didn't have a taller fence, not realizing it was already at the required height for the Town of Carolina Beach. So as it stands now, if we lower the fence we won't pass inspection for the county to open the pool because then it will not meet the height requirements again- is there anything we can do??

Sent from my iPhone

> On Mar 10, 2023, at 2:16 PM, Haley Moccia <[haley.moccia@carolinabeach.org](mailto:haley.moccia@carolinabeach.org)> wrote:

>  
> Here are all the communications I have about the fence height.

>  
> Best,

>  
> Haley

>  
> -----Original Message-----

> From: Danny Vulin <[danny@gator-strong.com](mailto:danny@gator-strong.com)>  
> Sent: Friday, April 1, 2022 10:04 AM  
> To: Haley Moccia <[haley.moccia@carolinabeach.org](mailto:haley.moccia@carolinabeach.org)>  
> Subject: Re: Dry Dock Fence

>  
> Be Advised: This email originated from outside of the Town of Carolina Beach, NC

>  
>  
>  
> Thank you

>

> Sent from my iPhone

>

>> On Apr 1, 2022, at 9:44 AM, Haley Moccia <[haley.moccia@carolinabeach.org](mailto:haley.moccia@carolinabeach.org)> wrote:

>>

>> Hi Danny,

>>

>> I couldn't find any exceptions in our ordinances to allow over 4 ft, but I will wait until Jeremy is back from Vacation next week to ask him if he is aware of anything. I'll let you know what I find out early next week.

>>

>> Best,

>>

>> Haley

>>

>> Haley Moccia

>> Planner

>> Town of Carolina Beach

>> 1121 N. Lake Park Blvd.

>> Carolina Beach, NC 28428

>> 910-707-2042

>> [www.carolinabeach.org](http://www.carolinabeach.org)

>>

>>

>>

>> \*\* Please submit all permit applications, plans,

>> and additional materials to [permits@carolinabeach.org](mailto:permits@carolinabeach.org) \*\*

>>

>> -----Original Message-----

>> From: Danny Vulin <[danny@gator-strong.com](mailto:danny@gator-strong.com)>

>> Sent: Friday, April 1, 2022 8:49 AM

>> To: Haley Moccia <[haley.moccia@carolinabeach.org](mailto:haley.moccia@carolinabeach.org)>

>> Subject: Dry Dock Fence

>>

>> Be Advised: This email originated from outside of the Town of Carolina Beach, NC

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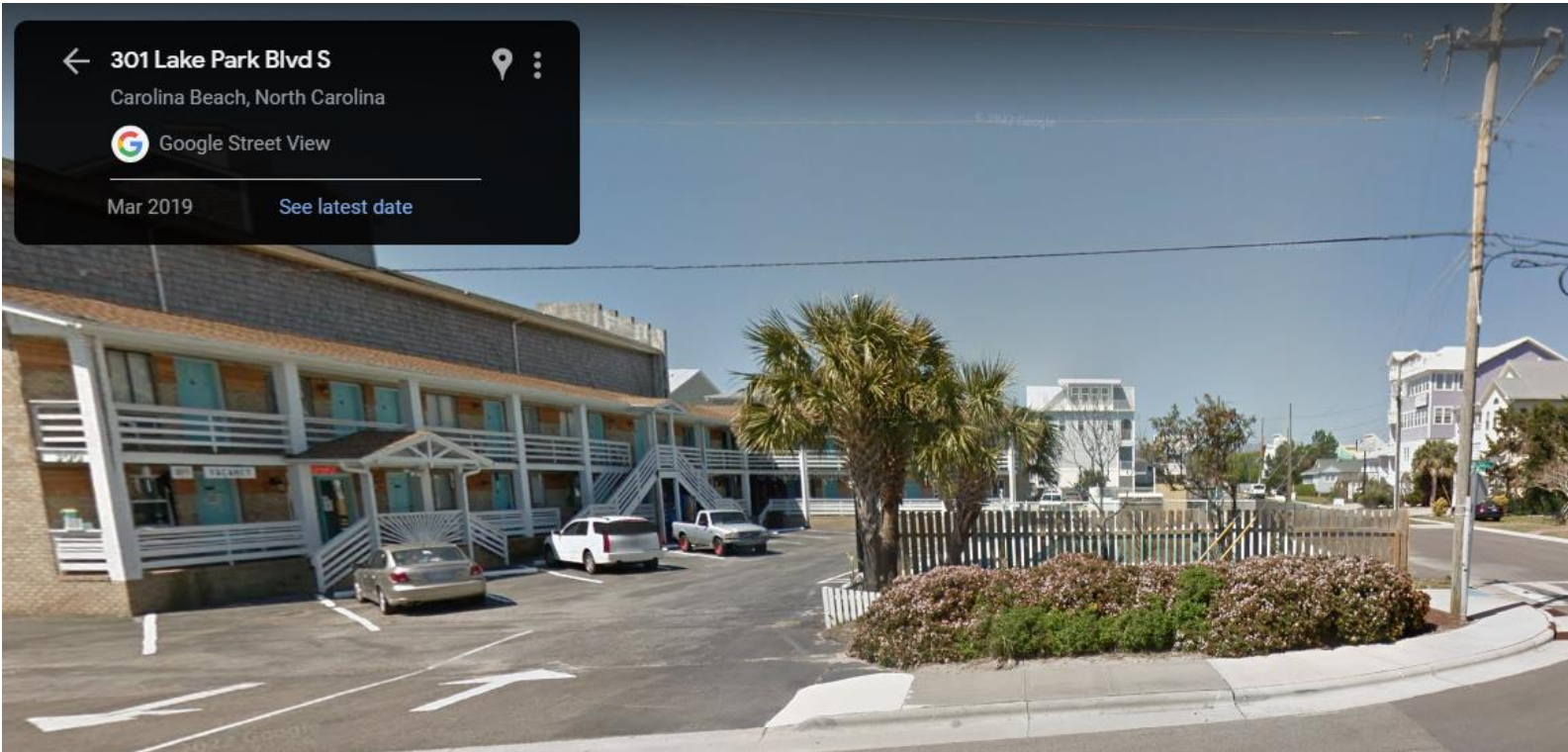
>>

>>

>> Can you please give me a call about this. 910-619-0039 thank you

>>

>> Sent from my iPhone





2019 Fencing Compared to Brick Pump House



Current Fencing Compared to Brick Pump House







2019 Fencing:



Current Fencing:

