



**CURRITUCK COUNTY
NORTH CAROLINA**

July 14, 2022

Minutes – Regular Meeting of the Board of Adjustment

CALL TO ORDER - 7:00 PM

The Currituck County Board of Adjustment held a regular meeting at 7:00 PM in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina.

Note: These minutes are a synopsis of the meeting - a verbatim video recording is available at <http://currituckcountync.iqm2.com/Citizens/Default.aspx>

Attendee Name	Title	Status	Arrived
Troy Breathwaite	Chairman	Present	
Steven Craddock	Vice Chairman	Present	
Carol Bell	Board Member	Absent	
Cathy Bontemps	Board Member	Present	
Robin Kane	Board Member	Present	
Sam Miller	Board Member	Present	
Kevin Kemp	Development Service Director	Present	
Ike McRee	County Attorney	Present	
Tammy Glave	Senior Planner	Present	
Lauren Arizaga-Womble	Board of Adjustment Attorney	Present	

A Announce Quorum Being Met

Chairman Breathwaite called the meeting to order and announced a quorum had been met. Alternate Robin Kane will be a voting member in Carol Bell's absence.

B. Approval of Agenda

BOA 22-02 Frog Island Seafood requested to be removed from the agenda and be heard in September, per Board Attorney Arizaga-Womble.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Craddock, Vice Chairman
SECONDER:	Robin Kane, Board Member
AYES:	Troy Breathwaite, Chairman, Steven Craddock, Vice Chairman, Cathy Bontemps, Board Member, Robin Kane, Board Member, Sam Miller, Board Member
ABSENT:	Carol Bell, Board Member

C Approval of Minutes for June 16, 2022

Vice Chairman Craddock pointed out that spelling errors had been corrected.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Miller, Board Member
SECONDER:	Cathy Bontemps, Board Member
AYES:	Troy Breathwaite, Chairman, Steven Craddock, Vice Chairman, Cathy Bontemps, Board Member, Robin Kane, Board Member, Sam Miller, Board Member
ABSENT:	Carol Bell, Board Member

BOA Meeting Minutes Revised - June 16, 2022

D. Ask for Disqualifications

No members disqualified themselves from voting on any of the items on the agenda.

OLD BUSINESS

- A. BOA 22-02 Frog Island Seafood - Variance Request: Robert D. White is requesting a variance to add a roof to an existing concrete slab that is within the side setback along Simpson Road on property located at 3997 Caratoke Highway, Barco, Tax Map 69, Parcel 5A, Crawford Township.**

This item was removed from the agenda.

RESULT:	CONTINUED WITH NO VOTE	Next: 9/8/2022 7:00 PM
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NEW BUSINESS

Chairman Breathwaite swore in all witnesses.

- A. BOA 22-03 Edward Delaney & Tara Murphy: Request for an appeal of the Letter of Determination from Currituck County, dated May 12, 2022, which concluded Tax Map 101C, Parcel E, Seagull Subdivision, Fruitville (Beach) Township, is not a lot of record on which development may occur.**

Mr. McRee qualified Mr. Kemp as an expert witness and had him explain how the case came to the Board.

Mr. Kemp summarized the staff analysis and the determination that this lot is not a legal lot of record because it did not meet the subdivision regulations at the time it was created: it was not created prior to April 2, 1969, was not recorded with meets and bounds, and a valid building permit had not been granted.

Mr. Kemp reviewed the Seagull Subdivision preliminary plat and final plat with the Board. He summarized that in 1974 the lot had to have minimum 20,000 sf in area, be 100' wide, and 200' deep. This lot's depth is shorter than 200' as defined by the ordinance. It is less than 167' deep. It does not meet lot depth by current UDO standards either. Given this data, the determination was made that this was not a legal lot of record and could not be built upon.

Mr. McRee said that the applicant states that two similar lots have been built upon.

Mr. Kemp said that the Chief Planner wrote a letter in 1994 that Lot A was not a legal lot because it did not have proper access. In July 1995, an amended final plat was recorded that included access, making it a buildable lot. It met all applicable zoning requirements, including lot depth.

Mr. Kemp said in February 2000, Lot D was recombined to increase the lot area to make it a legal lot of record and a building permit was issued. Parcel D met the minimal requirements from 1974.

Crouse Gray, applicant's attorney, asked Mr. Kemp to explain the plat review process.

Mr. Kemp explained the plat review process.

Mr. Gray argued that the Board of Commissioners approved the Seagull Subdivision plat with the lots shown, not meeting minimum requirements. He also argued that several of the numbered lots within the subdivision did not meet the minimum depth requirements but were determined to be legal lots of record and received building permits for homes. He had Mr. Kemp read the definition of lot depth and argued that Mr. Kemp's letter of determination was wrong and that in fact, the lot depth exceeds 200'. He argued that the Board of Commissioners approved the Seagull Subdivision plat with the 'Letter' lots and did not say they were not approving those lots or that those lots did not meet minimum standards.

Mr. Gray presented tax bills for the property indicating that the Tax Department considers Lot E a lot. He also presented several other tax bills for other lots in the subdivision.

Mr. McRee objected that it is not possible to know what the Tax Department considers.

Mr. McRee redirected Mr. Kemp to the 1971 Zoning Ordinance and the definition of Lot, Corner. He also referred Mr. Kemp to Exhibit 5, Lot E.

Chairman Breathwaite summarized that the parcel of land was included in the 1974 plat and the board must determine if it met the standards from 1974 or today's standards.

Mr. Kemp summarized that in 1974 the lot had to have minimum 20,000 sf in area, be 100' wide, and 200' deep. Currently the lot would have to have 120,000 sf in area, be 125' wide, and no specific depth.

Chairman Breathwaite said that technically this was a corner lot but was oddly shaped and asked how to measure lot depth without going across another lot to draw a straight line.

Mr. Kemp said that you find the midpoint of the front property line, the midpoint of the rear property line and draw a straight line between those two points to determine lot depth. It does not matter that you cross another property and agreed that this lot is oddly shaped.

Mr. Miller said the frontage on Seagull appears to be 48' and by definition that would be

where lot width would be measured from that setback (20'). It would not meet the minimum lot width of 100'.

Vice Chairman Craddock asked if there was a definition of building setback line in the 1971 subdivision ordinance.

Mr. Kemp read the definition and said the street property line setback was 20' at the time the subdivision was created.

Chairman Breathwaite read the definition of lot from the 1971 ordinance. He said it is inherently buildable. He pointed out that the Board of Commissioners approved 33 lots, which did not include the other lots ('lettered' lots).

Ms. Bontemps asked for options of purchasing adjoining property to make this a legal lot.

Attorney Arizaga-Womble explained that figuring out how to make this a legal lot of record is not relevant to the case being considered and the Board should only consider if it is going to uphold or overturn Mr. Kemp's Letter of Determination.

Mr. Kane asked for clarification on measuring lot width.

Mr. Kemp summarized.

Vice Chairman Craddock asked Mr. Kemp if his letter of determination should be changed.

Mr. Kemp said no, the letter stands. It does not specifically call out lot depth. He said his testimony from earlier stating that lot depth was an issue has changed to lot width being the issue, now realizing this is a corner lot.

Ms. Bontemps asked why the six lots were on the plat if they were not to be recorded.

Mr. Kemp did not know other than a Health Department letter indicating an area on the site (not specific) did not have suitable soils for septic.

Mr. Kane said that according to the aerial photo, Lot D had been built upon, so things can change.

Chairman Breathwaite said it did not appear this lot could change enough to be built upon.

Vice Chairman Craddock confirmed that the front lot line was on Seagull and did not meet the minimum 100' lot width and also does not meet today's subdivision standards for creating a lot.

Ms. Bontemps expressed a concern for a least 10 lots on Tulls Creek Road that were allowed to build on similar shaped lots. She understands flag lots are no longer allowed.

Mr. Miller explained that fire codes and subdivision codes have changed.

Attorney Arizaga-Womble said an odd-shaped lot may be a case for a variance.

Mr. Gray asked Mr. Kemp if the setback can be larger than 20'.

Mr. Kemp said it can be larger than 20', but lot width is measured at 20'.

Mr. Gray argued that if you move the setback back, you can measure width further back.

In closing, Mr. Gray argued that lot E is an approved, buildable lot. He said there is no evidence that lots A-F were not approved. The county switched from lot depth to lot width being an issue midstream. Lot width is measured from the building setback line and that line is a minimum of 20', not 20'. Some of the lots in the subdivision do not meet the 200' depth requirement and they are numbered lots. He said the Board must rule on evidence and not speculation. This lot meets all of the then ordinance requirements. Lots A and D were accepted by the county as lots in order to recombine them. Currituck County taxes Lot E as a lot and it has its own parcel identification number. He reiterated the fact that you can make greater setbacks.

Chairman Breathwaite clarified the difference between minimum setbacks and building placement. He said without knowing building plans, it would be impossible to know minimum setback as Mr. Gray is arguing.

Mr. Gray said to find where the lot is 100' wide and you would have to build behind it. There is room for a house at that location.

Mr. Miller questioned side setbacks and street access. He said considering Seagull as the front, you could not access from Sandpiper.

Mr. Gray disagreed and said you can access from a side street.

In closing, Mr. McRee argued that the preliminary plat approved in 1974 provided a table indicating 33 lots in the subdivision plus residual open area. The open area was lots A-F based upon calculations. Looking at the final plat, Lots 1-33 contain setback lines, utility easement lines, etc. These same lines are not on lots A-F, indicating these are residual lots, not platted buildable lots. The Tax Department places a tax value upon every area of land, but it does not make it a buildable lot. The owner should consult the Board of Equalization of Review to lower value of the property since it is not a buildable lot. The Zoning Administrator's determination is correct and should be affirmed.

