



# Town of North Topsail Beach

## Zoning Board of Adjustment Special Meeting Agenda

Wednesday, January 24, 2024, at 6:00 PM

2008 Loggerhead Court, North Topsail Beach, NC 28460

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*Zoning Board of Adjustment: Hanna McCloud - Chair, Paul Dorazio - Vice Chair, Scott Morse, Kip Malcolm, Stu Harness, Lisa Lee Kozlowski - Alternate, Susan Meyer - Alternate.*

*Staff: Deb Hill MPA AICP CFM CZO - Planning Director, Kate Winzler CMC, MCCMC - Clerk to the Board of Adjustment.*

### I. CALL TO ORDER

### II. OATH OF OFFICE

Kip Malcolm - Regular Member

### III. ADOPTION OF AGENDA

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

### IV. APPROVAL OF MINUTES

#### A. March 22, 2023 Special Meeting

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

#### B. June 28, 2023 Special Meeting

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

### V. PUBLIC COMMENT

### VI. OLD BUSINESS

### VII. NEW BUSINESS

#### A. Case V-24-01 Variance Request

### VIII. ADJOURNMENT

*Specific Action Requested: Chair will request a motion to adjourn.*

**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.*



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

Alice Derian, ICMA-CM  
Town Manager

Aldermen:  
Fred Fontana  
Richard Grant  
Tom Leonard  
Connie Pletl

Nancy Avery  
Interim Town Clerk

**Zoning Board of Adjustment  
Special Meeting Draft Minutes**

Wednesday, March 22, 2023, at 5:30 PM  
2008 Loggerhead Court, North Topsail Beach NC 28460

Present: Hanna McCloud – Chair, Paul Dorazio - Vice Chair, Scott Morse, Cameron Kuegel, Susan Meyer.

Not Participating: Lisa Lee Kozlowski.

Absent: Pat Stigall, Stu Harness.

Present Other: Planning Director Hill, Clerk to the Board of Adjustment Winzler, IT Director Schwisow, Town Manager Derian, Town Attorney Edes (via Teams), Court Reporter Kim Altman.

CALL TO ORDER Chair McCloud called the meeting to order at 5:36 p.m.

**ADOPTION OF THE AGENDA Ms. Meyer made a motion to adopt the agenda. Mr. Dorazio seconded the motion. The motion passed unanimously, 5-0.**

**APPROVAL OF MINUTES Mr. Kuegel made a motion to approve the January 30, 2023 minutes. Ms. Meyer seconded the motion. The motion passed unanimously, 5-0.**

**NEW BUSINESS**

CASE #AA23-000001: Appeal by Mark Boike

Attorney Edes reviewed the quasi-judicial hearing process and polled the Zoning Board of Adjustment regarding their roles as impartial decision makers.

Clerk Winzler swore in appellant Mark Boike and Planning Director Deb Hill.

Planning Director Hill reviewed the exhibits and added exhibit eleven: an update from exhibit seven the Coastal Area Management Act (CAMA) exemption 07-23 dated March 17, 2023.

The Board accepted into evidence exhibits one through eleven, noting Mr. Boike's exception to the characterization of the type of work he intends to perform as being not maintenance within Exhibit 5.

Planning Director Hill presented the staff report.

Attorney Edes and Planning Director Hill discussed the North Topsail Beach dune protection ordinance in relation to the verbiage used by the Division of Coastal Management (DCM), the NC Building Code, and the Federal Emergency Management Act (FEMA) substantial damage manual, regarding maintenance, repair, improvement, and expansion, as well as the parameters of scope of work at issue.

Mr. Boike explained that the work would include new pilings driven into the sand to support the gazebo.

Zoning Board of Adjustment Special Meeting March 22, 2023

Mr. Boike declined to cross examine Planning Director Hill.

Chair McCloud asked if a building permit was pulled?

Planning Director Hill replied no, a building permit may not be issued without a zoning permit.

Chair McCloud identified that the applicant’s drawing did not define the scope of work.

Planning Director Hill agreed, noting that was inconsistent with the narrative and inconsistent with the original CAMA exemption.

Mr. Boike presented his case, explaining his reasoning for replacing the pilings and resurfacing the deck.

Attorney Edes asked Mr. Boike for clarification on the scope of the project.

Mr. Boike explained there would be the addition of one new piling installed within five feet of the landward toe of the dune, and all existing pilings would remain in place.

Planning Director Hill expressed concern over Mr. Boike’s substantial improvement cost estimate dated 11/21/2022 which only included plumbing costs and excluded this proposed work.

Attorney Edes asked Planning Director Hill if she agreed that only one piling would be afoul of section 10.07.02(D)(E).

Planning Director Hill disagreed. As evidenced by the picture on page seven of twenty-eight, the entire structure is located oceanward of the landward toe of the dune.

Mr. Boike asked if the oceanside of the dune was included even though there was no dune there.

Planning Director Hill answered the entire structure is located oceanward of the landward toe of the dune.

There was discussion with the Board regarding the location of dune vegetation on the lot as illustrated on page seven of twenty-eight.

Vice Chair Dorazio suggested that the building of the gazebo may not have been permitted.

Mr. Boike suggested perhaps it met code when it was constructed.

At 6:55 p.m., Attorney Edes suggested suspending the evidentiary portion of the hearing and beginning deliberations. Attorney Edes reiterated the purpose of the hearing was to ascertain whether staff’s decision that the proposed work is in violation of 10.07.02(D)(E) which led to the denial of the zoning compliance.

The Board deliberated.

**Ms. Meyer made a motion to uphold staff’s decision. Mr. Kuegel seconded. Unanimously approved, 5-0, as follows:**

<u>Roll call</u>	<u>Vote</u>
<b>Mr. Morse</b>	<b>Yes</b>
<b>Chair McCloud</b>	<b>Yes</b>
<b>Vice Chair Dorazio</b>	<b>Yes</b>
<b>Ms. Meyer</b>	<b>Yes</b>
<b>Mr. Kuegel</b>	<b>Yes</b>

The Board of Adjustment took a break at 7:06 p.m.

The Board of Adjustment resumed at 7:16 p.m.

CASE #AA23-000002: Appeal by Lloyd Moore

Attorney Edes asked the applicant for confirmation that he understood the procedure.

Zoning Board of Adjustment Special Meeting March 22, 2023

Mt. Lloyd Moore confirmed that he understood.

Attorney Edes reminded the Board of Adjustment that the case was an appeal from a final staff decision, with the goal to determine whether the staff's decision was commiserate with the text of the ordinance and investigate any questions as to what the text of the ordinance means. He asked the Board if anyone had any basis that would prevent them from being fair and impartial to base their votes solely on the competent evidence produced during the hearing. All Board members replied no.

Clerk Winzler swore in appellant Lloyd Moore, Surveyor Charles Riggs, and Planning Director Deb Hill.

Planning Director Hill presented the staff report and entered into evidence exhibits 1, 1a, 1b, 2, 2a, and 3. The Board accepted exhibits 1-3 into evidence without objection.

Ms. Hill confirmed that the application denial was based upon UDO 10.07.02(D) and (E).

Mr. Moore did not have any cross-examination questions for Planning Director Hill.

The Board discussed the case with Planning Director Hill. The basis of denial was due to the development being oceanward of the landward toe of the dune. The deck was original to the house, in place prior to the adoption of the ordinance on September 7, 2022, and therefore the application constituted a repair, not an addition or an improvement.

Appellant Lloyd Moore explained that the same footprint would be constructed.

Attorney Edes asked Charles Riggs, the appellant's representative, if he agreed that this proposal was consistent with the previous structure and did not contemplate an expansion, nor contemplate any development in an area where development did not already exist.

Mr. Riggs confirmed that the proposed footprint to be repaired was the exact footprint of the six by sixteen and the steps going to the ocean, no change in footprint. He suggested CAMA reinforced this in the exemption letter stating that it is a repair.

Attorney Edes asked if the application contemplated the addition of any construction placed within five feet of the landward toe of the dune.

Mr. Riggs suggested the photographs he submitted illustrate a vegetated berm, not necessarily a dune, using the Division of Coastal Management definitions.

Attorney Edes asked if this appeal was granted, looking down from a bird's eye view, would anything be placed outside of what is already there.

Mr. Riggs disagreed. He explained that the six by sixteen deck and the steps were destroyed by Hurricane Florence; this application was to replace them in the exact footprint of the previous structure. Therefore, this is not an addition or improvement, but rather a repair.

Attorney Edes asked if the footprint had existed previously to September 7, 2022.

Mr. Riggs confirmed.

Planning Director Hill pointed out that on the CAMA exemption, in the middle paragraph for maintenance and repair, it states "excluding replacement."

Mr. Riggs continued, explaining that "structures may be repaired in a similar manner, size, and location as the original structure."

Ms. Hill stated that this structure was lost in 2018, and this application was being made five years later in 2023.

Mr. Riggs explained that it was not completely lost and offered a photo showing the damaged structure.

## Zoning Board of Adjustment Special Meeting March 22, 2023

Attorney Edes asked if any permits had been applied for between Hurricane Florence and this application.

Mr. Riggs stated Mr. Moore could not have applied for permits prior to August 9, 2022, as he purchased the property on that date.

Mr. Riggs distributed the following exhibits to the Board:

Exhibit 4: two pages from Onslow County Property Records Site dated 3/22/23, 4:09 PM

Exhibit 5: 5 pages of photographs

The Board accepted into evidence exhibits 4 and 5 without objection.

Mr. Riggs explained that exhibit 4 illustrated that the six by sixteen deck in need of repair is presently included within the county tax valuation.

Mr. Riggs explained exhibit 5, a series of photographs:

- The street-side of the dwelling on December 7, 2022, at 13:53, taken by Mr. Riggs showing the access steps and the vegetated berm.
- Side-view photograph from the west looking east showing the rear portion of the dwelling with the vegetated berm and plantings.
- Onslow County GIS photograph taken September 21, 2018, after Hurricane Florence, showing the six by sixteen deck was in place, but in disrepair.
- Picture taken February 26, 2012, six years before Florence, showing the image of the deck with two beach accesses coming off the deck.
- 2012 Onslow County GIS photograph showing the deck and two beach accesses.

Mr. Riggs explained this was a request to repair this deck and beach access and asked for consideration as a safety concern as a second means of access into and out of the dwelling. Mr. Riggs brought up the issue of the berm, stating the first line of vegetation ran beneath the house. He explained that the Division of Coastal Management used the two-year rule on planted vegetation, such that if planted vegetation remains stable for two years, they will move the line.

Mr. Kuegel asked if the house straddles two lots.

Mr. Riggs confirmed and explained that the lots were created in the sixties.

Attorney Edes asked if Mr. Moore owned both lots.

Mr. Riggs confirmed.

Ms. Meyer asked for clarification between “replacement” and “repair” on the CAMA exemption.

Planning Director Hill read from the CAMA exemption letter.

Mr. Riggs explained that he read it to mean that this activity is not considered development.

This is considered a repair.

Ms. Hill suggested that if it was replaced it would be considered development and would need to meet the current code.

Chair McCloud suggested since there is no structure there presently, it is a replacement of a pre-existing deck, not a repair.

Attorney Edes asked if the scope of work exceeds fifty percent of the market value of the structure, as one barometer to measure a repair versus a replacement.

There was discussion regarding the value of the structure, and if the cost of the project would exceed fifty percent of that value.

Chair McCloud asked why the deck was taxed when it was not there in 2022.

Zoning Board of Adjustment Special Meeting March 22, 2023

Planning Director Hill noted that the value of the structure was \$161,349, and asked what the cost of the project was.

Mr. Moore responded \$16,000.

Ms. Hill asked if Mr. Moore was aware that if the improvement cost exceeded fifty percent of the value of the structure, the entire structure would have to be brought up to code.

Mr. Moore confirmed.

Mr. Kuegel asked if the cost of the new construction shown in the December 7, 2022 picture was factored into the fifty percent consideration.

Planning Director Hill replied that it was a minimal cost, and access is necessary.

Mr. Kuegel asked what the width of the beach access is permissible and if a four-foot landing was permissible for access.

Planning Director Hill stated that she needed to discuss that with the Building Inspector.

Chair McCloud asked if the six steps towards the beach illustrated on page 9 of 12 were what the appellant intends to build.

Mr. Riggs suggested that the proposed deck and steps would rest on the berm, and not extend beyond the toe of the dune at all.

Attorney Edes suggested if the Board was inclined to modify the staff's decision, it would be appropriate to place a condition on confirmation of what Mr. Riggs just said.

Mr. Riggs emphasized that when Mr. Moore purchased the property in August, he did due diligence, there was no five-foot buffer rule, the dune renourishment had not occurred, nor had the vegetation been placed.

Attorney Edes asked if there were any approvals or staff representations in writing related to the scope of work that is the subject of this appeal prior to Mr. Moore buying the property.

Mr. Riggs stated not in writing, other than discussions with CAMA.

Attorney Edes also pointed out that the CAMA permit also defers to other local ordinances, such as Town of North Topsail Beach. He asked if the proposed work would not expand the pre-existing structure's footprint.

Mr. Riggs agreed.

Attorney Edes noted the tax card pulled from 2023 identified the structure as existing.

Mr. Riggs confirmed.

Chair McCloud reviewed the three options for the Board's decision.

**Mr. Dorazio made a motion to reverse staff's decision to allow the proposed work to proceed only to the extent it does not exceed the pre-existing footprint as depicted on the 2023 tax card introduced into evidence.**

**Mr. Dorazio amended his motion to include a condition on the provision of a sealed survey.**

**Mr. Morse seconded the motion. There was no discussion. The motion passed 3-2, as follows:**

<u>Role call</u>	<u>Vote</u>
Mr. Kuegel	No
Ms. Meyer	No
Mr. Dorazio	Yes
Ms. McCloud	Yes
Mr. Morse	Yes

Zoning Board of Adjustment Special Meeting March 22, 2023

The Board of Adjustment took a break at 8:13 p.m.

The Board of Adjustment resumed at 8:29 p.m.

CASE #AA23-000003: Appeal by Mark Wilson

Attorney Edes introduced Case #AA23-000003.

Appellant Mark Wilson stated he was well versed in the ground rules of the procedure.

Attorney Edes asked if any Board member was incapable of rendering their vote solely based on the competent evidence produced at the hearing.

The Board members replied no.

Attorney Edes asked if the Board members could be fair and impartial.

The Board members replied yes.

Clerk Winzler swore in appellant Mark Wilson, Surveyor Charles Riggs, and Planning Director Deb Hill.

Attorney Edes reviewed the procedural steps.

Planning Director Hill presented the staff report and exhibits one through six. The Zoning Board of Adjustment entered the exhibits as listed in the agenda packet into evidence without objection.

Planning Director Hill explained the work performed exceeded the scope of work permitted.

Mark Wilson asked Planning Director Hill about the building, renovation, and insulation permit.

Ms. Hill stated there was no zoning permit.

Mr. Wilson read part of the Notice of Determination and asked Ms. Hill if a zoning permit was required.

Ms. Hill explained the list of repairs submitted excluded a beach access, and therefore did not require a zoning and floodplain permit application. Had the repair list included a beach crossover, the project would have required a zoning and floodplain permit application. Ms. Hill explained that zoning permits require examination of zoning districts, uses, and setbacks. Flood permits require a determination of consistency with flood regulations. The substantial damage determination was predicated by extent of damage to the property listed on the application resulting from Hurricane Florence. If a beach crossover was disclosed on the application, a zoning and floodplain permit would have been required.

Mr. Wilson stated that the 2018 and 2022 surveys dictate the existence of a crossover. Prior to purchasing the house, Mr. Wilson met with CAMA Field Representative Tina Martin who advised not to replace the crossover, but rather install a switchback to not impede dune management. He stated that Building Codes Administrator Allen met Mr. Wilson on site to review the project. Mr. Wilson noted that the word "deck" was used multiple times within communication.

Ms. Hill noted that this relates to terminology, and asked why Mr. Wilson did not submit plans, and noted that the structure was relocated.

Mr. Wilson stated the only work done was the digging of holes into an engineered berm.

Ms. Hill stated that there was poor communication. If the application description matched the discussion with Tina Martin, with the crossover or switchback, a zoning and flood permit application would have been required.

Mr. Wilson explained his misunderstanding of the purpose of a zoning and flood permit, since the footprint of the house is known, and he knew it was in a special flood area and on a flood



## Zoning Board of Adjustment Special Meeting March 22, 2023

insurance rate map. He explained the application process was thorough and if a component was missing, it would have been provided. There was no malicious intent.

Planning Director Hill stated her belief it was a miscommunication.

Mr. Dorazio left the room.

Planning Director Hill stated that CAMA was unable to produce the approved site plan when asked.

Mr. Wilson shared that he had experienced difficulty communicating with CAMA.

Planning Director Hill apologized to Mr. Wilson for the poor communication.

Mr. Dorazio returned to the room.

Mr. Wilson asked Mr. Riggs to speak on his behalf.

Mr. Charles Riggs asked Attorney Edes if he could ask Planning Director Hill some questions.

Attorney Edes made a recommendation to allow staff and the applicant time to work through the miscommunication.

Ms. Hill and Mr. Riggs expressed their willingness to collaborate.

Mr. Riggs stated they would appreciate a recess to accommodate the Town's needs.

Mr. Wilson, speaking on behalf of Cedar Homes, LLC, agreed to cease all work covered by the stop work order and to contact staff to address the concerns he appealed upon.

Mr. Kuegel asked if the applicant was a licensed North Carolina general contractor.

Mr. Wilson confirmed.

Mr. Kuegel asked Mr. Riggs to confirm that he became involved with this subject about an hour ago.

Mr. Riggs explained that he communicated with Mr. Wilson a week prior and became aware that his was on this agenda tonight.

Mr. Kuegel explained he wanted to make sure that the recess was productive.

Mr. Wilson explained that he is not the general contractor on this project, and that the owner, Chad Bell, is utilizing the owner's exemption affidavit on this project, and that he is in Fredericksburg, Virginia.

Mr. Kuegel stated that Mr. Bell needs to be involved in the recessed discussions.

Mr. Wilson agreed.

Ms. Hill questioned Mr. Wilson's standing.

The points of discussion included:

- The matter of Mr. Wilson's standing.
- Desire to work together to clear up misunderstanding/miscommunication and resolve the issues.
- The appellants acquiesced.
- A timeline for compliance was discussed. All parties accepted a six-week time limit.

**Mr. Dorazio made a motion to recess. Mr. Kuegel seconded the motion. The motion passed unanimously, 5-0.**

Attorney Edes asked if Mr. Wilson and Mr. Riggs understood that the fine had not been lifted, that they understand that they must abide by the provisions of the existing stop work order, and that they agree to work in good faith with Town staff to attempt to resolve the decisions from which they appealed from.

Mr. Wilson agreed.

Mr. Dorazio left the meeting.

**ADJOURNMENT Ms. Meyer made a motion to adjourn. Mr. Kuegel seconded. Motion passed 4-1.**

The Zoning Board of Adjustment meeting adjourned at 9:47 p.m.

APPROVED  
This 24th day of January 2024

CERTIFIED  
This 24th day of January 2024

\_\_\_\_\_  
Hanna McCloud  
Chair

\_\_\_\_\_  
Kate Winzler  
Clerk

exhibit 4 (20)

Section IV, Item A.

