



Town of North Topsail Beach
Zoning Board of Adjustment Regular Meeting

Tuesday, February 18, 2025, at 6:00 PM
2008 Loggerhead Court, North Topsail Beach, NC 28460

(910) 328-1349 | www.northtopsailbeachnc.gov

Zoning Board of Adjustment: Hanna McCloud - Chair, Scott Morse, Lisa Lee Kozlowski, Susan Meyer, Kip Malcolm, Jason Stahr- Alternate.

Staff: Deb Hill - MPA AICP CFM AZO - Planning Director; Kate Winzler - CMC, NCCMC - Clerk to the Zoning Board of Adjustment.

I. CALL TO ORDER

II. ADOPTION OF AGENDA

Specific Action Requested: Chair will request a motion to adopt the agenda.

III. APPROVAL OF MINUTES

A. December 17, 2024, Special Meeting Minutes

Specific Action Requested: Chair will request a motion to approve the minutes.

IV. OLD BUSINESS

A. #AA24-000003 Appeal by Aneta Paval of the denial of a fence permit #SB24-000044 at lot 14 Green Oar Street, Rogers Bay Campground located at 4021 Island Drive (continued)

V. NEW BUSINESS

A. #VAR24-000001 Variance application by Mr. Lincoln "Tad" Scott from the 20-foot Front Yard Setback requirement listed in UDO Table 5-1 for property at 1108, 1112, 1116 New River Inlet Road (R-5 Zoning District) due to 90-foot CAMA setback requirement

VI. ORGANIZATIONAL

A. Rules of Procedure

VII. CLOSED SESSION

Pursuant to NCGS § 143.318.11 (a) (3) Consultation with the attorney

VIII. ADJOURNMENT

Notice to citizens who wish to speak: As a courtesy to others, a citizen speaking on an agenda item or making a petition is normally limited to three minutes. Persons who are organizing a group presentation and who wish to speak beyond the three minute limit are requested to make prior arrangements through the Planning Director by calling 910-328-1349. If you wish to address the Board this evening, please go to the front right corner of the conference room and sign up with the Recording Secretary. The Board may also change the order in which agenda items are presented.

Attorneys: If you are representing a person with an interest in a quasi-judicial proceeding on this agenda and believe you may wish to cross examine a witness, please identify yourself as such to the Recording Secretary. For the sake of maintaining an accurate public record all speakers must be prepared to speak into an amplified microphone and must provide their name to the Recording Secretary.



Town of North Topsail Beach
Zoning Board of Adjustment Special Meeting
Tuesday, December 17, 2024, at 6:00 PM
2008 Loggerhead Court, North Topsail Beach, NC 28460
(910) 328-1349 | www.northtopsailbeachnc.gov

PRESENT: Hanna McCloud - Chair, Scott Morse, Kip Malcolm, Susan Meyer, Jason Stahr - Alternate.

ABSENT: Lisa Lee Kozlowski

I. CALL TO ORDER

Chair McCloud called the meeting to order at 6:24 p.m.

II. OATH OF OFFICE

Deputy Town Clerk Winzler administered the Oath of Office to Susan Meyer for appointment as a regular member on 03/06/2024 to serve a three-year term ending May 1, 2027.

III. ADOPTION OF AGENDA

Mr. Malcolm made a motion to adopt the agenda. Mr. Stahr seconded the motion. The motion passed unanimously, 5-0.

IV. 2025 REGULAR MEETING SCHEDULE

Mr. Malcolm made a motion to approve the proposed 2025 Zoning Board of Adjustment regular meeting schedule. Mr. Stahr seconded the motion. The motion passed unanimously, 5-0.

V. APPROVAL OF MINUTES: NOVEMBER 19, 2024, SPECIAL MEETING

Mr. Morse made a motion to approve the minutes from the November meeting. Mr. Malcolm seconded the motion. The motion passed unanimously, 5-0.

VI. ORGANIZATIONAL: Rules of Procedure

Planning Director Deb Hill informed the members that the Rules of Procedure would be presented at the January 21, 2025 meeting.

Chair McCloud requested Article 1. Composition be amended to read "five regular members and four alternate members."

Planning Director Hill acknowledged the request.

VII. NEW BUSINESS: #AA24-000003 Appeal by Aneta Paval of the denial of a fence permit #SB24-000044 at lot 14 Green Oar Street, Rogers Bay Campground located at 4021 Island Drive

Chair McCloud introduced the hearing.

Deputy Town Clerk Winzler swore in Aneta Paval, Planning Director Deb Hill, and Darlene Maillet.

Town Attorney Trey Ferguson allowed the Board to identify any conflicts of interest or special knowledge. None were presented. Attorney Ferguson explained the administrative decision appeal process.

Chair McCloud explained the order of business for the hearing and opened Case #AA-24 at 6:34 p.m. and requested testimony from the staff.

Planning Director Hill reviewed the staff report and asked that the staff report and exhibits one-thirty be entered into evidence.

Ms. Paval had no objection to the request.

There were no questions for Ms. Hill from the Board.

Ms. Paval cross examined Planning Director Hill.

Ms. Paval provided testimony to the Board.

The Board asked Ms. Paval questions.

Planning Director Hill cross examined Ms. Paval.

Darlene Maillet, of lots six and seven Atlantic Street, 4021 Island Drive provided testimony.

The Board cross examined Ms. Maillet.

The Board held open discussion.

Mr. Malcolm made a motion Ms. Paval we would request that you work with the Fire Department and other public safety officials to further examine the situation regarding a proposed fence on the lot to present we would prefer an aerial photo and or photographs of the lot that would give us a better understanding of the layout and impact of your proposed fence and then I would propose move that we continue this to the January 21st, 2025 Board of Adjustment meeting.

There was discussion.

Ms. Paval did not object to the continuation of the hearing to the next meeting.

Mr. Stahr seconded the motion. The motion passed unanimously, 5-0.

Attorney Ferguson explained that he believed the quasi-judicial hearing was continued until the next meeting.

VIII. CLOSED SESSION Pursuant to NCGS § 143.318.11 (a) (3) Consultation with the attorney

Mr. Malcolm made a motion to go into closed session. Mr. Stahr seconded the motion. The motion passed unanimously, 5-0.

The Zoning Board of Adjustment went into closed session at 8:19 p.m.

Mr. Malcolm made a motion to come out of closed session. Mr. Stahr seconded the motion. The motion passed unanimously, 5-0.

The Zoning Board of Adjustment came out of closed session at 8:40 p.m. No action was taken.

IX. ADJOURNMENT

Mr. Malcolm made a motion to adjourn. Mr. Stahr seconded the motion. The motion passed unanimously, 5-0.

The Zoning Board of Adjustment meeting adjourned at 8:41 p.m.

APPROVED

CERTIFIED

This 18th day of February 2025

This 18th day of February 2025

Chair

Clerk to the Zoning Board of Adjustment

STAFF REPORT CONTACT INFORMATION

Deborah J. Hill MPA AICP CFM CZO, Planning Director

DOCKET/CASE/APPLICATION NUMBER

Agenda Item IV. Case AA24-000003 (continued)

APPLICANT/PROPERTY OWNER

Ms. Aneta Paval/Roger's Bay POA

PUBLIC HEARING DATE

Zoning Board of Adjustment

Tuesday, December 17, 2024, 6:00 p.m.

PROPERTY ADDRESS/LOCATION

Rogers Bay Campground

4021 Island Dr (Tax Parcel # 769-4.1)
(Camp Site: 15 G Oar St)

The Zoning Board of Adjustment (ZBA) conducted an evidentiary hearing on December 17, 2024, at 6:00 p.m. to consider an appeal by Ms. Aneta Paval of the denial of a fence permit #SB24-000044 at lot 14 Green Oar Street, Rogers Bay Campground, 4021 Island Drive (B-1 Zoning District).

Kip Malcolm moved that **Miss Paval, we would request that you work with the Fire Department and other public safety officials to further examine the situation regarding a proposed fence on the lot to present we would prefer an aerial photo and or photographs of the lot that would give us a better understanding of the layout and impact of your proposed fence and then I would propose or move that we continue this to the January 21st.**

After some discussion, the Town Attorney stated that the motion on the floor is to continue this hearing until the next Board of adjustment meeting which is January 21st. **Jason Stahr seconded, the motion passed unanimously, 5-0.**

EXHIBITS (continued)

Exhibit 31. Staff Report: Agenda Item IV. Case AA24-000003 (continued).

Exhibit 32. Ani Paval anetapaval@yahoo.com dated Tue 1/14/2025 2:52 PM

Exhibit 33. Ani Paval anetapaval@yahoo.com dated Tue 1/14/2025 2:57 PM

Deb Hill

From: Ani Paval <anetapaval@yahoo.com>
Sent: Tuesday, January 14, 2025 2:52 PM
To: Trey Ferguson; Ricky Schwisow; Deb Hill
Subject: Fw: 2nd aerial picture

Good afternoon all,
I am sending you the aerial picture of the camper with the previous fence which has the same length as the current fence. It is the third camper from the right to the left. Google Earth does not have an updated aerial view to show the current fence.
Best Regards,
Aneta Paval

----- Forwarded Message -----
From: Ani Paval <anetapaval@yahoo.com>
To: anetapaval@yahoo.com <anetapaval@yahoo.com>
Sent: Tuesday, January 14, 2025 at 02:14:19 PM EST
Subject: 2nd aerial picture



From: [Ani Paval](#)
To: [Trey Ferguson](#); [Kate Winzler](#); [Ricky Schwisow](#); [Deb Hill](#)
Date: Tuesday, January 14, 2025 2:57:47 PM

This is a picture of the current white vinyl fence.
Best Regards,
Aneta Paval

----- Forwarded Message -----
From: Ani Paval <anetapaval@yahoo.com>
To: Ani Paval <anetapaval@yahoo.com>
Sent: Tuesday, January 14, 2025 at 02:07:42 PM EST
Subject:



[Yahoo Mail: Search. Organize. Conquer](#)

STAFF REPORT¹ CONTACT INFORMATION

Deborah J. Hill MPA AICP CFM CZO, Planning Director

DOCKET/CASE/APPLICATION NUMBER

Agenda Item V. A. Case #VAR24-000001

APPLICANT/PROPERTY OWNER

Mr. Lincoln "Tad" Scott

PUBLIC HEARING DATE

Zoning Board of Adjustment

Tuesday, February 18, 2025, 6:00 p.m.

PROPERTY ADDRESS/LOCATION

1108, 1112 and 1116 New River Inlet Road

Ocean View Shores Lots 7, 6, 5

BRIEF SUMMARY OF REQUEST

Mr. Lincoln "Tad" Scott is requesting a variance^{2, 3, 4} from UDO Article 5, Section 5-1, R-5 front setback to allow for single-family construction of not more than 2,000 square feet of floor space on each lot.

EXISTING ZONING	EXISTING LAND USE CAMA LUP Map 10B	ADJACENT ZONING & LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
R-5	Vacant	North R-10 Single-Family East R-5 Single-Family South Atlantic Ocean West R-20 Single-Family	None	1108 (Lot 7) 18,169 ft ² MB44 P197 ⁵ 1112 (Lot 6) 18,444 ft ² MB44 P197 ⁵ 1116 (Lot 5) 18,847 ft ² MB44 P196 ⁶

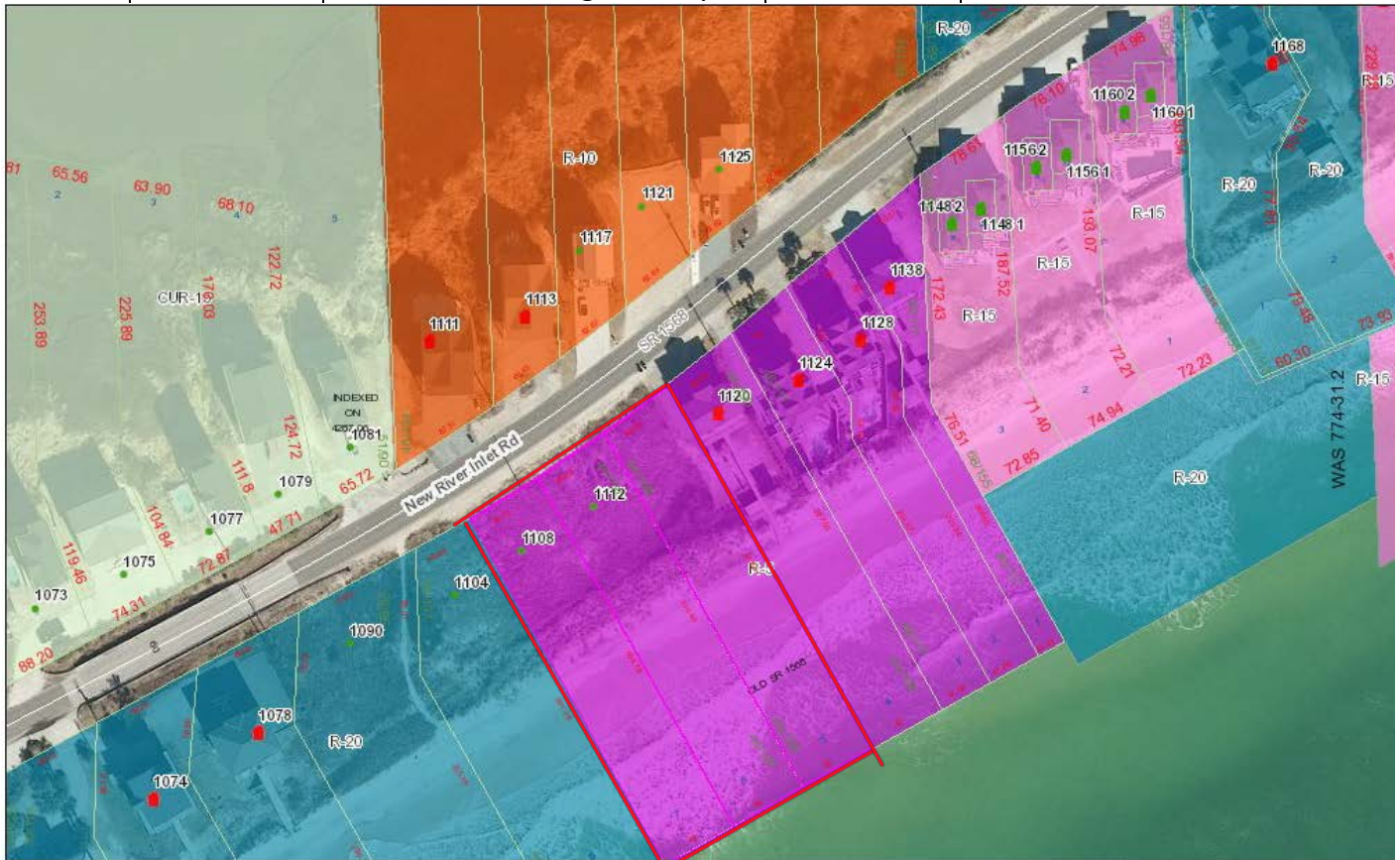


FIGURE 1: Ocean View Shores Lots 7, 6 AND 5 outlined in red. (MAP SOURCE: ONSLOW COUNTY GIS with 2024 AERIAL and ZONING LAYER)

PROPERTY HISTORY

In 1957, Topsail Island Highway bisected the parent tracts 1 through 4.⁷ With the relocation of the roadway renamed New River Inlet Road, the oceanfront portions of tracts 1 through 4 were established as Ocean View Shores by a series of plat exemptions recorded as MB 44 P 195 (Lots 1, 2, 3) filed 06/17/2003, MB 46 P 117 (Lots 1, 2, 3), MB 44 P 196 (Lots 3, 4, 5) filed on 06/17/2003⁶, and MB 44 P 197 (Lots 6, 7, 8)⁵. The property has not been rezoned from the initial R-5 Zoning District and appears to have remained undeveloped.

COMPATIBILITY with the COMPREHENSIVE PLAN (CAMA Land Use Plan)

The Future Land Use Map 11B classifies the property as High Density Residential.

The erosion rate is 3.0 (see Figure 3) and the ocean hazard setback for development shall be measured in a landward direction from the vegetation line, the pre-project vegetation line, or the measurement line, whichever is applicable a distance of **90 feet**, as determined by the DCM, the LPO, or other assigned agent of the DCM. [15A NCAC 07H .0306(a)(1)]

COMPATIBILITY with the Unified Development Ordinance (UDO)

UDO Article 5, Section 5-1 requires a 20-foot front setback for R-5 zoning districts.

STAFF ANALYSIS

On August 9, 2024, Mr. Scott applied for a CAMA permit to build a three-story, 1998 square foot (not including deck) single family residence on each of the three lots:

- Application Number 52-24 for 1108 New River Inlet Road
- Application Number 53-24 for 1112 New River Inlet Road
- Application Number 54-24 for 1116 New River Inlet Road

On August 12, 2024, Jonathan Lucas, Field Representative for NC Division of Coastal Management denied the applications, citing that the applications were not compliant with the following CAMA regulations: **8, 9, 10**

- 15A NCAC 07H .0306 (a)(3)(A) which states: "A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater".
- The exception available in 15A NCAC 07H .0309(b) because the lot was not platted before June 1, 1979 (Onslow County Registry Map Book 44, Page 197).