Discussion

Mr. Kane said his opinion is that the initial plat approving the subdivision did not include Lots A-F. He is concerned about how two of the other lots got built upon.

Mr. Miller said what happened with other lots is not relevant to this case. He said this lot does not meet current standards. He said Mr. Gray had a good point that this is a corner lot. By definition, Seagull is the front of the lot, which does not meet the

minimum lot width. He said it is an interesting concept to measure lot width deeper into the lot where it does have 100' lot width, but he cannot make access work with such a narrow frontage.

Ms. Bontemps said she disagrees with the access comment because your driveway can be from either road.

Chairman Breathwaite said the preliminary and final plats clearly indicate that the Board of Commissioners intended to include 33 lots plus the residual open space (Lots A-F).

Ms. Bontemps said the lot needs to be modified to meet the 1974 ordinance.

Vice Chairman Craddock agreed that the lot was not a legal lot of record, so not a buildable lot.

Mr. Miller motioned: In the matter before the Board of Adjustment tonight, BOA 22-03 and the question relative to the lot of record and the letter that was written by Mr. Kemp, a Letter of Determination, I make a motion that the standards were correctly applied and affirm the decision in the letter that was presented by Mr. Kemp and Currituck County to Mr. Edward Delaney and Tara Murphy relative to this appeal, BOA 22-03.

Vice Chairman Craddock seconded the motion, and the motion was unanimously approved to affirm the staff's decision.

Exhibits

Mr. Gray submitted into evidence everything contained within his notebook, as well as the tax information he presented:

Applicant Exhibit 1 - Letter dated March 3, 2022, from Crouse Gray to Ike McRee

Applicant Exhibit 2 - Letter of Determination dated May 12, 2022, from Kevin Kemp to Crouse Gray

Applicant Exhibit 3 - Seagull Subdivision Approved Site Plan, lots 1-33, dated June 1974

Applicant Exhibit 4 - Currituck County BOA Minutes dated June 17, 1974

Applicant Exhibit 5 - Seagull Subdivision Approved Site Plan, lots 1-33, dated September 1974

Applicant Exhibit 6 - Currituck County BOA Minutes dated September 2, 1974

Applicant Exhibit 7 - UDO, 1971, page 7 - Article XI Definitions

Applicant Exhibit 8 - UDO, 1971, page 8 - Article XI Definitions

Applicant Exhibit 9 - UDO, 1971, page 14

Applicant Exhibit 10 - UDO, 1971, pages 17 through 19

Applicant Exhibit 11 - UDO, 1971, page 2 and page 4

Applicant Exhibit 12 - Currituck County Official Zoning Map, updated February 11, 2022

Applicant Exhibit 13 - UDO, 1992, page 2.1, Article 2 Density and Dimensional Regulations

Applicant Exhibit 14 - Seagull Subdivision, Amended Final Plat, lots 32 and 33, dated July 1995

Applicant Exhibit 15 - Seagull Subdivision, Recombination Plat for Lot 33 and Parcel D, dated February 2000 and Currituck County GIS Data Viewer picture

Applicant Exhibit 16 - Ocean Sands Resubdivisions for Sections D, G, and E

Applicant Exhibit 17 - Records Request from Crouse Gray to Kevin Kemp, dated May 31, 2022
 Applicant Exhibit 18 - Tax Records for lot E and lots 21 through 24, dated July 7, 2022
 Applicant Exhibit 19 - Subdivision UDO, 1971, in its entirety
 Applicant Exhibit 20 - Zoning UDO, 1971, in its entirety
 Applicant Exhibit 21 - County UDO, 1992, in its entirety

Ike McRee submitted the following County Exhibits:

County Attachment A - Letter of Determination dated May 12, 2022
 County Attachment B - Map Book 5, Pages 33-34
 County Attachment C - Map Book 5, Pages 49-50
 County Attachment D - Preliminary Plat
 County Attachment E - UDO, 1971, page 4, 61.19 Lot Depth definition and page 5, 61.33 Yard Front definition
 County Attachment F - UDO, 2022, Section 10.3: Rules of Measurement (Lot Depth and Font Lot Line)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Miller, Board Member
SECONDER:	Steven Craddock, Vice Chairman
AYES:	Troy Breathwaite, Chairman, Steven Craddock, Vice Chairman, Cathy Bontemps, Board Member, Robin Kane, Board Member, Sam Miller, Board Member
ABSENT:	Carol Bell, Board Member

ANNOUNCEMENTS

There were no announcements.

ADJOURNMENT

Ms. Bontemps motioned for adjournment. Mr. Kane seconded the motion and the motion passed unanimously with the meeting adjourning at 9:48 PM.



**CURRITUCK COUNTY
NORTH CAROLINA**

June 16, 2022
Minutes – Special Meeting of the Board of Adjustment

CALL TO ORDER - 7:00 PM

The Currituck County Board of Adjustment held a special meeting at 7:00 PM in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina.

Note: These minutes are a synopsis of the meeting - a verbatim video recording is available at <http://currituckcountync.iqm2.com/Citizens/Default.aspx>

Attendee Name	Title	Status	Arrived
Troy Breathwaite	Chairman	Present	
Steven Craddock	Vice Chairman	Present	
Carol Bell	Board Member	Absent	
Cathy Bontemps	Board Member	Present	
Robin Kane	Board Member	Present	
Sam Miller	Board Member	Present	
Kevin Kemp	Development Services Director	Present	
Anna Cherry	Code Enforcement Officer	Present	
Savannah Newbern	Planner I	Present	
Ike McRee	County Attorney	Present	
Lauren Arizaga-Womble	Board of Adjustment Attorney	Present	
Cheri Elliott	Clerk to the Board	Present	
Jennie Turner	Senior Planner	Present	

B Announce Quorum Being Met

Chairman Breathwaite announced a quorum being met with four regular board members present and one alternate board member present. Due to the absence of regular board member, Carol Bell, the alternate board member, Robin Jane, served in her place.

Chairman Breathwaite asked the Board of Adjustment Attorney, Lauren Arizaga-Womble, to give a review of the voting standards required for an Appeal and a Variance. Ms. Arizaga-Womble said the Appeal requires a simple majority and the Variance requires a 4/5 vote of the board members present.

C. Approval of Agenda

Chairman Breathwaite asked if there were any changes necessary to the agenda. Vice Chairman Craddock motioned to approve as presented. Ms. Bontemps seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Craddock, Vice Chairman
SECONDER:	Cathy Bontemps, Board Member
AYES:	Troy Breathwaite, Chairman, Steven Craddock, Vice Chairman, Cathy Bontemps, Board Member, Robin Kane, Board Member, Sam Miller, Board Member
ABSENT:	Carol Bell, Board Member

D Approval of Minutes for March 10, 2022

Chairman Breathwaite asked if there were any changes needed to the minutes for March 10, 2022. Mr. Miller motioned to approve as presented. Mr. Kane seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Miller, Board Member
SECONDER:	Robin Kane, Board Member
AYES:	Troy Breathwaite, Chairman, Steven Craddock, Vice Chairman, Cathy Bontemps, Board Member, Robin Kane, Board Member, Sam Miller, Board Member
ABSENT:	Carol Bell, Board Member

A. BOA Meeting Minutes - March 10, 2022

E Ask for Disqualifications

Chairman Breathwaite asked if there were any conflicts or disqualifications for any item on the agenda tonight. Vice Chairman Craddock said he does not have a conflict, but disclosed he has eaten at Frog Island Seafood, although it would not affect his ability to make a just decision of their variance request.

OLD BUSINESS

There was no old business discussed.

NEW BUSINESS

Chairman Ballance asked all witnesses to approach for their swearing in.

Mr. Brumsey, the attorney representing Frog Island Seafood, asked for their variance request to be continued to the next Board of Adjustment hearing on July 14, 2022. Ms. Arizaga-Womble asked if the County had an objection to the request. Mr. McRee asked for their reason for the continuance request. Mr. Brumsey said they are waiting on some additional documents. Mr. McRee said the County does not object and Chairman Breathwaite granted the continuance. Ms. Arizaga-Womble announced for the record, the continuance to be on July 14, 2022 at 7:00 PM.

Chairman Breathwaite swore in all witnesses.

A. BOA 22-01 Misty Young - Appeal: Appeal for Notice of Violation dated 3/2/2022 for operating an automobile rentals business on residential property located at 1086 Hampton Street, Corolla, Tax Map 115B, Parcel 563, Poplar Branch (Beach) Township.

Chairman Breathwaite announced the requested appeal and asked the County to call their first witness.

Mr. McRee called Jennie Turner to the stand. Ms. Arizaga-Womble asked the appellants to come forward and be seated at the front table.

Ms. Turner stated her name and position with Currituck County. She said she is currently a Senior Planner and has been employed with the County for thirteen years to enforce the Unified Development Ordinance, assist community, process zoning applications, assist with code enforcement, and all other Planning aspects. She said she is familiar with this case tonight since she assisted the Code Enforcement Officer, Anna Cherry, in regards to the violation. Ms. Turner gave the zoning for 1086 Hampton Street, Corolla, as Single Family with a PUD overlay, saying this area is designated as residential. She gave information on the Chapter 4, Summary Use Table, showing Vehicle Rentals are not allowed in this zoning.

Mr. McRee said the applicant alleges they are car sharing. Ms. Turner said staff researched this according to the UDO and did not have this term (car sharing) in the UDO, but found it to be closely related to the Auto Rentals and Sales Use. Ms Turner explained how UDO Section 10.1.12 says the Director will interpret when a term is not defined in the UDO. Also, staff uses the Webster's Dictionary for research when terms are not found within Chapter 10 of the UDO. Ms. Turner said a Special Use Permit is also required to run a Vehicle Rental and Sales business and the applicant had not attempted to submit that application.