CONTACT US



# ON SLOW COUNTY

N O R T H C A R O L I N A

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Home

Search Property Records

County Website ▾

Owner Address Parcel ID Advanced

Profile

Parcel ID: 009363 Map #: 803-4 Tax Year: 2023

Sales

Luc: Waterfront Ocean Class: Dwelling NBHD: WINTERHAVEN - OCEAN

1 of 1

Residential

MJL ENTERPRISES INC SIDE 274 SEA SHORE DR

Commercial

### Values

### Actions

- Printable Summary
- Printable Version

OBY

Spec Proc Flag

Permits

Appraised Land 480,000

Land

Appraised Building 161,349

Sketch

Appraised Total 641,349

Full Legal

Cost Land Value 480,000

Agricultural

Cost Building Value 161,349

Photos

Cost Total Value 641,349

Values

Market Value

Onslow County GIS

Income Value 0

GRM Value 0

Total Residential Living Area 1,736

Total Commercial Living Area

Note 1

Note 2

Solid Waste Fee Units

Land Use Value

Land Deferred Value

Final Land Value 480,000

Final OBY Value 0

Final Building Value 161,349

Senior Exclusion 0

100% Exemption 0

Partial Exemption 0

VET Exclusion 0

=====

Taxable Total 641,349

### Reports

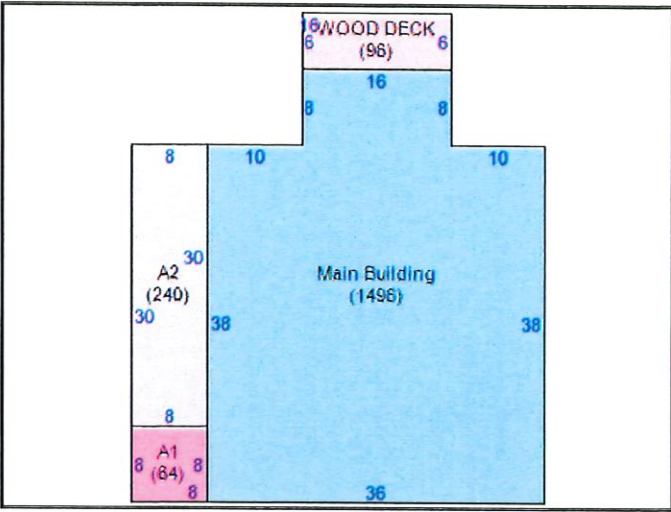
Property Record Card

Go

Parcel ID: 009363      Map #: 803-4      Tax Year: 2023  
 Luc: Waterfront Ocean      Class: Dwelling      NBHD: WINTERHAVEN - OCEAN SIDE  
 MJL ENTERPRISES INC      274 SEA SHORE DR

Section IV, ItemA.

1 of 1



**Actions**

- Printable Summary
- Printable Version

**Reports**

Property Record Card

**Go**

Options

Type	Line #	Item	Area
Dwelling	0	Main Building	1,496
Dwelling	1	WOOD DECK - 88:WOOD DECK	64
Dwelling	2	UTILITY ROOM/BEACH HOUSE - 86/63:UTILITY ROOM/BEACH HOUSE	240
Dwelling	3	WOOD DECK - 88:WOOD DECK	96

Click on an item to display it independently.

Exhibit 5 (5pp)

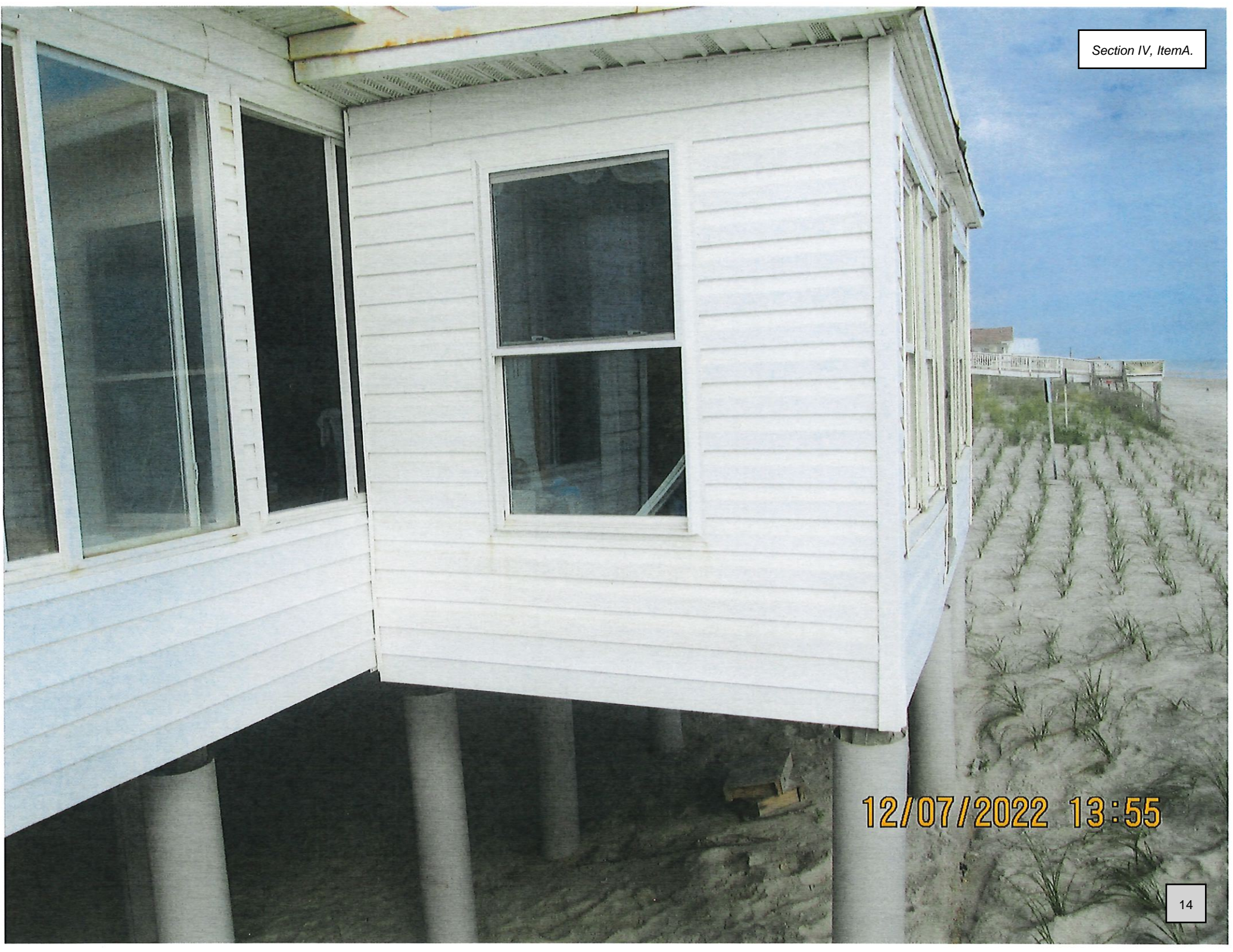
Section IV, Item A.



274

12/07/2022 13:53

12/07/2022 13:55



Section IV, Item A.

09/21/2018 < 1 of 6 > Sep 2018 - Sep 2018





02/26/2012

< 1 of 2 >

Dec 2011 - Feb 2012

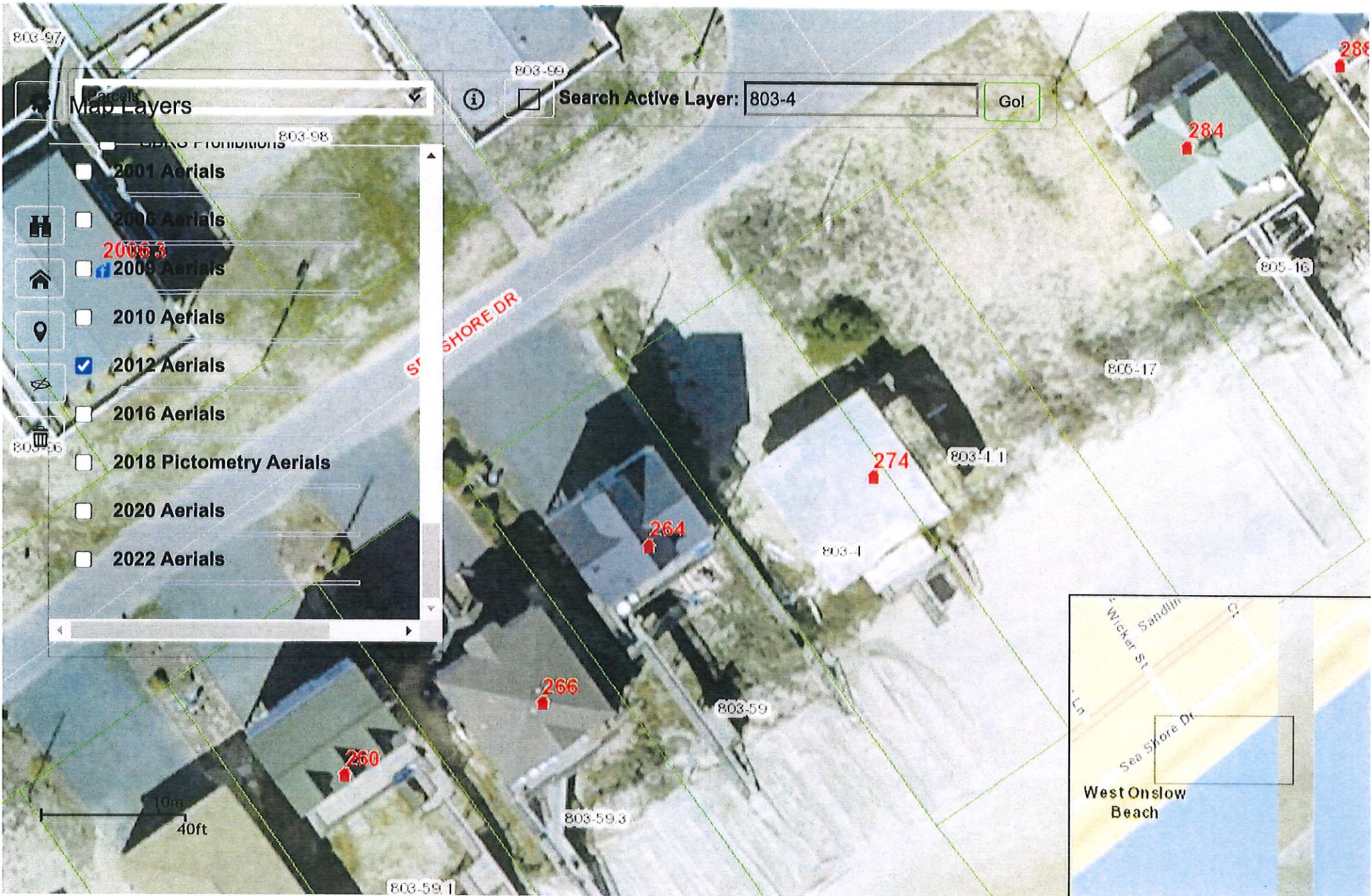


Section IV, ItemA.





Section IV, Item A.





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

Alice Derian, ICMA-CM  
Town Manager

Aldermen:  
Fred Fontana  
Richard Grant  
Tom Leonard  
Connie Pletl

Nancy Avery  
Interim Town Clerk

**Zoning Board of Adjustment  
Special Meeting Draft Minutes**  
Wednesday, June 28, 2023, at 5:30 PM  
*2008 Loggerhead Court, North Topsail Beach NC 28460*

Present: Hanna McCloud – Chair, Paul Dorazio - Vice Chair, Scott Morse, Cameron Kuegel, Susan Meyer.

Absent: Lisa Lee Kozlowski, Stu Harness.

Present Other: Planning Director Hill, Clerk to the Board of Adjustment Winzler, IT Director Schwisow, Town Manager Derian, Town Attorney Edes (via Teams).

CALL TO ORDER Chair McCloud called the meeting to order at 5:34 p.m.

**ADOPTION OF THE AGENDA Mr. Dorazio made a motion to adopt the agenda. Mr. Morse seconded the motion. The motion passed unanimously, 5-0.**

**APPROVAL OF MINUTES Mr. Kuegel made a motion to strike the approval of the March 22, 2023 minutes from the agenda. Mr. Morse seconded the motion. The motion passed unanimously, 5-0.**

OLD BUSINESS

CASE #AA23-000003: Appeal by Mark Wilson

Attorney Edes introduced the case history, reviewed the quasi-judicial hearing process, and polled the Zoning Board of Adjustment regarding their roles as impartial decision makers. He asked the Board if anyone had any basis that would prevent them from being fair and impartial and to base their votes solely on the competent evidence produced during the hearing. All Board of Adjustment members responded to the questions in the negative.

Attorney Edes asked Planning Director Hill if the appellant in the second case, Mr. Plaford, was in attendance.

Planning Director Hill confirmed.

Attorney Edes asked Mr. Plaford if he heard the procedural guidelines that Attorney Edes reviewed with the Board of Adjustment.

Mr. Plaford confirmed.

Attorney Edes asked Mr. Plaford if he would be ok to proceed on the stipulation that those same guidelines apply for his appeal.

Mr. Plaford agreed.

Clerk Winzler swore in appellant Mark Wilson, Surveyor Charles Riggs, and Planning Director Deb Hill.

Zoning Board of Adjustment Special Meeting June 28, 2023

Planning Director Hill entered into evidence exhibits NTB-1 through NTB-30 and added the building permit B22-000019 MODIFIED as exhibit NTB-31.

Mr. Wilson had no objections to the exhibits NTB-1 through NTB-31.

The Board accepted into evidence exhibits NTB-1 through NTB-31 without objection.

Planning Director Hill presented a concise review of the staff report.

Mr. Kuegel asked what the modification was EXHIBIT NTB-31.

Mr. Hill explained that it was a contractor change request.

Mr. Wilson cross examined Planning Director Hill. He asked what are the requirements to pull a zoning permit in the State of North Carolina?

Ms. Hill replied going outside the building footprint.

Mr. Wilson stated that new construction, addition of square footage to a house, or changing the use of a structure required a zoning permit.

Ms. Hill disagreed, explaining that there are many more characteristics which trigger the need for a zoning permit. To focus on Mr. Wilson's project, a zoning permit was not required based upon the initial review because the application did not indicate going outside of the footprint of the existing building.

Mr. Wilson asked for clarification between a deck and a beach access.

Ms. Hill replied that the project description did indicate no change in footprint. If the application had indicated expanding the footprint, the zoning review would have included an examination for meeting the setbacks.

Mr. Wilson stated that there were no changes or additions to the home. They were putting it back the way it was. Tina Martin required the change to a switchback.

Ms. Hill stated that she understood the point Mr. Wilson was trying to make. She pointed out the condition on the CAMA permit (Coastal Area Management Act) that requires the applicant to apply for all local and state permits as well. The applicant must also meet the Town's requirements. The onus fell on the applicant to modify the existing permit to include a change in footprint. Constructing a crossover is not replacing some deck boards, handrails, and stair treads. Indicating no change in footprint was incorrect. The degree of work performed was a change in footprint, indicated by driving pilings into the dune.

Mr. Wilson countered by offering that there had been pylons in the dunes before the damage from Hurricane Florence. Those had been removed, and this project was to repair the deck. Mr. Wilson mentioned the need for a means of egress.

Attorney Edes asked Mr. Wilson to ask questions of Ms. Hill in cross examination, to formulate any comments in question form.

Mr. Wilson acquiesced, noting that the Town required a deck permit application which was submitted, and explained that he had no further questions for Ms. Hill.

Attorney Edes asked Mr. Wilson for confirmation that Mr. Wilson had been asking Ms. Hill about the Notice of Violation regarding the failure to obtain zoning and any applicable flood permits.

Mr. Wilson confirmed, explaining that there was no need for a zoning permit as this project was not new construction, not building an addition of square footage to the home, nor was it changing the use of the structure.

Attorney Edes asked if the scope of work that was being performed was contained within the scope of work on the issued building permit.

Zoning Board of Adjustment Special Meeting June 28, 2023

Mr. Wilson replied yes, repairing the deck.

Planning Director Hill disagreed, as the authority with jurisdiction for the enforcement and interpretation of the UDO (United Development Ordinance) for zoning and development, and as the Planning Director of the Town of North Topsail Beach.

Attorney Edes asked what triggered the notice of violation for development without a permit. He asked Ms. Hill what development occurred that triggered the need for either a zoning and/or a flood permit.

Planning Director Hill explained it was shown in the evidence as contained in exhibits four and five, the photos showing two-by-four materials going across between the deck and the sandbags, laying across the sand dunes, as well as two-by-fours in the ground, with boards nailed together at the top.

Attorney Edes asked if that work was beyond the scope of work submitted for the building permit.

Planning Director Hill confirmed, adding that the Building Inspector also issued a Stop Work Order for what he considered inconsistency with the code, included in the evidence.

Mr. Wilson explained the Stop Work Order placement from his perspective.

Attorney Edes asked Mr. Wilson if the type of work described by Ms. Hill included in the scope of work on the building permit application.

Mr. Wilson answered that as he wrote it, repairing of the deck, yes. That was how he understood it. Mr. Wilson concluded his cross examination of Planning Director Hill.

Mr. Kuegel asked who submitted exhibits NTB-9 and NTB-10, the pictures showing a white railing and deck, and asked to ascertain the age of the photos, as they appear to be dated prior to Florence.

Planning Director Hill explained the photos were embedded in the body of the email from Mark Wilson.

Chair McCloud stated the photos were old.

Mr. Wilson stated that he did not take the photos, nor did he know when they were taken.

Mr. Kuegel asked Mr. Wilson if any of the crossover with the white railings existed the first time Mr. Wilson stepped onto the property.

Mr. Wilson stated that it was severely damaged. It was not safe to walk on. Mr. Wilson provided no evidence to support it.

Vice Chair Dorazio referred to the crossover shown on the survey dated April 12, 2022.

Chair McCloud read from Mr. Wilson's email, "We aren't doing a beach access, we're doing exactly what was listed on the CAMA permit and the building permit, simply repairing what is there to a similar manner. The back steps are landing on the dune and traversing the back of the house."

Chair McCloud noted that on NTB-9 and NTB-10 in the pictures there were no sandbags. The survey was on NTB-14. Exhibits NTB-4 and NTB-5.

Mr. Kuegel asked when the sandbags were installed, and do they stretch the whole length of the back of the house.

Mr. Wilson answered that the sandbags cannot be seen from the perspective of the photos taken from the beach. The sandbags were visible from the back door of the house looking down towards the ocean. Mr. Wilson stated that the sandbags extend the full width of the house, and he did not know when the sandbags were installed.

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Planning Director Hill stated that the beach crossover was present in the 2018 Onslow County Aerial. It was not there in the 2020 aerial, nor in the 2022 aerial.

Attorney Edes stated that the reason for the case is Ms. Hill's determination that the scope of work exceeded the original scope of work submitted on the building permit application. The evidence shows that a crossover was there in 2018, but not in 2020 or 2022.

Ms. Hill confirmed and explained that the Town issues separate beach access permits for beach crossovers. She noted the verbiage on the Stop Work Order "Apply. Need CAMA, zoning, building permit" signed by Ralph Allen on March 7<sup>th</sup>, 2023.

Vice Chair Dorazio pointed out that the new structure was nothing like the original structure. Attorney Edes invited Mr. Wilson to present evidence as to why Mr. Wilson felt as though Ms. Hill erred in the interpretation of the Town Codes sections listed in the notes of the violation. Mr. Wilson reiterated that the deck was significantly damaged, and he stated they were not doing a crossover because of the dune damage. Tina Martin of CAMA advised them to install a switchback such as in exhibit 9 with a landing then going back to the house. They applied for a beach access permit after Tina Martin issued two new CAMA permits. Mr. Wilson argued that he did not need a zoning permit as to his knowledge; he did not change the footprint. Mr. Wilson stated the beach access permit is pending the adjournment of the Board of Adjustment meeting. He expressed a willingness to do whatever.

Attorney Edes asked Mr. Wilson if he understood that there were three distinct violations from which he appealed.

Mr. Wilson confirmed.

Attorney Edes asked Mr. Wilson if any of the development encroached within five feet of the dune.

Mr. Wilson stated the doing the piers and the house itself as it sat was within five feet of the toe of the engineered berm.

Attorney Edes asked Mr. Wilson if any of the work performed on his behalf encroached within five feet of the toe of the dune.

Mr. Wilson stated that he had difficulty understanding the question. He stated that they did work on the berm.

Attorney Edes asked Mr. Wilson if he sought a zoning permit or a flood permit in connection with the work.

Mr. Wilson answered no.

Attorney Edes asked if any of the work performed went beyond the scope of work that was permitted by the building permit permitted.

Mr. Wilson stated to his knowledge, no.

Attorney Edes invited Mr. Wilson to have Mr. Riggs provide testimony relevant to the issues of the appeal.

Charles Riggs, 502 New Bridge Street, Jacksonville, spoke. He passed out new exhibits to the Board of Adjustment, and explained since the March 2023 meeting, he surveyed the property.