The NC Coastal Resources Commission (CRC) is revising 15A NCAC 07H .0309(b) in response to concerns raised about the inability to apply the exception within the oceanfront setback to lots created **after** June 1, 1979. These concerns emerged after the repeal of 15A NCAC 07H .0104 effective August 1, 2022, which had similar provisions for lots created after June 1, 1979, that could not meet the required setback.

The letters provided Mr. Scott two options: either appeal the permit decision or seek a variance. The Division of Coastal Management requires that the applicant exhaust all other remedies prior to submitting a variance application to the CRC, which necessitates his variance applications to the Town of North Topsail Beach Zoning Board of Adjustment.

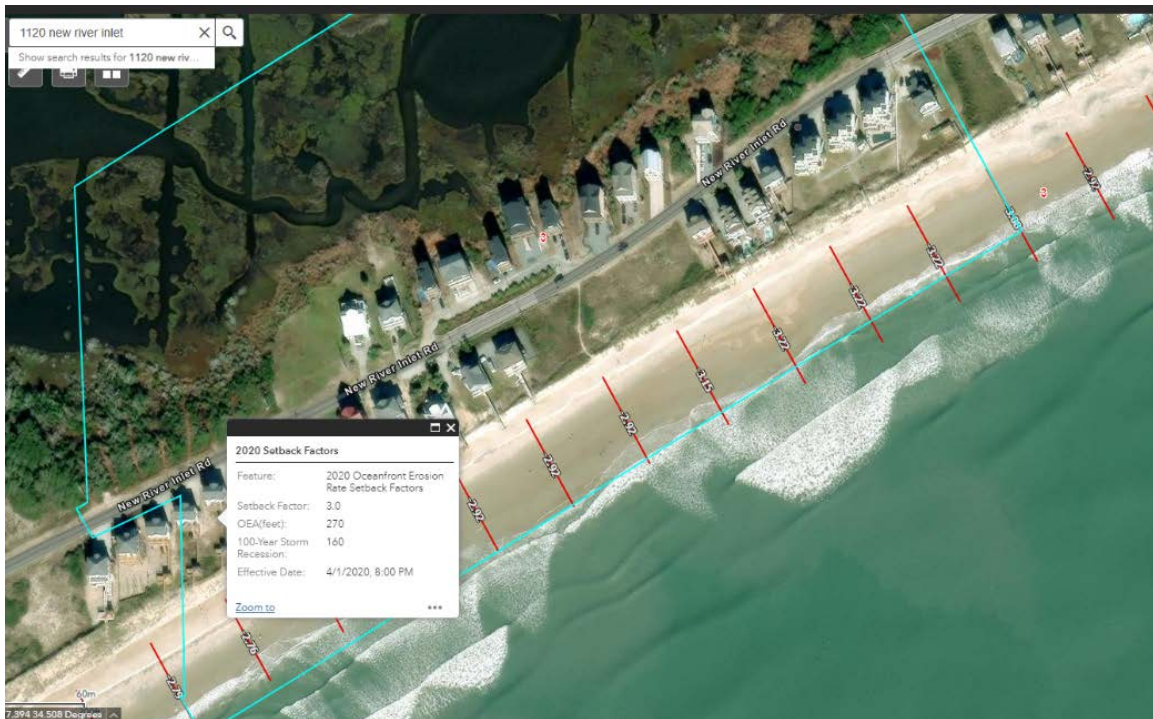


Figure 2: source: ncdcnr.maps.arcgis.com with 2020 Setback Factors and Setback Factor:3.0

The challenge is the effect of the annual erosion rate in that area of 3.0 ft/year, which are not conditions peculiar to the applicant's property, but to others as indicated in Figure 1 with the blue outline indicating Setback Factor 3.0 and the subject lots near center.

FINDINGS		
In accordance with § 2.03.04 of the Unified Development Ordinance and N.C.G.S. § 160D-705 (d), a variance shall be granted by the Board if evidence presented demonstrates the required findings are made:		
FINDING	APPLICANT	STAFF ANALYSIS
<p>(1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.</p>	<p>An unnecessary hardship would result from the strict application of the twenty-foot front yard setback requirement in that applicant will be prevented from making reasonable use of the lot, which is zoned for single-family homes. The Town's front yard setback requirements, together with CAMA rules (specifically 15A NCAC 07H.0306(a)(3)(A)), serve to prevent applicant from building a home on this lot. Applicant plans to seek a variance from the NC Coastal Resources Commission to the CAMA setback rule to get approval to build a home of less than 2,000 square feet, but he is required to first seek relief from local requirements restricting use of the property before applying for a variance from the CRC. Due to a proposed rule change that has been approved by the CRC (but not yet enacted), Applicant believes that he has a good basis for the granting of a variance to the CAMA rule (as it currently stands), but he will be able to reduce the scope of the variance requested from the CRC if the Town will permit him to build within the Town's front yard setback area.</p>	<p>The variance request is not in accord with the CAMA Land Use Plan or sound planning principles. Promoting the development of properties that have been deemed unbuildable due to either state or local development regulations is inconsistent with:</p> <ul style="list-style-type: none"> • CAMA Land Use Policy P. 25 The Town, in an effort to protect the eco-friendly environment that the Town has established over the years, may aim to secure lots through either acquisition, grant-funded purchase, or donation. These lots may be secured as open space easements in perpetuity. Special attention will be given to acquire properties that have been deemed unbuildable due to either state or local development regulations; and • CAMA Land Use Policy P. 52 The Town supports relocation of structures endangered by erosion, if the relocated structure will be in compliance with all applicable local, state, and federal policies and regulations including the Town's zoning and subdivision ordinances. Relocation of structures should comply with density standards outlined within the future land use map section of this plan.
<p>(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.</p>	<p>The hardship results from conditions peculiar to this lot (and the other two lots owned by applicant adjoining this lot) based on the topography and location of this lot and the date of enactment of certain CAMA rules as applied to this lot. There are lots of the same or similar size within the same area with homes on them.</p>	<p>The hardship is not peculiar to Mr. Scott's properties, but applies to all properties where the application of the oceanfront setback requirements of Rule .0306(a) would preclude placement of a structure on a lot created after June 1, 1979. The hardship is created for Mr. Scott's properties and others by:</p> <ol style="list-style-type: none"> 1. The effect of the annual erosion rate in that area of 3.0 ft/year, as required by 15A NCAC 07H .0306(a) and the oceanfront setback requirements which are not conditions peculiar to the applicant's property, but to others as indicated in Figure 2 with the blue outline indicating Setback Factor 3.0 and the subject lots near center; 2. The appeal of 15A NCAC 07H .0104 effective August 1, 2022, which had provisions for lots created after June 1, 1979, that could not meet the required setback. 3. The inability to apply the exception 15A NCAC 07H .0309(b) within the oceanfront setback to lots created after June 1, 1979; 4. That the revisions proposed to 15A NCAC 07H .0309(b) by the NC Coastal Resources Commission (CRC) to apply the exception to lots created after June 1, 1979, have not yet been codified.
<p>(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 is not a self-created hardship.</p>	<p>The conditions and special circumstances do not result from actions of the applicant. The applicant has not yet built on the lot nor done anything else on the lot that would violate or change the application of the rules.</p>	<p>The hardship is not a result from actions taken by the applicant, but as the results of oceanfront setback requirements of Rule .0306(a) that preclude placement of a structure on a lot created after June 1, 1979.</p>
<p>(4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.</p>	<p>The variance is consistent with the spirit and purpose of the UDO such that public safety is secured and substantial justice is achieved in that allowing applicant to encroach into the front yard setback area a reasonable amount will strike a balance between allowing applicant to make reasonable use of the lot by building a modest home upon it and protecting the natural beauty and erosion control of the lot. There will still be sufficient distance between the road and the proposed building area and between the ocean and the proposed building area to protect public safety and minimize the loss of life or property resulting from storms and long-term erosion.</p>	<p>The requested variance is a requirement by the Division of Coastal Management that the applicant exhaust all other remedies prior to submitting a variance application to the CRC, which necessitates his variance applications to the Town of North Topsail Beach Zoning Board of Adjustment.</p>

EXHIBITS

- 1 Staff Report
- 2 Lincoln "Tad" Scott Application #VAR24-000001
- 3 Application #VAR24-000001 Attachment 1 MAP 2023 06 06
- 4 Application #VAR24-000001 Attachment 2 MAP 2024 02 07
- 5 Lot Recombination for Ocean View Shores (Lots 6, 7, 8) by Charles F. Riggs PLS dated 06-13-2003, filed with the Onslow County Register of Deeds on 06/17/2003 and recorded as Map Book 44 Page 197.
- 6 Lot Recombination for Ocean View Shores (Lots 3, 4, 5) by Charles F. Riggs PLS dated 06-13-2003, filed with the Onslow County Register of Deeds on 06/17/2003 and recorded as Map Book 44 Page 196.
- 7 Division Map of A.M. Grant's Hobbs Island Tract by M. R. Walton PLS dated July 2&3, 1957, filed with the Onslow County Register of Deeds on 10/21/1957 as recorded as Map Book 5 Page 48.
- 8 Denial of Cama Minor Development Permit: Application Number 52-24: PROJECT ADDRESS – 1108 New River Inlet Road by Jonathan Lucas, NC Division of Coastal Management dated August 12, 2024.
- 9 Denial of Cama Minor Development Permit: Application Number 53-24: PROJECT ADDRESS – 1112 New River Inlet Road by Jonathan Lucas, NC Division of Coastal Management dated August 12, 2024.
- 10 Denial of Cama Minor Development Permit: Application Number 54-24: PROJECT ADDRESS – 1112 New River Inlet Road by Jonathan Lucas, NC Division of Coastal Management dated August 12, 2024.
- 11 [Fiscal Analysis Rule Amendments: USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS 15A NCAC 07H .0309](#) prepared by Ken Richardson, Shoreline Management Specialist, Policy & Planning Section, NC Division of Coastal Management, dated May 26, 2023.
- 12 Public Notice (applicant (Scott), adjoiners (Jenkins Holdings LLC, Godshall), Town Message Board, website, "Sunshine List")



Navigate to... ▼

VIEW PERMIT

[Home](#) / [Services](#) / [Planning and Zoning](#) / [View Permit](#)

Permit #: VAR24-000001

Project #: 24-000770

Status: Online Application Received

Address: 1112 NEW RIVER INLET RD 

Description: residential building



Permit	Reviews	Documents	Inspections
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Permit #:
VAR24-000001

Permit Type:
Application for Variance

Sub Type:
Application for Variance

Issue Date:

Expiration Date:

A Pre-submittal conference **is required** prior to submission

Attendance at the hearing is required. All meetings are the 3rd Thursday of the month and begin at 6:30 p.m. and are usually held in the 1st Floor Conference Room, Town Hall, 2008 Loggerhead Court, North Topsail Beach, NC 28460. Applicants may represent themselves may be represented by someone appropriate for quasi-judicial public hearings. The public hearing will allow the applicant, proponents, opponents and anyone else the opportunity to speak and ask questions in regards to the request. Unless otherwise specified, any order or decision of the Board granting a variance shall expire if the applicant does not obtain a building permit or certificate of occupancy for such use within six (6) months from the date of the decision.

Notice Under the Americans with Disabilities Act: A person with a disability may receive auxiliary aid or service to effectively participate in town government activities by contacting the Town Clerk, voice (910) 328-1349 or carinf@ntbnc.org , as soon as possible but no later than 48 hours before the event or deadline date.

*Cancellation Policy: All cancellations must be received at least 48 hours before the start of the Public Hearing and refunds are subject to a \$150 cancellation fee. Cancellations must be received in writing by e-mail (terriew@ntbnc.org), fax (910-328-4508 ATTN: Terrie Woodle), or by U.S. mail (2008 Loggerhead Court, North Topsail Beach, NC 28460-9286 - ATTN: Terrie Woodle). No refunds will be made for requests received after that time. Please allow two weeks for processing.

Zoning District:

R-5

CAMA Approval:

Pending

PROJECT INFORMATION

Property Owner:

- Lincoln Scott

The Board of Adjustment has limited discretion in deciding whether to grant a variance. Under the State Enabling Act, the Board is required to reach three conclusions before it may issue a variance: (a) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance; (b) that the variance is in harmony with the general purposes and intent of the Ordinance and preserves its spirit; and (c) that in granting the variance, the public safety and welfare have been assured and substantial justice has been done. A variance can be approved if the following conditions are found to exist:

Condition #1

That Applicant **must** show unnecessary hardship would result if variance is not granted; Applicant is not required to show that "no reasonable use" could be made of the property without the variance:

An unnecessary hardship would result from the strict application of the twenty-foot front yard setback requirement in that applicant will be prevented from making reasonable use of the lot, which is zoned for single-family homes. The Town's front yard setback requirements, together with CAMA rules (specifically 15A NCAC 07H.0306(a)(3)(A)), serve to prevent applicant from building a home on this lot. Applicant plans to seek a variance from the NC Coastal Resources Commission to the CAMA setback rule to get approval to build a home of less than 2,000 square feet, but he is required to first seek relief from

local requirements restricting use of the property before applying for a variance from the CRC. Due to a proposed rule change that has been approved by the CRC (but not yet enacted), Applicant believes that he has a good basis for the granting of a variance to the CAMA rule (as it currently stands), but he will be able to reduce the scope of the variance requested from the CRC if the Town will permit him to build within the Town's front yard setback area.

Condition #2

That the hardship must result from conditions peculiar to property:

The hardship results from conditions peculiar to this lot (and the other two lots owned by applicant adjoining this lot) based on the topography and location of this lot and the date of enactment of certain CAMA rules as applied to this lot. There are lots of the same or similar size within the same area with homes on them.

Condition #3

That the special conditions and circumstances do **not** result from the actions of the applicant:

The conditions and special circumstances do not result from actions of the applicant. The applicant has not yet built on the lot nor done anything else on the lot that would violate or change the application of the rules.

Condition #4

That the variance **must** be consistent with spirit and purpose of UDO, public safety secured, substantial justice achieved:

The variance is consistent with the spirit and purpose of the UDO such that public safety is secured and substantial justice is achieved in that allowing applicant to encroach into the front yard setback area a reasonable amount will strike a balance between allowing applicant to make reasonable use of the lot by building a modest home upon it and protecting the natural beauty and erosion control of the lot. There will still be sufficient distance between the road and the proposed building area and between the ocean and the proposed building area to protect public safety and minimize the loss of life or property resulting from storms and long-term erosion.

DOCUMENTS

Site plan or plot plan:

23-04-19 PPP-PRE 2.pdf

Other documents:

23-04-19 LOTS 5-7 PPP 2-PRE 1 (2).pdf

ACKNOWLEDGEMENT

I hereby certify that all information above is true and correct. That all work under this permit shall comply and conform to all Town ordinances, State and Federal laws pertaining thereto, whether specified or not, and in accordance with any plans submitted or required to be submitted regulating building codes and building construction in the Town of North Topsail Beach, NC. I further agree to remove all construction debris from the site when completed, and that I am the owner or authorized by the owner to do the work described in this permit.

Permit shall be void if construction authorized by permit shall not have been commenced within six (6) months after the date of issuance thereof, or if after commencement of construction, the work shall be discontinued for a period of twelve (12) months, work shall not be resumed until the permit has been renewed.



All final inspections are mandatory before occupancy. All work shall be performed by a licensed contractor in the state. It is unlawful and illegal to occupy any building before final inspection and a certification of occupancy has been issued. All fees are non-refundable after 60 days.