Chairman Breathwaite asked Ms. Young if she had any questions for Ms. Turner. Ms. Arizaga-Womble informed the appellant this was her time to ask questions concerning Ms. Turners testimony. Ms. Young asked Ms. Turner to read the UDO section for auto rentals and use requirements aloud. Ms. Young asked if the County had any peer to peer car sharing in their ordinance and Ms. Turner said no. Ms. Young asked several questions concerning the regulation of taxi drivers.

Mr. McRee called Anna Cherry to the stand. Ms. Cherry stated her name and position with Currituck County. She said she is currently a Code Enforcement Officer and gave her duties and how she is familiar with 1086 Hampton Street. She said she had received an email from a staff member at the beach office so she investigated and compiled information for the Notice of Violation.

Mr. McRee approached the witness, Anna Cherry, and the Appellant, Misty Young, to give them a copy of County Exhibit 1A - an email from Matthew Kirkendall dated February 17, 2022. Ms. Cherry read the email and said it was a true and accurate copy of the email she had received.

Mr. McRee presented the following pictures:

Picture 1 - Picture of applicant's property taken by Matthew Kirkendall on March 1, 2022

Picture 2 - Picture of applicant's vehicles for rent advertised on Turo website
Picture 3 - Picture of applicant's website listed vehicles for rent
Ms. Cherry said her site visit had the same vehicles on the applicant's property.

Mr. McRee approached the witness and applicant to give them a copy of County Exhibit 1B - Affidavit of Service for NOV 1708, dated March 10, 2022, signed by Anna Cherry.

Mr. McRee asked Ms. Cherry what she did after sending NOV 1708. Ms. Cherry said she monitored the property to see if it would come into compliance and also monitored the advertising websites for the applicants' rental vehicles. Mr. McRee had Ms. Cherry review several pictures within the agenda packet to verify they were true and accurate.

Mr. McRee provided a copy of County Exhibit 1C - Letter to Mr. & Ms. Young from the County, dated June 7, 2022. Ms. Cherry said they had emailed this letter and also sent it by regular mail. Staff had made a site visit that day and the Jeeps were not on the property. Ms. Cherry said the Board of Adjustment sign posted on their property concerning the meeting tonight was also removed.

Mr. McRee provided a copy of County Exhibit 1D - Letter to Mr. & Ms. Young from Association Consultants for Monterey Shores PUD HOA, dated June 7, 2022, informing the applicants to remove all of their vehicles from the Monterey Shores parking area since the vehicles were being used for a non-residential purpose. Ms. Cherry confirmed with pictures, Mr. & Ms. Young were storing their rental vehicles on the Monterey Shores parking area.

Misty Young made several objections stating hearsay to the documents that were handed out. Ms. Arizaga-Womble explained the hearsay statute and reasons why the County is able to submit this information. Conversation was held on whether Exhibit 1D is submissible. Ms. Arizaga-Womble said a report of a violation would not qualify as hearsay. Chairman Breathwaite accepted the document as submissible and instructed the board to view the document as such.

Mr. McRee asked Ms. Cherry if there were any other violations given to Mr. & Ms. Young. Ms. Cherry said there was another violation given to them dated April 21, 2022.

Mr. McRee provided a copy of County Exhibit 1E - Notice of Violation to Misty and William Young, 1086 Hampton Street, dated April 21, 2022
Ms. Cherry answered several questions concerning this violation for home occupation standards.

Mr. McRee provided a copy of County Exhibit 1F - Affidavit of Service for NOV 1726, dated April 21, 2022, signed by Anna Cherry.

Mr. McRee also presented the entire Board of Adjustment Agenda Packet as County Exhibit 1.

Board members asked questions on how staff verified the vehicles were the same between the two locations they were stored. Ms. Cherry said they verified with the license plate numbers. Discussion was also held on the civil penalties the applicants

would have to pay if the board rules against them. Ms. Cherry said the civil penalties are up to \$500 per day, per violation. Ms. Cherry confirmed the penalties could be up to \$1,000 per day for two Notice of Violations.

Ms. Turner returned to the stand to answer some additional questions from the board and Ms. Young.

Conversation was held on the penalties/citations being stayed to allow time for compliance for violations.

Chairman Breathwaite called a recess at 8:43 PM - back to order at 8:48 PM.

Chairman Breathwaite asked Ms. Young to make her case. Ms. Young said she has an attorney but he could not be here tonight.

Ms. Young presented Appellant Exhibit 1 - Peer to Peer Vehicle Sharing paper - NC General Statute Chapter 20, Article 10B - 20-280.15. Definitions

Ms. Young read her appeal letter on page 37 of the agenda packet. She said Kill Devil Hills Jeep Rental sends customers to her when they do not have Jeeps available. She said OBX Jeep Rentals and Beach 4X4 Rentals also has their vehicles listed on Toro.

Ms. Young said Bob White and his wife were the reason she received the violations. Mr. McRee objected to the relevancy and said this is argumentative and not testimony. Ms. Young said the County violated her 14th amendment rights. Ms. Young said she owns a house in Monteray Shores so she is allowed to park her vehicles in that parking area.

Mr. Kane asked Ms. Young if customers came to her house to pick up the rental vehicles. Ms. Young said, yes, but to get the eyes off of them, they changed the way they did it.

Vice Chairman Craddock asked Ms. Young if she owned the vehicles in the pictures. She said, yes, they own nine vehicles.

Chairman Breathwaite asked Ms. Young if they had vacated the property at 1086 Hampton Street. Ms. Young said they had moved out on May 26, 2022, but said they still own the property.

Chairman Breathwaite said the paper Ms. Young handed out is just definitions and ask her to provide more information. She said that is all she had.

Mr. Miller asked if the profile on Toro was prepared by Ms. Young and she confirmed she had created it.

Mr. Kane asked if the Duck Road address listed on their violation notice from Monteray Shores was a business. Ms. Young refused to answer his question.

Vice Chairman Craddock asked various questions concerning how Toro operates, how

insurance is provided, and if there is a contract.

Mr. Young came to the stand as a witness. Vice Chairman Craddock asked Mr. Young if he agrees with every statement his wife has made tonight and he said yes.

Chairman Breathwaite asked if any members of the public would like to speak and limited them to three minutes each.

David Heubeck, 1062 Hampton Street, Corolla, came before the board. He said they are tired of seeing the Jeeps going up and down the road in or neighborhood. He said they are receiving money for this and operating this business out of their home.

With no other speakers, Chairman Breathwaite closed the Public Hearing.

Ms. Arizaga-Womble asked Ms. Young to give her closing. Ms. Young said this is an overreach of the County and car sharing is not regulated. Ms. Young said their Jeeps are always brought back by 10:00 PM and there is no noise. She said they have taken steps to not disrupt the community by relocating and offering delivery. She also said they have a storage area.

Mr. McRee giving his closing saying the evidence is clear that this is an auto/rental business in a residential area where it is not allowed. Mr. Heubeck testified how it has affected them in his community. Mr McRee said an Airbnb is not the same and asked that the board affirm the staff's decision.

Board discussion was held. Vice Chairman Craddock said it appears the County followed correct procedure and Appellant Exhibit 1 says it is a business and people get money from providing that service. Also, both the wife and husband admit it is a business and they admitted people were picking up the vehicles from their home. Vice Chairman Craddock said they mentioned they moved, but why move if you are doing nothing wrong. Mr. Miller said the June 7th letter from the County shows the County tried to work to resolve this. Ms. Bontemps agreed, this is a business, and it needs to be in conformity. Mr. Kane agreed that the County correctly dealt with this. Chairman Breathwaite said this was a bit gray for me until Ms. Young said her number of vehicles has increased and testified, she will keep buying until she gets to twenty vehicles. Chairman Breathwaite said the County made the correct determination and met their burden.

Vice Chairman Craddock motioned in regards to BOA 22-01 Misty Young, and in regards to Notice of Violation 1708, I believe the decision maker did not make an error incorrectly applying the standards of this ordinance and making the decision of the notice of violation or this interpretation. Mr. Kane seconded the motion and the motion carried unanimously, 5-0.

RESULT:	MOTION PASSED-ITEM DENIED [UNANIMOUS]
MOVER:	Steven Craddock, Vice Chairman
SECONDER:	Robin Kane, Board Member
AYES:	Troy Breathwaite, Chairman, Steven Craddock, Vice Chairman, Cathy Bontemps, Board Member, Robin Kane, Board Member, Sam Miller, Board Member
ABSENT:	Carol Bell, Board Member

B. BOA 22-02 Frog Island Seafood - Variance Request: Robert D. White is requesting a variance to add a roof to an existing concrete slab that is within the side setback along Simpson Road on property located at 3997 Caratoke Highway, Barco, Tax Map 69, Parcel 5A, Crawford Township.

Mr. Brumsey, the attorney representing Frog Island Seafood, was present and requested a continuance. The County did not object to the continuance and Chairman Breathwaite granted the request. This item will be heard at the Board of Adjustment meeting scheduled for July 14, 2022, at 7:00 PM.

RESULT:	CONTINUED WITH NO VOTE	Next: 7/14/2022 7:00 PM
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ANNOUNCEMENTS

There were no announcements.

ADJOURNMENT

Mr. Miller motioned to adjourn the meeting. Mr. Kane seconded the motion and the meeting adjourned at 10:48 PM.