- Exhibit 32: Survey of the property dated April 6, 2023 showing the proposed beach access suggested by the Division of Coastal Management
  - Attorney Edes recommended the Board receive the exhibit into evidence without objection.

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- Exhibit 33: Enlargement of the beach access area from exhibit 32 - the April 6, 2023 survey showing the existing dwelling, the sandbags, the sandbag elevation, the proposed four-by-four landing, steps coming down, a four-by-five foot landing at the base, and post-and-rope going out to the beach. Mr. Riggs stated the remodeling that occurred stayed within the envelope of the house itself. Mr. Riggs stated that the sandbags are considered a berm and not a dune, although the Division of Coastal Management has begun referring to berms as starter dunes, they do not permit hardened structures across a berm. They do allow a mat (for municipalities) or post-and-rope fence on a crossover.
- Exhibit 34: Photograph taken on March 30, 2023 from the south toward the north or the west to the east at the existing covered deck and the sandbags along the dunes. The yellow flags indicated the first line of stable vegetation was on the landward toe of the sandbags, two or three feet off the ocean-side of the dwelling.
- Exhibit 35: Photograph taken from the east or north toward the west or south taken of the of the dune, or berm, and the sandbags.
- Exhibit 36: Exemption Number 18-23 signed by Tina Martin for Exempted Project – Maintenance and Repair of Existing Structures, which gave the applicant permission to proceed with maintenance and repair to the structure.

Attorney Edes asked Mr. Riggs if, as a land surveyor familiar with the CAMA permitting process, particularly with minor permits, if he agreed that those incorporate or make reference to that you may need to check with your local municipality to see if there are additional regulations that may apply.

Mr. Riggs agreed.

Attorney Edes asked Mr. Edes if, in his professional experience, he would agree that that because CAMA provided an exemption letter it did not, in and of itself alleviate the responsibility of the landowner to check with the local town for their local ordinances.

Mr. Riggs agreed and pointed out that verbiage on the last line of the exemption letter.

- Exhibit 37: Exemption Number 20-23 from Tina Martin addressing the redistribution of sand consistent with current rules, also stating that it does not alleviate the necessity of obtaining any state, federal, or local authorization, and North Carolina building permits.
- Exhibit 38: Agent Authorization for Mr. Riggs to speak on their behalf.

Mr. Riggs' presented the following points:

- He has surveyed this property since 2017.
- The preliminary survey in the original staff report included the existing structures, where the existing access was located, and a proposed structure showing the house moving landward toward the street.
- Mr. Wilson's proposed beach access was located within the center of the house as opposed to the exact location of the decking where it had been previously, however the proposed access was a smaller footprint.
- Mr. Riggs stated that he believed the Town's five-foot rule exempts beach accesses from damage.
- Mr. Riggs acknowledged that Mr. Wilson did damage the berm minimally, however the beach access is exempt from the five-foot rule.
- Mr. Riggs stated that it is a berm and not a dune.

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- Since their first meeting, Mr. Wilson has received all permits necessary to come into compliance.
- The survey was completed as requested.
- Along with the Division of Coastal Management, they agreed on a game plan for a proper beach access.
- At this point, they have performed in good faith to be compliant with the Town and would appreciate the Board's consideration in this matter. He didn't believe there was any malicious intent.

Attorney Edes asked about the dates of exhibits 36 and 37.

Mr. Riggs explained that both exhibit 36 and exhibit 37 are dated April 21<sup>st</sup>, 2023.

Attorney Edes asked Mr. Riggs if it was his understanding that the work that occurred within the five-foot buffer occurred prior to the issuance of those exemption letters.

Mr. Riggs noted that exhibit 36, exemption 18-23 is a renewal of a former exemption 18-21, and he did not know when that was issued. He continued stating he did not believe there was any disturbance within five-feet of the dune because it was a berm, and any disturbance that may have occurred within five-feet of the dune was beach access related. It was his opinion that a beach access is exempt from the rule.

Attorney Edes stated that he believed Mr. Riggs was referring to the provision of the ordinance, "No disturbance, no development, no structure shall be permitted within five feet of the landward toe of the dune 'dune buffer' except beach access crossovers as permitted"

explaining that he understood the difference between permitted and exempted. He believed that it was relevant when those exemptions were issued in relation to the notice of violation.

Mr. Wilson provided testimony that he did not have the exact date of the original CAMA permit, but he believed it was September of 2022.

Attorney Edes asked if that was prior to work being performed related to the beach crossover.

Mr. Wilson stated that it was issued prior to doing any work.

Attorney Edes asked Planning Director Hill if there was anything in the exhibits the Town introduced that would reflect the original issue of the state of a crossover exemption and if so, was that exemption for the same area where this crossover was going on the property.

Planning Director Hill offered NTB-1 "Application by Mark Wilson [Boike is a typo]" exemption number EX47-22 dated October 26, 2022, and stated that the site drawing and materials submitted with the CAMA application were August 26, 2022, listed on exhibit NTB-20.

Attorney Edes asked for confirmation that the staff report states the exemption letter was issued by CAMA in October 2022.

Planning Director Hill confirmed.

Attorney Edes asked if Ms. Hill prepared the staff report.

Ms. Hill confirmed.

The Board questioned Mr. Riggs.

Ms. Meyer asked where it was stated that sandbags are considered berms and not dunes, and when did the rule change allowing crossovers on sandbags.

Mr. Riggs responded that the position of the Division of Coastal Management was that they are berms, confirmed by the fact that no hardened structures are allowed to be built across them.

He only knew this specifically through experience with the Division of Coastal Management.

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This case was a privately owned lot, and they had the right to access the ocean with post-and-rope in a specific area.

Attorney Edes asked if Mr. Riggs had stated earlier that the Division of Coastal Management also called these starter dunes.

Mr. Riggs confirmed that he has seen that language used, in addition to berms.

Attorney Edes asked if Mr. Riggs had seen that the area contains vegetation.

Mr. Riggs confirmed, sparsely vegetated, yes.

Attorney Edes asked if Mr. Riggs agreed that the geotextile tubes or sandbags were covered by sand that had vegetation on top of them.

Mr. Riggs agreed, offering that his photos in exhibits 34 and 35 plainly show six inches to a foot of sand and some vegetation on the sandbags.

Attorney Edes asked if Mr. Riggs agreed or at least heard reference to that type of topographical feature as being a starter dune.

Mr. Riggs agreed, but mostly a berm, but they had started using the term starter dune.

Mr. Kuegel read from exhibit 20 “the CAMA representative did inform me on site, that it would be in my best interest not to keep the crossover, but to just keep the current switchback and a rope way down” and asked Mr. Wilson to explain the current switchback, with Mr. Wilson’s definition of a switchback; was there a switchback there when he wrote the email.

Mr. Wilson stated essentially, yes. Mr. Wilson continued to explain that when he wrote the email, nothing was there. The email was a rebuttal to the appeal.

Mr. Kuegel asked if they had torn the switchback out.

Mr. Wilson stated it was gone, his contractors removed it.

Ms. Meyer asked if it was part of the original footprint.

Mr. Wilson stated they are not doing a switchback; just the steps down to a landing and then post-and-rope going over.

Mr. Kuegel asked where in exhibit 5 were the stairs going down and were the posts shown supposed to be for a landing?

Mr. Wilson stated that was where the landing would have been with stairs going back toward the house.

Mr. Kuegel asked where the landing was in the original footprint in the evidence that Mr. Riggs provided.

Mr. Wilson explained that was going back in a similar manner to what was originally there before.

Chair McCloud asked for clarification between the original request for a walkway toward the beach, and the new request for a set of stairs and a landing, not a walkway.

Mr. Wilson stated that they wanted something different now than what they originally wanted in August.

Mr. Kuegel stated that this hearing was an appeal, not an application for a variance. He suggested the applicant apply for a permit for the new plans. The Board convened for an appeal to a violation of three Town Codes.

Mr. Riggs explained that as part of the appeal process, they were showing that it was their position they did not feel as though they violated some of the rules the Town was imposing. For example the proposed beach access, though it was changed, was still allowed under the Town’s



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rules and the minimal disturbance was based solely on beach access, not improvement of the envelope of the house. They were requesting an appeal on the citation.

Planning Director Hill offered they were requesting an appeal on the citation and asked if they sought approval on the proposed post and rope.

Attorney Edes stated that the Board could not approve what was presented; that was not before the Board of Adjustment.

Attorney Edes asked Mr. Wilson if the original switchback was actually constructed and then removed.

Mr. Wilson stated no, the cross braces for the pylons in NTB-5 was the extent of what was done.

Attorney Edes asked Mr. Wilson if he saw the vegetation in the picture on the neighboring lot close to the fascia board of the neighboring deck.

Mr. Wilson agreed.

Attorney Edes asked Mr. Wilson if he saw the configuration of the berm/starter dune north of this property and then down by the staple gun on the southern portion of the picture on top of a sandbag.

Mr. Wilson agreed.

Attorney Edes asked if Mr. Wilson had to clear down to the sandbags.

Mr. Wilson stated no.

Attorney Edes asked Mr. Wilson if it was his testimony that despite the appearance north of this property, there was no removal of sand or anything like that. That is just the way it was.

Mr. Wilson stated yes, sir. The maintenance of the dunes, the berms, the house, was not maintained by the previous owner.

Mr. Kuegel asked if Mr. Wilson added sand to the lot, or covered vegetation with sand.

Mr. Wilson stated no, the sand in the picture was from digging for the pylons.

Attorney Edes asked Mr. Wilson if the disturbed sand in the picture was disturbed from in and around that area.

Mr. Wilson agreed.

Planning Director Hill left the room at 7:14 p.m.

Attorney Edes asked Mr. Wilson if he saw the staple gun on exhibit 4.

Mr. Wilson confirmed he did.

Attorney Edes asked about the excavated hole next to the sandbag structure in the picture.

Mr. Wilson stated it was about five feet off that structure.

Attorney Edes asked to look straight up the picture to the two little holes of excavation in between the sandbags.

Planning Director Hill returned to the room at 7:16 p.m.

Mr. Riggs stated he believes the holes were dug for the proposed beach access.

Attorney Edes asked if the holes were dug by Mr. Wilson's people.

Mr. Wilson confirmed.

Attorney Edes asked if Mr. Wilson had to submit a configuration of a crossover to receive the exemption letter.

Mr. Wilson stated no.

Attorney Edes asked if Mr. Wilson had identified it as a switchback crossover or as a traditional type crossover to get the exemption letter.

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Mr. Wilson replied a switchback crossover.

Attorney Edes asked if the configuration presently was different from the switchback crossover.

Mr. Wilson confirmed.

Attorney Edes asked if Mr. Wilson had received an exemption letter for the new configuration.

Mr. Wilson confirmed.

Mr. Kuegel asked when Mr. Wilson received the new configuration exemption letter.

Mr. Wilson stated he believed April 21<sup>st</sup>.

Attorney Edes asked if Mr. Wilson's testimony was that the disturbance of the sandbags in exhibit 4 – was in connection with a crossover to be built pursuant to an exemption letter issued by the Division of Coastal Management.

Mr. Wilson replied a switchback, yes.

Attorney Edes asked if it was Mr. Wilson's position that a switchback is different than a crossover.

Mr. Wilson confirmed.

Mr. Edes asked if Mr. Wilson understood that the actual ordinance at issue refers to crossovers, not switchbacks.

Mr. Wilson stated that he did understand that.

Chair McCloud asked Attorney Edes for confirmation that the Board convened to discover whether Mr. Wilson violated the Town dune protection ordinance. Staff had stopped the work because of their belief that there was a violation of the ordinance.

Attorney Edes stated that was his understanding from the appellant himself, that his original exemption letter was for a switchback, which he acknowledged was different than a crossover. Subsequent to the March hearing, the appellant obtained an exemption for a crossover in April.

Mr. Wilson said that was misstated. The April CAMA exemption letter was for the repair of rear deck, stairs, and landing with post and rope dune crossing.

Attorney Edes asked if that was a crossover to the beach.

Mr. Wilson replied he didn't like to use the word crossover, because crossover implies a hardened structure going across over to the beachside. Post and rope would be walking over.

Attorney Edes mentioned that Mr. Riggs had pointed out the ordinance pertaining to crossovers, which did not say anything about switchbacks or post-and-rope, so it is a significant point.

Mr. Riggs replied that it is his opinion that a switchback can be part of a beach crossover.

Attorney Edes asked then why was there a need for a second exemption letter? There was an exemption letter issued in October of 2022, and according to Mr. Riggs exhibits 36 and 37 are two additional exemption letters, one of which was an extension of a previously issued exemption. What was the need for the third exemption letter?

Mr. Wilson agreed and stated that third exemption letter covers moving sand from the northeastern side of the property to strengthen the berm.

Attorney Edes answered Chair McCloud that according to testimony and staff's exhibits, there was in October 2022 an exemption letter for some sort of crossover structure and that was what they were there for. He asked what was the status on the date the notice of violation was issued. He encourages staff to work with citizens to explore a mutually agreeable solution to some issues. He confirmed that Chair McCloud was absolutely right, the question for the

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meeting's discussion was whether staff through Ms. Hill interpreted those three code sections correctly, based on what was going on at the time that the notices of violation were issued. Chair McCloud stated that an hour and a half was wasted talking about something not pertinent to the code violation, rebuilding of damaged dunes. Dunes, berm, it doesn't make any difference- one is a baby berm and then it becomes a dune. The terminology changed recently. When this ordinance was written, it was to prevent damage to the dunes. The Town is protecting our dunes, our people, our properties. The violation was ten thousand dollars because this was important to the whole ecosystem of our barrier island. We need to enforce our rules. Not knowing that another permit or exemption was needed has nothing to do with the damage of the dunes.

Mr. Riggs replied that their position was that any damage that was caused by the dune was caused in the attempt to build a beach access, and a beach access is exempt from the five-foot rule.

Mr. Kuegel asked if it was Mr. Riggs' opinion that the beach access which was trying to be built was permitted.

Mr. Riggs replied that he was not sure of that. He was not involved at the time, but a portion of it appears to be permitted. He stated he was not sure, as the holes which were dug could have been for post-and-rope. Any disturbance was for the beach access, based upon the exemption letter received earlier.

Vice Chair Dorazio stated that on the exemption letter it still states you have to get a local permit.

Chair McCloud added which was never done.

Mr. Kuegel added that the other exemption letter says "in order to minimize impacts to sea turtles anywhere occurring between April 1 and November 15<sup>th</sup> shall require review from US Fish and Wildlife" so there was another stipulation on another exemption letter.

Mr. Wilson presented his closing arguments that it was an existing home remodel, no zoning permit was required. He was going off of Coastal Management's definition of the engineered berm, until it has established vegetation it is still considered an engineered berm. He understood the point of calling it a dune. At the end of the day, words have meaning. What crime are you being charged with. Dunes as defined by Coastal Management have established vegetation. In his case, he didn't have established vegetation. His intent was to do the beach access and with the third exemption letter reinforce that berm to strengthen the ecosystem in the dunes. With his scope of work repairing the deck, if something would have been caught, he would have fixed it. He just carried on, and called in inspections as needed.

Attorney Edes advised the Board to proceed to deliberations and explained the procedure.

Ms. Meyer asked if Building Inspector Allen ever lifted the stop order.

Mr. Wilson answered that it was still posted.

The Board of Adjustment discussed the stop work order and violations.

Attorney Edes recommended discussing the three violations one by one.

There was discussion.

It was clarified there were four violations to address:

- §10.07.02 REBUILDING OF DAMAGED DUNES
- §10.02.01 DEVELOPMENT WITHOUT A PERMIT
- §10.02.02 DEVELOPMENT INCONSISTENT WITH A PERMIT

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- §10.02.03 VIOLATION OF CONDITIONS IMPOSED

§10.07.02. Ms. Kuegel made a motion to affirm staff’s decision I don’t see any errors. Mr. Morse seconded the motion. Motion unanimously approved, 5-0, as follows:

<u>Roll call</u>	<u>Vote</u>
Vice Chair Dorazio	Aye
Chair McCloud	Aye
Mr. Morse	Aye
Mr. Kuegel	Aye
Ms. Meyer	Aye

§10.02.01 Mr. Kuegel made a motion that we affirm the staff’s decision. Mr. Dorazio seconded the motion. Motion unanimously approved, 5-0, as follows:

<u>Roll call</u>	<u>Vote</u>
Ms. Meyer	Aye
Mr. Kuegel	Aye
Mr. Morse	Aye
Chair McCloud	Aye
Vice Chair Dorazio	Aye

§10.02.02 Mr. Morse made a motion we affirm staff’s decision. Mr. Kuegel seconded the motion. Motion unanimously approved, 5-0, as follows:

<u>Roll call</u>	<u>Vote</u>
Vice Chair Dorazio	Aye
Chair McCloud	Aye
Mr. Morse	Aye
Mr. Kuegel	Aye
Ms. Meyer	Aye

§10.02.03 Ms. Meyer moved that we affirm the Town’s decision. Mr. Morse seconded the motion. Motion unanimously approved, 5-0, as follows:

<u>Roll call</u>	<u>Vote</u>
Vice Chair Dorazio	Aye
Chair McCloud	Aye
Mr. Morse	Aye
Mr. Kuegel	Aye
Ms. Meyer	Aye

Attorney Edes explained that with staff he would draft an order consistent with the votes.

The Board of Adjustment recessed at 7:43 p.m.

The Board of Adjustment returned at 7:51 p.m.

NEW BUSINESS

CASE #AA23-000004: Appeal by Capital Asset Topsail Development LLC

Attorney Edes Attorney Edes reminded the Board of Adjustment that the case was an appeal from a final staff decision on §10.07.02 Rebuilding of Damaged Dunes, for a property located at

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402 New River Inlet Road, North Topsail Beach, North Carolina, for a citation issued March 28, 2023. He stated that Mr. Plaford had agreed that the same stipulations apply to this hearing. Attorney polled the Board of Adjustment regarding their roles as impartial decision makers. He asked the Board if anyone had any basis that would prevent them from being fair and impartial to base their votes solely on the competent evidence produced during the hearing. All Board members replied no.

Attorney Edes reviewed the quasi-judicial hearing process.

Clerk Winzler swore in appellant Chris Plaford, surveyor Charles Riggs, and Planning Director Deb Hill.

Planning Director Hill reviewed subject matter and entered into evidence exhibits NTB-1 through NTB-17, PLAINTIFF'S EXHIBIT 1 through PLAINTIFF'S EXHIBIT 21. Ms Hill added Exhibit NTB-17 the zoning permit for the swimming pool at 402 New River Inlet Road.

Attorney Edes asked Mr. Plaford if he had any objections to the Town's exhibits 1-17 coming into evidence for this hearing, or any objections to his own exhibits 1-21.

Mr. Plaford responded no.

Attorney Edes recommended the Board receive North Topsail Beach exhibits 1-17 into evidence without objection and the appellant's exhibits 1-21 into evidence without objection.

Ms. Meyer brought up a point of clarification, noting that the zoning permit exhibit was labeled NTB-5, when there was already an NTB-5 in the packet.

Planning Director Hill stated the zoning permit exhibit should be labeled NTB-17.

Attorney Edes recommended that the Board receive 1-17 from North Topsail Beach and 1-21 from the appellant into evidence without objection.

Chair McCloud stated yes.

Planning Director Hill stated that the appellant completed the dune remediation within twenty-four hours of the March 28<sup>th</sup>, 2023 email. She met with Mr. Riggs, Philip Norris, and Building Inspector Ralph Allen. It was an immediate response.

Mr. Kuegel left the room at 8:11 p.m.

Mr. Kuegel returned to the room at 8:11 p.m.

Mr. Kuegel asked Planning Director Hill if the pool itself was not in violation.

Ms. Hill confirmed that the pool was properly permitted with a safety net in place. The grading of the lot went a little too close to the dune. The pool meets the five-foot buffer.

Mr. Kuegel asked if the mediation meant it was put back like it was.

Ms. Hill confirmed.

Mr. Kuegel asked if there was an evidence photo of the meditation.

Attorney Edes explained that the proper term was remediation.

Mr. Kuegel agreed.

Ms. Hill answered that PLAINTIFF'S EXHIBIT 19, PLAINTIFF'S EXHIBIT 20, and PLAINTIFF'S EXHIBIT 21 were taken on March 29, 2023 the day after the notice was issued.