Signature:

signature.png

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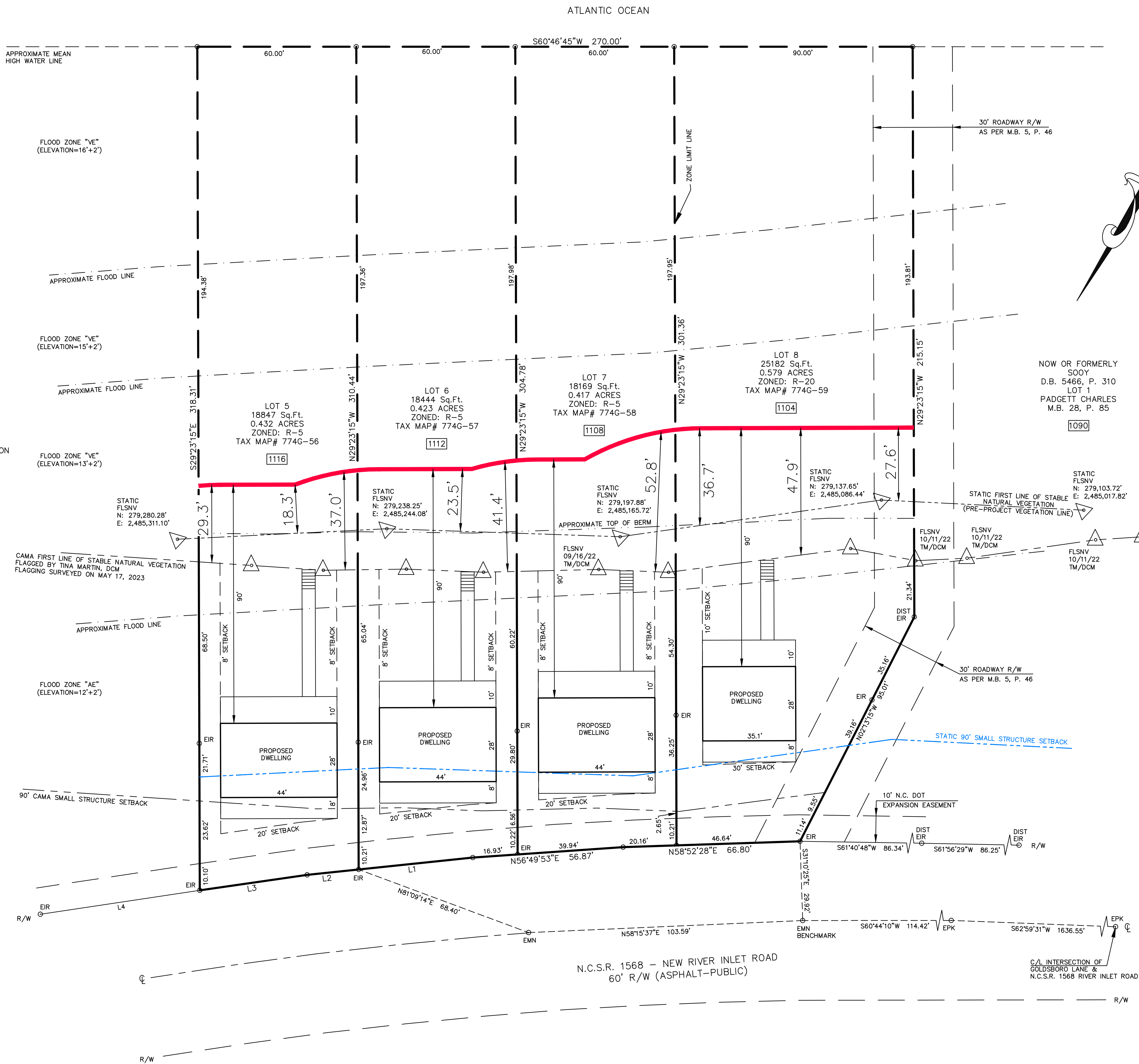
[Terms of Use \(TermsofUse.pdf\)](#)
[Privacy Policy \(PrivacyPolicy.pdf\)](#)



I, CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY AS SHOWN HEREON IN ACCORDANCE WITH THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA. THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS: 1:10,000±.

PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES

THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE V, WHICH SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND THE NATIONAL FLOOD INSURANCE PROGRAM. COMMUNITY PANEL NUMBER 370466-3720428700K, JUNE 19, 2020.



VICINITY SKETCH
NOT TO SCALE

NOTE:
BENCHMARK: EMN
NORTHING: 279,290.63'
EASTING: 2,485,034.90'
ELEVATION: 6.16'
HORIZONTAL DATUM: NAD 83 (2011)
VERTICAL DATUM: NAVD 88
COMBINED FACTOR: 0.99997784
HORIZONTAL & VERTICAL DATUM OBTAINED WITH TOPCON GPS USING CGO GEODETIC CONTINUOUS OPERATING REFERENCE STATIONS

LINE TABLE

LINE #	LENGTH	DIRECTION
L1	43.33'	N54°48'54"E
L2	19.53'	N54°48'54"E
L3	40.97'	N52°35'16"E
L4	60.82'	N52°15'08"E

ZONED R-5
ZONING SETBACKS
FRONT = 20'
REAR = 10'
SIDE = 8'

ZONED R-20
ZONING SETBACKS
FRONT = 30'
REAR = 10'
SIDE = 10'

OWNERS
SUTTON PROPERTIES, LLC

TITLE SOURCE
D.B. 2093, P. 362

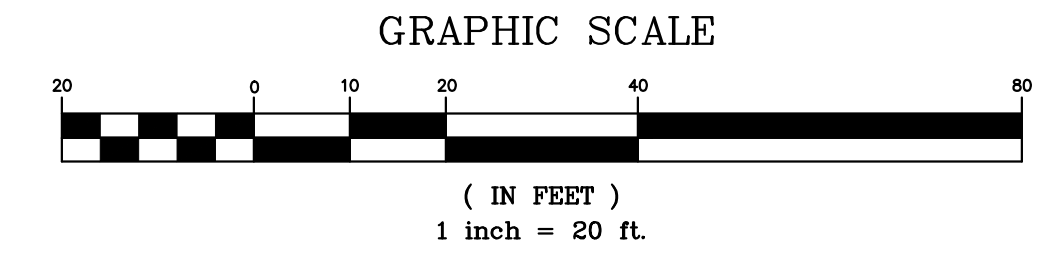
TAX MAP #
7740-56
7740-57
7740-58
7740-59

REFERENCES
D.B. 2093, P. 362
D.B. 4143, P. 959
D.B. 5466, P. 310
M.B. 28, P. 85
M.B. 44, P. 196
M.B. 44, P. 197

DASHED PROPERTY LINES NOT SURVEYED

ALL POINTS NON MONUMENTED UNLESS OTHERWISE NOTED

- LEGEND
- CC = CONTROL CORNER
 - ECM = EXISTING CONCRETE MONUMENT (FOUND)(CONTROL CORNER)
 - EIP = EXISTING IRON PIPE (FOUND)
 - EIR = EXISTING IRON ROD (FOUND)
 - EMN = EXISTING MAGNETIC NAIL (FOUND)(CONTROL CORNER)
 - EPK = EXISTING PARKER-KALON NAIL (FOUND)(CONTROL CORNER)
 - ERRS = EXISTING RAILROAD SPIKE (FOUND)
 - MBL = MINIMUM BUILDING LINE
 - NMP = NON MONUMENTED POINT
 - R/W = RIGHT OF WAY
 - SCM = SET CONCRETE MONUMENT (CONTROL CORNER)
 - SIP = SET IRON PIPE
 - SIR = SET IRON ROD
 - SMN = SET MAGNETIC NAIL (CONTROL CORNER)
 - SPK = SET PARKER-KALON NAIL (CONTROL CORNER)
 - C = CENTERLINE
 - WM = WATER METER
 - FH = FIRE HYDRANT
 - WV = WATER VALVE
 - SSM = SANITARY SEWER MANHOLE
 - CO = CLEAN OUT
 - TP = TELEPHONE PEDESTAL
 - TEP = TELEVISION PEDESTAL
 - FOCM = FIBER OPTIC CABLE MARKER
 - LP = LIGHT POLE
 - PP = POWER POLE
 - PL = POWER LINE
 - ET = ELECTRIC TRANSFORMER
 - EXS = EXISTING SPOT ELEVATION
 - ADD = ADDRESS



ACTUAL FIELD SURVEY DATE: MAY 17, 2023
MAPPING DATE: JUNE 06, 2023
FIELD BOOK: 1267, PAGE: 28
PROJECT NUMBER: 23-04-19 JTG



BOUNDARY SURVEY & PRELIMINARY PLOT PLAN FOR
LINCOLN B. SCOTT

LOT 5, OCEAN VIEW SHORES, M.B. 44, P. 196
LOTS 6-8, OCEAN VIEW SHORES, M.B. 44, P. 197
STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA
SUTTON PROPERTIES, LLC, OWNER; D.B. 2093, P. 362
1104, 1108, 1112 & 1116 NEW RIVER INLET ROAD

CHARLES F. RIGGS & ASSOCIATES, INC. (C-730)
LAND SURVEYING - CONVENTIONAL & GLOBAL POSITIONING SYSTEMS,
LAND PLANNING & COMPUTER MAPPING

502 NEW BRIDGE STREET
P.O. BOX 1570
JACKSONVILLE, NC 28540-1570
TELEPHONE: (910) 455-0877
E-MAIL: riggsland@riggslandnc.com

LANDFALL EXECUTIVE SUITES
1213 CULBRETH DRIVE
WILMINGTON, NC 28405
TELEPHONE: (910) 681-7444

R:\2023\23-04-19 Sutton Properties, LLC\Drawings\23-04-19 PPP.dwg - Tuesday, June 06, 2023 11:30:07 AM

I, CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY AS SHOWN HEREON IN ACCORDANCE WITH THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA. THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS: 1:10,000±.

PRELIMINARY PLAT NOT FOR RECORDATION, CONVEYANCES OR SALES

THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE V, WHICH IS A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND THE NATIONAL FLOOD INSURANCE PROGRAM. COMMUNITY PANEL NUMBER 370466-3720428700K, JUNE 19, 2020

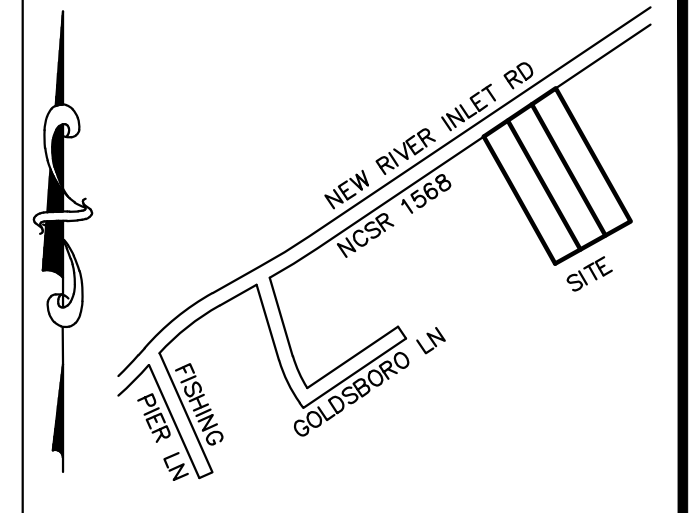
Table with 2 columns: Description and Value. LOT 5 IMPERVIOUS SURFACE. PROPOSED DWELLING WITHOUT EAVES = 1141 Sq.Ft. PROPOSED PERVIOUS GRAVEL DRIVE = 0 Sq.Ft. PROPOSED TOTAL IMPERVIOUS SURFACE = 1141 Sq.Ft. TOTAL LOT AREA = 18847 Sq.Ft. PROPOSED IMPERVIOUS AREA = 6.0%

Table with 2 columns: Description and Value. LOT 6 IMPERVIOUS SURFACE. PROPOSED DWELLING WITHOUT EAVES = 1141 Sq.Ft. PROPOSED PERVIOUS GRAVEL DRIVE = 0 Sq.Ft. PROPOSED TOTAL IMPERVIOUS SURFACE = 1141 Sq.Ft. TOTAL LOT AREA = 18444 Sq.Ft. PROPOSED IMPERVIOUS AREA = 6.1%

Table with 2 columns: Description and Value. LOT 7 IMPERVIOUS SURFACE. PROPOSED DWELLING WITHOUT EAVES = 1141 Sq.Ft. PROPOSED PERVIOUS GRAVEL DRIVE = 0 Sq.Ft. PROPOSED TOTAL IMPERVIOUS SURFACE = 1141 Sq.Ft. TOTAL LOT AREA = 18169 Sq.Ft. PROPOSED IMPERVIOUS AREA = 6.2%

NOTE: PROPOSED DWELLING IS TWO STORY ON PILINGS PARTIALLY ENCLOSED BELOW FOR ENTRY & STORAGE. PEAK OF PROPOSED DWELLING IS 38.0' ABOVE SLAB ELEVATION.

NOTE: GROUND: 282 Sq.Ft. FIRST FLOOR: 989 Sq.Ft. SECOND FLOOR: 989 Sq.Ft. TOTAL FLOOR AREA: 2260 Sq.Ft. AS PER HOUSE PLANS



VICINITY SKETCH NOT TO SCALE. THIS PRELIMINARY PLOT PLAN IS SUBJECT TO BOTH REVIEW & APPROVAL BY THE LOCAL JURISDICTION.

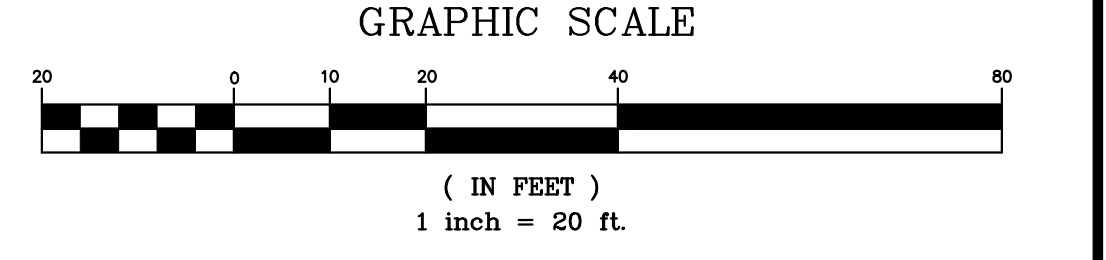
NOTE: BENCHMARK: EMN. NORTHING: 279,290.63'. EASTING: 2,485,034.90'. ELEVATION: 6.16'. HORIZONTAL DATUM: NAD 83 (2011). VERTICAL DATUM: NAVD 88. COMBINED FACTOR: 0.99997784. HORIZONTAL & VERTICAL DATUM OBTAINED WITH TOPCON GRS USING N.C. GEODETIC CONTINUOUS OPERATING REFERENCE STATIONS

LINE TABLE with columns: LINE #, LENGTH, DIRECTION. L1: 20.16', N58°52'28"E. L2: 19.53', N54°48'54"E.

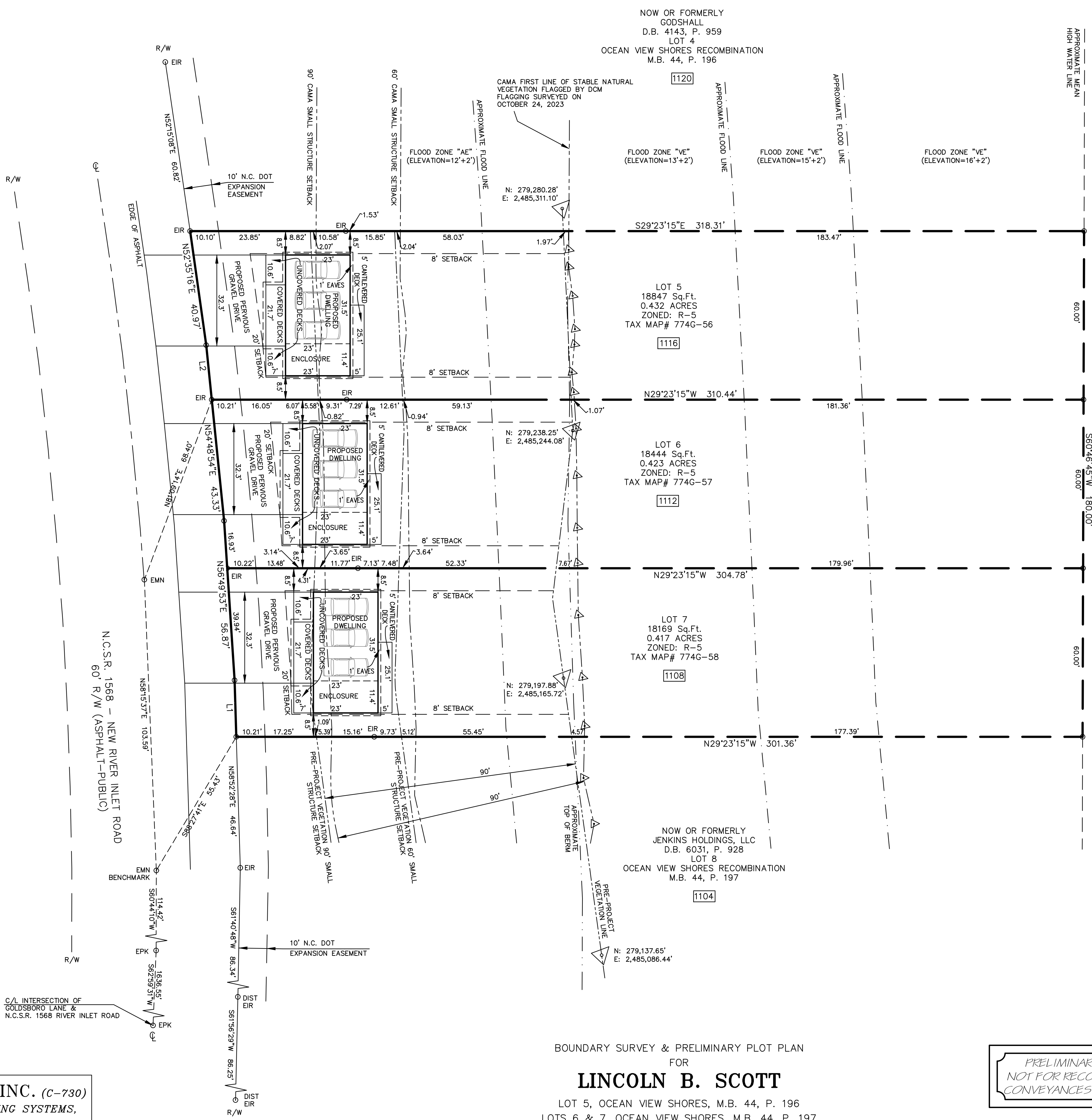
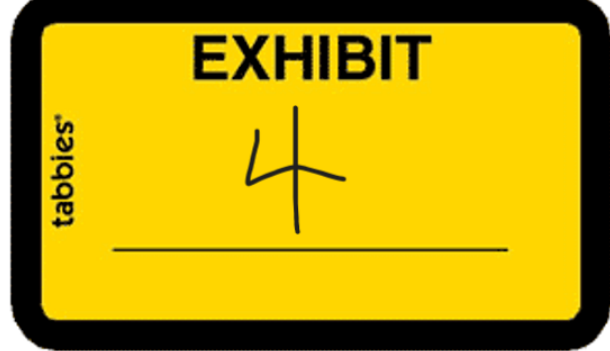
ZONED R-5 ZONING SETBACKS. FRONT = 20'. REAR = 10'. SIDE = 8'. REFERENCES: D.B. 2093, P. 362; D.B. 4143, P. 959; D.B. 5466, P. 310; D.B. 6031, P. 928; D.B. 6041, P. 773; M.B. 28, P. 85; M.B. 44, P. 196; M.B. 44, P. 197.