Communication: BOA Meeting Minutes Revised - June 16, 2022 (Approval of Minutes for June 16, 2022)



Currituck County Agenda Item Summary Sheet

Agenda ID Number – 3465

Agenda Item Title: BOA 22-02 Frog Island Seafood - Variance Request:

Submitted By: Cheri Elliott – Planning & Community Development

Item Type: Quasi-Judicial

Presenter of Item: Kevin Kemp

Board Action: Action

Brief Description of Agenda Item:

Robert D. White is requesting a variance to add a roof to an existing concrete slab that is within the side setback along Simpson Road on property located at 3997 Caratoke Highway, Barco, Tax Map 69, Parcel 5A, Crawford Township.

Planning Board Recommendation:

Staff Recommendation:

TRC Recommendation:



**STAFF REPORT
BOA 22-02 ROBERT WHITE
VARIANCE REQUEST
BOARD OF ADJUSTMENT
JUNE 16TH, 2022**

Attachment: 1 22-02 White Variance Staff Report (BOA 22-02 Frog Island Seafood)

APPLICATION SUMMARY

Property Owner: Robert D. White PO BOX 2017, Elizabeth City, NC	Applicant: Robert White PO BOX 2017, Elizabeth City, NC
Case Number: BOA 22-02	Application Type: Variance
Parcel Identification Number: 0069000005A0000 Subject Property: 3997 Caratoke Highway	Existing Use: Restaurant
Parcel Size (Acres): 3.38 Acres	Zoning: General Business (GB)
Variance Requested from the Unified Development Ordinance: Section 3.5.2.E., Dimensional Standards, requires structures located in the GB district to maintain a minimum 20' corner side setback from the street right-of-way edge.	

STAFF ANALYSIS

Unified Development Ordinance

The Unified Development Ordinance (UDO), Section 3.5.2.E, General Business (GB) Dimensional Standards requires a structure to maintain a 20' corner side setback from the street right-of-way.

Background

On or before March 4, 2022, County Building Inspector Jason Corbell became aware of an unpermitted structure connected to the existing Frog Island Seafood restaurant building. The unpermitted structure is a permanent metal canopy, measuring 36 feet long and 27 feet wide, which encroaches into the corner side setback. The existing Frog Island Seafood restaurant encroaches into the corner side setback as it was constructed in 1970. The existing restaurant building is regulated by UDO Section 8.3 Nonconforming Structures which allows for expansion and alterations which comply with dimensional standards or decrease the degree of nonconformity.

The applicant claims the unpermitted structure is within the existing building footprint. The permanent metal canopy is not located within the existing building footprint, per the site plan dated April 20, 2020. The applicant indicates they are pursuing the abandonment of the Simpson Road right-of-way. The area of Simpson Road is not in use due to the reconfiguration of the intersection of Highway 158 and Highway 168 in 2003.

The applicant is requesting a variance to allow the permanent metal canopy to encroach approximately 13 feet into the minimum required 20' corner side setback, effectively reducing corner side setback to 7 feet from the property line and street right-of-way edge. Refer to the attached site plan for location detail.

VARIANCE REVIEW STANDARDS

A variance shall be approved on a finding that the applicant demonstrates the proposed use will meet all of the below requirements. It is staff's opinion that the evidence in the record,

does not meet all of the requirements for a variance based on the below preliminary staff findings:

The alleged hardship is suffered by the applicant as a result of the application of this ordinance.

Preliminary Staff Findings:

1. The alleged hardship **is not** suffered by the applicant as a result of the application of the UDO because:
 - a. The location of the permanent metal canopy was not dictated by the UDO.
 - b. The applicant is not prohibited from constructing a permanent metal canopy elsewhere on his property.
 - c. The applicant could meet the required setbacks on the rear or opposite side of the existing building. There is approximately 100' from the northeast side of the existing building to the rear lot line and approximately 260' to the northwest lot line.

The hardship relates to the applicant's land, such as location, size, or topography rather than personal circumstances.

Preliminary Staff Findings:

1. The hardship **does not** relate to the applicant's land as there is adequate space for the addition of a permanent metal canopy outside of the corner side setback. The existing building location is not an inherent quality of the applicant's land, size or topography but rather personal circumstance.

The hardship is unique, or nearly so, rather than one shared by many surrounding properties.

Preliminary Staff Findings:

1. The hardship **is not unique** as corner side setbacks apply to surrounding properties abutting street rights-of-way. The discontinued use of the segment of Simpson Road adjacent to 3997 Caratoke Highway is potentially unique, however the right-of-way has not been abandoned to date.

The hardship is not the result of the applicant's own actions.

Preliminary Staff Findings:

1. The hardship **is** a result of the applicant's own actions because the permanent metal canopy was constructed without receiving proper permits which would have noted that structures may not encroach into the 20' corner side setback, which in this case is the expansion of an existing nonconforming structure.

The variance will not authorize the initiation of a nonconforming use of land; and

Preliminary Staff Findings:

1. The variance **will not** authorize the initiation of a nonconforming use of land. Restaurants are an allowable use in the General Business (GB) Zoning District.

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

Preliminary Staff Findings:

1. The requested variance **is not** consistent with the spirit, purpose, and intent of this ordinance because:
 - a. The request only meets 1 of the 5 review standards above.

- b. The applicant could meet the required setback for the permanent metal canopy elsewhere on the property.
- c. The hardship is a result of the applicant's own actions.
- d. The UDO Section 8.3.4 Alteration or Expansion allows for expansion of a structure which complies with dimensional standards or decreases the degree of nonconformity.

STAFF RECOMMENDATION

Staff recommends **denial** of the variance subject to the following factors:

- a. The variance request does not meet the required review standards.

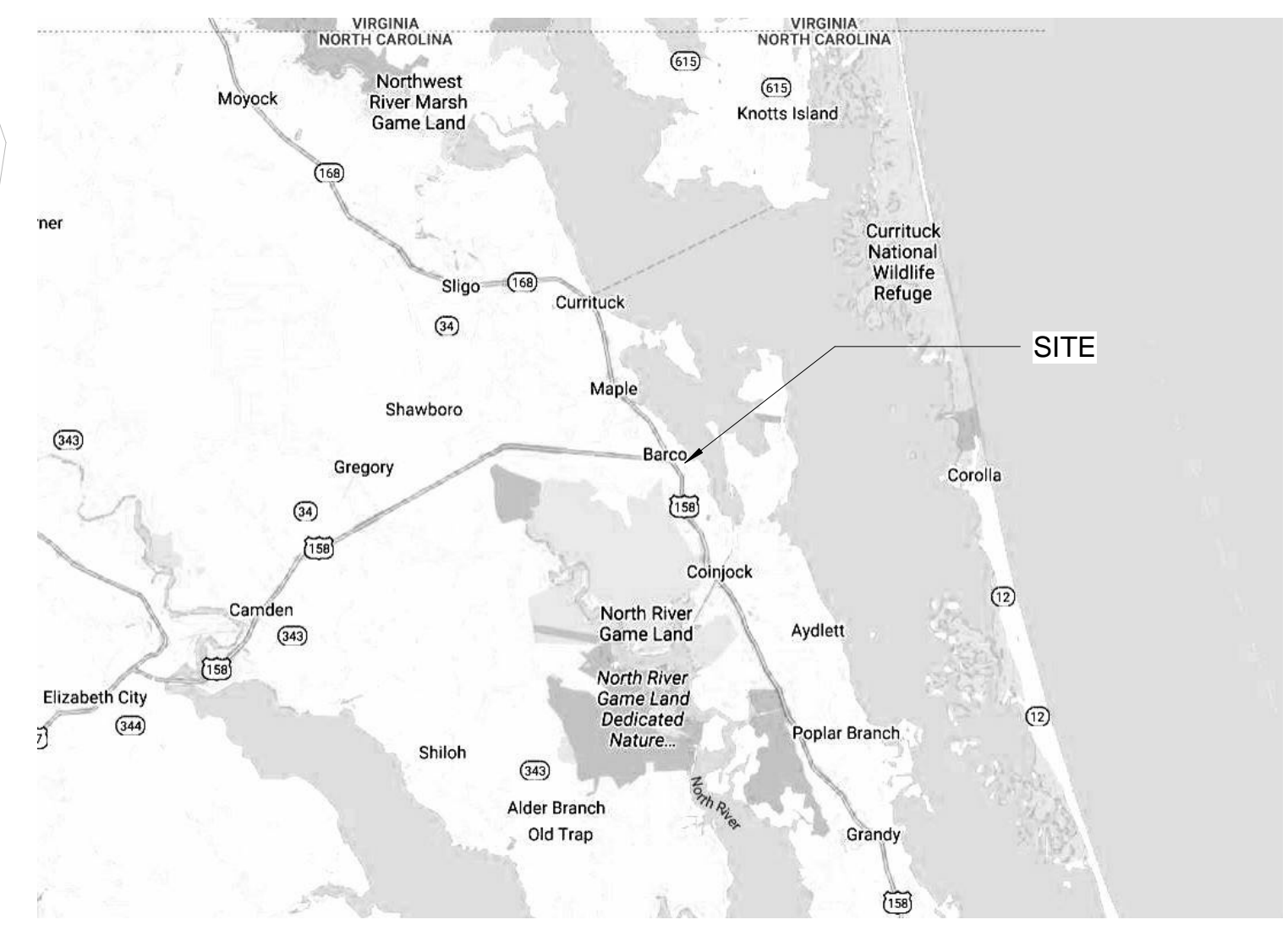
THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE
Board of Adjustment: www.co.currituck.nc.us/board-of-adjustment-minutes-current.cfm



Attachment: 1 22-02 White Variance Staff Report (BOA 22-02 Frog Island Seafood)