Mr. Kuegel asked what spurred the complaint.

Ms. Hill responded the Building Inspector was driving by, saw it, called her, and she responded.

Vice Chair Dorazio asked on PLAINTIFF'S EXHIBIT 17 what the two pink flag survey stakes were marking in the dune.

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Ms. Hill stated she would have to let Mr. Riggs answer that question. She believed that they indicated the agreed upon location of the toe of the dune. Mr. Hill stated that it showed up best in PLAINTIFF'S EXHIBIT 21.

Attorney Edes recommended that the Board hear that directly from Mr. Riggs.

Charles Riggs, 502 New Bridge Street, Jacksonville received a packet from the Board and passed out an additional packet of documents on behalf of the appellant.

Attorney Edes asked if they could agree that Mr. Riggs' submittal in its aggregate be called PLAINTIFF'S EXHIBIT 22.

Mr. Riggs agreed.

Attorney Edes recommended that the Board accept into evidence PLAINTIFF'S EXHIBIT 22 without objection.

Chair McCloud agreed.

Mr. Riggs continued stating that he was speaking on behalf of Mr. Plaford who was in attendance.

Attorney Edes corrected Mr. Riggs, stating that in North Carolina, it was a quasi-judicial hearing, so Mr. Riggs may not practice law. Mr. Riggs was allowed to provide testimony relevant to his client's appeal.

Mr. Riggs agreed. He continued that they were there to explain that any disturbance that occurred on the property, they felt was permitted. Mr. Riggs had surveyed the property from 2017 up until Mr. Plaford purchased the property under Capital Assets Development. PLAINTIFF'S EXHIBIT 2 is a June 1, 2022 survey showing the boundary survey and preliminary plot plan that reflects the vehicles, proposed dwelling, proposed pool, proposed beach access, and the first line of vegetation as flagged by the Division of Coastal Management. PLAINTIFF'S EXHIBIT 3 is the same survey that was revised to reflect the landward toe of the dune, dated June 27, 2022. That survey was used to receive the existing CAMA permit 43-22 as illustrated on PLAINTIFF'S EXHIBIT 5-7. It permits the residence and all improvements including the pool. PLAINTIFF'S EXHIBIT 8 should be the building permit issued on August 19, 2022 [correction: this document is PLAINTIFF'S EXHIBIT 22 page 6]. PLAINTIFF'S EXHIBIT 9 is a survey Mr. Riggs prepared dated June 27, 2023 [correction: this document is PLAINTIFF'S EXHIBIT 22 page 7] this is the same survey they had prepared the previous year, with the exception that it is showing the existing dwelling because it is under construction, and the existing pool. It illustrates the proposed beach access which had not been built yet. The green line shown is the landward toe of the dune from June of 2022. The blue line is the landward toe of the dune on March 28, 2023. This area of sand dune shifted ten feet closer to the street than the dune that was permitted by CAMA and the building permit for the house and the pool using the June 2022 survey. PLAINTIFF'S EXHIBIT 10 [correction: this document is PLAINTIFF'S EXHIBIT 9] is an enlargement of that: the existing pool, the green line of June 27, 2022 and the blue line landward toe in March 29, 2023.

Attorney Edes correctly identified that document as PLAINTIFF'S EXHIBIT 9.

Mr. Riggs agreed. The blue line was based on when the Town of North Topsail Beach came to the site for the dune disturbance. Mr. Riggs did not think the dune had been disturbed because he had surveyed it a year before. Mr. Riggs located that line and illustrated it, it was staked and the photographs show that it was restored. Mr. Riggs stated that it was his opinion, based on the evidence, that they did not disturb the landward toe of the dune because all their permits

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were based on a previous landward toe of the dune. Mr. Riggs explained that CAMA permit 43-22 was issued on 07/05/2022, the building permit was issued 08/19/2022, the 5' rule was adopted 09/07/2022, and the pool permit was issued 11/17/2022.

Mr. Riggs reviewed the following PLAINTIFF'S EXHIBITS:

- PLAINTIFF'S EXHIBIT 10 Photograph from previous survey work on the property, April 3, 2019 at 12:08. The two stakes are the first stable line of stable vegetation on that day. The shorter one labeled 1006 was Mr. Riggs' stake, the taller weathered wood was staked by Division of Coastal Management. It shows how flat the lot is, and the toe of the dune is right near the dune itself.
- PLAINTIFF'S EXHIBIT 11 Photograph from April 19, 2022 showing Division of Coastal Management's first line of vegetation flag. You can see how the dune has progressed, however the toe of the dune is only a few feet away from the first line. You get a perspective of where the toe of the dune is based on the adjoining property.
- PLAINTIFF'S EXHIBIT 12 Photograph from July 20, 2022 at 12:05 shows how flat the lot is and the approximate location of a dwelling with the wood stakes. You can see the toe of the dune using the adjoining property to gain a perspective of where it is.
- PLAINTIFF'S EXHIBIT 13 Photograph of the same lot showing the access to the left, people walking across the lot, the sharpness of how quickly the dune comes down on the landward side. The stakes are the proposed dwelling.
- PLAINTIFF'S EXHIBIT 14 a photograph taken on March 28, 2023 16:14, 4 o'clock in the afternoon. It shows the safety fence around the pool, the dune itself, and the disturbance that has happened. To get a perspective, you can see the latticework and the toe of the dune on the adjoining lot versus where it is on this lot and comparing it with the previous photos, you can see that the disturbance, in his opinion, was a valid activity because they based it off the permitted toe of the dune from the previous year.
- PLAINTIFF'S EXHIBIT 15 Photograph from March 28, 2023 showing where the previous toe of the dune was staked a year earlier. The dunes were man-made without a lot of vegetation at the time, so a lot of sand sloughed off quicker than if there had been existing vegetation. It was a good illustration of what was disturbed versus the previous toe of the dune.
- PLAINTIFF'S EXHIBIT 16 Photograph from the same perspective.
- PLAINTIFF'S EXHIBIT 17 Photograph from a different angle showing the disturbance and then the toe of the dune.
- PLAINTIFF'S EXHIBIT 18 Photograph from March 28, 2023 same stakes with the original toe of the dune and the disturbance.
- PLAINTIFF'S EXHIBIT 19 Photograph taken on March 29th, 2023 at 9:47 in the morning. It shows the land disturbing activity, the wood stakes for the planned decking around the existing pool, and the land disturbance.

Chair Dorazio remarked at how the dune built up that high in one year.

Mr. Riggs admitted he was surprised.

- PLAINTIFF'S EXHIBIT 20 darker but the same, the photograph reflects the wood stakes where the concrete will end around the pool. The red flags are the disturbance from March 28<sup>th</sup>, 2023.

## Zoning Board of Adjustment Special Meeting June 28, 2023

- PLAINTIFF'S EXHIBIT 21 photograph different angle, different side. It shows the disturbance, the pool, and the dune.

Mr. Riggs explained that it was their position that the disturbance was based off permits they had in hand. The CAMA permit, building permit, and pool permit all used his survey from June of 2022, which showed the toe of the dune in a certain location. Their position was that they were right. They immediately repaired it knowing the Town was upset about it. He stated his appreciation for the Board's consideration in their appeal of this decision about the citation. He stated that he thinks the Town of North Topsail Beach needs to consider the issue that when permits are granted based off previous surveys and nine months later conditions change, what is the proper procedure. He expressed that he felt like they were vested in the permits they had and did the proper thing.

Mr. Kuegel asked what the red shaded area was on PLAINTIFF'S EXHIBIT 9.

Mr. Riggs explained it reflected the amount of disturbance that occurred within the toe of the dune.

Mr. Kuegel asked for an approximation of that width.

Mr. Riggs answered 2.1 feet by 37 feet and totaled 51.6 square feet. It was not their intent to violate the rules, they felt as if they were within the rules at the time.

Mr. Morse asked Planning Director Hill if there was an expiration date on permits.

Ms. Hill replied a building permit expires after six months if there is no activity. A zoning permit expires after either six months or a year.

Mr. Morse asked if the pool would be able to be installed in the same location if it was applied for last month.

Ms. Hill replied there was more than a five-foot buffer, so the pool itself would not have been an issue.

Mr. Morse asked based on the previous survey and the permitting process if there was an adjustment or a precedence for how citations are issued, considering dune movement.

Mr. Kuegel asked if this was the first time this was an issue.

Ms. Hill stated that this was the first time that this circumstance had occurred, where they pulled the permits and did what they were supposed to do.

Mr. Morse explained he wanted to be firm and consistent.

Ms. Hill explained that is why there is a Board of Adjustment for the appeal process.

Mr. Riggs stated it was important that the Board know they were fully permitted before the ordinance came into effect.

Mr. Kuegel asked if the same issue would come before the Board when they install the fence and the concrete.

Mr. Riggs stated that they had the fence and the pool permits from the Town and CAMA, before the ordinance came into effect.

Attorney Edes asked Mr. Riggs to clarify, as he believed Mr. Riggs stated that the pool permit was issued after the ordinance.

Mr. Riggs replied that the Town may have permitted the pool after, but the CAMA permit did permit the pool prior.

Attorney Edes stated that CAMA's permit contemplates and requires the permittee to get any applicable local, in this case, North Topsail Beach permits.

Mr. Riggs agreed.



Zoning Board of Adjustment Special Meeting June 28, 2023

Attorney Edes stated he understood that they had the building permit before the ordinance was adopted, in September of 2022. The pool permit was applied for and obtained after the ordinance was adopted.

Mr. Riggs stated based on the submittal he had received earlier in the evening, the issuance date was November 17, 2022. The application date looks like October 5, 2022.

Attorney Edes pointed out that both were after September 7, 2022.

Mr. Riggs agreed.

Attorney Edes asked if there was an application requirement to show the toe of the dune.

Ms. Hill confirmed.

Mr. Riggs confirmed, stating that it was shown on the survey of June 27<sup>th</sup>, 2022.

Attorney Edes asked if Mr. Riggs had submitted that survey for the pool permit.

Mr. Riggs confirmed it was the same survey submitted for the CAMA permit and the building permit.

Mr. Kuegel asked if the concrete and the fence would be installed within the same area of disturbance.

Ms. Hill stated that she did not think it would be.

Attorney Edes stated that he believed it was beyond the scope of the hearing. A future potential violation would not bear on whether a violation has occurred. He acknowledged Mr. Kuegel's point.

Planning Director Hill asked Mr. Riggs if he had a copy of the plat submitted with the pool application.

Mr. Riggs answered that he did not submit the pool application, but it was more than likely the survey submitted with the CAMA application.

Mr. Kuegel stated that the pool as it sat was not an issue, and the permitted pool features were permitted.

Attorney Edes stated that would be dealt with if it occurred, but for the purpose of this meeting it was not material.

Mr. Riggs stated their position was that any disturbance was in good faith and only occurred because they used the plans as it was permitted.

Attorney Edes stated that the permit is relevant, but the future potential violation is not. If Mr. Riggs' survey was submitted in connection with the pool permit then the Town approved that permit based on that survey, but based upon Mr. Riggs' testimony the landward toe of the dune moved ten feet to where it is today.

Mr. Riggs explained that the pool permit was issued in November, and the disturbance occurred in March.

Chair McCloud explained that a storm in March changed the dune again.

There was discussion among the Board.

Vice Chair Dorazio explained that he sees survey stakes being placed five feet away from the toe of the dune for current projects, leaving no question.

Mr. Riggs explained that he suggests that his clients place the silt fence there, so there won't be any disturbance beyond there.

There was discussion.

Mr. Kuegel asked Attorney Edes if the Board could modify a staff decision on an appeal.

Attorney Edes confirmed that it must be a rationally based modification.

Zoning Board of Adjustment Special Meeting June 28, 2023

Appellant Chris Plaford explained that the pool sits where it sits today, but where they were clearing toward was to include the decking that was permitted to go around the pool.

Mr. Morse added that it was based on the original survey and the original stakes in the ground.

Mr. Plaford confirmed.

Mr. Kuegel asked if it was permitted, why were they there.

Ms. Meyer stated because Planning Director Hill had to go by what the rules are now.

Mr. Kuegel asked about the installation beyond the pool, if the remediation was outside the envelope of the features that would go around the pool.

Mr. Riggs stated that he felt it would.

There was discussion.

**Ms. Dorazio made a motion to reverse it. Mr. Morse seconded the motion. Motion unanimously approved, 5-0, as follows:**

<u>Roll call</u>	<u>Vote</u>
Vice Chair Dorazio	Aye
Chair McCloud	Aye
Mr. Morse	Aye
Mr. Kuegel	Aye
Ms. Meyer	Aye

Attorney Edes stated that he, along with staff would draft an order reflecting this vote.

DISCUSSION

Planning Director Hill explained that the Planning Board and Board of Adjustment were short and need volunteers.

There was discussion.

**ADJOURNMENT Mr. Dorazio made a motion to adjourn. Mr. Morse seconded. Motion passed 5-0.**

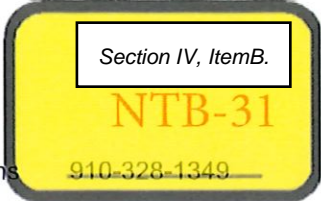
The Zoning Board of Adjustment meeting adjourned at 9:02 p.m.

APPROVED  
This 24th day of January 2024

CERTIFIED  
This 24th day of January 2024

\_\_\_\_\_  
Hanna McCloud  
Chair

\_\_\_\_\_  
Kate Winzler  
Clerk



# Town of North Topsail Beach

208 Loggerhead Ct  
North Topsail Beach, NC 28460

Inspections 910-328-1349

## BUILDING PERMIT

Res/Com/Ind: Single Family

Permit#: **B22-000019 MODIFIED**  
Property Address: 4122 ISLAND DR  
Subdivision:

Application Date: 10/27/2022  
Issued By: 03/31/2023  
Flood Zone:  
Map / Parcel: 769-2  
Lot#: Unit#:

Owner:  
CEDAR HOMES INVESTMENTS LLC  
4122 ISLAND DR  
N TOPSAIL BEACH, NC 28460-8214  
Phone: 5402878780

Contractor:  
Triton Homes, LLC  
306 Plantation Rd.  
Goldsboro, NC 27530  
Phone: (919) 394-7282

License#: 100290

Type of Structure: Secondary Residence  
Class of Construction: Renovation Permit  
# Bedrooms: 4  
# Bathrooms: 3

Estimated Cost: \$0.00  
Heated Sq/Ft: 2323.00  
Unheated Sq/Ft: 0.00  
Total Sq/Ft: 2323.00

---Attached Trade Permits---  
Electrical Plumbing Mechanical

Renovation of 2156 square foot single-family residence: replacing Windows, Roof, Repairing deck, new cabinets and countertops, flooring, paint, lighting, and plumbing fixtures. Bringing electrical to code. Adding insulation to walls and attic. replacing existing mechanical systems. Setting tubs/showers for 3 bathrooms with toilets, fixtures, and a water heater. Replace some deck boards, handrails and stair treads- no change in footprint. Owner exemption affidavit pursuant to G.S. 87-14 (a) (1) signed and notarized 11/15/2022. Approval condition: "Please be advised that we may need to make another determination if you elect to perform work other than that described and defined in your current permit application, including additional renovations or upgrades or the building of an addition. Construction activities that are undertaken without a proper permit are violations and may result in citations, fines, the removal of the non-compliant construction, or other legal action." 3/30/23 Property owner Chad Bell general contractor change request from property owner to a licensed North Carolina General Contractor: Triton Homes, LLC NC license #100290.

### Additional Comments

Residential Insulation Technology Fee\$5.00Residential Insulation Trade Fee\$70.00Residential Plumbing Technology Fee\$5.00Residential Plumbing Trade Fee\$70.00Residential Mechanical Technology Fee\$5.00Residential Mechanical Trade Fee\$70.00Residential Electrical Technology Fee\$5.00Residential Electrical Trade Fee\$70.00Residential Technology Fee\$5.00Residential Building Fee\$70.00

Fee	Description	\$Total
-----	-------------	---------

Payment Date	Type	Receipt#	Reference	Paid By	\$Paid Amount
11/22/2022	Credit	635	252178987	Cedar Homes Investments, LLC	(\$375.00)

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.

Applicant Signature: \_\_\_\_\_ Date: 10/27/2022

Issued By:  Date: 03/31/2023

Exhibit 32

Section IV, Item B.

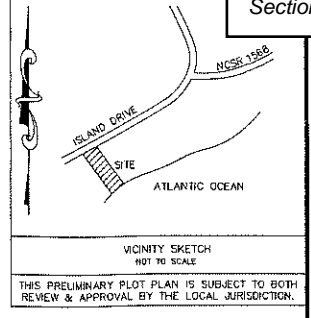
J. CHARLES FRANCES RIGGS, PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY AS SHOWN HEREON IN ACCORDANCE WITH THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA. THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS  $1/200,000$ .

*[Signature]* 04/06/23  
 CHARLES FRANCES RIGGS P.L.S., REG. NO. 2981  
 U2981

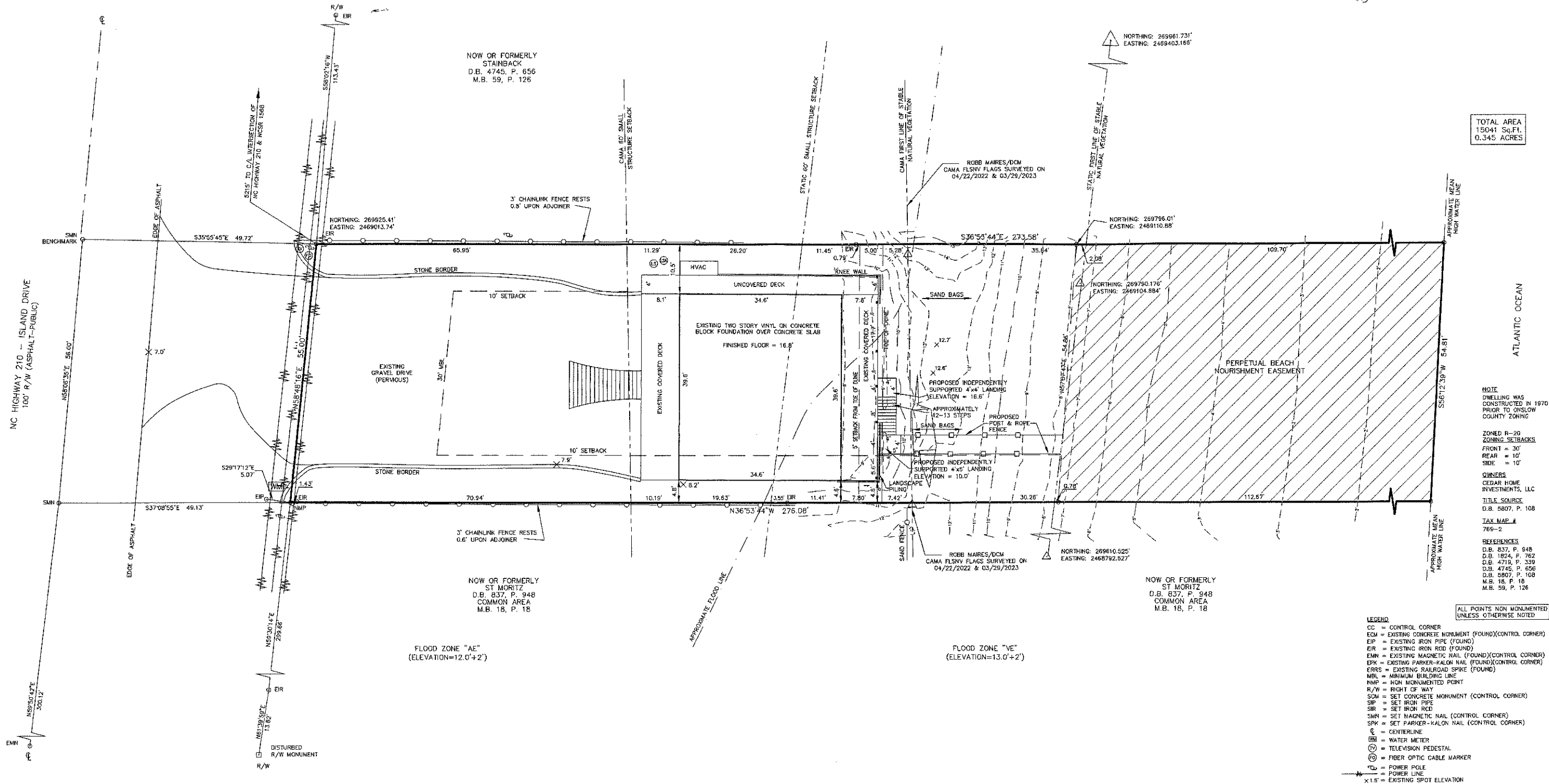
THIS IS TO CERTIFY THAT THE PROPERTY IS LOCATED IN FLOOD ZONE VARIES. THE PROPERTY IS A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND THE NATIONAL FLOOD INSURANCE PROGRAM. COMMUNITY PANEL NUMBER 370486, 372042680K, JUNE 19, 2020.