Table with columns: OWNERS, TITLE SOURCE, TAX MAP #, PARCEL ID #. LINCOLN B. SCOTT, D.B. 6041, P. 773. 774G-56, 050934. 774G-57, 051019. 774G-58, 051116.

- LEGEND: CC = CONTROL CORNER, EQM = EXISTING CONCRETE MONUMENT (FOUND)(CONTROL CORNER), EIP = EXISTING IRON PIPE (FOUND), EIR = EXISTING IRON ROD (FOUND), EMN = EXISTING MAGNETIC NAIL (FOUND)(CONTROL CORNER), EPK = EXISTING PARKER-KALON NAIL (FOUND)(CONTROL CORNER), ERRS = EXISTING RAILROAD SPIKE (FOUND), MBL = MINIMUM BUILDING LINE, NMP = NON MONUMENTED POINT, R/W = RIGHT OF WAY, SCM = SET CONCRETE MONUMENT (CONTROL CORNER), SIP = SET IRON PIPE, SIR = SET IRON ROD, SMN = SET MAGNETIC NAIL (CONTROL CORNER), SPK = SET PARKER-KALON NAIL (CONTROL CORNER), C = CENTERLINE, WM = WATER METER, FH = FIRE HYDRANT, WV = WATER VALVE, SS = SANITARY SEWER MANHOLE, CO = CLEAN OUT, TP = TELEPHONE PEDESTAL, TVP = TELEVISION PEDESTAL, FOCM = FIBER OPTIC CABLE MARKER, LP = LIGHT POLE, PP = POWER POLE, PL = POWER LINE, ET = ELECTRIC TRANSFORMER, X1.5' = EXISTING SPOT ELEVATION, 1108 = ADDRESS



ACTUAL FIELD SURVEY DATE: OCTOBER 24, 2023. MAPPING DATE: FEBRUARY 07, 2024. FIELD BOOK: 1267, PAGE: 28. PROJECT NUMBER: 23-04-19 JTG

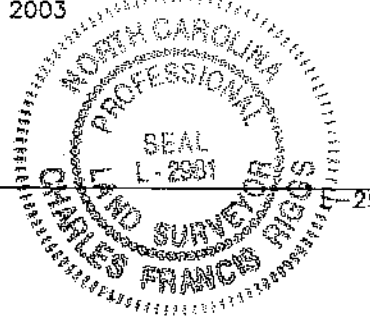


CHARLES F. RIGGS & ASSOCIATES, INC. (C-730). LAND SURVEYING - CONVENTIONAL & GLOBAL POSITIONING SYSTEMS, LAND PLANNING & COMPUTER MAPPING. 502 NEW BRIDGE STREET, P.O. BOX 1570, JACKSONVILLE, NC 28540-1570. TELEPHONE: (910) 455-0877. E-MAIL: riggsland@riggslandnc.com

BOUNDARY SURVEY & PRELIMINARY PLOT PLAN FOR LINCOLN B. SCOTT. LOT 5, OCEAN VIEW SHORES, M.B. 44, P. 196. LOTS 6 & 7, OCEAN VIEW SHORES, M.B. 44, P. 197. STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA. LINCOLN B. SCOTT, OWNER; D.B. 6041, P. 773. 1108, 1112 & 1116 NEW RIVER INLET ROAD

PRELIMINARY PLAT NOT FOR RECORDATION, CONVEYANCES OR SALES

I, CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 1822, PAGE 382); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES AND DRAWN FROM INFORMATION FOUND IN DEED BOOK _____, PAGE _____; THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED, WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 13th DAY OF JUNE, A.D. 2003



Charles Francis Riggs
 CHARLES FRANCIS RIGGS, P.L.S. L-2981

THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE "VE" WHICH IS A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, COMMUNITY PANEL NUMBER 370466 0003 C, MARCH 5, 1998

I, CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR NO. L-2981, CERTIFY TO ONE OR MORE OF THE FOLLOWING AS INDICATED THUS:

- A. THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
- B. THAT THE SURVEY IS LOCATED IN A PORTION OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN ORDINANCE THAT REGULATES PARCELS OF LAND.
- C. ANY ONE OF THE FOLLOWING:
 - 1) THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET;
 - 2) THAT THE SURVEY IS OF AN EXISTING BUILDING OR OTHER STRUCTURE, OR NATURAL FEATURE, SUCH AS A WATERCOURSE;
 - 3) THAT THE SURVEY IS A CONTROL SURVEY.
- D. THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION
- E. THAT THE INFORMATION AVAILABLE TO THIS SURVEYOR IS SUCH THAT I AM UNABLE TO MAKE A DETERMINATION TO THE BEST OF MY PROFESSIONAL ABILITY AS TO THE PROVISIONS CONTAINED IN (A) THROUGH (D) ABOVE.

Charles Francis Riggs
 CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR NO. L-2981
 06/13/03

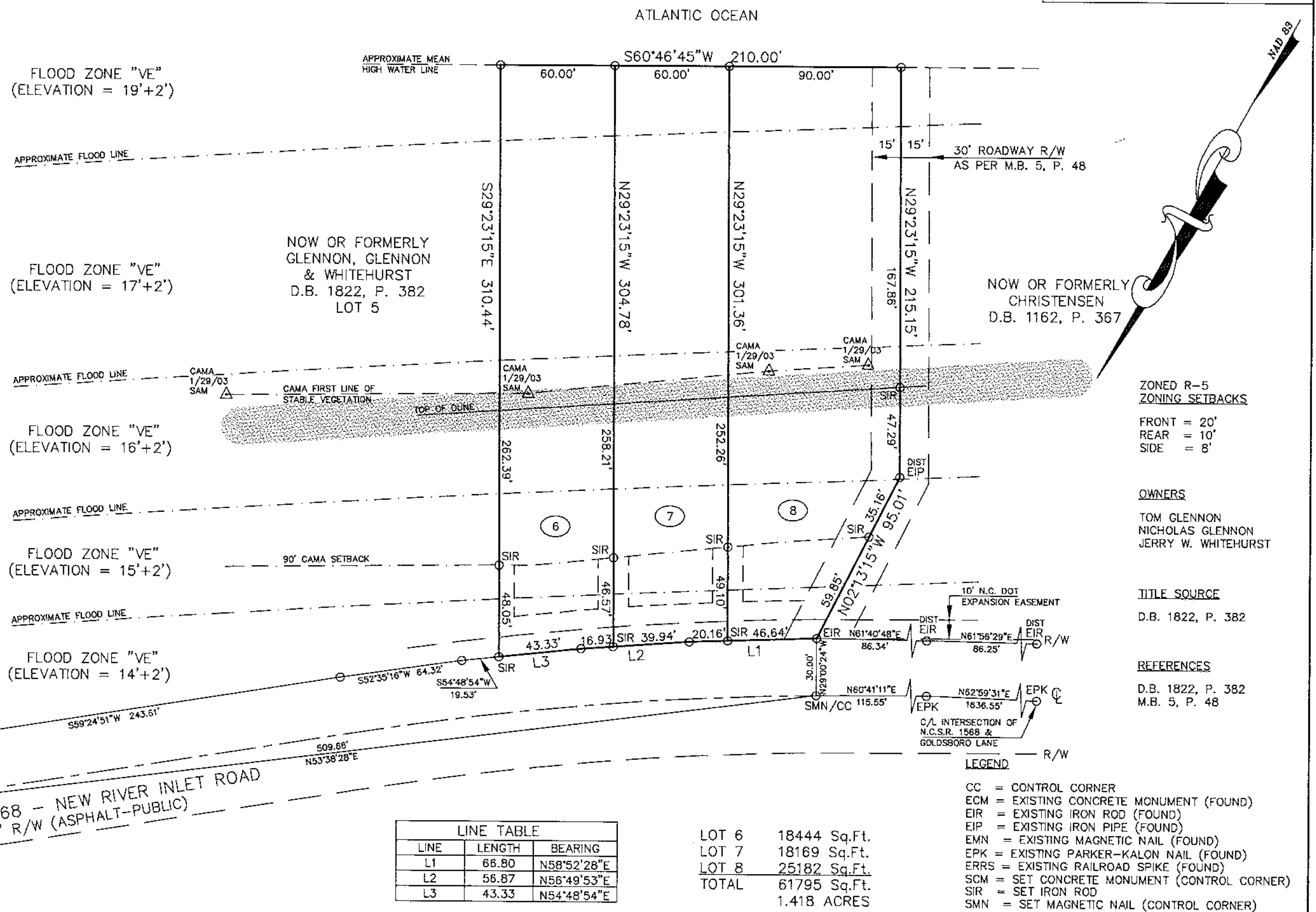
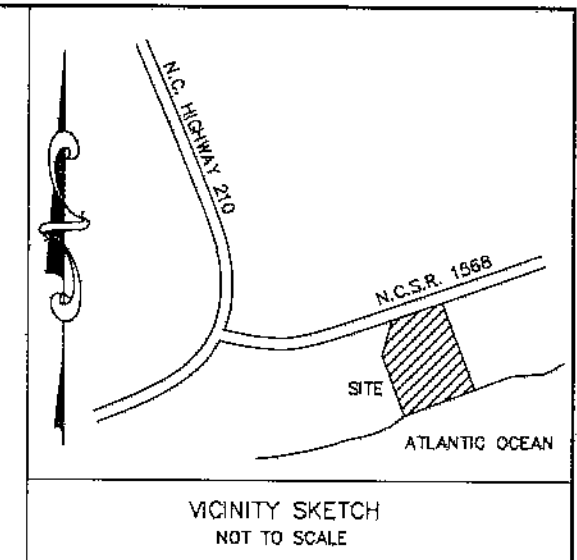
THIS PROPERTY IS NOT SUBJECT TO THE NORTH TOPSAIL BEACH SUBDIVISION REGULATIONS, AND IS AN EXEMPTION PER SECTION 7-271 (d), NORTH TOPSAIL BEACH SUBDIVISION ORDINANCE, 6-27-90.

6/16/03 *Teresa Fisher*
 DATE NORTH TOPSAIL BEACH SUBDIVISION ADMINISTRATOR

STATE OF NORTH CAROLINA, COUNTY OF ONSLOW
 I, *Teresa Fisher* REVIEW OFFICER OF ONSLOW COUNTY
 CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

Teresa Fisher 6-16-03
 REVIEW OFFICER DATE

ONSLow COUNTY
 FILED FOR REGISTRATION AT 4:05 P.M.
 17th DAY OF June 2003 O'CLOCK ON THE
 BOOK 44 PAGE 197 SLIDE R-1864
M. Helms
 REGISTER OF DEEDS



WORKSTATION 6/PROJ/01-05-61R9.dwg 6-13-03 2:17:15 pm EST

CHARLES F. RIGGS & ASSOCIATES, INC.
 LAND SURVEYING - CONVENTIONAL & GLOBAL POSITIONING SYSTEMS,
 LAND PLANNING & COMPUTER MAPPING
 202 WARLUCK STREET
 P.O. BOX 1570
 JACKSONVILLE, N.C. 28541-1570
 TELEPHONE: (910) 455-0877
 FACSIMILE: (910) 455-9033
 E-MAIL: riggsland@bizec.rr.com

LOT RECOMBINATION FOR
OCEAN VIEW SHORES
 1.418 ACRE TRACT ON N.C.S.R. 1568
 STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA
 TOWN OF NORTH TOPSAIL BEACH

LEGEND
 CC = CONTROL CORNER
 ECM = EXISTING CONCRETE MONUMENT (FOUND)
 EIR = EXISTING IRON ROD (FOUND)
 EIP = EXISTING IRON PIPE (FOUND)
 EMN = EXISTING MAGNETIC NAIL (FOUND)
 EPK = EXISTING PARKER-KALON NAIL (FOUND)
 ERRS = EXISTING RAILROAD SPIKE (FOUND)
 SCM = SET CONCRETE MONUMENT (CONTROL CORNER)
 SIR = SET IRON ROD
 SMN = SET MAGNETIC NAIL (CONTROL CORNER)
 SPK = SET PARKER-KALON NAIL (CONTROL CORNER)
 R/W = RIGHT OF WAY
 C = CENTERLINE
 ① = LOT NUMBER

GRAPHIC SCALE
 (IN FEET)
 1 inch = 50 ft.

DATE: 06-06-01
 DRAWN BY: J. HELMS
 FIELD BOOK: IND, PAGE: 4
 CHECKED BY:
 COMPUTER: WS 6/PROJ/01-05-61R9.dwg
 PROJECT NUMBER: 01-05-61

I, CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 1822, PAGE 382); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES AND DRAWN FROM INFORMATION FOUND IN DEED BOOK 1822, PAGE 382; THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED, WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 12TH DAY OF JUNE, A.D. 2003.

Charles Francis Riggs
 CHARLES FRANCIS RIGGS, P.L.S. L-2981

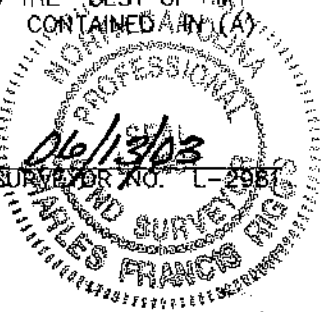


THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE "VE" WHICH IS A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, COMMUNITY PANEL NUMBER 370466 0003 C, MARCH 6, 1998

I, CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR NO. L-2981, CERTIFY TO ONE OR MORE OF THE FOLLOWING AS INDICATED THUS.

- ___ A. THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
- ___ B. THAT THE SURVEY IS LOCATED IN A PORTION OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN ORDINANCE THAT REGULATES PARCELS OF LAND.
- ___ C. ANY ONE OF THE FOLLOWING:
 - 1) THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.
 - 2) THAT THE SURVEY IS OF AN EXISTING BUILDING OR OTHER STRUCTURE, OR NATURAL FEATURE, SUCH AS A WATERCOURSE.
 - 3) THAT THE SURVEY IS A CONTROL SURVEY.
- ✓ D. THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION
- ___ E. THAT THE INFORMATION AVAILABLE TO THIS SURVEYOR IS SUCH THAT I AM UNABLE TO MAKE A DETERMINATION TO THE BEST OF MY PROFESSIONAL ABILITY AS TO THE PROVISIONS CONTAINED IN (A) THROUGH (D) ABOVE.

Charles Francis Riggs
 CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR NO. L-2981

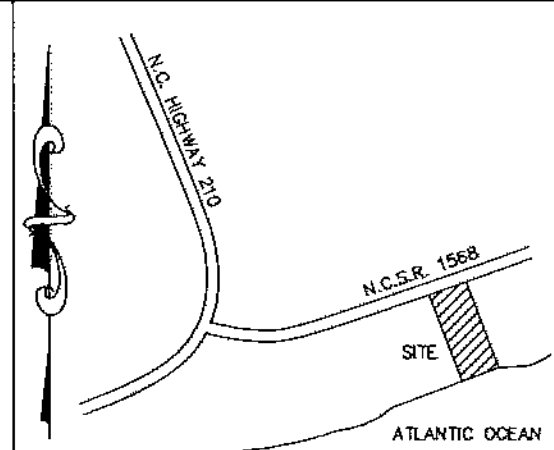


THIS PROPERTY IS NOT SUBJECT TO THE NORTH TOPSAIL BEACH SUBDIVISION REGULATIONS, AND IS AN EXEMPTION PER SECTION 7-271 (d), NORTH TOPSAIL BEACH SUBDIVISION ORDINANCE. 6-27-90.