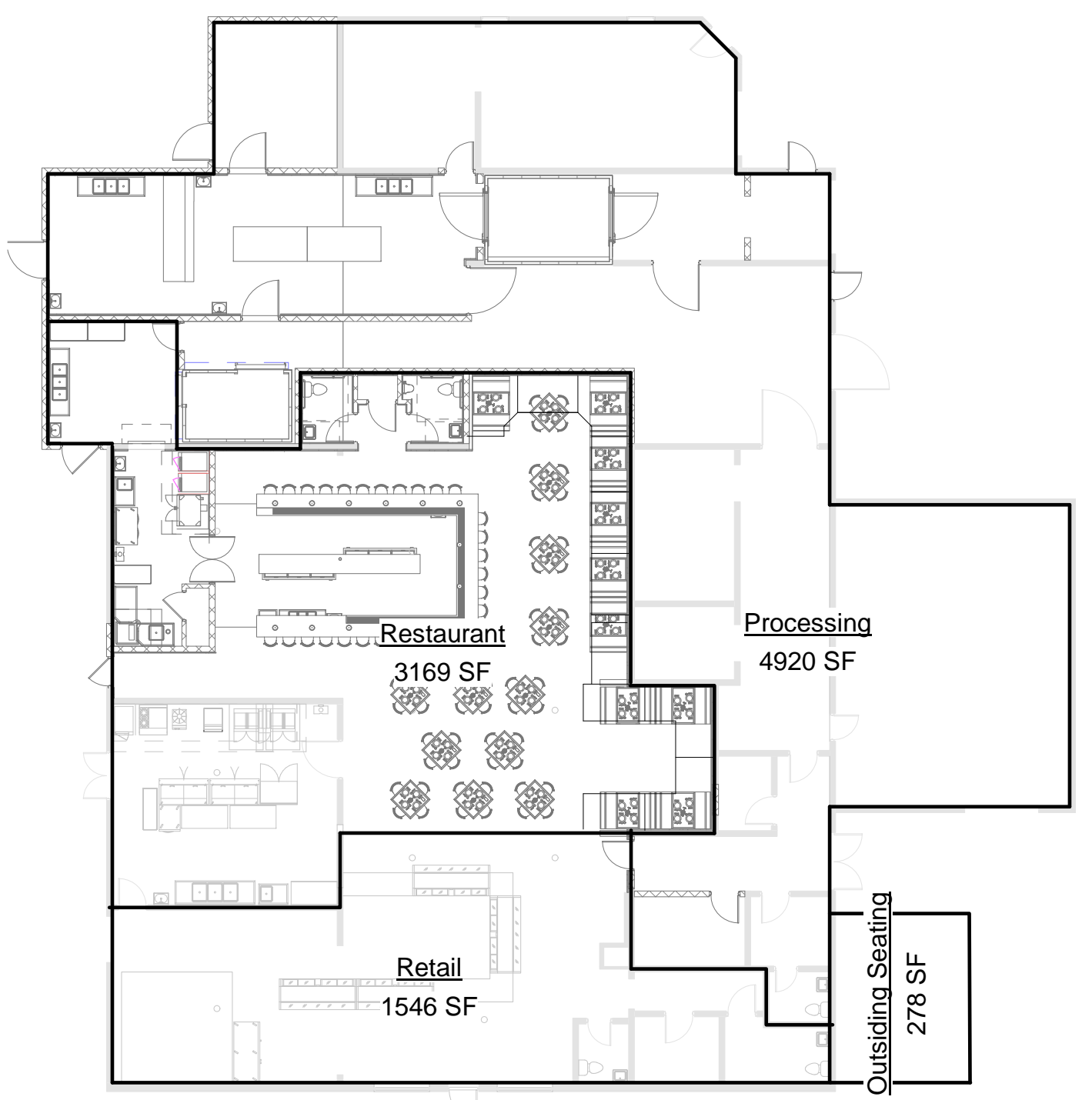
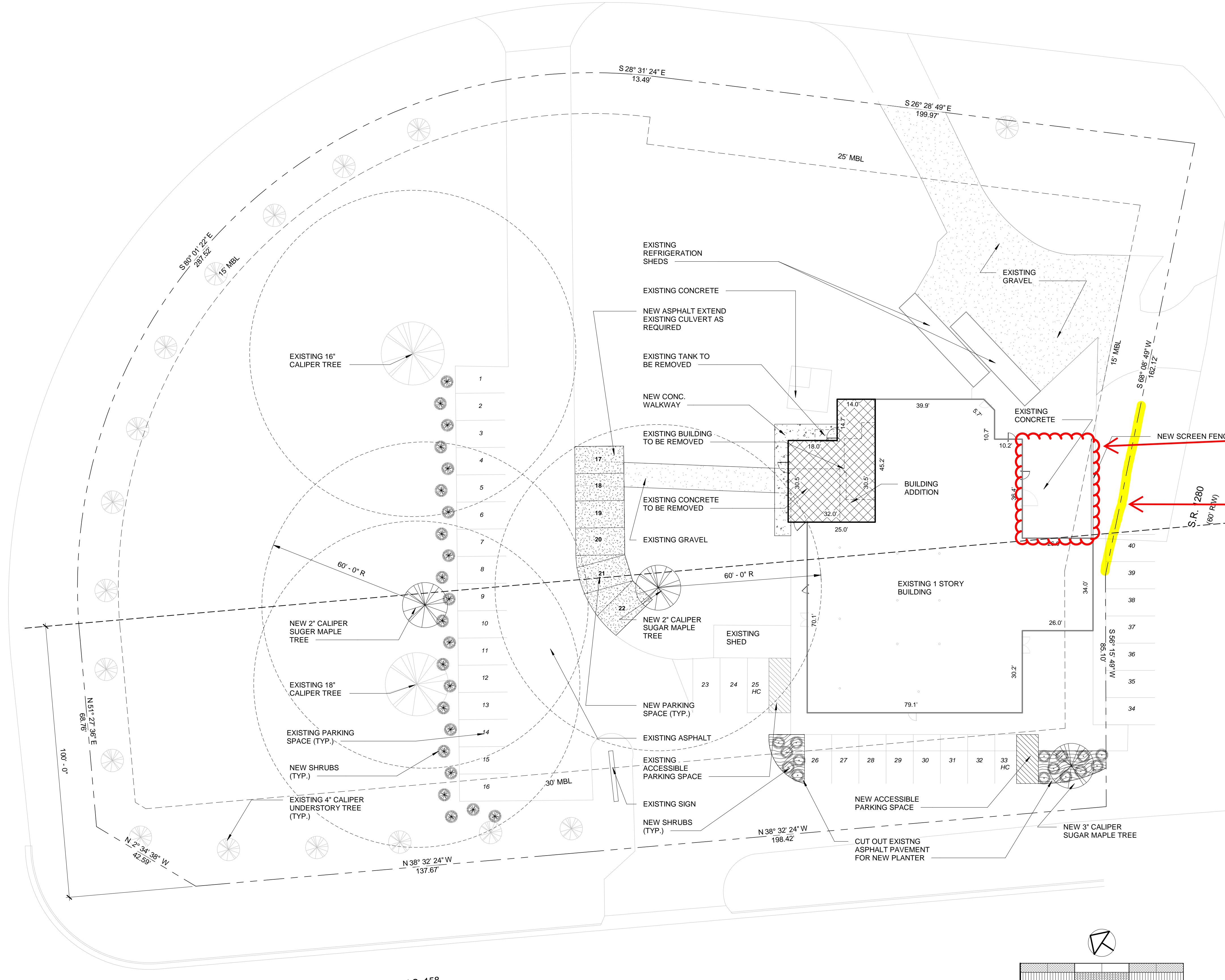
Attachment: 1 22-02 White Variance Staff Report (BOA 22-02 Frog Island Seafood)



Key Plan

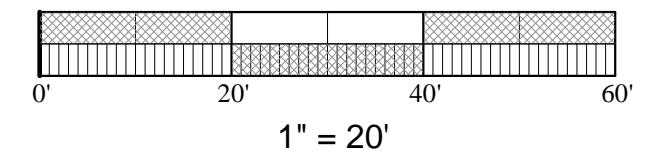
Metal Canopy Location

Property Line



1 Building Area Plan
1/16" = 1'-0"

2 Site Plan
1" = 20'-0"

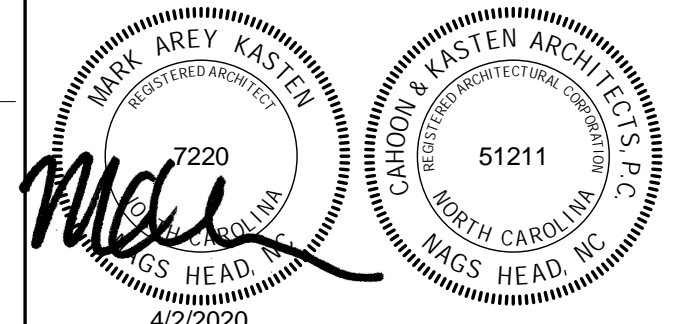


LANDSCAPING		75% COMPLIANCE	
SITE			
CANOPY TREES	2,305 ACRES X 2 ACI	4 ACI	3 ACI
SHRUBS	105.1 LF BUILDING FACADE X 1 SHRUB/5FT	21 SHRUBS	15 SHRUBS
VEHICULAR USE			
75% OF THE REQUIRED COMPLIANT PARKING SPACES HAVE BEEN SCREENED WITH SHRUBS.			
75% OF THE REQUIRED COMPLIANT PARKING SPACES ARE WITHIN 60 FT. OF NEW OR EXISTING CANOPY TREES			
PERIMETER BUFFERS			
NOT REQUIRED			
SCREENING			
DUMPSTER -	TRASH IS PUT INTO THE BACK OF A TRUCK AND DAILY TAKEN TO THE LANDFILL		
HVAC EQUIPMENT -	HVAC EQUIPMENT IF ON THE ROOF		
LOADING -	A FENCE HAS BEEN PROPOSED ON THE SOUTH SIDE OF THE BUILDING TO CONCEAL EQUIPMENT AND LOADING AREAS		
STREETSCAPE			
75% COMPLIANCE		75% COMPLIANCE	
CANOPY TREES	336.09 LF X 8.0 ACI/100 LF	27 ACI	21 ACI
UNDERSTORY TREES	336.09 LF X 4.5 ACI/100 LF	15 ACI	8 ACI
SHRUBS	336.09 LF X 10 SHRUBS/100 LF	34 SHRUBS	26 SHRUBS