EXISTING DWELLING WITHOUT EAVES	=	1989 Sq.Ft.
EXISTING PERVIOUS GRAVEL DRIVE	=	0 Sq.Ft.
PROPOSED LANDINGS	=	0 Sq.Ft.
PROPOSED TOTAL IMPERVIOUS SURFACE	=	1989 Sq.Ft.
TOTAL LOT AREA	=	15041 Sq.Ft.
PROPOSED IMPERVIOUS AREA	=	13.2%

NOTE  
 BENCHMARK: SMN  
 NORTHING: 269965.66'  
 EASTING: 2468884.57'  
 ELEVATION: 6.67'  
 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



THIS AREA NOT ELIGIBLE FOR FEDERAL FLOOD INSURANCE AS OF OCTOBER 1, 1993



TOTAL AREA  
 15041 Sq.Ft.  
 0.345 ACRES

NOTE  
 DWELLING WAS CONSTRUCTED IN 1970 PRIOR TO ONSLOW COUNTY ZONING

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

OWNERS  
 CEDAR HOME INVESTMENTS, LLC  
 TITLE SOURCE  
 D.B. 5807, P. 108

TAX MAP #  
 766-2

REFERENCES  
 D.B. 837, P. 948  
 D.B. 1924, P. 762  
 D.B. 4718, P. 339  
 D.B. 4745, P. 656  
 D.B. 5807, P. 108  
 M.B. 58, P. 18  
 M.B. 59, P. 126

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)  
 MIP = MINIMUM BUILDING LINE  
 NMP = NON MONUMENTED POINT  
 R/W = RIGHT OF WAY  
 SOM = 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  
 WB = WATER METER  
 TP = TELEVISION PEDESTAL  
 FCM = FIBER OPTIC CABLE MARKER  
 PL = POWER POLE  
 P = POWER LINE  
 X1.5' = EXISTING SPOT ELEVATION

GRAPHIC SCALE  
 0 10 20 30 40  
 ( IN FEET )  
 1 inch = 10 ft.

BOUNDARY & TOPOGRAPHIC SURVEY & PRELIMINARY PLOT PLAN  
 FOR  
**CEDAR HOMES INVESTMENTS, LLC**  
 TRACT AS DESCRIBED IN D.B. 5807, P. 108  
 STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA  
 CEDAR HOMES INVESTMENTS, LLC, OWNER, D.B. 5807, P. 108  
 4122 ISLAND DRIVE

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

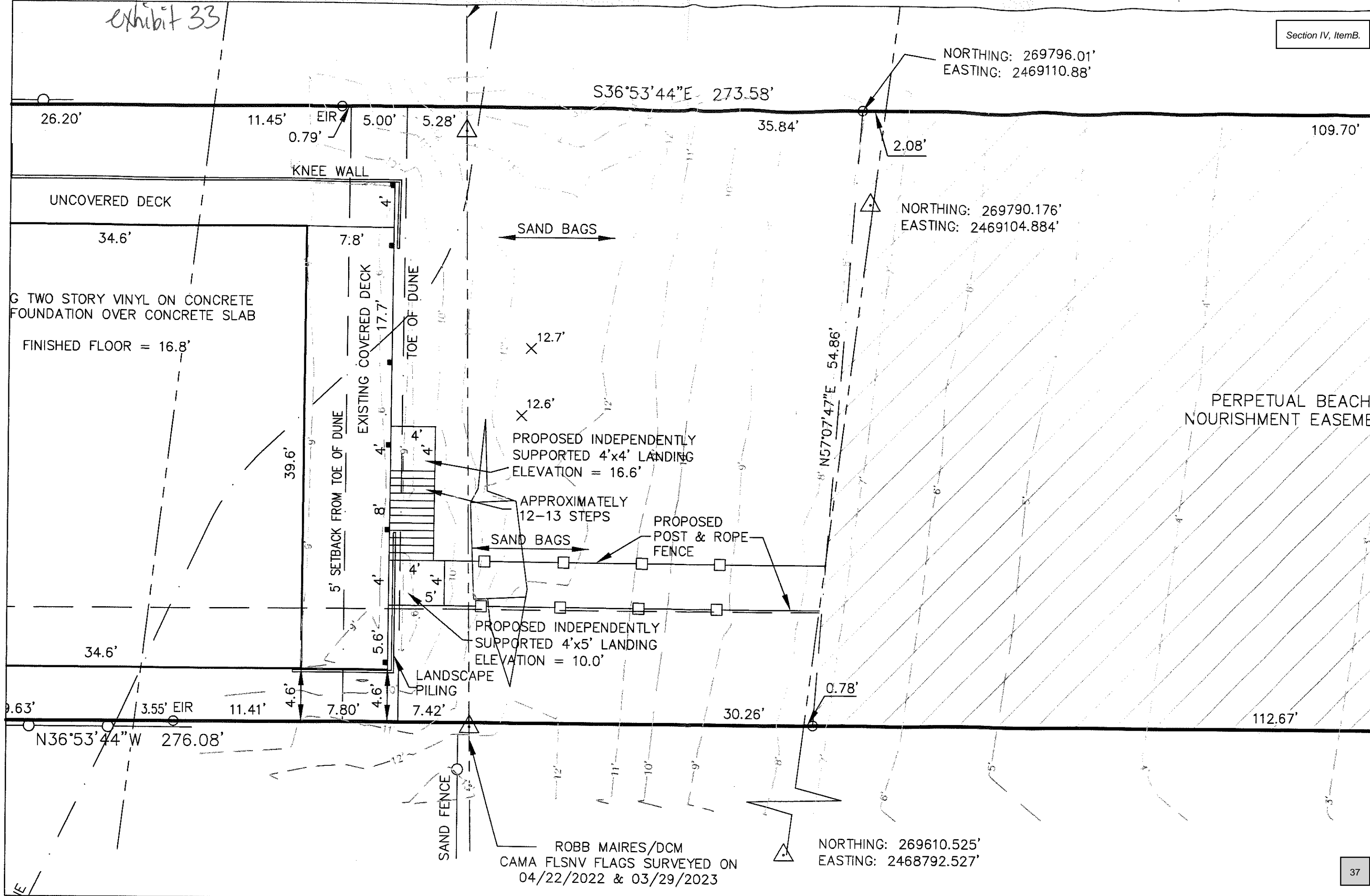
502 NEW BRIDGE STREET  
 P.O. BOX 1570  
 JACKSONVILLE, NC 28540-1570  
 TELEPHONE: (910) 455-0877  
 E-MAIL: riggsland@riggslandnc.com

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

ACTUAL FIELD SURVEY DATE: MARCH 29, 2023  
 MAPPING DATE: APRIL 06, 2023  
 FIELD BOOK: 1010, PAGE: 15  
 PROJECT NUMBER: 23-03-27 JTG

Exhibit 33

Section IV, Item B.



NORTHING: 269796.01'  
EASTING: 2469110.88'

S36°53'44"E 273.58'

NORTHING: 269790.176'  
EASTING: 2469104.884'

PERPETUAL BEACH  
NOURISHMENT EASEMENT

N57°07'47"E 54.86'

NORTHING: 269610.525'  
EASTING: 2468792.527'

ROBB MAIRES/DCM  
CAMA FLSNV FLAGS SURVEYED ON  
04/22/2022 & 03/29/2023



03/30/2023 09:54

Exhibit 104



03/30/2023 09:57

adhibit 35

exhibit 34

ROY COOPER  
Governor  
ELIZABETH S. BISER  
Secretary  
BRAXTON DAVIS  
Director



April 21, 2023

Exemption Number – EX 18-23

Cedar Home Investments, LLC  
4122 Island Drive  
North Topsail Beach NC 28460

**RE: EXEMPTED PROJECT (Statutory Exclusion) - MAINTENANCE AND REPAIR OF EXISTING STRUCTURES - [G.S. 113-103(5)(B)(5) and [15A NCAC 7K.0103(a)] Renewed Former Exemption 18-21**

**PROJECT ADDRESS – 4122 Island drive  
AREA OF ENVIRONMENTAL CONCERN – Ocean Hazard AEC**

Dear Cedar Home Investments:

I have reviewed the information submitted to this office in your inquiry concerning the necessary filing of an application for a minor development permit under the Coastal Area Management Act. After making a site inspection on 3/29/2023, I have determined that the activity you propose is exempt from needing a minor development permit as long as it remains consistent with your site drawing and materials list submitted on 4/6/2023, and meets the conditions specified below. If your plans should change and your project will no longer meet these conditions, please contact me before proceeding.

**MAINTENANCE AND REPAIR – [G.S. 113-103(5)(B)(5) and 15A NCAC 7K.0103(a)]** - Maintenance and repairs (excluding replacement) necessary to repair damage to structures caused by the elements are specifically excluded from the definition of development under the conditions and in the circumstances set out in G.S. 113A-103(5)(b)(5). Individuals required to take such measures within an AEC shall contact the local CAMA representative for consultation and advice before beginning work.

Structures may be repaired in a similar manner, size and location as the original structure. No expansions or additions are permissible. The repairs are limited to 50% of the market value of the existing structure and the following specific conditions.

1. The project consists of the repair of Rear Deck Stairs with landing and post and rope dune crossing.
2. The proposed repairs shall be consistent with all other applicable local ordinances and North Carolina Building Code standards.
3. No expansions or enlargements of any kind are authorized by this permit. All work must occur in the original footprint.
4. No other work is authorized by this exemption letter.

This exemption to CAMA permit requirements does not alleviate the necessity of your obtaining any other State, Federal or Local authorization and N.C. Building Permits. This exemption expires 90 days from the date of the letter.

Sincerely,

Tina Martin  
NC Division of Coastal Management  
400 Commerce Ave.,  
Morehead City, NC 28557





ROY COOPER  
Governor  
ELIZABETH S. BISER  
Secretary  
BRAXTON DAVIS  
Director



April 21, 2023

Exemption Number – EX 20-23

Cedar Home Investments, LLC  
4122 Island Drive  
North Topsail Beach NC 28460

**RE: REDISTRIBUTION OF SAND CONSISTENT WITH CURRENT RULES[15A NCAC 07K .0103(c)]**

**PROJECT ADDRESS – 4122 Island drive  
AREA OF ENVIRONMENTAL CONCERN – Ocean Hazard AEC**

Dear Cedar Home Investments:

I have reviewed the information submitted to this office in your inquiry concerning the necessary filing of an application for a minor development permit under the Coastal Area Management Act. After making a site inspection on 3/29/2023, I have determined that the activity you propose is exempt from needing a minor development permit as long as it remains consistent with your site drawing and materials list submitted on 4/6/2023, and meets the conditions specified below. If your plans should change and your project will no longer meet these conditions, please contact me before proceeding.

**MAINTENANCE AND REPAIR – [15A NCAC 7K .0103(c)]:** Redistribution of sand that results from storm overwash or aeolian transport around buildings, pools, roads, parking areas and associated structures is considered maintenance so long as the sand remains within the Ocean Hazard AEC.

1. The project consists of removing excess sand from 4122 Island Drive.
2. This exemption allows for relocated sand to be used in the repair of storm damaged dunes;
3. Existing primary and frontal dunes shall not be broadened or extended in an oceanward direction beyond pre-storm dimensions;
4. Redistribution of sand shall be accomplished in such a manner that damage to existing vegetation is minimized;
5. Accumulated sand containing storm debris shall be sifted or have all debris removed prior to redistribution within an Area of Environmental Concern;
6. In order to minimize adverse impacts to nesting sea turtles, any work occurring within the period of April 1 through November 15 shall require review from the US Fish & Wildlife Service and North Carolina Wildlife Resource Commission.

This exemption to CAMA permit requirements does not alleviate the necessity of your obtaining any other State, Federal or Local authorization and N.C. Building Permits. This exemption expires 90 days from the date of the letter.

Sincerely,

Tina Martin  
NC Division of Coastal Management  
400 Commerce Ave.,  
Morehead City, NC 28557



exhibit 38

CHARLES F. RIGGS & ASSOCIATES, INC.

Land Surveyors

Charles F. Riggs, P.L.S. L-2981  
502 New Bridge Street  
Jacksonville, North Carolina 28540  
(910) 455-0877  
charlesriggs@riggslandnc.com

Corporate License (C-730)  
502 New Bridge Street  
P.O. Box 1570  
Jacksonville, North Carolina 28541  
(910) 455-0877

James A. Lewis, P.L.S. L-4562  
Landfall Executive Suites  
1213 Culbreth Drive  
Wilmington, North Carolina 28405  
(910) 681-7444  
jameslewis@riggslandnc.com

April 5, 2023

To Whom It May Concern:

I authorize Charles F. Riggs, P.L.S. and/or employees of Charles F. Riggs & Associates, Inc. to survey the property located at 4122 Island Drive, North Topsail Beach, North Carolina and further authorize Charles F. Riggs, P.L.S. to testify and present evidence during any Board of Adjustment Meeting or any meeting with North Topsail Beach Staff regarding the above referenced address as it relates to the actions of the Town of North Topsail Beach against Cedar Homes Investments, LLC.

Cedar Homes Investments, LLC

[Handwritten Signature]

Signature

Title Managing Member

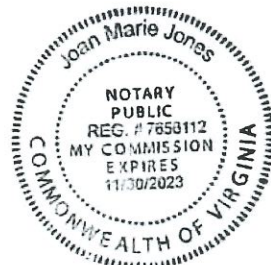
Printed Name Chad Bell

I, Joan Marie Jones, a Notary Public for the State of Virginia, County of Stafford

do hereby certify that Chad Bell personally appeared before me this the 6 day of April, 2023 and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal.

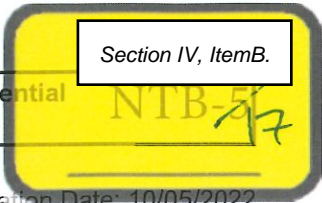
[Handwritten Signature]  
Notary Signature

(Notary Seal)





Town of North Topsail Beach  
 2008 Loggerhead Ct  
 North Topsail Beach, NC 28460  
 Phone: 910-328-1349



<b>Zoning Permit - Residential</b> <b>ZFP22-000190</b>	Application Date: 10/05/2022 Issuance Date: 11/17/2022 Expiration Date: 05/17/2023
---	--

<b>Property Address:</b> 402 NEW RIVER INLET RD NORTH TOPSAIL BEACH, NC 28460  <b>Parcel#:</b> 775B-45  <b>Owner Name:</b> CAPITAL ASSET TOPSAIL <b>Owner Phone:</b> DEVELOPMENT LLC 917-588-0302  <b>Applicant:</b> Carolina Creations Landscape, Inc.	<b>Scope of Work:</b> Installation of engineered 20'x11' in-ground residential swimming pool per "CAPITAL ASSET 402 NEW RIVER INLET RD NORTH TOPSAIL BEACH NC POOL INSTALLATION DETAIL" by Gilbert W. Reece signed/sealed 9/18/22 and 555 square foot concrete pool deck. Inground pool to be installed at/or around current grade. Equipment will be elevated to appropriate plain/height based on zone requirements. Purposed method of elevating equipment to be wooden platform. constructed by licensed and experienced contractor. Inside Code Compliant fencing: 4' black picket aluminum fence.	<b>Contractor Name:</b> Carolina Creations Landscape, Inc.  <b>Contractor License#:</b> 73105  <b>Contractor Phone#:</b> 910-755-6411
--	--	---

**Permit Details**

Fee	Description	\$Total
Floodplain Permit Fee		\$50.00
Zoning Permit Fee		\$75.00
Credit -10-357-08	Included on SP22-000036	\$125.00

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.


**Applicant Signature:**  **Date:** 10/05/2022

Exhibit 22

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 AS FOLLOWS:



THIS IS TO CERTIFY THAT THE PROPERTY IS LOCATED IN FLOOD ZONE "AE" & "VE". THIS IS A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND THE NATIONAL FLOOD INSURANCE PROGRAM. COMMUNITY PANEL NUMBER 370465, 3720427700K, JUNE 19, 2020.

THIS AREA NOT ELIGIBLE FOR FEDERAL FLOOD INSURANCE AS OF OCTOBER 1, 1983

**NOTE**  
ENTIRE PROPERTY IS LOCATED WITHIN 575' OF THE NORMAL/MEAN HIGH WATER LINE CONTIGUOUS WITH STUMP SOUND WHICH IS CLASSIFIED BY THE STATE OF NC AS OUTSTANDING RESOURCE WATERS (ORW)

**NOTE**

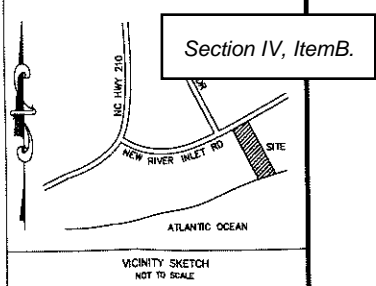
PROPOSED DWELLING WITH EAVES	= 1669 Sq.Ft.
PROPOSED CONCRETE WALK & CONCRETE POOL COPING & DECKING	= 601 Sq.Ft.
PROPOSED CONCRETE DRIVE	= 1998 Sq.Ft.
PROPOSED TOTAL IMPERVIOUS SURFACE	= 4268 Sq.Ft.
TOTAL LOT AREA	= 30530 Sq.Ft.
PROPOSED IMPERVIOUS AREA	= 13.9%

**NOTE**

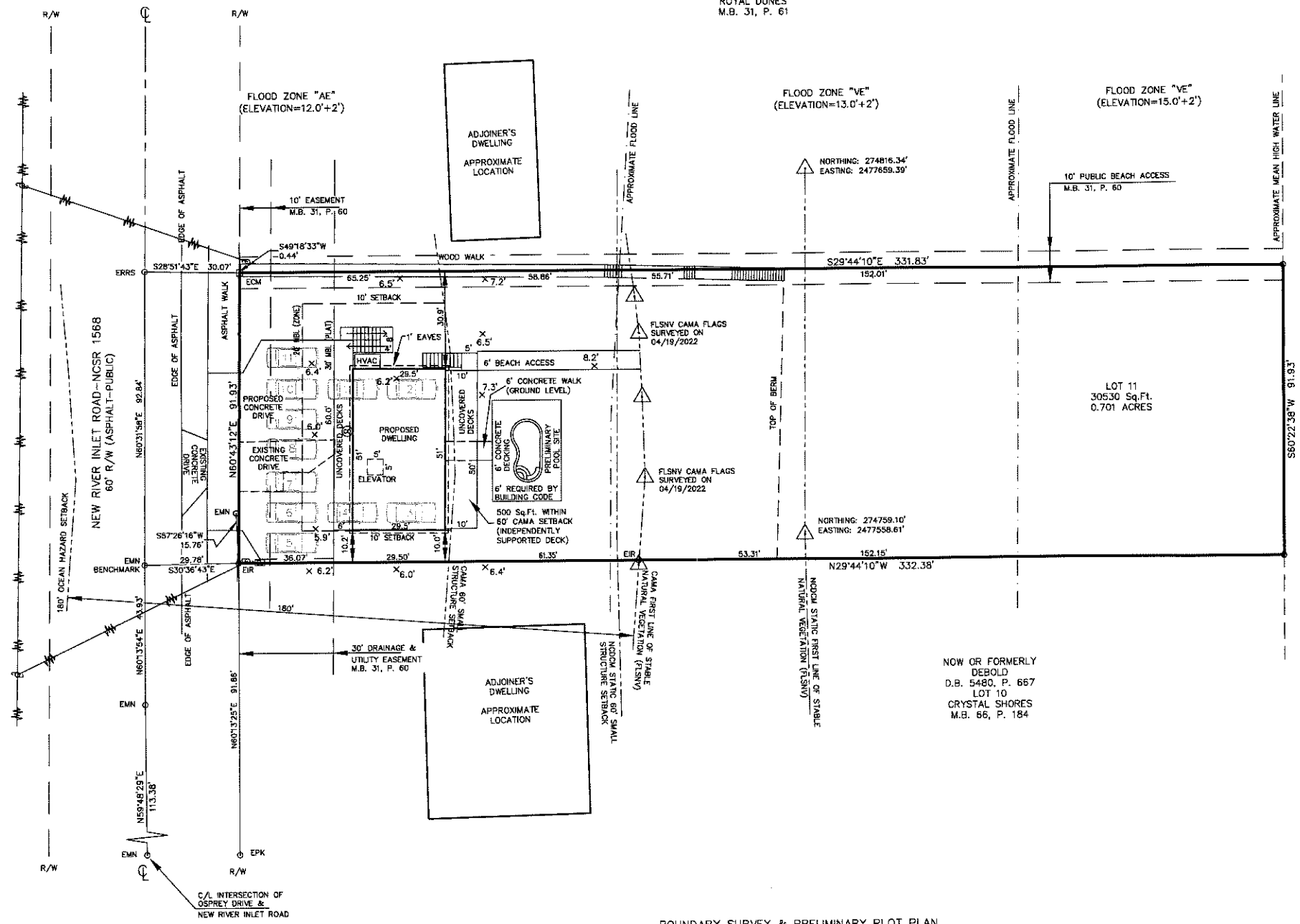
PROPOSED DWELLING WITH EAVES WITHIN 575' AEC	= 1669 Sq.Ft.
PROPOSED CONCRETE WALK & CONCRETE POOL COPING & DECKING WITHIN 575' AEC	= 601 Sq.Ft.
PROPOSED CONCRETE DRIVE WITHIN 575' AEC	= 1998 Sq.Ft.
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PROPOSED IMPERVIOUS AREA WITHIN 575' AEC	= 13.9%

**NOTE**  
PROPOSED DWELLING IS TWO STORY ON PILINGS, OPEN BELOW FOR ENTRY AND PARKING.  
PEAK OF PROPOSED DWELLING IS 41.9' ABOVE CONCRETE SLAB ELEVATION.