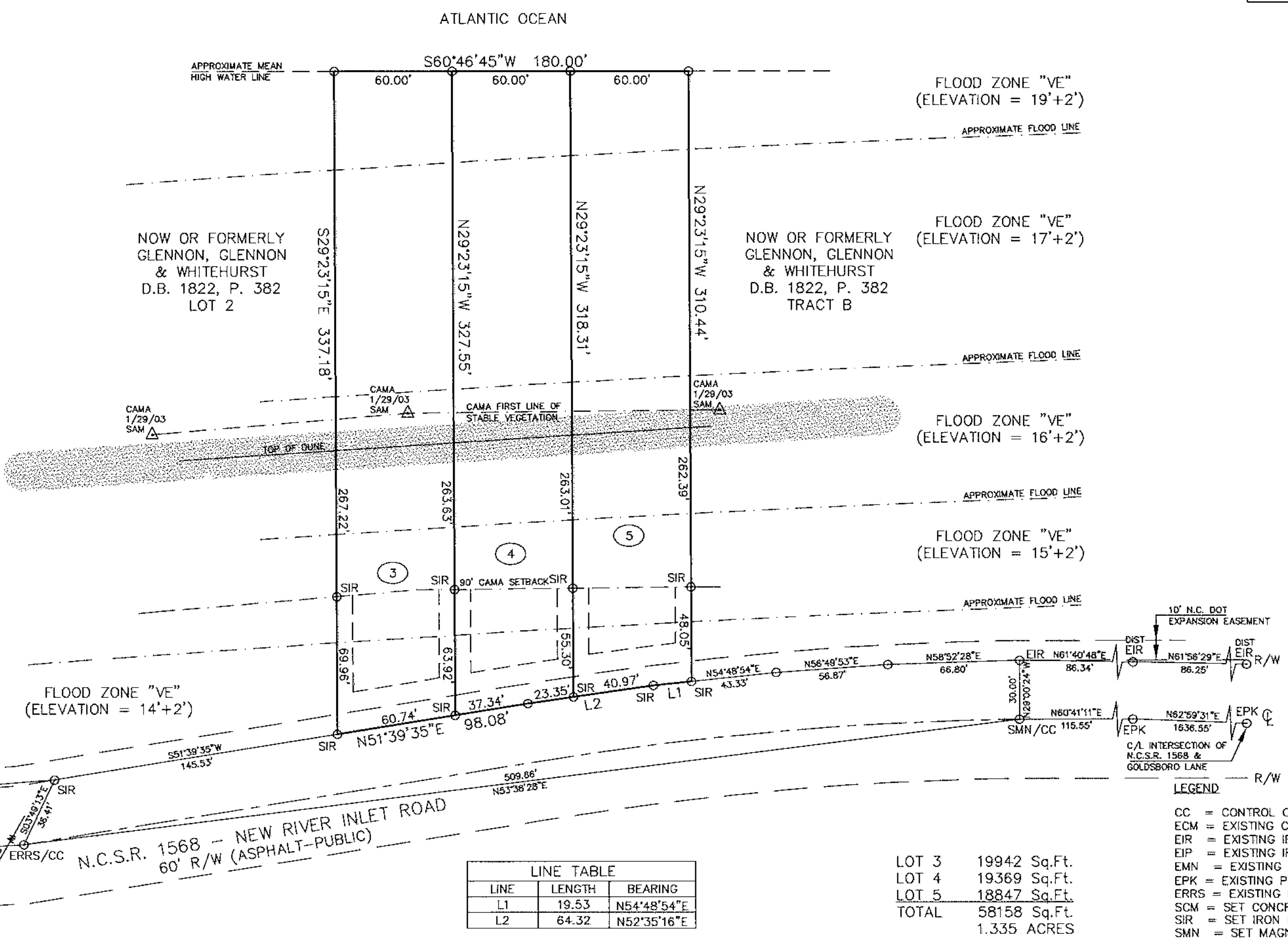
6/16/03 *Sue McLaughlin*
 NORTH TOPSAIL BEACH SUBDIVISION ADMINISTRATOR

STATE OF NORTH CAROLINA, COUNTY OF ONSLOW
 I, *Teresa Fisher*, REVIEW OFFICER OF ONSLOW COUNTY CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
Teresa Fisher 6-16-03
 REVIEW OFFICER DATE

ONSLow COUNTY
 FILED FOR REGISTRATION AT 4:05 P.M. O'CLOCK ON THE 17th DAY OF June 2003 RECORDED IN MAP BOOK 44 PAGE 196 SLIDE K-1863
Michael L. Kowal
 REGISTER OF DEEDS



VICINITY SKETCH NOT TO SCALE



LINE TABLE		
LINE	LENGTH	BEARING
L1	19.53	N54°48'54"E
L2	64.32	N52°35'16"E

LOT 3 19942 Sq.Ft.
 LOT 4 19369 Sq.Ft.
 LOT 5 18847 Sq.Ft.
 TOTAL 58158 Sq.Ft.
 1.335 ACRES

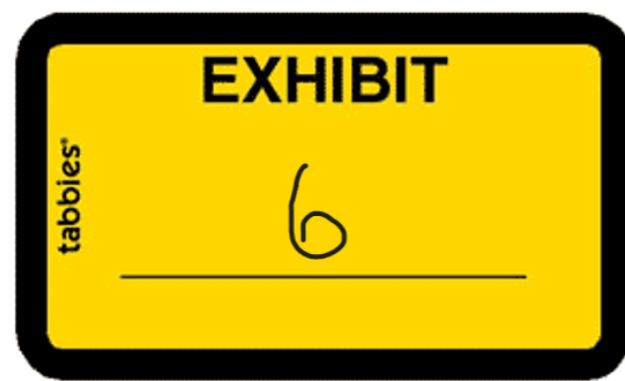
- LEGEND
- CC = CONTROL CORNER
 - ECM = EXISTING CONCRETE MONUMENT (FOUND)
 - EIR = EXISTING IRON ROD (FOUND)
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 - EMN = EXISTING MAGNETIC NAIL (FOUND)
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 - SPK = SET PARKER-KALON NAIL (CONTROL CORNER)
 - R/W = RIGHT OF WAY
 - ⊙ = CENTERLINE
 - ① = LOT NUMBER



(IN FEET)
 1 inch = 50 ft.

DATE: 06-06-01
 DRAWN BY: J. HELMS
 FIELD BOOK: IND PAGE: 4
 CHECKED BY:
 COMPUTER: WS 6/PROJ/01-05-61R8.dwg
 PROJECT NUMBER: 01-05-61

WORKSTATION 6/PROJ/01-05-61R8.dwg 6-13-03 2:15:48 pm EST



CHARLES F. RIGGS & ASSOCIATES, INC.
 LAND SURVEYING - CONVENTIONAL & GLOBAL POSITIONING SYSTEMS,
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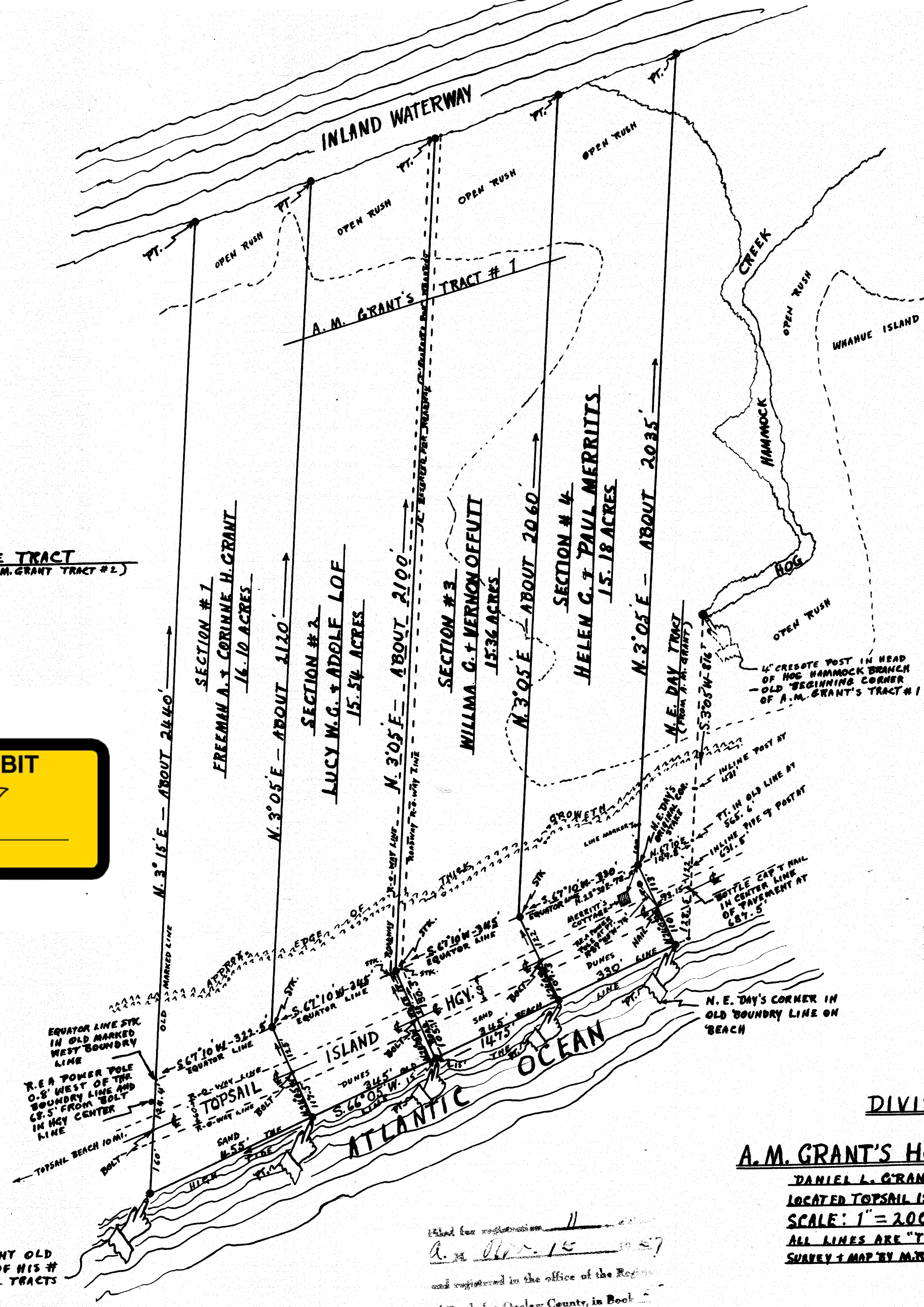
LOT RECOMBINATION FOR
OCEAN VIEW SHORES

1.335 ACRE TRACT ON N.C.S.R. 1568
 STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA
 TOWN OF NORTH TOPSAIL BEACH



PATE TRACT
(FORMERLY A.M. GRANT TRACT #2)

A.M. GRANT OLD CORNER OF HIS # 1 AND # 2 TRACTS



STATE OF NORTH CAROLINA
Pender County

M.R. WALTON a surveyor, being duly sworn, says that the foregoing and attached map was prepared from an actual survey made by him JULY 1 & 2 1957 and that said map is correct to the best of his knowledge and belief.

M.R. Walton
Registered Surveyor

Sworn to and subscribed before me this 23 day of Oct 1957

C.D. Murphy
Clerk Superior Court

NORTH CAROLINA, ONSLOW COUNTY.
The foregoing certificate of C.D. Murphy Notary Public of Ocean County is adjudged to be correct and sufficient. Let the instrument together with certificates be registered.
Witness my hand and seal this 15 day of Nov 1957
W. Justice
Clerk Superior Court

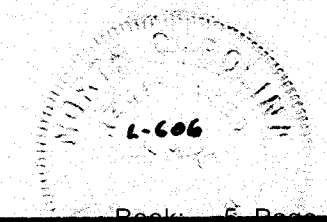
DIVISION MAP
OR

A.M. GRANT'S HOBBS ISLAND TRACT

DANIEL L. GRANT'S TOPSAIL ISLAND TR.
LOCATED TOPSAIL ISL. ONSLOW CO. N. C.
SCALE: 1" = 200' JULY 1 & 3, 1957
ALL LINES ARE "TRUE MAGNETIC" TO DATE
SURVEY + MAP BY M.R. WALTON, ROCKY POINT, N. C.

M.R. Walton

Filed for registration in the office of the Register of Deeds for Onslow County, in Book 48 Page 15 of 15
Richard A. ...
Register of Deeds





NORTH CAROLINA
Environmental Quality

Section V, Item A.

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
TANCRED MILLER
Director



August 12, 2024

Lincoln B. Scott
c/o Charles F. Riggs & Associates, Inc.
4089 4th Street
Surf City, NC 28445

Electronic delivery to: CharlesRiggs@Riggslandnc.com

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
Application Number 52-24
PROJECT ADDRESS – 1108 New River Inlet Road, North Topsail Beach NC

Dear Mr. Scott,

After reviewing your application, which was determined to be complete on August 9, 2024, the Division of Coastal Management has determined that no permit may be granted for the proposed development.

You have applied to build a three-story, 1998 square foot (not including deck) single family residence, which is inconsistent with the following rules of the N.C. Coastal Resources Commission, and/or the following provisions of the N.C. Coastal Area Management or N.C. Dredge and Fill Act:

15A NCAC 07H .0306 (a)(3)(A) which states: “A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater”.

Concurrently, your application does not meet the exception available in **15A NCAC 07H .0309(b)** because the lot was not platted before June 1, 1979 (Onslow County Registry Map Book 44, Page 197).

Given the preceding findings, it is necessary that your request for issuance of a CAMA Minor Permit under the Coastal Area Management Act be denied. This denial is made pursuant to N.C.G.S. 113A-120(a)(8), which requires denial for projects inconsistent with the state guidelines for Areas of Environmental Concern or a local land use plan.

If you wish to appeal this denial, you are entitled to a contested case hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties before making a final decision on the appeal. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within twenty (20) days from the date of this denial letter. The requirements for filing a contested case can be found at <http://www.oah.state.nc.us/hearings>. Although OAH cannot give legal advice, any questions regarding this process should be directed to OAH at 6714 Mail Service Center, Raleigh, NC 27699-6714 or via telephone at 919-431-3000, including questions regarding the filing fee (if a filing fee is required) and/or the details of the filing process.



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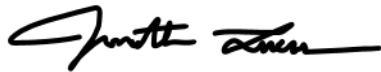
William F. Lane, General Counsel
Dept. of Environmental Quality
1601 Mail Service Center Raleigh, NC 27699-1601

Please also send a copy of the petition to the attention of Tancred Miller, Director, N.C. Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557, so that your petition may be forwarded to the attorney who will be representing the Respondent in the contested case proceeding.

In the alternative, you may petition the N.C. Coastal Resources Commission for a variance to undertake development that is prohibited by the Commission's rules (Note - a Commission variance cannot be granted if your project was denied due to an inconsistency with a CAMA Land Use Plan or other statutory provisions of the CAMA or NC Dredge & Fill Law). Applying for a variance requires that you first stipulate that the Division of Coastal Management applied the Rules properly in issuing this denial. Applying for a variance means that you agree that the legal restrictions are valid but request an exception to the restrictions because of hardships resulting from unusual conditions of the property. In seeking a variance, you are requesting that the Commission vary the rules at issue and you must state how you believe your request meets the four criteria found at N.C.G.S. § 113A-120.1. To apply for a variance, you must file a petition for a variance with the Director of the Division of Coastal Management and the State Attorney General's Office on a standard form, which must be accompanied by additional information on the nature of the project and the reasons for requesting a variance. The variance request may be filed at any time but must be filed a minimum of six weeks before a scheduled Commission meeting to be eligible to be heard at that meeting.

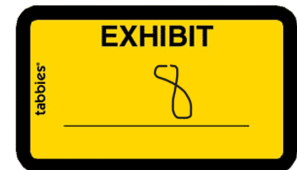
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Sincerely,



Jonathan Lucas
NC Division of Coastal Management
400 Commerce Ave.,
Morehead City, NC 28557

Cc (by email): Robb Mairs, CAMA LPO Minor Permit Coordinator
Heather Styron, DCM District Manager





NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
TANCRED MILLER
Director



August 12, 2024

Lincoln B. Scott
c/o Charles F. Riggs & Associates, Inc.
4089 4th Street
Surf City, NC 28445

Electronic delivery to: CharlesRiggs@Riggslandnc.com

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
Application Number 53-24
PROJECT ADDRESS – 1112 New River Inlet Road, North Topsail Beach NC

Dear Mr. Scott,

After reviewing your application, which was determined to be complete on August 9, 2024, the Division of Coastal Management has determined that no permit may be granted for the proposed development.

You have applied to build a three-story, 1998 square foot (not including deck) single family residence, which is inconsistent with the following rules of the N.C. Coastal Resources Commission, and/or the following provisions of the N.C. Coastal Area Management or N.C. Dredge and Fill Act:

15A NCAC 07H .0306 (a)(3)(A) which states: “A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater”.

Concurrently, your application does not meet the exception available in **15A NCAC 07H .0309(b)** because the lot was not platted before June 1, 1979 (Onslow County Registry Map Book 44, Page 197).

Given the preceding findings, it is necessary that your request for issuance of a CAMA Minor Permit under the Coastal Area Management Act be denied. This denial is made pursuant to N.C.G.S. 113A-120(a)(8), which requires denial for projects inconsistent with the state guidelines for Areas of Environmental Concern or a local land use plan.

If you wish to appeal this denial, you are entitled to a contested case hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties before making a final decision on the appeal. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within twenty (20) days from the date of this denial letter. The requirements for filing a contested case can be found at <http://www.oah.state.nc.us/hearings>. Although OAH cannot give legal advice, any questions regarding this process should be directed to OAH at 6714 Mail Service Center, Raleigh, NC 27699-6714 or via telephone at 919-431-3000, including questions regarding the filing fee (if a filing fee is required) and/or the details of the filing process.



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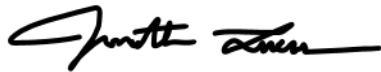
William F. Lane, General Counsel
Dept. of Environmental Quality
1601 Mail Service Center Raleigh, NC 27699-1601

Please also send a copy of the petition to the attention of Tancred Miller, Director, N.C. Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557, so that your petition may be forwarded to the attorney who will be representing the Respondent in the contested case proceeding.