LOT COVERAGE	
PROPERTY	
	100,425.64 SF
EXISTING COVERAGE	
BUILDING	8,994.15 SF
SHEDS & MISC.	1,251.47 SF
PAVING	23,339.03 SF
GRAVEL	4,537.07 SF
	38,121.72 SF (37.96%)
REMOVED COVERAGE	
BUILDING	277.86 SF
SHEDS & MISC.	38.70 SF
PAVING	842.74 SF
	1,159.30 SF
ADDITIONAL COVERAGE	
BUILDING	1,125.73 SF
PAVING	1,535.71 SF
	2,661.44 SF
PROPOSED COVERAGE	
	39,623.86 SF (39.46%)

PARKING	
REQUIRED	
RESTAURANT (INCLUDING OUTSIDE SEATING)	3447 SF / 150 SF/SP 23 SP
RETAIL	1454 SF / 300 SF/SP 5 SP
SEAFOOD PROCESSING	4920 SF / 1000 SF/SP 5 SP
	TOTAL REQUIRED 33 SP
75% REQUIRED COMPLIANT SPACE = 0.75 X 33 SP	
PROVIDED	
EXISTING	34 SP
NEW	6 SP
	TOTAL PROVIDED 40 SP
	TOTAL PROVIDED COMPLIANT 25 SP

The designer shall not be responsible for any error, omission, defect or deficiency in the contract documents ("error") prepared by the designer or its consultants which in any way impacts the schedule of the project, results in a lack of coordination among the contract documents, delays the completion of the project or which in any other way causes any damage or loss to the owner, contractor, subcontractors, or other entity involved in the project, unless: (i) designer is promptly notified of such error, in any event within 14 days of the date such error was discovered or could reasonably have been discovered; and (ii) designer is given opportunity at the time of discovery to address such error, and, if appropriate, take such steps as are necessary to correct and resolve it. Failure to comply with the provisions of this paragraph shall constitute a waiver of any claim for damages, or a right to offset against designer by owner, contractor or others and shall in no event cause or allow a reduction in the fees otherwise due designer for services provided on the project.



Revisions:

No.	Description	Date

Designed: MAK
Drawn: MAK
Reviewed: MAK
Cad File:
A100



Attachment: 3 - Submitted Site Plan (BOA 22-02 Frog Island Seafood)



Variance Review Process



Contact Information

Currituck County
 Planning and Community Development
 153 Courthouse Road, Suite 110
 Currituck, NC 27929

Phone: 252.232.3055
 Fax: 252.232.3026

Website: www.co.currituck.nc.us/departments/planning-community-development

Step 1: Application Submittal and Acceptance

The applicant must submit a complete application packet on or before the application submittal date. A complete application packet consists of the following:

- Completed Currituck County Variance Application.
- Application Fee (\$500).
- Site plan drawn to scale. The plan shall include the items listed in the variance design standards checklist.
- Any other documentation deemed necessary by the administrator to determine compliance with variance review standards.
- Number of Copies Submitted:
 - 2 Copy of the site plan.
 - 2 Copy of ALL documents.
 - 1 PDF digital copy (ex. Compact Disk – e-mail not acceptable) of all plans AND documents.

On receiving an application, staff shall, within ten business days, determine whether the application is complete or incomplete. A complete application contains all the information and materials listed above, and is in sufficient detail to evaluate and determine whether it complies with appropriate review standards. If an application is determined to be incomplete, the applicant may correct the deficiencies and resubmit the application for completeness determination. Failure to resubmit a complete application within 45 calendar days after being determined incomplete will result in the application being considered withdrawn.

Step 2: Staff Review and Action

After accepting the variance application, staff shall review it, relevant support material, and any comments or recommendations from other staff and review agencies to which the application was referred. After review, staff will prepare a written report including a recommendation on the application. A copy of the staff report and recommendation will be provided to the applicant in advance of the Board of Adjustment meeting. At the discretion of the administrator, non-residential requests for a variance may be reviewed by the Technical Review Committee one month prior to the Board of Adjustment meeting.

Step 3: Public Hearing Scheduling and Public Notification

Staff shall ensure that the public hearing on it is scheduled for a regularly scheduled Board of Adjustment meeting or a meeting specially called for by the Board of Adjustment. The required public hearing with the Board of Adjustment shall be scheduled so there is sufficient time for a staff report to be prepared and for the public notification requirements to be satisfied under state law.

Attachment: 4 - Frog Island Seafood - Variance Application (BOA 22-02 Frog Island Seafood)

The application shall meet the following public notification requirements:

- **Mailed Notice**
Staff shall be responsible for preparing and mailing a written notice between 10 and 25 days before the public hearing. Notice shall be mailed to:
 - All owners of the land subject to the application;
 - The applicant, if different from the land owner;
 - All owners of land within 500 feet of the property lines of land subject to the application (including owners of land located outside the county) whose address is known by reference to the latest ad valorem tax records; and
 - Commanders of military bases located within five miles of the subject application when the development proposal affects the type of uses allowed.
- **Posted Notice**
At least 10 days before the public hearing, posted notice shall be made by staff. A sign shall be placed in a conspicuous location as to be clearly visible to the traveled portion of the respective street. Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way with an attached notation generally indicating the direction and distance to the land subject to the application.

Step 4: Public Hearing Procedures, and Decision-Making Body Review and Decision

Staff will present the application and staff report to the Board of Adjustment. The applicant must attend the public hearing to present evidence and answer any questions the board or public may have about the application. The Board of Adjustment shall conduct a quasi-judicial hearing that is subject to procedural rules set forth by the courts including having all persons who intend to present evidence to the board be sworn. Quasi-judicial public hearings are subject to the following:

- **Opportunity to Present Testimony and Evidence**
Any affected party shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of the applicant and the applicant's representatives and county staff and county staff's representatives. At the discretion of the person chairing the body conducting the public hearing, an affected party may be granted an opportunity to ask questions of any other member of the public who has testified at the hearing.
- **Not Bound by Rules of Evidence**
Except as otherwise provided in the North Carolina General Statutes, the board is not bound by the rules of evidence, or limited to consideration of evidence that is admissible in a court of law. The board may consider all testimony and evidence it deems competent and material to the application under consideration.
- **Cross Examination**
Any inquiry under cross-examination shall be limited to matters raised in the direct examination of the witness. No re-direct or re-cross shall be allowed unless requested by the applicant, and affected party, or the county – who shall state the desired area of inquiry – and the request is approved by the person chairing the body conducting the hearing. If re-direct or re-cross is allowed, it shall be limited to questions of the witness on issues raised in the cross-examination.
- **Ex Parte Communication**
Ex parte communication between an applicant or an affected party and a member of the board reviewing or making a decision on the application is prohibited, and must be disclosed during the public hearing, if it concurs.

The Board of Adjustment shall approve the variance application, with a four-fifths (4/5) vote, on a finding the applicant demonstrates all of the following standards are met:

- The alleged hardship is suffered by the applicant as a result of the application of the Ordinance, and the same hardship is not shared by neighbors or the general public;
- The hardship relates to the applicant's land, such as location, size, or topography, rather than personal circumstances;
- The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
- The hardship is not the result of the applicant's own actions; and
- The variance will not authorize the initiation of a nonconforming use of land.



Variance Application

OFFICIAL USE ONLY:

Case Number: _____
Date Filed: _____
Gate Keeper: _____
Amount Paid: _____

Contact Information

APPLICANT:

Name: ROBERT D. WHITE
Address: PO BOX 2107
ELIZABETH CITY, NC 27906
Telephone: 252-330-4787
Fax Number: _____
E-Mail Address: frogisland_23@hotmail.com

PROPERTY OWNER:

Name: ROBERT D. WHITE
Address: PO BOX 2107
ELIZABETH CITY, NC 27906
Telephone: 252-330-4787
Fax Number: _____
E-Mail Address: _____

LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: _____

Property Information

Physical Street Address: 3997 CARATOKE HWY., BARCO, NC 27917
Location: 3997 CARATOKE HWY., BARCO, NC 27917
Parcel Identification Number(s): 0069-000-005A-0000

Request

I, ROBERT D. WHITE, hereby request a variance from Section(s) 3.5.2(e) of the Unified Development Ordinance.

Provide a narrative of why the variance is needed and what circumstances have lead to the need for a variance:

I intend to add a roof to an existing concrete slab that is within the side setback on the property along Simpson Road.

Relevant Factors for Issuance of a Variance

A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it makes detailed written findings that:

- A. The alleged hardship is suffered by the applicant as a result of the application of the Ordinance. (Variances can not be granted if the hardship is the result of restrictions other than those of the ordinance; restrictive covenants are an example).