**NOTE**  
GROUND FLOOR (UNHEATED): 25.0 Sq.Ft.  
CARPORT (UNHEATED): 1479.5 Sq.Ft.  
FIRST FLOOR (HEATED): 1504.5 Sq.Ft.  
SECOND FLOOR (HEATED): 1504.5 Sq.Ft.  
TOTAL FLOOR AREA (HEATED): 3009.0 Sq.Ft.  
AS PER HOUSE PLANS



NOW OR FORMERLY  
GRENADEER  
D.B. 5406, P. 535  
LOT 1  
ROYAL DUNES  
M.B. 31, P. 61



THIS PRELIMINARY PLOT PLAN IS SUBJECT TO BOTH REVIEW & APPROVAL BY THE LOCAL JURISDICTION.

**NOTE**  
BENCHMARK: EMN  
ELEVATION: 6.36'  
VERTICAL DATUM: NAVD 83  
VERTICAL DATUM OBTAINED WITH TOPCON ORS USING N.C. GEODETIC CONTINUOUS OPERATING REFERENCE STATIONS

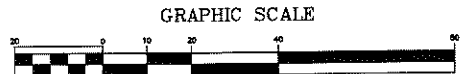
**NOTE**  
RESTRICTIVE COVENANTS, D.B. 1285, P. 105  
RESTRICTS IMPERVIOUS SURFACE TO 7,241 Sq.Ft.

ZONING SETBACKS	PLAT SETBACKS	OWNERS
FRONT = 20'	FRONT = 30'	DANIEL THOMAS
REAR = 10'	REAR = 10'	
SIDE = 8'	SIDE = 10'	

REFERENCES	TAX ID
D.B. 1285, P. 105	775B-45
D.B. 2889, P. 775	
D.B. 5406, P. 535	
D.B. 5480, P. 667	
M.B. 31, P. 60 & 61	
M.B. 66, P. 184	

ALL POINTS NON MONUMENTED UNLESS OTHERWISE NOTED

- LEGEND**
- CC = CONTROL CORNER
  - DCM = DIVISION OF COASTAL MANAGEMENT
  - ECM = EXISTING CONCRETE MONUMENT (FOUND)(CONTROL CORNER)
  - EIP = EXISTING IRON PIPE (FOUND)
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  - MLL = MINIMUM BUILDING LINE
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  - PP = POWER POLE
  - PL = POWER LINE
  - ET = ELECTRIC TRANSFORMER
  - SE = EXISTING SPOT ELEVATION



ACTUAL FIELD SURVEY DATE: APRIL 19, 2022  
MAPPING DATE: JUNE 01, 2022  
FIELD BOOK: 971 & INDV, PAGE: 67 & 1-2  
PROJECT NUMBER: 22-03-27 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

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

BOUNDARY SURVEY & PRELIMINARY PLOT PLAN FOR  
**CAPITAL ASSET TOPSAIL DEVELOPMENT, LLC**  
LOT 11, SECTION I, CRYSTAL SHORES, M.B. 31, P. 60  
STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA  
DANIEL THOMAS, OWNER; D.B. 2889, P. 775  
402 NEW RIVER INLET ROAD

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 RATE OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:133,600.1

CHARLES FRANCIS RIGGS  
 28817

THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE "AE" & "VE" 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 37204272006. DATE 19, 2022

THIS AREA NOT ELIGIBLE FOR FEDERAL FLOOD INSURANCE AS OF OCTOBER 1, 1983

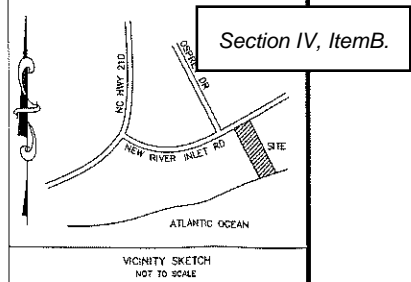
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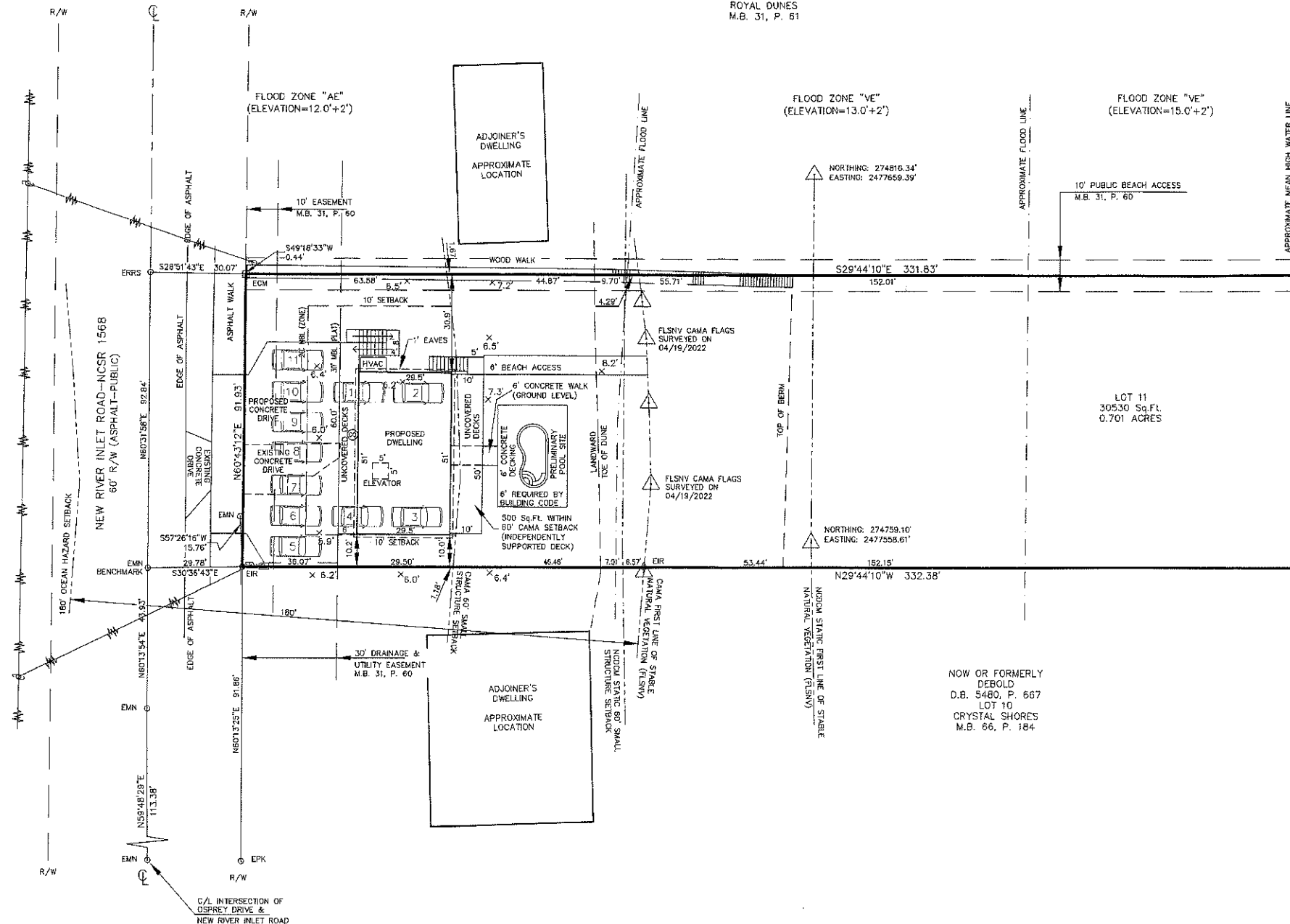
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AS PER HOUSE PLANS	



NOW OR FORMERLY  
 GRENADIER  
 D.B. 5406, P. 535  
 LOT 1  
 ROYAL DUNES  
 M.B. 31, P. 61



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**NOTE**  
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 VERTICAL DATUM: NAVD 83  
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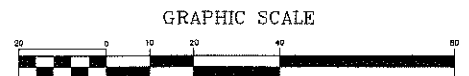
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ZONED R-15 ZONING SETBACKS	PLAT SETBACKS	OWNERS
FRONT = 20'	FRONT = 30'	DANIEL THOMAS
REAR = 10'	REAR = 10'	
SIDE = 8'	SIDE = 10'	TITLE SOURCE D.B. 2889, P. 775

REFERENCES	TAX ID
D.B. 1285, P. 105	775B-46
D.B. 2889, P. 775	
D.B. 5406, P. 535	
D.B. 5480, P. 667	
M.B. 31, P. 60 & 61	
M.B. 65, P. 184	

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  - LP = LIGHT POLE
  - PP = POWER POLE
  - PL = POWER LINE
  - ET = ELECTRIC TRANSFORMER
  - SE = EXISTING SPOT ELEVATION



( IN FEET )  
 1 inch = 20 ft.

ACTUAL FIELD SURVEY DATE: APRIL 19, 2022  
 MAPPING DATE: JUNE 27, 2022  
 FIELD BOOK: 971 & INDY, PAGE: 67 & 1-2  
 PROJECT NUMBER: 22-03-27 JTG

REVISION:  
 06/27/2022: ADDED LANDWARD TOE OF DUNE

**CHARLES F. RIGGS & ASSOCIATES, INC. (C-730)**  
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BOUNDARY SURVEY & PRELIMINARY PLOT PLAN FOR  
**CAPITAL ASSET TOPSAIL DEVELOPMENT, LLC**  
 LOT 11, SECTION 1, CRYSTAL SHORES, M.B. 31, P. 60  
 STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA  
 DANIEL THOMAS, OWNER; D.B. 2889, P. 775  
 402 NEW RIVER INLET ROAD

NOW OR FORMERLY  
 DEBOLD  
 D.B. 5480, P. 667  
 LOT 10  
 CRYSTAL SHORES  
 M.B. 66, P. 184

Town of North Topsail Beach  
Issued by DCM

43-22  
Permit Number

# CAMA MINOR DEVELOPMENT PERMIT



as authorized by the State of North Carolina, Department of Environmental Quality and the Coastal Resources Commission for development in an area of environment concern pursuant to Section 113A-118 of the General Statutes, "Coastal Area Management"

Issued to **Capital Asset Topsail Development**, authorizing development in the Ocean Hazard (AEC) at 402 New River Inlet Road, in North Topsail Beach, Onslow County, as requested in the permittee's application, dated June 1, 2022, and received on June 6, 2022. This permit, issued on **July 5, 2022**, is subject to compliance with the application and site drawing (where consistent with the permit), all applicable regulations and special conditions and notes set forth below. Any violation of these terms may subject permittee to a fine, imprisonment or civil action, or may cause the permit to be null and void.

This permit authorizes: **Construction of a single-family residential dwelling, structural accessway, and pool.**

- (1) All proposed development and associated construction must be done in accordance with the permitted site plan drawings(s) dated June, 1 2022.
- (2) The structure must set back a minimum of 60 feet from the first line of stable natural vegetation, as determined by the DCM, the LPO, or other assigned agent of the DCM.
- (3) The proposed dwelling shall each be less than 5,000 square feet of conditioned space and located a minimum distance of 60' landward of the First Line of Stable Natural Vegetation (FLSNV). No fill or excavation of wetlands is allowed.
- (4) All buildings constructed within the Ocean Hazard Area shall comply with the NC Building Code and the Local Flood Damage Prevention Ordinance as required by the National Flood Insurance Program. If any provisions of the building code or a flood damage prevention ordinance are inconsistent with any of the following AEC standards, the more restrictive provision shall control.
- (5) The oceanfront uncovered deck within the setback area shall not exceed a footprint of 500 square feet.

**(Additional Permit Conditions on Page 2)**

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. From the date of an appeal, any work conducted under this permit must cease until the appeal is resolved. This permit must be on the project site and accessible to the permit officer when the project is inspected for compliance. Any maintenance work or project modification not covered under this permit, require further written permit approval. All work must cease when **this permit expires on:**

**DECEMBER 31, 2024**

In issuing this permit it is agreed that this project is consistent with the local Land Use Plan and all applicable ordinances. This permit may not be transferred to another party without the written approval of the Division of Coastal Management.

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

**PERMITTEE or Authorized Agent**

(Signature required if conditions above apply to permit)

Name: Capital Asset  
 Minor Permit # 43-22  
 Date: July 5, 2022  
 Page 2

- (6) The permittee is required to contact the Division of Coastal Management shortly before beginning construction to arrange a setback measurement that will be effective for sixty (60) days barring a major shoreline change. Substantial progress on construction must begin within sixty (60) days of the determination or the measurement is void and must be redone.
- (7) All unconsolidated material resulting from associated grading and landscaping shall be retained on site by effective sedimentation and erosion control measures. Disturbed areas shall be vegetated and stabilized (planted and mulched) within 14 days of construction completion.
- (8) The first-floor level of the sills and joists must meet the 100-year flood level elevation.
- (9) Any structure authorized by this permit shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration. The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach renourishment takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under CRC rules.
- (10) **In no case shall a beach access structure or stairs be constructed in or over the starter dune or berm. Posts and rope may be used on and over the berm not to exceed six feet beyond the seaward toe of the berm or starter dune.**
- (11) The beach accessway must not exceed six feet in width and shall provide only pedestrian access to the ocean beach.
- (12) The beach accessway must be constructed so as to make negligible alterations to the frontal dunes. This means that the accessway must be constructed on raised posts or pilings of five feet or less in depth, so that wherever possible only the posts or pilings touch the frontal dunes without any alteration to the dunes.
- (13) Construction of the accessway shall be consistent with all other applicable local ordinances and N. C. Building Code standards.
- (14) Any change or changes in the plans for development, construction, and/or land use activities will require re-evaluation and modification of this permit. All construction shall conform to the N.C. Building Code requirements and all other local, State and Federal regulations, applicable local ordinances, and FEMA Flood Regulations.
- (15) A copy of this permit shall be posted or available on site. Contact this office at 252.808-2808 for a final inspection at completion of work.
- (16) This permit does not authorize any square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing
- (17) Pursuant to 15A NCAC, Subchapter 7J.0406(b), this permit may not be assigned, transferred, sold, or otherwise disposed of to a third-party.
- (18) **The Permittee and/or the Permittee's Authorized Agent shall be responsible for obtaining any and all necessary authorizations, approvals, or zoning and building permits from the local government having jurisdiction (Town of North Topsail Beach and/or Onslow County) prior to commencing work.**

Name: Capital Assets  
Minor Permit # 43-22  
Date: July 5, 2022  
Page 3

SIGNATURE: \_\_\_\_\_

PERMITTEE or AUTHORIZED AGENT

DATE: \_\_\_\_\_



# Town of North Topsail Beach

2008 Loggerhead Ct  
North Topsail Beach, NC 28460

Inspections 910-328-1349



## BUILDING PERMIT

Res/Com/Ind: Single Family

Application Date: 07/19/2022  
 Issued By: 08/19/2022  
 Flood Zone:  
 Map / Parcel: 775B-45  
 Lot#: Unit#:

Permit#: **C22-000036**  
 Property Address: 402 NEW RIVER INLET RD  
 Subdivision:

Owner:  
 THOMAS DANIEL  
 30 BRAMS POINT RD  
 HILTON HEAD ISLAND, SC 29926-2048  
 Phone: 7036696528

Contractor:  
 Capital Asset Topsail Development, LLC  
 1121 Military Cutoff Rd  
 Wilmington, NC 28405  
 Phone: (910) 821-0060

License#: 84429

Type of Structure: Primary Residence  
 Class of Construction: New Construction Permit  
 # Bedrooms: 5  
 # Bathrooms: 5  
 — Attached Trade Permits —

Estimated Cost: \$650000.00  
 Heated Sq/Ft: 3009.00  
 Unheated Sq/Ft: 1711.00  
 Total Sq/Ft: 4720.00

**New 2-story SFR construction on pilings with 5 bedrooms, 5 full and 1 half baths, open kitchen/living/dining room, uncovered front and rear decks, an elevator, 25 square foot ground-floor enclosure for entry only, with a concrete driveway. Lien agent entry #1738879.**

**Additional Comments**

Fee	Description	\$Total
Residential Technology Fee		\$71.50
T-Pole Technology Fee		\$5.00
T-Pole Fee		\$70.00
Elevator Fee		\$100.00
Homeowner Recovery Fee		\$10.00
Floodplain Permit Fee		\$50.00
Single Family Residential New Construction Fee		\$1,430.00
Zoning Permit Fee		\$75.00

Payment Date	Type	Receipt#	Reference	Paid By	\$Paid Amount
08/19/2022	Credit	489	251837913	Capital Asset Topsail Development, LLC	(\$1,811.50)

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.