In the alternative, you may petition the N.C. Coastal Resources Commission for a variance to undertake development that is prohibited by the Commission's rules (Note - a Commission variance cannot be granted if your project was denied due to an inconsistency with a CAMA Land Use Plan or other statutory provisions of the CAMA or NC Dredge & Fill Law). Applying for a variance requires that you first stipulate that the Division of Coastal Management applied the Rules properly in issuing this denial. Applying for a variance means that you agree that the legal restrictions are valid but request an exception to the restrictions because of hardships resulting from unusual conditions of the property. In seeking a variance, you are requesting that the Commission vary the rules at issue and you must state how you believe your request meets the four criteria found at N.C.G.S. § 113A-120.1. To apply for a variance, you must file a petition for a variance with the Director of the Division of Coastal Management and the State Attorney General's Office on a standard form, which must be accompanied by additional information on the nature of the project and the reasons for requesting a variance. The variance request may be filed at any time but must be filed a minimum of six weeks before a scheduled Commission meeting to be eligible to be heard at that meeting.

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Sincerely,



Jonathan Lucas
NC Division of Coastal Management
400 Commerce Ave.,
Morehead City, NC 28557



Cc (by email): Robb Mairs, CAMA LPO Minor Permit Coordinator
Heather Styron, DCM District Manager



ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
TANCRED MILLER
Director



mA.



August 12, 2024

Lincoln B. Scott
c/o Charles F. Riggs & Associates, Inc.
4089 4th Street
Surf City, NC 28445

Electronic delivery to: CharlesRiggs@Riggslandnc.com

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
Application Number 54-24
PROJECT ADDRESS – 1116 New River Inlet Road, North Topsail Beach NC

Dear Mr. Scott,

After reviewing your application, which was determined to be complete on August 9, 2024, the Division of Coastal Management has determined that no permit may be granted for the proposed development.

You have applied to build a three-story, 1998 square foot (not including deck) single family residence, which is inconsistent with the following rules of the N.C. Coastal Resources Commission, and/or the following provisions of the N.C. Coastal Area Management or N.C. Dredge and Fill Act:

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Concurrently, your application does not meet the exception available in **15A NCAC 07H .0309(b)** because the lot was not platted before June 1, 1979 (Onslow County Registry Map Book 44, Page 196).

Given the preceding findings, it is necessary that your request for issuance of a CAMA Minor Permit under the Coastal Area Management Act be denied. This denial is made pursuant to N.C.G.S. 113A-120(a)(8), which requires denial for projects inconsistent with the state guidelines for Areas of Environmental Concern or a local land use plan.

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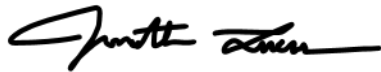
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Sincerely,



Jonathan Lucas
NC Division of Coastal Management
400 Commerce Ave.,
Morehead City, NC 28557

Cc (by email): Robb Mairs, CAMA LPO Minor Permit Coordinator
Heather Styron, DCM District Manager





Fiscal Analysis

Rule Amendments: USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

15A NCAC 07H .0309

Prepared by

Ken Richardson
Shoreline Management Specialist
Policy & Planning Section
NC Division of Coastal Management
ken.richardson@deq.nc.gov
(252) 515-5433

May 26, 2023

Basic Information

Agency	DEQ, Division of Coastal Management (DCM) Coastal Resources Commission (CRC)
Title	Proposed Amendments to Use Standards for Ocean Hazard Area Exceptions.
Citation	15A NCAC 07H .0309
Description of Rule Amendments	In the event that proposed development cannot meet the required oceanfront setback defined in 15A NCAC 07H .0306(a), current Rule 15A NCAC 07H .0309(b) serves as an exception that can allow a structure no greater than 2,000 square feet to be constructed when it can meet a 60-foot setback and be sited no further oceanward than its landward-most adjacent neighbor. In addition, the proposed amendments remove a reference to when a lot was platted, making this development option available to all oceanfront property owners regardless of when their lot was platted.
Agency Contact	Ken Richardson Shoreline Management Specialist Ken.Richardson@deq.nc.gov (252) 515-5433
Authority	G.S. 113A-107; 113A-113; 113A-124
Necessity	The Coastal Resources Commission proposes these amendments to current rules to allow an Ocean Hazard Area Exception to apply to all property owners, and not just property platted prior to June 1, 1979.
Impact Summary	State government: Likely Local government: Likely Private Property Owners: Likely Substantial impact: No Federal government: No

Summary

Informally known as the "small structure exception rule," 15A NCAC 07H .0309(b) is an existing rule that outlines specific conditions where exceptions can be made to the Ocean Hazard AEC (OHA) setback requirements defined in 15A NCAC 07H .0306. Where proposed development cannot meet the required erosion rate-based construction setback, 07H .0309(b) serves as an alternative that can allow new construction if a minimum setback distance of 60 feet can be met, the total floor area does not exceed 2,000 square feet, with a maximum footprint of 1,000 square feet, the structure be positioned as far back as practically possible on the lot, and no closer to the ocean than the landward-most adjacent structure. In addition, the lot must have been platted before June 1, 1979 (before oceanfront setback rules went into effect).

The NC Coastal Resources Commission (CRC) is amending this rule to address concerns expressed over the inability to apply this exception within the oceanfront setback to lots created after June 1, 1979. This issue was raised following the repeal of 15A NCAC 07H .0104, which contained similar provisions for lots created after June 1, 1979, that could not meet the required setback. Aside from the date stipulations, the primary differences between the two rules were that 07H .0104 allowed the option to measure setbacks using the erosion setback factor in place at the time the lot was platted, while 07H .0309(b) requires a setback of at least 60 feet regardless of the erosion rate setback factor. Both rules limited new construction to no greater than 2,000 square feet, but 07H .0309 limits a structure's footprint to 1,000 square feet. Although separate rules, they had been commonly referred to as the "small structure exceptions."

Amendments to 07H .0309(b) remove the 1,000 square foot footprint condition, retain the total floor area of 2,000 square feet, and remove the prior to June 1, 1979 stipulation. This would make the .0309 exception applicable to all oceanfront and inlet areas, except for Unvegetated Beach Areas. For property owners that cannot meet the minimum setback for a larger structure, they could potentially utilize this exception for a structure up to 2,000 square feet if the other conditions outlined above are met. This amendment addresses the primary concern related to the repeal of 07H .0104, while removing the complexity of tracking past erosion rates and recognizing the dates that lots were platted during Minor Permit reviews.

Currently, there are 74 vacant lots¹ where proposed development would likely not meet the current setback requirement but could potentially meet the minimum setback (60-ft.). Attaining plat dates by means of online county tax office data was not possible; therefore, the Division was unable to determine the number of lots currently eligible for an exception or would be once these amendments go into effect. For purposes of this analysis, it is assumed that they were platted after June 1, 1979 given that they are currently undeveloped. This rule will continue to limit new development to its landward-most adjacent neighbor, and total floor area no greater than 2,000 square feet. Although property owner intentions cannot be predicted or quantified, it can be anticipated that there would be a cost-benefit associated with the ability to construct a smaller homes (\leq 2,000 sqft) on these lots. As stated, this exception is currently available to property owners whose lots were platted prior to June 1, 1979.

¹ An estimate of the current 60-ft setback was determined by using GIS to measure landward setbacks from a 2021-2022 vegetation line, and then identifying vacant lots where the required setback would likely preclude the placement of a new structure but could potentially accommodate a small structure (\leq 2,000 sqft) while adhering to a 60-ft setback.

Introduction and Purpose

The NC Coastal Resources Commission (CRC) is revising this rule in response to concerns raised about the inability to apply the exception within the oceanfront setback to lots created after June 1, 1979. These concerns emerged after the repeal of 15A NCAC 07H .0104, which had similar provisions for lots created after June 1, 1979, that couldn't meet the required setback. While both rules limited new construction to a maximum of 2,000 square feet, there were differences between them. Rule 15A NCAC 07H .0104 (*repealed 8/1/2022*) allowed setbacks to be measured based on the erosion setback factor at the time the lot was platted, whereas 07H .0309(b) requires a minimum setback of 60 feet regardless of the erosion rate setback factor. Additionally, 07H .0309(b) limits the structure's footprint to 1,000 square feet. Although these were separate rules, they were commonly referred to as the "small structure exceptions." This amendment addresses the main concern regarding the repeal of 15A NCAC 07H .0104, while removing the complexity of tracking past erosion rates and recognizing the dates that lots were platted during Minor Permit reviews.

Description of Proposed Actions

Before 07H .0104 was repealed (08/01/2022), all oceanfront property owners who could not meet the current setback requirement defined in 15A NCAC 07H .0306 had an option that could potentially permit a new structure no greater than 2,000 sqft to be constructed. These amendments effectively serve to merge two rules (07H .0104 and 07H .0309(b)) while eliminating any confusion associated with interpretation of rules and how they are applied.

1. Proposed Amendments to 15A NCAC 07H .0309(b):
 - a. "Ocean Hazard Area" is the formal name of the Area of Environmental Concern (AEC) where these rules apply but replaces the word "oceanfront" for clarification purposes only.
 - b. Amendment removes the "*June 1, 1979*" date condition. As the rule is currently written, only lots created before June 1, 1979 can utilize this exception if needed. Before the repealed of 07H .0104 lots created after June 1, 1979 were addressed. By removing the date condition, any property owner could utilize this exception regardless of when their lot was platted.
 - c. 07H .0309 defines exceptions to use standards within the Ocean Hazard Area. These amendments include the phrase "*the structure shall be permitted seaward of the applicable setback line*" for clarity purposes.
2. Proposed Amendments to 15A NCAC 07H .0309(b)(4)(B):
 - a. Amendments remove the 1,000 square feet footprint condition. The CRC determined it is not needed since they are retaining the overall structure size limit to no greater than 2,000 square feet.
3. Proposed Amendments to 15A NCAC 07H .0309(e):
 - a. Changes "small scale" to "small-scale" for rule grammatical consistency. Change does not affect its meaning or application.

Anticipated Impacts

Based on review of current data, there are 74 vacant lots where proposed development would likely not meet the current setback requirement but could potentially meet the minimum setback (60-ft.). These lots are dispersed within four of the eight oceanfront counties: Brunswick (30), Currituck (11), Dare (10), and Onslow (23). It is anticipated that these amendments could potentially result in a net positive opportunity cost associated with property owner’s ability to build, and tax revenues generated by the addition of structures built on vacant lots.

Local Governments:

Of the 74 vacant lots, none appear to be owned by local governments. However, if there are any, these amendments do not include any new restrictions that would influence public projects such as public beach access, roads, parking, or other infrastructure.

With regards to additional revenue generated from property taxes associated with construction of new homes on these vacant lots, the Division cannot speculate how many lots would be developed, if any, or what types of materials would be used for construction, or specific amenities – which makes it is impossible to accurately calculate a total net gain. However, if we assume that all 74 lots will be developed with single-family housing, it is possible to estimate a gain based on current property tax rates (2022) and an example of market listings (5/16/2023)² that showed average oceanfront homes for sale in NC that have square footage equal to or less than 2,000 square feet, while also considering asking prices for oceanfront vacant lots for the same time. The search was restricted to properties listed for sale, specifically filtered by "oceanfront," "NC," and " \leq 2,000 square feet."

Considering the distribution of the 74 vacant lot locations, the average property tax rate is 0.6024, equivalent to 60.24 cents per \$100 of property value (refer to Table 1). Using this market search, the listing prices for oceanfront homes with 2,000 square feet or less exhibited significant variation, ranging from \$620K to \$2M, with an average of \$1,148,244 and a median of \$997,500. Similarly, the average listing price for vacant oceanfront lots during the same single-day search showed notable diversity, spanning from \$30K to \$1.9M, with an average of \$577,067 and a median of \$439,000.

² Based on review of market listings on May 16, 2023, Zillow.com. The search was restricted to properties listed for sale, specifically filtered by "oceanfront," "NC," and " \leq 2,000 square feet."

Table 1. 2022 Property Tax Rates per \$100 property value

Location	per \$100
Ocean Isle	0.1639
Holden Beach	0.2
Bald Head Island	0.81
North Topsail	0.43
Hatteras Village	0.6335
Buxton	0.7899
Nags Head	0.831
Kitty Hawk	0.8005
Currituck County	0.763
AVERAGE:	0.6024

Based purely on this scenario, a structure $\leq 2,000$ square feet adds approximately \$571K to the value of the property. It can then be estimated that using the average property tax rate (0.6024) that the addition of a structure on all 74 lots would result in an estimated total of \$255K additional tax revenues annually.

Table 2. Estimated Property Tax Revenue from Development of 74 Vacant Oceanfront Lots

Price of 2,000 SF (or less) oceanfront home in NC on 5/16/2023 ³	Avg. = \$1,148,244 Med. = \$997,500 Range = \$620K to \$2M
Price of vacant oceanfront lot in NC as of 5/16/2023 ⁴	Avg. = \$577,067 Med. = \$439,000 Range = \$30K to \$1.9M
Added value of development <i>Price of home minus Price of vacant lot</i>	Avg. = \$571,177 Med. = \$558,500
Average property tax rate in NC counties with vacant lots that can't meet current state oceanfront setback requirement.	\$0.6024 per \$100 property value
Additional property tax revenue from development of one vacant lot <i>Average value of development x Average property tax rate/\$100</i>	\$3,441
Number of vacant oceanfront lots	74

³ Based on review of market listings on May 16, 2023, Zillow.com

⁴ Based on review of market listings on May 16, 2023, Zillow.com

<p>Total additional annual property tax revenue from development of 74 lots <i>Additional property tax revenue per lot x Number of vacant lots</i></p>	<p>\$254,626</p>
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There are many uncertainties associated with the information in Table 2, including the assumption that the only barrier to building on the 74 lots is the current setback requirement. As such, the total additional property tax revenue should be considered a rough estimate and is almost certainly higher than what would be realized in a typical year, especially in the near term. Actual property tax revenues will largely depend on how many of the vacant lots are developed, as well as economic and housing market conditions in a given tax cycle. This scenario does not consider differences in property appraisal value versus owner asking price but should reflect higher estimates. For all the reasons that can and do influence property value, such as buildable space on lot, perceived erosion hazard, location, structure age, amenities, and quality, this estimate will vary. In addition, this analysis does not account for building setbacks required by municipalities. It is possible that some of the 74 vacant lots would still not be buildable due to additional setbacks or other requirements of specific municipalities. Although this estimated cost benefit is worth noting, it does not rise to the level of a substantial impact, especially considering that not all lots would be developed, nor would they be developed in the same year.

If one or more of the vacant lots are developed, local governments would also realize additional revenue in the form of permit fees. The amount of fees varies by municipality, but these additional revenues will not result in a substantial impact.

Private Property Owners:

It can be assumed that if property owners of the 74 vacant lots have had intentions of building a structure but could not be due to the setback requirements defined in 15A NCAC 07H .0306, then they could potentially build if proposed development adheres to the conditions in Rule 15A NCAC 07H .0309 as amended. These proposed amendments alone would not initiate an immediate benefit to the property owner; however, they would remove a barrier to potential development. Other factors that could also contribute to the likelihood that these lots will be developed such as beach nourishment, reduced storm intensity and frequency, and building costs. It is reasonable to assume that a property owner will choose to develop their property only if they believe they will realize some sort of net benefit from doing so (such as from selling, renting, owning an appreciating asset, or personal enjoyment). For this reason, we can assume that compared to the regulatory baseline, it is likely that some portion of private property owners would realize long-term net benefits associated with the proposed amendments. Quantifying this value with a reasonable degree of accuracy is not possible due to the many variable factors such as rental income, property taxes, insurance, property management fees, utilities, association fees, and maintenance.

The Division acknowledges that private property owners are likely to experience net gains in the longer-term (5 or more years), but it is highly unlikely that gains would meet the definition of substantial impact (\$1M or more in one year).

NC Department of Transportation (DOT):

Pursuant to G.S. 150B-21.4, no impacts to NCDOT permitting are anticipated from the proposed amendments to 15A NCAC 07H .0309. The Division does not anticipate an increase or decrease

in the number of permits issued to NCDOT. In the event NCDOT needs to build or maintain located within an Ocean Hazard AEC, the proposed amendments will not change the CRC’s approach to permitting that activity.

Division of Coastal Management:

In the highly unlikely scenario that development occurs on all 74 currently vacant lots, a Coastal Area Management Act (CAMA) Minor Permit would be required for each project at a one-time cost of \$100 per permit; thus totaling \$7,400 for all. This additional revenue would be spread out over an unknown number of years. The Division of Coastal Management’s permit review process itself will not be changed by these amendments, and DCM does not anticipate significant changes in permitting receipts due to the proposed action.

If development were to occur on one or more of these 74 lots, other divisions within DEQ may also receive additional revenue in the form of permit fees. For example, new residential construction in a coastal county may be required to get a construction stormwater permit (\$100 each) for development disturbing more than one acre. As with DCM, any additional revenues generated as a result of removing this single barrier to development will be relatively minimal in a given year.

Environmental

Due to the scattered distribution of the 74 vacant lots along the state's coastline and their proximity to existing development, the Division does not foresee any significant environmental consequences resulting from new construction in these areas.