The proposed location of the roof is within the setback on Simpson Road as the setback is defined in the Ordinance.

- B. The hardship relates to the applicant's land, such as location, size, or topography, rather than personal circumstances. (Hardships suffered by the applicant should be the result of factors directly related the applicant's land and not ordinance requirements).

The roof is located within the existing building footprint on the land.

- C. The hardship is unique, or nearly so, rather than one shared by many surrounding properties. (Hardships suffered by the applicant in common with neighbors does not justify a variance, the proper remedy is not a variance, but rather an amendment of the ordinance. Courts have held that a board's granting a variance based on such factors amounts to an attempted usurpation of legislative power).

The portion of Simpson Road where this setback violation occurs is not in use by the public due to the termination of Simpson Road before US Highway 158 so that there is no exit on Highway 158 at this location.

- D. The hardship is not the result of the applicant's own actions. (Where a property owner has either knowingly or unknowingly violated the ordinance by erecting a forbidden structure, he/she cannot cite expenses as a hardship, otherwise no one would ever comply with the ordinance. Similarly, when a person buys property and certain restrictions exist, he/she cannot be said to suffer hardship if those restrictions are enforced; such hardship would be self imposed).

The proposed roof is located within the existing building footprint of the property and the setback violation occurs over a portion of Simpson Road that is not in use by the public.

- E. The variance will not authorize the initiation of a nonconforming use of land. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted will not create a new nonconformity).

The proposed location of the roof is over a concrete patio so that the area or impervious material is not being increased. The proposed location of the roof does not extend past the existing wall structure of the existing building on this section of Simpson Road. This area of Simpson Road is not in use by the public.

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

Further, I hereby authorize county officials to enter my property for purposes of determining zoning compliance. All information submitted and required as part of this application process shall become public record.

[Handwritten Signature]
Property Owner(s)/Applicant*

5/16/2022
Date

***NOTE: Form must be signed by the owner(s) of record, contract purchaser(s), or other person(s) having a recognized property interest. If there are multiple property owners/applicants a signature is required for each.**

Owner Verification

If the person who is requesting the Board of Adjustment to take action on a particular piece of property is not the owner of the property, or under contract to purchase, then the actual owner of the land must complete this section. If the owner is the appellant/application please do not complete this section.

Dear Sir or Madame:

I am the owner of the property located at _____

I hereby authorize _____
to appear with my consent before the Board of Adjustment in order to request a variance at the above location. I understand that a variance, if granted, is permanent and runs with the land. I authorize you to advertise and present this matter in my name as the owner of the property.

If you have any questions, you may contact me at the following at the address, phone number, or email address listed on this application.

Respectfully yours,

Owner

5/16/2022
Date

Sworn to and subscribed before me, this the _ day of _____, 20__.

Notary Public

My commission expires: _____

Attachment: 4 - Frog Island Seafood - Variance Application (BOA 22-02 Frog Island Seafood)

Variance Design Standards Checklist

The table below depicts the design standards of the site plan for a variance application. Please make sure to include all applicable listed items to ensure all appropriate standards are reviewed.

Variance

Site Plan Design Standards Checklist

Date Received: _____

Project Name: _____

Applicant/Property Owner: _____

Site Plan Design Standards Checklist		
General		
1	Property owner name, address, phone number, and e-mail address.	
2	Site address and parcel identification number.	
3	North arrow and scale to be 1" = 100' or larger.	
4	Existing zoning classification of the property.	
5	Scaled drawing showing property lines, setbacks, existing and proposed development, and proposed dimensional modification. Additional site features (i.e. vehicular use areas, utilities, infrastructure, surface water) may be required by the administrator if applicable.	
6	Approximate Flood Zone line and Base Flood Elevation as delineated on the "Flood Insurance Rate Maps/Study Currituck County."	
7	Approximate location of all designated Areas of Environmental Concern or other such areas which are environmentally sensitive on the property, such as Maritime Forest, CAMA, 404, or 401 wetlands as defined by the appropriate agency.	
OR Architectural Elevations (Height Modification)		
8	Architectural drawings and/or sketches illustrating the design, character, and height of the proposed building(s).	
Other		
9	Any other documentation deemed necessary by the administrator to determine compliance with variance review standards.	

Attachment: 4 - Frog Island Seafood - Variance Application (BOA 22-02 Frog Island Seafood)

Variance Submittal Checklist

Staff will use the following checklist to determine the completeness of your application within ten business days of submittal. Please make sure all of the listed items are included. Staff shall not process an application for further review until it is determined to be complete.

Variance Submittal Checklist

Date Received: _____

Project Name: _____

Applicant/Property Owner: _____

Variance Submittal Checklist		
1	Complete Variance application	
2	Application fee (\$500)	
3	Site Plan	
4	Other documentation deemed necessary	
6	2 copies of plans	
7	2 hard copies of ALL documents	
8	1 PDF digital copy of all plans AND documents (ex. Compact Disk – e-mail not acceptable)	

For Staff Only

Pre-application Conference (Optional)

Pre-application Conference was held on _____ and the following people were present:

Comments

Attachment: 4 - Frog Island Seafood - Variance Application (BOA 22-02 Frog Island Seafood)



March 16, 2022

Mr. Jason Corbel
Currituck County Inspections
153 Courthouse Road, Suite 110
Currituck, North Carolina 27929

**RE: Frog Island Canopy – Structural Certification
3997 Caratoke Highway, Barco NC**

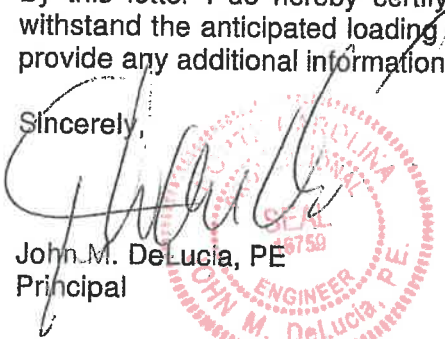
Dear Mr. Corbel:

Thank you for retuning my call yesterday regarding the above. Attached is a hand sketch from Kirk Nixon illustrating the members that are currently or proposed to be installed. I have made a site inspection and performed an analysis of the member sizes and their suitability. Based upon that analysis I find that the steel framing and z channel purlins are of sufficient size and strength to support this canopy. I have also reviewed photos of the footers before they were poured, and it appears that they were properly reinforced and of proper size to support the structure. I have also analyzed the uplift that would be experienced and find that the six footers will resist uplift with a factor of safety of about 1.8.

They will still need to install the remaining purlins, cable cross braces under the two roof bays, install two portal frames as shown on the attachment, and complete the roofing installation. Once this structure is completed, I intend to reinspect the structure and to provide you with another final certification letter.

By this letter I do hereby certify that this proposed canopy structure is sufficient to withstand the anticipated loading as stipulated in the current NC Building Code. If I can provide any additional information, please do not hesitate to contact me.

Sincerely,


John M. DeLucia, PE
Principal

Enc
cc: File

Planning – Surveying – Engineering – Environmental – Construction Management
P.O. Box 3989, 115 W. Saint Clair St., Kill Devil Hills, North Carolina 27948
North Carolina License No. C-1027
Phone: 252-441-2113 www.AlbemarleAssociates.com Fax: 252-441-0965

Attachment: 4 - Frog Island Seafood - Variance Application (BOA 22-02 Frog Island Seafood)

Frog Island Seafood

Existing Brick Bldg

See letter dated 3/16/22 for
Contractor

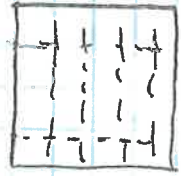
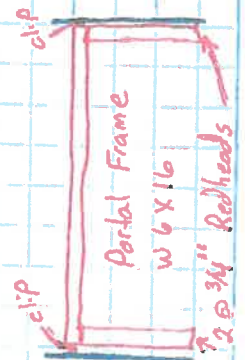
(TYP)
columns
are recessed
6" BFF

27'-0"

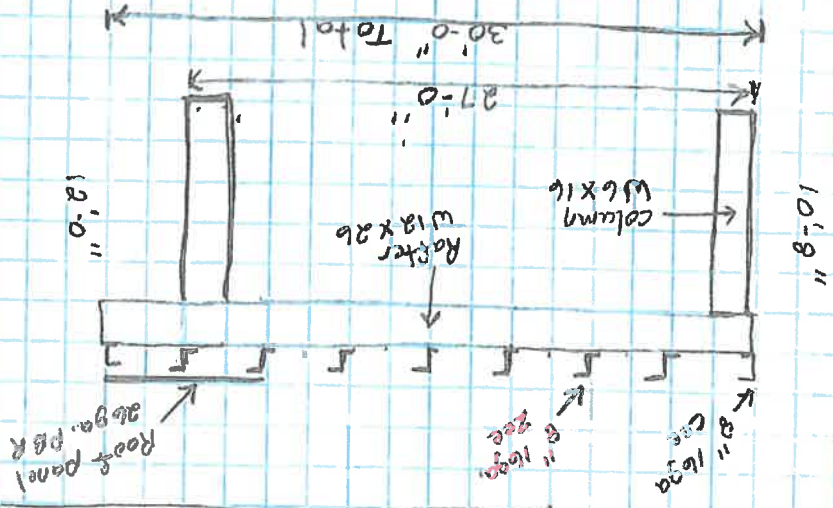
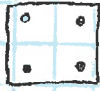
(TYP)
pier x 48" deep
48" set back
48" set back
48" set back

20'-0"

16'-0"



Column
Base Plate
12' x 18' x 3/4"
Bolts
5/8" @ 24"





Currituck County Agenda Item Summary Sheet

Agenda ID Number – 3503

Agenda Item Title: BOA 22-03 Edward Delaney & Tara Murphy:

Submitted By: Cheri Elliott – Planning & Community Development

Item Type:

Presenter of Item: Savannah Newbern

Board Action: Action

Brief Description of Agenda Item:

Request for an appeal of the Letter of Determination from Currituck County, dated May 12, 2022, which concluded Tax Map 101C, Parcel E, Seagull Subdivision, Fruitville (Beach) Township, is not a lot of record on which development may occur.