**Applicant Signature:**

**Date: 07/19/2022**

**Issued By:**

**Date: 08/19/2022**

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

CHARLES FRANCIS RIGGS, P.L.S. No. 2981

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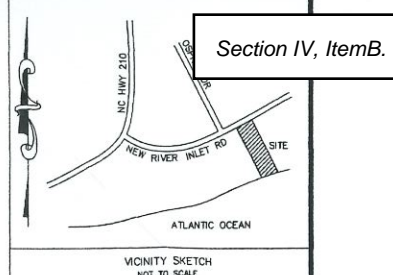
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PROPOSED CONCRETE POOL COPING & DECKING = 555 Sq.Ft.  
PROPOSED CONCRETE DRIVE = 1998 Sq.Ft.  
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PROPOSED IMPERVIOUS AREA = 14.1%

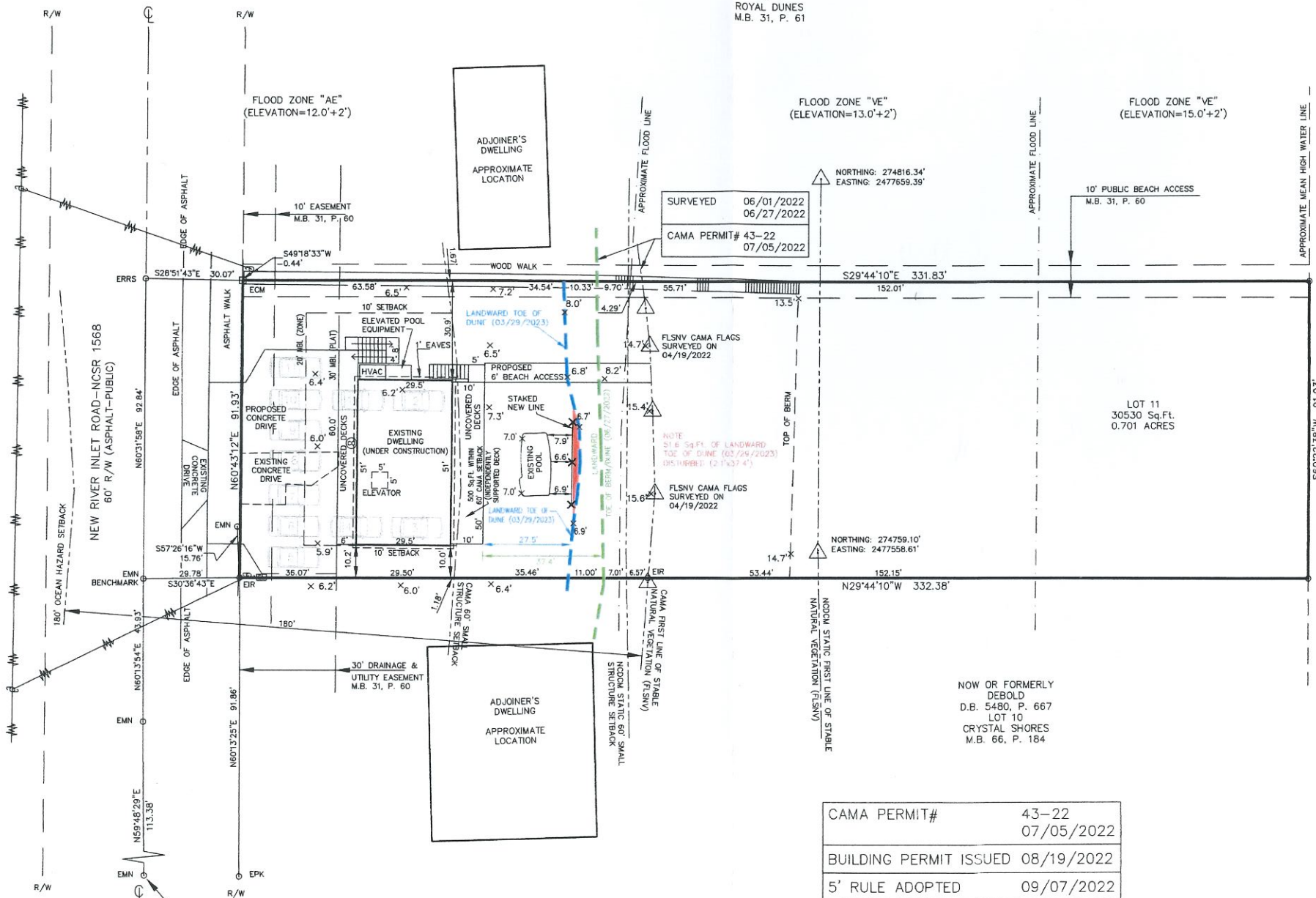
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NOW OR FORMERLY  
GRENADIER  
D.B. 5406, P. 535  
LOT  
ROYAL DUNES  
M.B. 31, P. 61



SURVEYED 06/01/2022  
06/27/2022  
CAMA PERMIT# 43-22  
07/05/2022

NORTHING: 274816.34'  
EASTING: 2477659.39'

NORTHING: 274759.10'  
EASTING: 2477556.61'

THIS PRELIMINARY PLOT PLAN IS SUBJECT TO BOTH REVIEW & APPROVAL BY THE LOCAL JURISDICTION.

NOTE  
BENCHMARK: EMN  
ELEVATION: 6.36'  
VERTICAL DATUM: NAVD 88  
VERTICAL DATUM OBTAINED WITH TOPCON GRS USING N.C. GEODETIC CONTINUOUS OPERATING REFERENCE STATIONS

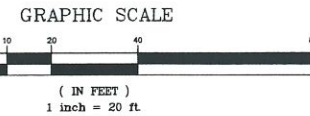
NOTE  
RESTRICTIVE COVENANTS, D.B. 1285, P. 105  
RESTRICTS IMPERVIOUS SURFACE TO 7,241 Sq.Ft.

ZONED R-15 ZONING SETBACKS	PLAT SETBACKS	OWNERS CAPITAL ASSET DEVELOPMENT, LLC.
FRONT = 20'	FRONT = 30'	
REAR = 10'	REAR = 10'	
SIDE = 8'	SIDE = 10'	

REFERENCES	TITLE SOURCE	TAX ID
D.B. 1285, P. 105	D.B. 5829, P. 101	7758-45
D.B. 2889, P. 775		
D.B. 5406, P. 535		
D.B. 5480, P. 667		
D.B. 5829, P. 101		
M.B. 31, P. 60 & 61		
M.B. 66, P. 184		

ALL POINTS NON MONUMENTED UNLESS OTHERWISE NOTED

- LEGEND
- CC = CONTROL CORNER
  - DCM = DIVISION OF COASTAL MANAGEMENT
  - 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
  - W = WATER METER
  - FH = FIRE HYDRANT
  - WV = WATER VALVE
  - SSM = SANITARY SEWER MANHOLE
  - CO = CLEAN OUT
  - TP = TELEPHONE PEDESTAL
  - TV = TELEVISION PEDESTAL
  - FOCM = FIBER OPTIC CABLE MARKER
  - LP = LIGHT POLE
  - PP = POWER POLE
  - PL = POWER LINE
  - ET = ELECTRIC TRANSFORMER
  - SE = EXISTING SPOT ELEVATION



REVISION:  
06/27/2022: ADDED LANDWARD TOE OF DUNE  
09/30/2022: REVISED PROPOSED POOL DESIGN AND IMPERVIOUS SURFACE CALCULATIONS  
ADDED PROPOSED 4" 2 RAIL CLOSED PICKET BLACK ALUMINUM POOL CODE FENCE  
REVISED TITLE SOURCE & OWNER  
06/27/2023: ADDED LANDWARD TOE OF DUNE (TODAY), EXISTING DWELLING & POOL  
ADDED DISTANCES TO LANDWARD TOE OF DUNE (TODAY & 06/27/2022)

**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

BOUNDARY SURVEY & PRELIMINARY PLOT PLAN  
FOR  
**CAPITAL ASSET TOPSAIL DEVELOPMENT, LLC**  
LOT 11, SECTION I, CRYSTAL SHORES, M.B. 31, P. 60  
STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA  
CAPITAL ASSET TOPSAIL DEVELOPMENT, LLC., OWNER; D.B. 5829, P. 101  
402 NEW RIVER INLET ROAD

CAMA PERMIT# 43-22  
07/05/2022  
BUILDING PERMIT ISSUED 08/19/2022  
5' RULE ADOPTED 09/07/2022

NOW OR FORMERLY  
DEBOLD  
D.B. 5480, P. 667  
LOT 10  
CRYSTAL SHORES  
M.B. 66, P. 184

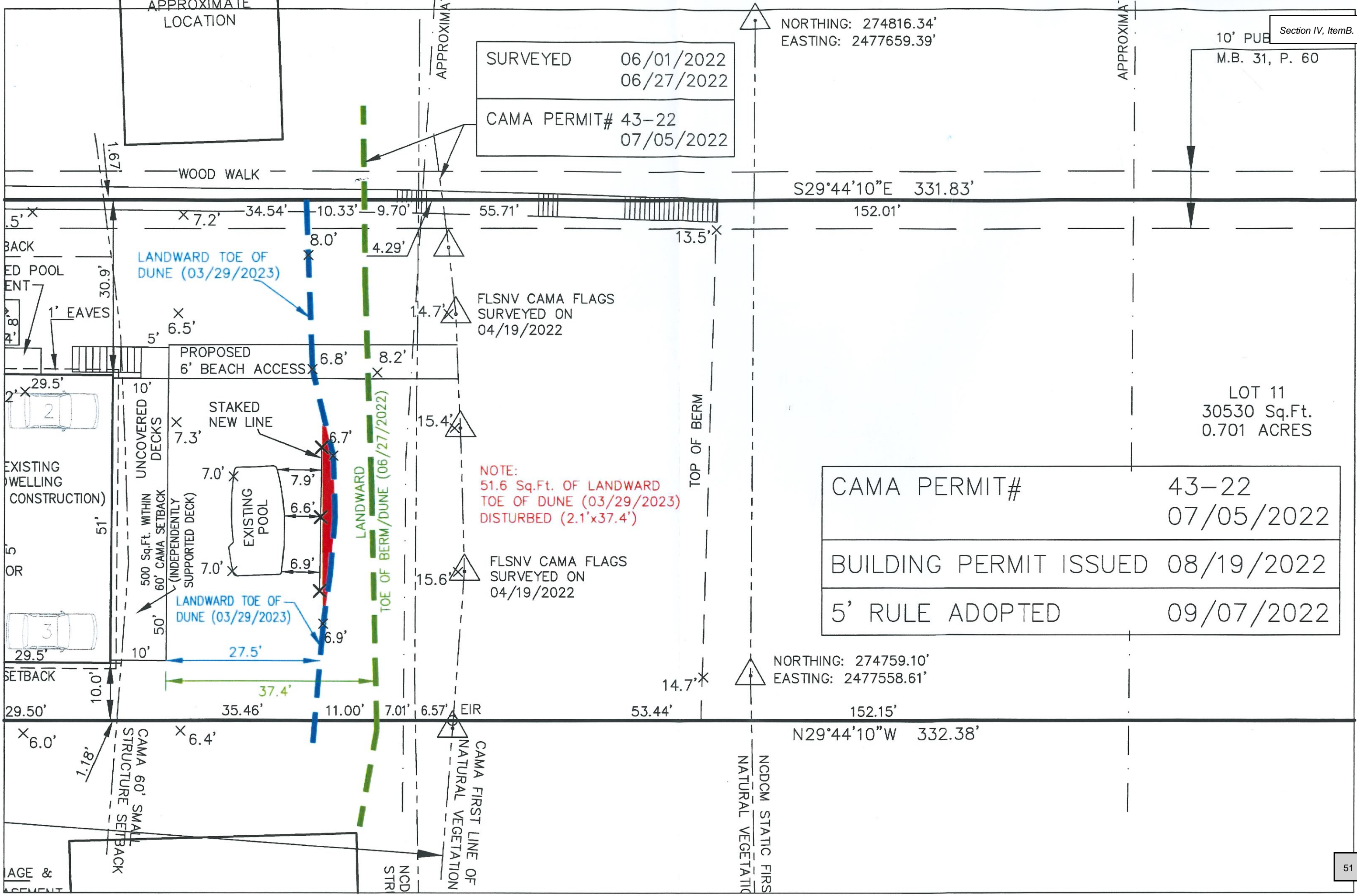
ACTUAL FIELD SURVEY DATE: MARCH 29, 2023  
MAPPING DATE: JUNE 27, 2023  
FIELD BOOK: 971 & INDV., PAGE: 67 & 1-2  
PROJECT NUMBER: 22-03-27 JTG

APPROXIMATE LOCATION

NORTHING: 274816.34'  
EASTING: 2477659.39'

10' PUB Section IV, Item B.  
M.B. 31, P. 60

SURVEYED 06/01/2022  
06/27/2022  
CAMA PERMIT# 43-22  
07/05/2022



FLSNV CAMA FLAGS SURVEYED ON 04/19/2022

NOTE: 51.6 Sq.Ft. OF LANDWARD TOE OF DUNE (03/29/2023) DISTURBED (2.1'x37.4')

FLSNV CAMA FLAGS SURVEYED ON 04/19/2022

NORTHING: 274759.10'  
EASTING: 2477558.61'

LOT 11  
30530 Sq.Ft.  
0.701 ACRES

CAMA PERMIT#	43-22
	07/05/2022
BUILDING PERMIT ISSUED	08/19/2022
5' RULE ADOPTED	09/07/2022

N29°44'10"W 332.38'

04/03/2019 12:08



04/19/2022 15:53



07/20/2022 12:05



07/20/2022 12:05



03/28/2023 16:14





03/28/2023 16:13



03/28/2023 16:14



03/28/2023 16:13

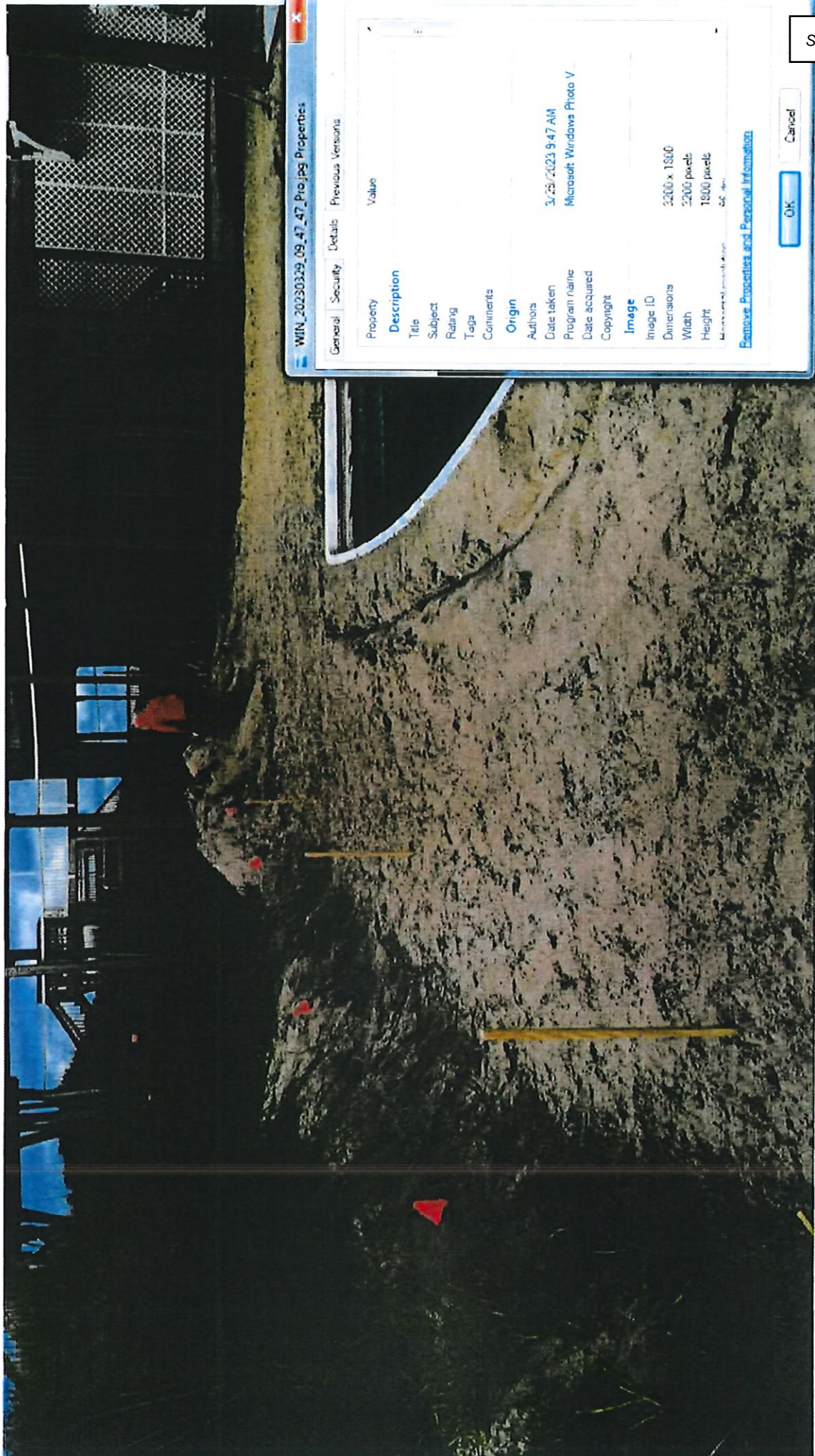


03/28/2023 16:14

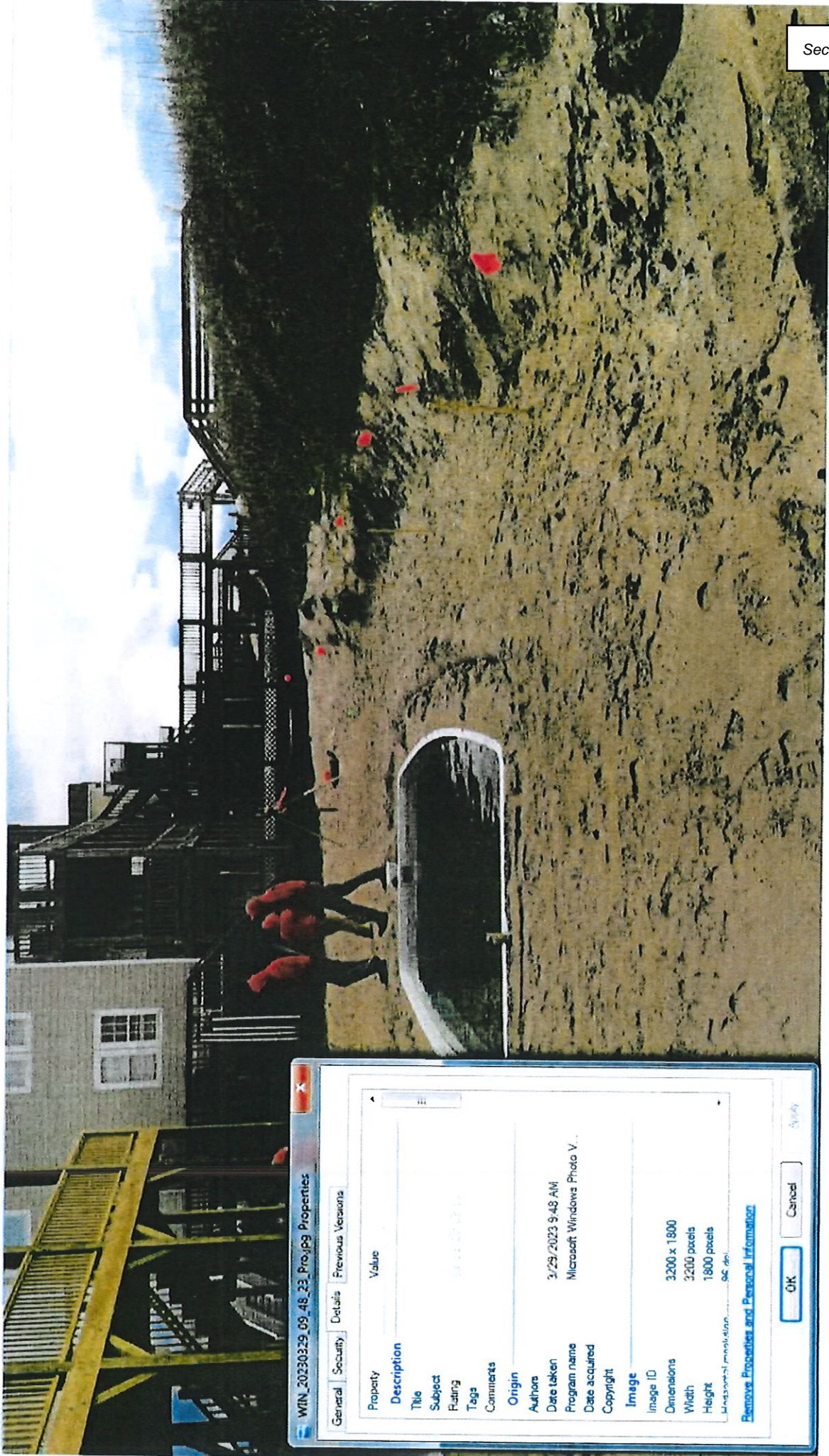




Section IV, Item B.



Section IV, ItemB.