References:

Brunswick County Tax Office, 2022 Tax Rates: <https://www.brunswickcountync.gov/tax-office/rates/>

Onslow County Tax Office, 2022 Tax Rates: <https://www.onslowcountync.gov/DocumentCenter/View/6905/2018-TAX-RATES>

Dare County Tax Office, 2022 Tax Rates: <https://www.darenc.gov/departments/tax-department/tax-rates>

Currituck County Tax Office, 2022 Evaluation: <https://currituckcountync.gov/tax/tax-matters/>

ATTACHMENT A: Rule Amendments

15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand, or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet. Existing decks exceeding a footprint of 500 square feet may be replaced with no enlargement beyond their original dimensions;
- (4) beach accessways consistent with Rule .0308(c) of this Section;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands consistent with Section .1900 of this Subchapter;
- (8) sand fences;
- (9) swimming pools; and
- (10) fill not associated with dune creation that is obtained from an upland source and is of the same general characteristics as the sand in the area in which it is to be placed.

In all cases, this development shall be permitted only if it is landward of the vegetation line or pre-project vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; is not essential to the continued existence or use of an associated principal development; and meets all other non-setback requirements of this Subchapter.

(b) Where application of the ~~oceanfront~~ **Ocean Hazard Area** setback requirements of Rule .0306(a) of this Section would preclude placement of a structure ~~on a lot existing as of June 1, 1979, the structure shall be permitted seaward of the applicable setback line~~ in Ocean Erodible Areas, State Ports Inlet Management Areas, and Inlet Hazard Areas, but not Unvegetated Beach ~~Areas~~ **Areas, the structure shall be permitted seaward of the applicable setback line** if each of the following conditions are met:

- (1) The development is set back from the ocean the maximum feasible distance ~~possible~~ on the existing lot and the development is designed to minimize encroachment into the setback area;
- (2) The development is at least 60 feet landward of the vegetation line, measurement line, or pre-project vegetation line, whichever is applicable;
- (3) The development is not located on or oceanward of a frontal dune, but is entirely behind the landward toe of the frontal dune;
- (4) The development incorporates each of the following design standards, which are in addition to those required by Rule .0308(d) of this Section;
 - (A) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;
 - (B) The ~~footprint of the structure shall be no more than 1,000 square feet, and the~~ total floor area of the structure shall be no more than 2,000 square feet. For the purpose of this Section, roof-covered decks and porches that are structurally attached shall be included in the calculation of footprint;

- (C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases, other material may be used; and
- (D) No portion of a building's total floor area, including elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, may extend oceanward of the total floor area of the landward-most habitable building or structure. The alignment shall be measured from the most oceanward point of the adjacent building or structure's roof line, including roofed decks. An "adjacent" property is one that shares a boundary line with the site of the proposed development. When no adjacent building or structure exists, or the geometry or orientation of a lot or shoreline precludes the placement of a building in line with the landward most adjacent structure of similar use, an average line of construction shall be determined by the Director of the Division of Coastal Management based on an approximation of the average seaward-most positions of the rooflines of adjacent structures along the same shoreline, extending 500 feet in either direction. If no structures exist within this distance, the proposed structure shall meet the applicable setback from the Vegetation Line but shall not be held to the landward-most adjacent structure or an average line of structures. The ocean hazard setback shall extend landward of the vegetation line, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.

(5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.

(c) The following types of water dependent development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:

- (1) piers providing public access; and
- (2) maintenance and replacement of existing state-owned bridges, and causeways and accessways to such bridges.

(d) Replacement or construction of a pier house associated with an ocean pier shall be permitted if each of the following conditions is met:

- (1) The ocean pier provides public access for fishing and other recreational purposes whether on a commercial, public, or nonprofit basis;
- (2) Commercial, non-water dependent uses of the ocean pier and associated pier house shall be limited to restaurants and retail services. Residential uses, lodging, and parking areas shall be prohibited;
- (3) The pier house shall be limited to a maximum of two stories;
- (4) A new pier house shall not exceed a footprint of 5,000 square feet and shall be located landward of mean high water;
- (5) A replacement pier house may be rebuilt not to exceed its most recent footprint or a footprint of 5,000 square feet, whichever is larger;
- (6) The pier house shall be rebuilt to comply with all other provisions of this Subchapter; and

(7) If the pier has been destroyed or rendered unusable, replacement or expansion of the association house shall be permitted only if the pier is being replaced and returned to its original function.

(e) In addition to the development authorized under Paragraph (d) of this Rule, small scale, non-essential development that does not induce further growth in the Ocean Hazard Area, such as the construction of single family piers and ~~small-scale~~ ~~small-scale~~ erosion control measures that do not interfere with natural oceanfront processes, shall be permitted in the Ocean Hazard Area along those portions of shoreline that exhibit features characteristic of an Estuarine Shoreline. Such features include the presence of wetland vegetation, and lower wave energy and erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, ~~small-scale~~ ~~small-scale~~ is defined as those projects which are eligible for authorization under 15A NCAC 07H .1100, .1200, and 15A NCAC 07K .0203.

(f) Transmission lines necessary to transmit electricity from an offshore energy-producing facility may be permitted provided that each of the following conditions is met:

- (1) The transmission lines are buried under the ocean beach, nearshore area, and primary and frontal dunes, all as defined in Rule .0305 of this Section, in such a manner so as to ensure that the placement of the transmission lines involves no alteration or removal of the primary or frontal dunes; and
- (2) The design and placement of the transmission lines shall be performed in a manner so as not to endanger the public or the public's use of the beach.

(g) Existing stormwater outfalls as of the last amended date of this rule within the Ocean Hazard AEC that are owned or maintained by a State agency or local government, may be extended oceanward subject to the provisions contained within 15A NCAC 07J .0200. Outfalls may be extended below mean low water and may be maintained in accordance with 15A NCAC 07K .0103. Shortening or lengthening of outfall structures within the authorized dimensions, in response to changes in beach width, is considered maintenance under 15A NCAC 07K .0103. Outfall extensions may be marked with signage and shall not prevent pedestrian or vehicular access along the beach. This Paragraph does not apply to existing stormwater outfalls that are not owned or maintained by a State agency or local government.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; 113A-124; Eff. February 2, 1981; Amended Eff. April 1, 2020; June 1, 2010; February 1, 2006; September 17, 2002 pursuant to S.L. 2002-116; August 1, 2000; August 1, 1998; April 1, 1996; April 1, 1995; February 1, 1993; January 1, 1991; April 1, 1987; Readopted Eff. December 1, 2020; Amended Eff. December 1, 2022; August 1, 2022.



Joann M. McDermon, Mayor
Mike Benson, Mayor Pro Tem

Alice Derian, ICMA-CM
Town Manager

Aldermen:
Richard Grant
Tom Leonard
Laura Olszewski
Connie Pletl

Nancy Avery
Interim Town Clerk

SCOTT LINCOLN B
4089 4TH ST
SURF CITY, NC 28445-8632



PUBLIC NOTICE
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Tuesday, January 21, 2025, 6 p.m.

The North Topsail Beach Zoning Board of Adjustment will hold a regular meeting on Tuesday, January 21, 2025, 6 p.m. in the first-floor conference room at North Topsail Beach Town Hall, 2008 Loggerhead Court, North Topsail Beach.

The purpose of the meeting is for the Zoning Board of Adjustment to consider:

Case #AA24-000003 (continued), an appeal by Ms. Aneta Paval of the denial of a fence permit #SB24-000044 at lot 14 Green Oar Street, Rogers Bay Campground, 4021 Island Drive (B-1 Zoning District); and

Case # VAR24-000001, a variance request by Mr. Lincoln Scott from the 20-foot front yard setback required by Unified Development Ordinance Table 5-1 for lots identified as 1108, 1112 and 1116 New River Inlet Road (R-5 Zoning District).

The Zoning Board of Adjustment may also consider the adoption of rules of procedure or other routine administrative matters in support of their duties pursuant to Unified Development Ordinance § 2.03.02; followed by closed session pursuant to North Carolina General Statutes 143.318.11 (a) (3) Consultation with the attorney.

Deborah J. Hill MPA AICP CFM CZO
Planning Director

Posted (website, sunshine list, message board): December 30, 2024
Mailed to adjacent property owners: 12/30/2024

Town of North Topsail Beach Zoning Board of Adjustment Procedural Rules

Part I. Applicability

Rule 1. Applicability of Rules

These rules apply to all meetings of the Town of North Topsail Beach Zoning Board of Adjustment. For purposes of these rules, a meeting of the Zoning Board of Adjustment occurs whenever a majority of the Zoning Board of Adjustment's members gather, either in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the Zoning Board of Adjustment's real or apparent jurisdiction. The term "majority" as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half.

Part II. Quorum

Rule 2. Quorum

The presence of a quorum is necessary for the Zoning Board of Adjustment to conduct business. A quorum consists of a majority of the Zoning Board of Adjustment's actual membership [excluding vacant seats]. [A member who withdraws from a meeting of the Zoning Board of Adjustment without being excused by majority vote of the remaining members present shall be counted as present for quorum purposes.]

Part III. Open Meetings

Rule 3. Electronic Zoning Board of Adjustment Meetings

(a) General Provisions. No member who is not physically present may participate in a meeting of the Zoning Board of Adjustment by electronic means except in accordance with this rule.

(b) Electronic Meetings During a State of Emergency Declared by the Governor or General Assembly. During any state of emergency declared by the Governor or General Assembly pursuant to G.S. 166A-19.20, a meeting of the Zoning Board of Adjustment shall comply with the requirements of this paragraph if (1) the Zoning Board of Adjustment falls within the emergency area and (2) at least one Zoning Board of Adjustment member attends the meeting by conference call, conference video, or other electronic means.

- (1) *Notice*. The public notice for any regular, special, emergency, or recessed meeting that is subject to this paragraph shall specify how the public can access the electronic meeting in real time.
- (2) *Member Identification*. Each member who attends by electronic means shall identify himself or herself in each of the following situations:
 - a. a. when roll is taken or the meeting begins;
 - b. b. before taking part in deliberations, including making any motions, proposing any amendments, or raising any points of order; and
 - c. c. before voting.

- (3) *Meeting Materials.* All documents considered during the meeting shall be furnished to each Zoning Board of Adjustment member.
- (4) *Method of Electronic Participation.* Any member who attends electronically shall use a means of communication that enables the member
 - a. a. to hear what is said by other Zoning Board of Adjustment members and any person who addresses the Zoning Board of Adjustment and
 - b. b. to be heard by other Zoning Board of Adjustment members.
- (5) *Quorum.* A member who attends by electronic means counts as present for quorum purposes, but only while the Zoning Board of Adjustment maintains electronic communication with that member.
- (6) *Voting.* The Zoning Board of Adjustment shall conduct all votes by roll call. It may not vote by secret or written ballots. The votes of any member who attends by electronic means shall be counted as if the member were physically present, but only while the Zoning Board of Adjustment maintains electronic communication with that member.
- (6) *Acting by Reference.* The Zoning Board of Adjustment shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document unless copies of the agenda or document are available for public inspection at the meeting and so worded that persons in attendance can understand what is being deliberated or acted upon.
- (7) *Minutes.* The minutes shall indicate that the meeting was conducted by electronic means, which members took part electronically, and when such members joined or left the electronic meeting.
- (8) *Live Streaming.* The meeting shall be streamed live online so that live audio (and video, if any) are available to the public. If the Zoning Board of Adjustment meets by conference call, the public shall have an opportunity to dial in or stream the audio live and listen to the electronic meeting.
- (9) *Public Hearings.* Although it may conduct any public hearing mandated or permitted by law, the Zoning Board of Adjustment shall allow the public to submit written comments on the hearing's subject matter between the publication of any required notice and twenty-four hours after the hearing.

Rule 4. Meetings to Be Open to the Public

Except as permitted by Rule 5, all meetings of the Zoning Board of Adjustment shall be open to the public, and any person may attend its meetings.

Rule 5. Closed Sessions

- (a) *Bases for Closed Session.* The Zoning Board of Adjustment may enter a closed session from which the public is excluded on any of the grounds listed in G.S. 143-318.11(a).
- (b) *Motion to Enter Closed Session.* The Zoning Board of Adjustment may hold a closed session only upon a motion duly made and adopted in open session. The motion to enter closed session shall cite one or more of the permissible bases listed in G.S. 143-318.11(a) for closed sessions. For a closed session held under G.S. 143-318.11(a)(1) (prevent disclosure of privileged or confidential information or information not considered public record), the motion shall name or cite the law that renders the information confidential or privileged. For a closed session called pursuant to G.S. 143-318.11(a)(3) (attorney consultation and preservation of attorney-client privilege), the motion shall name the parties to any pending lawsuit that the Zoning Board of Adjustment's attorney plans to discuss in the closed session.
- (c) *Closed-Session Participants.* Aside from the Zoning Board of Adjustment members themselves,

only those individuals invited by the Zoning Board of Adjustment may participate in a closed session. The Zoning Board of Adjustment will invite only those individuals whose presence is reasonably necessary to aid the Zoning Board of Adjustment in its closed-session deliberations.

(d) Motion to Return to Open Session. Upon completing its closed-session business, the Zoning Board of Adjustment shall return to open session.

Rule 6. Meeting Minutes

(a) Minutes Required for All Meetings. The Zoning Board of Adjustment shall keep full and accurate minutes of its meetings, including any closed sessions. To be “full and accurate,” the minutes must record all actions taken by the Zoning Board of Adjustment, as well as the Zoning Board of Adjustment’s compliance with any applicable procedural requirements. The minutes should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record Zoning Board of Adjustment member discussions, though the Zoning Board of Adjustment in its discretion may decide to incorporate such details into the minutes.

(b) Record of “Ayes” and “Noes.” At the request of any member, the minutes shall indicate how each member voted by name on a particular matter.

(c) General Accounts of Closed Sessions. In addition to minutes, the Zoning Board of Adjustment shall keep a general account of each closed session. The general account shall be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The Zoning Board of Adjustment may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken and the level of detail required for a general account.

(d) Sealing Closed-Session Records. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the Zoning Board of Adjustment or in accordance with instructions adopted by a competent authority. The sealed minutes and general account of any closed session may be withheld from public inspection, so long as public inspection would frustrate the purpose(s) of the closed session.

Rule 7. Broadcasting and Recording Meetings

(a) Right to Broadcast and Record. Any person may photograph, film, tape-record, or otherwise reproduce any part of a Zoning Board of Adjustment meeting that must take place in open session. Except as provided in paragraph (c) of this rule, any radio or television station may broadcast any such part of a Zoning Board of Adjustment meeting.

(b) Advance Notice. Any radio or television station that plans to broadcast any portion of a Zoning Board of Adjustment meeting shall notify the Town Clerk no later than [twenty-four hours] before the meeting. The failure to provide notice is not, by itself, grounds for preventing the broadcast of a Zoning Board of Adjustment meeting.

(c) Equipment Placement. The Zoning Board of Adjustment chair or an appropriate staff member may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a Zoning Board of Adjustment meeting, so long as he or she allows the equipment to be placed where it can carry out its intended function. If the Zoning Board of Adjustment chair or staff member determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative meeting room is not readily available, the chair or staff member may require the pooling of the equipment and the personnel operating it.

(d) Alternative Meeting Site. If the news media request an alternative meeting site to accommodate news coverage, and the Zoning Board of Adjustment grants the request, the news media making the request shall pay the costs incurred by the local government unit in securing an alternative meeting site.

Part IV. Organization of the Zoning Board of Adjustment

Rule 8. Organizational Meeting: Selection of Chair and Vice Chair

On the date and at the time of the first regular meeting in July, all newly appointed and reappointed members of the Zoning Board of Adjustment shall take and subscribe to the oath of office as the first order of new business. As the second order of new business, the Zoning Board of Adjustment shall elect a chair and vice chair.

Part V. Types of Meetings

Rule 9. Regular Meetings

- (a) Regular Meeting Schedule. The Zoning Board of Adjustment shall annually adopt a regular meeting schedule showing the time(s) and place(s) of its regular meetings for the year.
- (b) Notice of Regular Meeting Schedule. The Zoning Board of Adjustment shall ensure that a copy of its current regular meeting schedule, complete with the time and place of each regular meeting, is filed with the Zoning Board of Adjustment's clerk and posted on the Zoning Board of Adjustment's webpage.
- (c) Change to Regular Meeting Schedule. The Zoning Board of Adjustment may revise its regular meeting schedule to change the time or place of a particular regular meeting or all regular meetings within a specified period. The Zoning Board of Adjustment shall ensure that the revised regular meeting schedule is filed with the Zoning Board of Adjustment's clerk at least seven calendar days before the first meeting held pursuant to the revised schedule. The Zoning Board of Adjustment shall also have the revised schedule posted on the Zoning Board of Adjustment's webpage.

Rule 10. Special Meetings

- (a) Calling Special Meetings. The chair may call a special meeting of the Zoning Board of Adjustment. Alternatively, a special meeting may be called by vote of the Zoning Board of Adjustment in open session during a regular meeting or another duly called special meeting.
- (b) Notice to the Public. At least forty-eight hours before a special meeting, the Zoning Board of Adjustment shall cause written notice of the meeting's date, time, place, and purpose(s) to be (1) posted on the Town's message Zoning Board of Adjustment and (2) delivered, emailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the Zoning Board of Adjustment's clerk. The Zoning Board of Adjustment shall also have the notice posted on the Zoning Board of Adjustment's webpage prior to the special meeting.