**STAFF REPORT** CONTACT INFORMATION

Deborah J. Hill MPA AICP CFM CZO 910.328.1349 dhill@northtopsailbeachnc.gov

DOCKET/CASE/APPLICATION NUMBER  
V-24-01

APPLICANT/PROPERTY OWNER  
**MICHAEL CLARENCE & CATHERINE  
CARLTON METCALF**

PUBLIC HEARING DATE  
01-24-2024 6 P.M.

PROPERTY ADDRESS/LOCATION  
6603 13TH AVE

**BRIEF SUMMARY OF REQUEST**

A variance request by Keith Parker, NC Design & Build LLC on behalf of his client, Col. Michael C. Metcalf, U. S. Army, Ret. from the Town of North Topsail Beach from Unified Development Ordinance Article 5 Table 5-1 Dimensional Requirements to allow for construction of an elevator hoistway approximately 3.7 feet into the 15-foot sideyard corner setback at 6603 13th Avenue, North Topsail Beach NC.



MAP SOURCE: ONSLOW COUNTY GIS 2022 AERIAL WITH ZONING LAYER

EXISTING ZONING	EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
MHR MANUFACTURED HOUSING RESIDENTIAL	Single Family Residential	MHR Single Family Residential	EL23-000003 07-AUG-23 CARGO LIFT	5,000 sq ft 0.11 acre Survey dated 12/13/2022 by Dwight Ashley PLS

STAFF RECOMMENDATION

**APPROVE**

APPROVE WITH CONDITIONS

DENY

**COMPATIBILITY** with the COMPREHENSIVE PLAN (CAMA Land Use Plan)

Property not within a CAMA AEC. Development exempt from CAMA requirements.  
Future Land Use: High Density Residential

**PROPERTY HISTORY**

Compatibility with the planned development (or other controlling documents); traffic/parking; public works/utilities; engineering/flood plain/soil; building code/fire or design

Permits: ZFP23-000133, SB23-000066, E23-000136, EL23-000003 issued 8/07/2023

**COMPATIBILITY** with the UNIFIED DEVELOPMENT ORDINANCE

ARTICLE 5. DIMENSIONAL REQUIREMENTS SIDE YARD CORNER MHR Single- family 15'.

§5.06 OTHER YARD MODIFICATIONS.

(B) Architectural features, such as open or enclosed fire escapes, steps, outside stairways, balconies and similar features, and uncovered porches, may not project more than four feet into any required yard. Sills, cornices, eaves, gutters, buttresses, ornamental features and similar items may not project into any required yard more than 30 inches.

§2.03.04 VARIANCES (A)

(2) 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.

(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.



**EXHIBITS**

1. Staff Report
2. Notice of Inspection Failure dated 10/05/2023
3. Applicant's letter dated October 18, 2023
4. VA Benefits Letter (provided under separate cover to protect applicant's privacy)
5. DD-214 (provided under separate cover to protect applicant's privacy)
6. Variance Application
7. Survey with hand-drawn relocation of elevator hoistway to facilitate parking and access on ground level
8. Photo of existing structure with with hand-drawn relocation of elevator hoistway.
9. Public Notice

**From:** [dhill@northtopsailbeachnc.gov](mailto:dhill@northtopsailbeachnc.gov)  
**To:** [jismkmom@yahoo.com](mailto:jismkmom@yahoo.com); [ncdesignandbuild@gmail.com](mailto:ncdesignandbuild@gmail.com)  
**Cc:** [Deb Hill](#); [Kate Winzler](#); [Ralph Allen](#)  
**Subject:** Inspection Failure  
**Date:** Thursday, October 5, 2023 11:08:57 AM

---



Subject: 6603 13TH AVE, 23-000678 Inspection

Greetings,

It appears that the elevator shaft has encroached into the side setback. Attached, please find the link to a variance application to the Board of Adjustment <https://www.northtopsailbeachnc.gov/planningzoning/page/application-variance>.

**Deborah Hill, CMC, NCCMC**  
Planning Director  
**Town of North Topsail Beach**  
2008 Loggerhead Ct  
North Topsail Beach, NC 28460  
910.328.1349



er 18, 2023

Planning Board  
Town of North Topsail Beach  
2008 Loggerhead Court  
North Topsail Beach, NC 28460

Subject: Request for Variance: Elevator Construction at 6603 13<sup>th</sup> Avenue

My wife, Catherine, and I purchased the house and property located at 6603 13<sup>th</sup> Avenue in December 2022. We actually moved in the week of Christmas, fulfilling for Catherine the lifelong dream of living on Topsail Island.

I am a 90% Disabled Veteran having served in the United States Army for nearly 32 years. I suffer with VA service-connected degenerative disc disease with arthritis, that causes continual chronic back pain. I also deal daily with the long term results of a left ankle lateral collateral sprain that I suffered while deployed to Mosel, Iraq during Operation Iraqi Freedom. I have to wear a brace on my left ankle all my waking hours, every day. Both of these conditions, in themselves, require that I have access to an elevator in our home. But the lack of cartilage and subsequent arthritis in my left ankle is so severe that I am a candidate for a VA financed complete ankle replacement—a surgery that I have had to put off for 10 months as I have awaited the installation of an elevator in my home.

Catherine, my wife, suffers with chronic pain as well. She is under the care of pain management physicians and receives periodic epidural injections. For two weeks after an epidural injection, she is limited in her mobility and it is not safe for her to go up and down stairs. An elevator would lessen her pain, improve her ability to get to the main and upper floors of our house, and improve her quality of life.

After completing all the permits/paperwork/initial inspections with the Town of North Topsail Beach, it is my understanding that NC Design and Building, the construction firm that built the elevator shaft has now had to file an Application for Variance. Considering the above-mentioned physical conditions, I request that that Variance be approved as soon as possible so that the installation of an elevator can be completed.

Respectfully,



Michael C. Metcalf  
Chaplain (Colonel), US Army (Retired)  
6603 13<sup>th</sup> Avenue  
N. Topsail Beach, NC 28460  
Cell: (828) 550-8267  
mudflapeagle@icloud.com

Enclosures: VA Benefits Letter  
DD214



# Town of North Topsail Beach

## APPLICATION FOR VARIANCE

(A Pre-submittal conference is required prior to submission)

### Tracking Information (Staff Only)

Case Number: \$350 non-refundable filing fee & \$150 deposit subject to Cancellation Policy* Deadline for Legal Ad:	Date/Time received: Check #:  Scheduled for Board of Adjustment on:	Application verified by: <i>djh</i> Receipt #: 1/24/2024 6:00 P.M.  at <del>6:30</del> p.m.
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Application must be filed out in its entirety and signed by applicant to be accepted and processed. Incomplete applications will not be accepted. Each application shall contain or be accompanied by such legal description maps, plans, and other information so as to completely describe the proposed use and existing conditions.

**Submittal:** Complete applications are due as indicated by the schedule below and will be reviewed for sufficiency. A complete application includes:

- ✓ **Application form (this packet):** Address the questions carefully and completely.
- ✓ **Non-refundable filing fee & deposit subject to Cancellation Policy\*:** \$500, payable to the Town of North Topsail Beach, if by check. A receipt will be provided.
- ✓ **Supplemental material, as applicable:** detailed site plan or plot plan, other documents.

Applicant Initials	Staff Initials
<i>MEM RP</i>	<i>djh</i>
<i>MEM RP</i>	<i>djh</i>
<i>MEM RP</i>	<i>djh</i>

The Town's Unified Development Ordinance is available online and contains Board of Adjustment procedures (§2.03, pages 2-3 through 2-7) and the requirements for granting a variance (§2.03.04, pages 2-5 through 2-6).

**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 or 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.

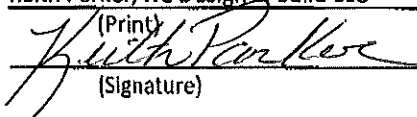
**Notice Under the Americans with Disabilities Act:** A person with a disability may receive auxiliary aid or service to effectively participate in town government activities by contacting the Town Clerk, voice (910) 328-1349 or [townclerk@ntbnc.org](mailto:townclerk@ntbnc.org), as soon as possible but 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 ([kate@ntbnc.org](mailto:kate@ntbnc.org)), fax (910) 328-4508 ATTN: Kate Winzler, or by U.S. mail (2008 Loggerhead Court, North Topsail Beach, NC 28460-9286 - ATTN: Kate Winzler). No refunds will be made for requests received after that time. Please allow two weeks for processing.

APPLICATION FOR VARIANCE

Property Address 6603 13TH AVE NORTH TOPSAIL BEACH NC 28460 Tax Parcel ID# 812-108 Zoning MHR  
A variance is requested from Article 5 Table 5-1 Dimensional Requirements of the Unified Development Ordinance to permit:  
An elevator hoistway 3.7 feet into the 15-foot side yard corner setback.

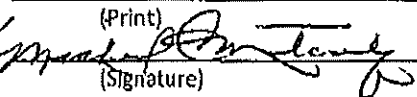
APPLICANT

Keith Parker, NC Design & Build LLC  
(Print)  
  
(Signature)

Address 118 NE 19th St Oak Island NC 28465  
Telephone (919) 800-1061  
Fax Number \_\_\_\_\_  
Email Address ncdesignandbuild@gmail.com

Date

OWNER

Michael C. Metcalf, Chaplain (Colonel), US Army (Retired)  
(Print)  
  
(Signature)

Address 6603 13TH AVE NORTH TOPSAIL BEACH NC 28460  
Telephone (828) 550-8267  
Fax Number \_\_\_\_\_  
Email Address mudflapeagle@icloud.com

11/16/2023  
Date

*The application must either be signed by the property owner or a written, signed statement must be provided by the property owner giving consent to the request. Signatures must be original.*

STATEMENT OF JUSTIFICATION FOR VARIANCE

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

**Statement by Applicant:** Disabled Veteran, having served in the United States Army for nearly 32 years, suffers with VA service-connected degenerative disc disease with arthritis, that causes continual chronic back pain. Deals daily with the long term results of a left ankle lateral collateral sprain that occurred while deployed to Mosul, Iraq during Operation Iraqi Freedom. Has to wear a brace on left ankle during waking hours, every day. Both of these conditions, in themselves, require access to an elevator in home. Lack of cartilage and subsequent arthritis in left ankle is so severe that he is a candidate for a VA financed complete ankle replacement-a surgery that he has had to put off for 10 months as he waited the installation of an elevator in his home. In addition to husband, wife, suffers with chronic pain. She is under the care of pain management physicians and receives periodic epidural injections. For two weeks, after an epidural injection, she is limited in her mobility and it is not safe for her to go up and down stairs. An elevator would lessen her pain, improve her ability to get to the main and upper floors of house, and improve her quality of life.

**Condition #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.

**Statement by Applicant:** Pursuant to both UDO 2.03.04 (A) (2) and G.S. 160D-705 (d) (2) also provides that 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.

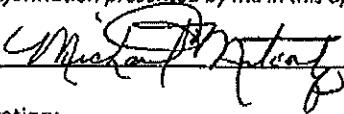
**Condition #3:** The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

**Statement by Applicant:** Zoning and Floodplain Development Permit, Simple Build Permit, Electrical Permit and Elevator Permit applications were submitted on 07/12/2023 and approved on 08/07/2023. On or about October 5, 2023, Building Inspector Ralph Allen notified contractor Keith Parker that elevator hoistway appeared to be within 15-foot sideyard setback. Mr. Parker had uploaded survey and photo documents with hand-drawn relocation of elevator hoistway to facilitate parking and access on ground level; however, these documents were not captured in the Citizenserve file.

**Condition #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.

**Statement by Applicant:** the Federal Fair Housing Act, NCGS 160D-705 (d) (2) and the Town's Unified Development Ordinance allow for reasonable accommodation for a person with a disability; two members of the public whose health would be threatened absent the issuance of this variance; and the scheduling of the applicant's surgery is pending the outcome of the Board of Adjustment's review of the variance request to allow for the 3.7 feet into the 15-foot corner side yard corner setback to allow for the elevator hoist.

*I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information, and belief.*

Signature of Applicant 

Date 11-15-2023

**Supporting documentation:**

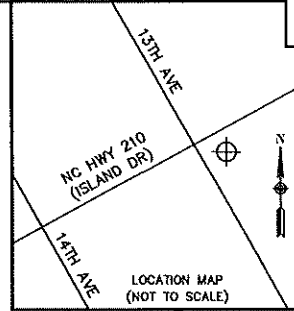
1. Applicant's letter dated October 18, 2023 with enclosures: VA Benefits Letter and DD-214
2. Survey with with hand-drawn relocation of elevator hoistway to facilitate parking and access on ground level
3. Photo of existing structure with with hand-drawn relocation of elevator holstway.

**CERTIFICATION**

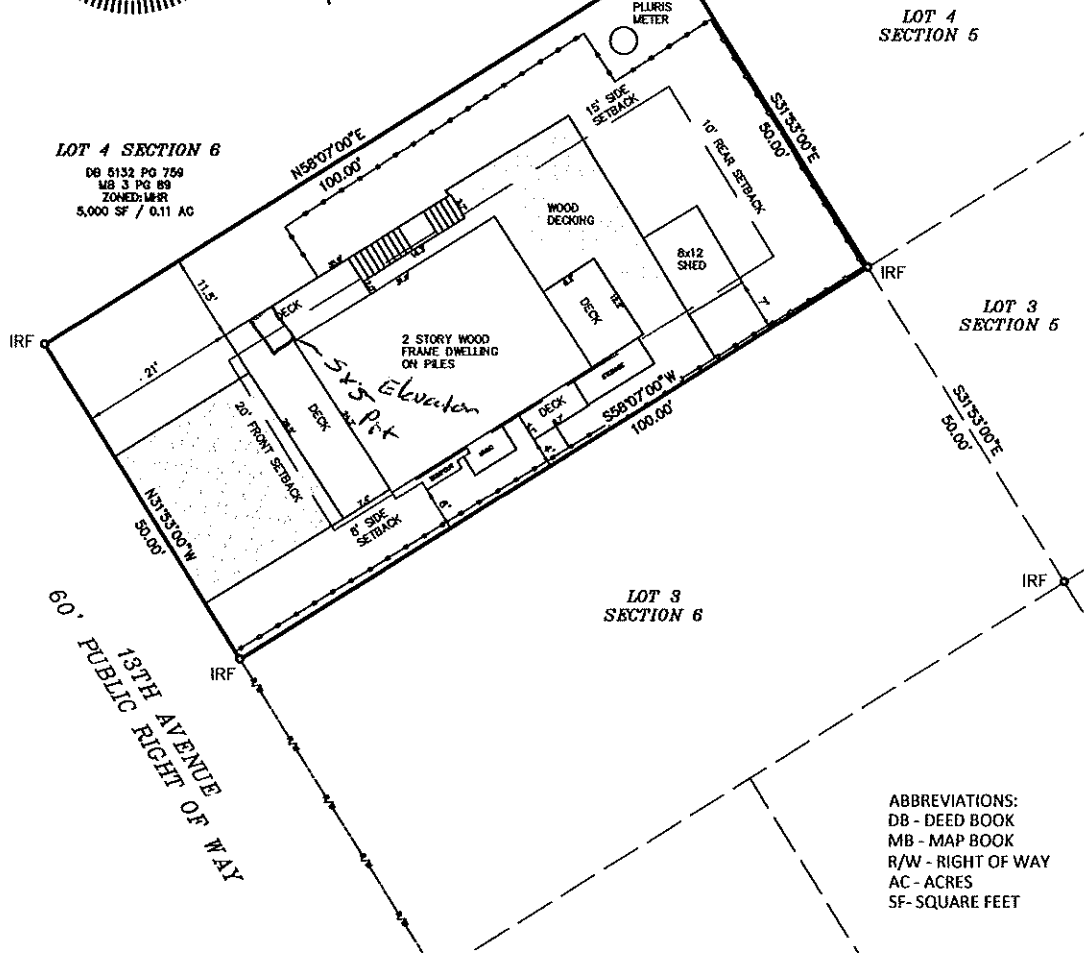
I, DWIGHT E. ASHLEY, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 5132, PAGE 759 AND MAP BOOK 3 PAGE 89); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES; THAT THE RATIO OF PRECISION IS 1: 10,000+; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA G.S. 47-30 AS AMENDED. WITNESS MY SIGNATURE, LICENSE NUMBER, AND SEAL THIS 13TH DAY OF DECEMBER, A.D., 2022.

*Dwight Ashley*  
 DWIGHT E. ASHLEY, PLS L-5263

AREA TABLE	ACRES	SQ. FT.
LOT 4 SECTION 6	0.11	5,000
HOUSE FOOTPRINT		772



NC HWY 210  
 (ISLAND DRIVE)  
 100' PUBLIC RIGHT  
 OF WAY



ABBREVIATIONS:  
 DB - DEED BOOK  
 MB - MAP BOOK  
 R/W - RIGHT OF WAY  
 AC - ACRES  
 SF - SQUARE FEET

**LEGEND**

- ⊙ IRON PIPE FOUND (IPF)
- ⊙ IRON REBAR SET (IRS)
- ⊙ IRON PIPE SET (IPS)
- COMPUTED POINT (CP)
- ⊙ IRON REBAR FOUND (IRF)
- BOUNDARY PARCEL
- STREET RIGHT OF WAY
- ADJACENT PARCEL
- SETBACK LINE
- FENCE LINE

**NOTES**

1. THE PURPOSE OF THIS SURVEY IS TO SHOW EXISTING CONDITIONS ON LOT 4 SECTION 6.
2. AREA BY COORDINATE COMPUTATION METHOD.
3. ALL DISTANCES AND COORDINATES SHOWN ARE US SURVEY FOOT HORIZONTAL GRID DISTANCES.
4. PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, RIGHTS OF WAY, RESTRICTIONS, AND AGREEMENTS OF RECORD THAT MAY BE REVEALED BY A FULL TITLE REPORT AND COVENANTS RECORDED IN DEED BOOK 481 PAGE 18.
5. LOT 4 APPEARS TO BE LOCATED IN A SPECIAL FLOOD HAZARD ZONE. (LOCAL "AF" 100-1) PER FEMA FLOOD INSURANCE RATE MAP 37204-25800C, MAP EFFECTIVE 06/19/2020.
6. SETBACKS REFERENCED FROM NORTH TOPSAIL BEACH ZONING ORDINANCE ARTICLE 5 FOR ZONING DISTRICT "M3C"

EXISTING CONDITIONS SURVEY FOR:  
**MICHAEL & CATHY METCALF**  
 LOT 4 SECTION 6 BLOCK B  
 SEAHAVEN BEACH  
 6603 13TH AVENUE  
 NORTH TOPSAIL BEACH, 28460  
 PIN: 425616949576

SCALE: 1"=20'

STUMP SOUND TOWNSHIP      ONSLOW COUNTY

**ASHLEY LAND SURVEYING, PLLC**

2017 OYSTER CATCHER DRIVE  
 HAMPSTEAD, NC 28443  
 TELEPHONE NO. (910)520-3420  
 LICENSE No.: L-5263  
 FIRM LICENSE No.: P-2675

JOB: 231-001







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

**PUBLIC NOTICE**  
**Zoning Board of Adjustment**  
**Wednesday, January 24, 2024, 6:00 p.m.**

Public Notice is hereby given that the Town of North Topsail Beach Zoning Board of Adjustment will hold an Evidentiary Hearing following quasi-judicial procedures on Wednesday, January 24, 2024, at 6:00 p.m at Town Hall, 2008 Loggerhead Court, North Topsail Beach NC.

The purpose of this meeting is to hear and decide Case #V-24-01, a variance request by Keith Parker, NC Design & Build LLC on behalf of his client, Col. Michael C. Mecalf, U. S. Army, Ret. from the Town of North Topsail Beach from Unified Development Ordinance Article 5 Table 5-1 Dimensional Requirements to allow for construction of an elevator hoistway approximately 3.7 feet into the 15-foot sideyard corner setback at 6603 13<sup>th</sup> Avenue, North Topsail Beach NC.

Prior to the public hearing, all new members shall, before entering their duties, qualify by taking an oath of office as required by North Carolina General Statutes 153A-26 and 160A-61.

All information pertaining to the Board of Adjustment public hearing may be viewed at Town Hall, 2008 Loggerhead Court, North Topsail Beach NC, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. All interested citizens are encouraged to attend.

Deborah J. Hill MPA AICP CFM CZO  
Planning Director