(c) Notice to Members. If the chair called the special meeting, the chair shall ensure that notice of the meeting's date, time, place, and purpose(s) is mailed, emailed, or delivered to the other members at least forty-eight hours before the meeting. If the special meeting was called at another duly held meeting of the Zoning Board of Adjustment, and one or more members were absent, the chair shall ensure that notice of the meeting's date, time, place, and purpose(s) is mailed, emailed, or delivered to any absent member(s) a minimum of forty-eight hours in advance of the special meeting.

Rule 11. Emergency Meetings

(a) Calling Emergency Meetings. The chair may call an emergency meeting of the Zoning Board of Adjustment, but only when necessary to address generally unexpected circumstances that demand the Zoning Board of Adjustment's immediate attention.

(b) Notice of Emergency Meetings. Reasonable steps shall be taken by the chair to notify other Zoning Board of Adjustment members of an emergency meeting. Additionally, notice of the meeting shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed with the Zoning Board of Adjustment's clerk a written request to be notified of emergency meetings. To be valid, the request must include the newspaper's, wire service's, or station's telephone number. Notice may be given by telephone, email, or the same method used to notify Zoning Board of Adjustment members. Notice shall be provided immediately after members have been notified and at the expense of the media organization notified.

(c) Transaction of Other Business Prohibited. Only business connected with the emergency may be considered at an emergency meeting.

Rule 12. Recessed Meetings

(a) Calling Recessed Meetings. When conducting a properly called regular, special, or emergency meeting, the Zoning Board of Adjustment may recess the meeting to another date, time, or place by a procedural motion made and adopted in open session, as provided in Rule 25 (Motion 3). The motion shall state the time (including the date, if the meeting will resume on a different day) and place at which the meeting will resume.

(b) Notice of Recessed Meetings. Notice of the recessed meeting's date, time, and place shall appear on the Zoning Board of Adjustment's webpage prior to the meeting. No further notice of a properly called recessed meeting is required.

Part VI. Agenda

Rule 13. Agenda

- (a) Draft Agenda.
- (1) *Preparation.* The Zoning Board of Adjustment's clerk shall prepare a draft agenda for each meeting of the Zoning Board of Adjustment.
 - (2) *Requesting placement of items on draft agenda.* Members may, by timely request, have items placed on the draft agenda for any regular meeting. Members shall submit their requests to the Zoning Board of Adjustment's clerk at least seven working days before the meeting date.
 - (3) *Supplemental information/materials.* A copy of all draft orders, policies, regulations, or resolutions shall be attached to the draft agenda. The Zoning Board of Adjustment's clerk shall prepare an agenda packet that includes, for each item of business listed on the draft agenda, as much background information on the topic as is available and feasible to reproduce.

- (4) *Delivery to Zoning Board of Adjustment members.* Each member shall receive an email notification that the draft agenda and the agenda packet is available on the Town’s Meetings webpage. [Except in the case of an emergency meeting, the notice of the draft agenda [and the agenda packet] shall be provided to each member at least [twenty-four hours] before the meeting.]
- (5) *Public inspection.* The draft agenda [and agenda packet, except for materials not subject to inspection or copying under the public records law,] shall be available to the public when it is ready to be circulated to members.

(b) Adoption of the Agenda

- (1) *Adoption.* As its first order of business at each meeting, the Zoning Board of Adjustment shall review the draft agenda, make whatever revisions it deems appropriate, and adopt the agenda for the meeting.
- (2) *Amending the agenda.* Both before and after it adopts the agenda, the Zoning Board of Adjustment may add or subtract agenda items by majority vote of the members present and voting, except when the Zoning Board of Adjustment’s consideration of new agenda items would violate state law or these rules.
- (3) *Designation of items “For Discussion and Possible Action.”* The Zoning Board of Adjustment may designate an agenda item “For Discussion and Possible Action.” The designation signifies that the Zoning Board of Adjustment intends to discuss the item and may, if it so chooses, take action on the item following the discussion.

(c) *Consent Agenda.* The Zoning Board of Adjustment may designate part of an agenda for a regular meeting as the consent agenda. The person(s) charged with preparing the draft agenda may place routine or non-controversial items on the consent agenda. Prior to approving the meeting agenda, the Zoning Board of Adjustment must honor any member’s request to move an item from the consent agenda to new or unfinished business. The Zoning Board of Adjustment may approve all items on the consent agenda through the adoption of a single motion to that effect, but the minutes shall list each item so approved.

(d) *Informal Discussion of Agenda Items.* The Zoning Board of Adjustment may informally discuss an agenda item even when no motion regarding that item is pending.

Rule 14. Acting by Reference to Agenda or Other Document

The Zoning Board of Adjustment shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document unless copies of the agenda or document are available for public inspection at the meeting and so worded that persons in attendance can understand what is being deliberated or acted upon.

Rule 15. Agenda Items from Members of the Public

If a member of the public wishes to request that the Zoning Board of Adjustment include an item on its regular-meeting agenda, the individual shall submit the request in writing to the Planning Director at least ten working days before the meeting date. The Zoning Board of Adjustment is not obligated to place an item on the agenda merely because such a request has been received.

Rule 16. Order of Business

Items shall be placed on a regular meeting agenda according to the order of business. The usual order of business for each regular meeting shall be as follows:

- adoption of the agenda,
- approval of the consent agenda,
- approval of the previous meeting minutes,
- public comment,
- unfinished business, and
- new business.
- discussion or training

Without objection, the chair may call agenda items in any order most convenient for the dispatch of business.

Part VII. Role of the Presiding Officer

Rule 17. The Chair

(a) Presiding Officer. The chair shall preside at meetings of the Zoning Board of Adjustment.

(b) Voting by the Chair. The chair has the same duty to vote as other members, though in no event may the chair break a tie on a motion on which he or she has already voted.

(c) Recognition of Members. A member must be recognized by the chair (or other presiding officer) in order to address the Zoning Board of Adjustment, but recognition is not necessary for an appeal pursuant to Rule 25 (Motion 1).

(d) Powers as Presiding Officer. As presiding officer, the chair is to enforce these rules and maintain order and decorum during Zoning Board of Adjustment meetings. To that end, the chair may

- (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
- (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
- (3) entertain and answer questions of parliamentary procedure;
- (4) call a brief recess at any time; and
- (5) adjourn in an emergency.

(e) Appeals of Procedural Rulings. A member may appeal a decision made or an answer given by the chair under subparagraph (d)(1), (2), or (3) of this rule in accordance with Rule 25 (Motion 1).

Rule 18. Presiding Officer in the Chair's Absence

If the chair is absent, the vice chair or another member designated by vote of the Zoning Board of Adjustment shall preside. If both the chair and vice chair are absent, the Zoning Board of Adjustment shall designate one of the members present to serve as temporary presiding officer. Any member who presides in place of the chair has the powers listed in Rule 17(d). Service as presiding officer does not relieve a member of the right to vote on all questions except as excused from voting under Rule 29.

Rule 19. When the Presiding Officer Is Active in Debate

If the chair or other presiding officer becomes active in the debate on a matter, he or she may

designate another member to preside over the debate.

Part VIII. Motions and Voting

Rule 20. Action by the Zoning Board of Adjustment

Except as otherwise provided in Rules 28, 30, and 33, the Zoning Board of Adjustment shall act by motion. Any member other than the chair may make a motion.

Rule 21. Second Not Required

No second is required on any motion.

Rule 22. One Motion at a Time

A member may make only one motion at a time.

Rule 23. Withdrawal of Motion

The member who introduces a motion may withdraw the motion unless the motion has been amended or put to a vote.

Rule 24. Substantive (or Main) Motions

A substantive motion is not in order when any other motion is pending. Once the Zoning Board of Adjustment disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting unless it first adopts a motion to reconsider pursuant to Rule 25 (Motion 13).

Rule 25. Procedural Motions

(a) Certain Motions Allowed. The Zoning Board of Adjustment may consider only those procedural motions listed in this rule. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.

(b) Priority of Motions. The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher priority is pending, except that

- any procedural motion other than an appeal under Motion 1 is subject to amendment as provided in Motion 11 and
- a motion to call the question (end debate) may be made with regard to any procedural motion in accordance with Motion 8.

When several procedural motions are pending, voting shall begin with the procedural motion highest in priority, except that a motion to amend or end debate on the highest-priority motion shall be voted on first.

Motion 1. To Appeal a Ruling of the Presiding Officer. Any member may appeal the presiding officer's ruling on whether a motion is in order or on whether a speaker has violated reasonable standards of courtesy. The presiding officer's response to a question of parliamentary procedure may also be appealed by any member. An appeal is in order immediately after the disputed ruling or parliamentary response and at no other time. The member who moves to appeal need not be recognized by the presiding officer, and if timely made, the motion may not be ruled out of order.

Motion 2. To Adjourn. This motion may be used to close a meeting. It is not in order if the

Zoning Board of Adjustment is in closed session.

Motion 3. To Recess to a Time and Place Certain. This motion may be used to call a recessed meeting as permitted under Rule 12. The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is not in order if the Zoning Board of Adjustment is in closed session.

Motion 4. To Take a Brief Recess.

Motion 5. To Follow the Agenda. This motion must be made at the time an item of business that deviates from the agenda is considered; otherwise, the motion is out of order as to that item.

Motion 6. To Suspend the Rules. To be adopted, a motion to suspend the rules must receive affirmative votes equal to two-thirds of the Zoning Board of Adjustment's actual membership, excluding any vacant seats. The Zoning Board of Adjustment may not suspend provisions in these rules that restate state law requirements.

Motion 7. To Defer Consideration. The Zoning Board of Adjustment may defer its consideration of a substantive motion, and any proposed amendments thereto, to an unspecified time. A motion that has been deferred expires unless the Zoning Board of Adjustment votes to revive it pursuant to Motion 12 within 100 days of deferral. A new motion having the same effect as a deferred motion may not be introduced until the latter has expired.

Motion 8. To End Debate (Call the Previous Question). If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member has had an opportunity to speak once on the pending motion.

Motion 9. To Postpone to a Certain Time. This motion may be employed to delay the Zoning Board of Adjustment's consideration of a substantive motion, and any proposed amendments thereto, until a designated day, meeting, or hour. During the period of postponement, the Zoning Board of Adjustment may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6.

Motion 10. Not applicable.

Motion 11. To Amend

(a) Germaneness. A motion to amend must concern the same subject matter as the motion it seeks to alter.

(b) Limit on Number of Motions to Amend. When a motion to amend is under consideration, a motion to amend the amendment may be made; however, no more than one motion to amend and one motion to amend the amendment may be pending at the same time.

Motion 12. To Revive Consideration. The Zoning Board of Adjustment may vote to revive consideration of any substantive motion that has been deferred pursuant to Motion 7, provided it does so within [100] days of its vote to defer consideration.

Motion 13. To Reconsider. The Zoning Board of Adjustment may vote to reconsider its action on a matter, provided the motion to reconsider is made (1) at the same meeting during which the action to be reconsidered took place and (2) by a member who voted with the prevailing side. For purposes of this motion, "the same meeting" includes any continuation of a meeting through a motion to recess to a certain time and place (Motion 3). The motion is not in order if it interrupts the Zoning Board of Adjustment's deliberation on a pending matter.

Motion 14. To Rescind. The Zoning Board of Adjustment may vote to rescind an action taken at a prior meeting, provided rescission is not forbidden by law.

Motion 15. To Prevent Reintroduction for [Six] Months. This motion may be used to prevent the reintroduction of a failed substantive motion for a time, but it is in order only when made immediately following the substantive motion's defeat. To be adopted, this motion must receive affirmative votes equal to at least two-thirds of the Zoning Board of Adjustment's total membership, excluding vacant seats. If this motion is adopted, the ban on reintroduction remains in effect for [six] months or until the Zoning Board of Adjustment's next organizational meeting, whichever occurs first.

Rule 26. Debate

The presiding officer shall state the motion and then open the floor to debate, presiding over the debate according to the principles listed below.

- The maker of the motion is entitled to speak first.
- A member who has not spoken on the issue shall be recognized before a member who has already spoken.
- To the extent practicable, debate shall alternate between proponents and opponents of the measure.
- [No member may speak more than twice on the same substantive motion. A member's first speech on a substantive motion shall be limited to [ten] minutes, and any second speech on the same motion shall be limited to [five] minutes. The same rules apply to debate on a procedural motion, except that a member's first speech shall not exceed [five] minutes, and any second speech shall be limited to [two] minutes.]

Rule 27. Adoption by Majority Vote

A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law.

Rule 28. Changing a Vote

A member may change the member's vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may not change a vote without the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote is not in order unless made immediately following the presiding officer's announcement of the result.

Rule 29. Duty to Vote

Every member shall vote unless excused by the remaining members of the Zoning Board of Adjustment. A member who wishes to be excused from voting shall so inform the presiding officer, who shall take a vote of the remaining members on whether to grant the request. The Zoning Board of Adjustment may not excuse a member except in cases involving (1) a conflict of interest as defined by law or the Zoning Board of Adjustment or (2) the member's official conduct or own financial interest.] [The unexcused failure to vote by a member who is physically present in the meeting room, or who has withdrawn without being excused by majority vote of the remaining members present, shall be recorded as [an affirmative vote] [a negative vote]].

Rule 30. Voting by Written Ballot

- (a) Secret Ballots Prohibited. The Zoning Board of Adjustment shall not vote by secret ballot.
- (b) Rules for Written Ballots. The Zoning Board of Adjustment may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member shall sign his or her ballot, and the minutes shall record how each member voted by name. The ballots shall be made available

for public inspection in the office of the clerk to the Zoning Board of Adjustment immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Part IX. Public Hearings

Rule 31. Public Hearings

(a) **Calling Public Hearings.** The Zoning Board of Adjustment may hold public hearings to solicit the public's input on specific issues. The Zoning Board of Adjustment may schedule its public hearings or delegate that responsibility to staff members, as appropriate.

(b) **Public Hearing Locations.** The Zoning Board of Adjustment may hold public hearings in the first-floor conference room.

(c) **Notice of Public Hearings.** Any public hearing attended by a majority of members shall be considered part of a regular or special meeting of the Zoning Board of Adjustment. Consequently, the relevant notice and related requirements of the open meetings law, as set out in Rules 9 through 12, apply to such hearings. If a hearing's subject matter triggers additional notice requirements under state law or local rules, the Zoning Board of Adjustment shall see that they are also satisfied.

(d) **Rules for Public Hearings.** The Zoning Board of Adjustment may adopt reasonable rules for public hearings that, among other things,

- fix the maximum time allotted to each speaker;
- provide for the designation of spokespersons for groups supporting or opposing the same positions;
- provide for the selection of delegates from groups supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the meeting room (so long as arrangements are made, in the case of a hearing subject to the open meetings law, for those excluded from the meeting room to listen to the hearing); and
- provide for the maintenance of order and decorum in the conduct of the hearing.

(e) **Continuing Public Hearings.** The Zoning Board of Adjustment may continue any public hearing without further advertisement, provided the time (including the date, if the hearing will resume on a different day) and place of the continued hearing are announced in open session. Except for hearings conducted pursuant to paragraph (g) of this rule, if a quorum of the Zoning Board of Adjustment is not present for a properly scheduled public hearing, the hearing shall be continued until the Zoning Board of Adjustment's next regular meeting without further advertisement.

(f) **Conduct of Public Hearings.** At the time appointed for the hearing, the chair shall call the hearing to order and proceed to allow public input in accordance with any rules adopted by the Zoning Board of Adjustment for the hearing. Unless the Zoning Board of Adjustment votes to extend the hearing, when the time allotted for the hearing expires, or when no one wishes to speak who has not already done so, the chair shall declare the hearing closed, and the Zoning Board of Adjustment shall resume the regular order of business.

(g) **Public Hearings by Less Than a Majority of Zoning Board of Adjustment Members.** Not applicable.

(h) **Public Comment.** The Zoning Board of Adjustment may hold a public comment period at any regular meeting or special meeting called, at least in part, for that purpose. During the public comment period, members of the public may speak on any matters within the Zoning Board of

Adjustment’s real or apparent jurisdiction. The provisions in paragraphs (d) and (f) of this rule apply to the Zoning Board of Adjustment’s public comment periods.

Part X. Committees and Appointments

Rule 32. Committees

Not applicable.

Rule 33. Appointments to Public Bodies

Not applicable.

Part XI. Miscellaneous

Rule 34. Amendment of the Rules

The Zoning Board of Adjustment may vote to amend these rules at any regular meeting or at any properly called special meeting for which amendment of the rules is one of the meeting’s stated purposes. Any amendment to these rules must not violate any relevant statutes or generally accepted principles of parliamentary procedure. To be adopted, a motion to amend these rules must be approved by a majority of the Zoning Board of Adjustment’s members.

Rule 35. Reference to *Robert’s Rules of Order Newly Revised*

The Zoning Board of Adjustment shall refer to *Robert’s Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted *Robert’s*, the presiding officer shall make a ruling on the issue subject to appeal to the Zoning Board of Adjustment under Rule 25 (Motion 1).

Rule 36. Special Rules of Procedure

The Zoning Board of Adjustment may adopt its own special rules of procedure, to be specified here.

This is to certify that the above rules were adopted by the Zoning Board of Adjustment at its meeting duly held on the 18th day of February, 2025.

Hanna McCloud, Chair

Kate Winzler, Zoning Board of Adjustment Clerk