Planning Board Recommendation:

Staff Recommendation:

TRC Recommendation:



**STAFF REPORT
BOA 22-03
DELANEY-MURPHY
APPEAL REQUEST
BOARD OF ADJUSTMENT
JULY 14, 2022**

APPLICATION SUMMARY

Property Owner: Edward Delaney & Tara Murphy 146 Tamarack Circle Skillman, NJ 08558	Applicant: Same as Property Owner
Property Location: Lot E, Seagull Subdivision	Application Type: Appeal
Parcel Identification Numbers: 101C-000-000E-0000	Existing Use: Undeveloped Lot
Parcel Size (Acres): 0.92	Zoning: Single-Family Residential Outer Banks Remote (SFR)
Appeal requested from Letter of Determination, dated May 12, 2022	

STAFF ANALYSIS

On March 4, 2022, the Currituck County Manager received a request for a written determination of the Lot of Record Status/buildability of Lot E of the Seagull Subdivision in Fruitville Beach. The subsequent review by the planning staff, as indicated in the letter written by the Development Services Director dated May 12, 2022, determined that Lot E is not a buildable lot. The applicant subsequently filed this appeal to be heard by the Board of Adjustment.

In the routine operations of the Development Services Department, staff consistently evaluates and interprets the Unified Development Ordinance (the "UDO") as it relates to development proposals or existing lots. For each permit review (building or zoning), staff must determine if the property on which development is proposed is a legally established Existing Lot (Lot of Record).

The UDO defines **Existing Lot (Lot of Record)** as:

A lot, which is a part of an approved subdivision, a plat of which has been recorded in the Office of the Registrar of Deeds of Currituck County, or a lot described by metes and bounds, the description of which has been so recorded and which at the time of recordation and the time it was originally subdivided met all applicable subdivision and zoning regulations then in effect. In addition, this definition shall include lots for which a plat and/or deed is recorded in the Office of the Registrar of Deeds and the lot was created prior to August 2, 1965; a lot upon which an existing structure is located provided a valid building permit was obtained for the construction; or, a lot which at the time of creation met all subdivision and zoning requirements provided a plat is approved by the administrator and recorded with the Registrar of Deeds containing certification as to having met the then existing regulations in effect.

A property that does not meet the above definition is not a legally established lot of record. In making the "Existing Lot" determination, the following analysis walks through each part of the above definition and provides the information related to the subject property.

- Firstly, a lot of record is *“A lot, which is a part of an approved subdivision, a plat of which has been recorded in the Office of the Registrar of Deeds of Currituck County,”*.

The Seagull Subdivision was initially approved by the Board of Commissioners on June 17, 1974, and the plat was recorded on June 28, 1974 (*Attachment B*). A subsequent revision that corrected right-of-way alignment with adjacent parcels was approved by the Board on September 2, 1974, and the plat was recorded on September 4, 1974 (*Attachment C*).

The approved Seagull Subdivision plat included thirty-three (33) buildable lots, numbered one through 33, and six non-buildable lots, lettered “A” through “F”. The lettered lots (A through F) were not recorded as buildable lots for one of the following reasons.

1. The lots did not meet the dimensional requirements of the subdivision regulations of the time. The 1971 Subdivision Regulations, Article XIII, B(3)(a)(2), required a 20,000 square foot minimum lot size, 100-foot minimum lot width at the building line, and a 200-foot minimum lot depth. The subject lot does not meet the required 200-foot minimum lot depth.
2. The soils were not suitable for on-site wastewater systems. A letter from the Currituck County Health Department, dated June 7, 1974, states “One area of the tract of land was covered with standing water with low depressions around the area, which could not be approved to install septic systems.” This letter was included on the recorded plat.
3. The lots did not have adequate access.

The Preliminary Plat for the Seagull Subdivision (*Attachment D*), dated June 6, 1974, includes a breakdown of the total acreage (28.033 acres), total number of lots (33 lots), and the total acreage in parks and other land uses (4.879 acres). The acreage of the area that was recorded as the subject Lot E is included in the 4.879 acres that was identified as “parks and other land uses.”

The subject property does not meet the first part of the lot of record definition because it is not a lot approved as part of Seagull Subdivision.

- Secondly, a lot of record is *a lot described by metes and bounds, the description of which has been so recorded and which at the time of recordation and the time it was originally subdivided met all applicable subdivision and zoning regulations then in effect.*

The subject property has not been described by metes and bounds and recorded. Therefore, the subject property does not meet the second part of the lot of record definition.

- Thirdly, a lot of record includes *lots for which a plat and/or deed is recorded in the Office of the Registrar of Deeds and the lot was created prior to August 2, 1965.*

The subject property has not been recorded or created prior to August 2, 1965. Therefore, the subject property does not meet the third part of the lot of record definition.

- Fourthly, a lot of record includes *a lot upon which an existing structure is located provided a valid building permit was obtained for the construction.*

The subject property does not contain an existing structure and a valid building permit has not been issued for this property.

- Lastly, a lot of record includes *a lot which at the time of creation met all subdivision and zoning requirements provided a plat is approved by the administrator and recorded with the Registrar of Deeds containing certification as to having met the then existing regulations in effect.*

The subject parcel did not meet all the subdivision and zoning regulations when it was recorded in 1974. According to the 1971 Subdivision Ordinance, Article XIII. Design Standards, B. Lots, (3) (a) (2) *In areas lacking both community water and community sewer systems, the minimum lot shall contain 20,000 square feet of useable land, not less than 100 feet wide at the building line, nor less than 200 feet deep.*

Lot E clearly does not meet the 200' depth requirement of the subdivision ordinance in effect on September 4, 1974. The subject parcel does not meet the last part of the lot of record definition.

Additionally, Lot E does not meet the current dimensional requirements for creation of a lot of record in the SFR zoning district, found in Section 3.4.4 of the UDO, which includes a minimum lot area of 120,000 square feet. The area of Lot E is 41,882 square feet.

Based on the research outlined in this staff analysis, it has been determined that the subject property, Lot E, is not a Lot of Record and therefore is not a buildable lot in its current configuration. It is this determination that the applicant has appealed.

Appeal Review Standards

An appeal shall be decided by the Board of Adjustment following an evidentiary hearing. The decision shall be solely on the record of the of the appeal, as supplemented by arguments presented at the public hearing. The decision shall be one of the following:

- (i) Affirmation of the decision of the interpretation (in whole or in part);
- (ii) Modification of the decision or interpretation in (whole or in part); or
- (iii) Reversal of the decision of interpretation (in whole or in part).

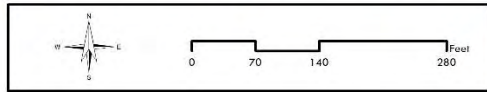
1. The Board of Adjustment is limited to the following determinations in considering the appeal, which shall be based on clear and substantial evidence in the record:
 - a. The decision-maker did not make an error or correctly applied the standards of this Ordinance in making the decision or interpretation;
 - b. The decision-maker made an error in determining whether a standard was met. The record must indicate that an error in judgment occurred or facts, plans, or regulations were misread in determining whether the particular standard was or was not met;
 - c. The decision-maker made the decision based on a standard not contained in this Ordinance or other appropriate county ordinances, regulations, or state law, or that a standard more strict or broad than the standard established in this Ordinance was applied; or
 - d. The decision-maker made an error in applying a standard or measuring a standard.
2. Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility in terms of documentation and qualifications of those making the determination.
3. The Board of Adjustment shall not hear any evidence or make any decision based on hardships or special conditions. (Such matters may only be considered in the context of an application for a variance or use permit.)

Attachments

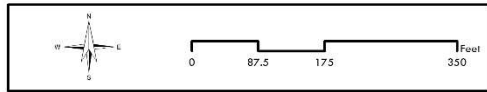
- A. Letter of Determination, dated May 12, 2022
- B. Map Book 5, Pages 34-35
- C. Map Book 5, Pages 49-50
- D. Preliminary Plat, Seagull, Fruitville Township, dated June 6, 1974



BOA 22-03 Delaney-Murphy
Appeal
2020 Aerial Photography



BOA 22-03 Delaney-Murphy
Appeal
Official Zoning Map



Attachment: 1 BOA 22-03 Delaney-Murphy Appeal Staff Report (BOA 22-03 Edward Delaney & Tara Murphy)

THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE
Board of Adjustment: www.co.currituck.nc.us/board-of-adjustment-minutes-current.cfm

ATTACHMENT A: Letter of Determination



COUNTY OF CURRITUCK
 Development Services Department
 Planning Division
 153 Courthouse Road, Suite 110
 Currituck, North Carolina 27929
 Telephone (252) 232-3055 / Fax (252) 232-3026

May 12, 2022

Mr. E. Crouse Gray, Jr.
 Gray & Lloyd, L.L.P.
 The Executive Center
 3120 N. Croatan Hwy., Ste. 101
 Kill Devil Hills, NC 27948

RE: Lot of Record Determination - Lot E, Parcel #101C-000-000E-0000, Seagull Subdivision

Dear Mr. Gray,

On March 4, 2022, the Currituck County Manager/County Attorney received a request for a written determination regarding the buildability (Lot of Record Status) of Lot "E" of the Seagull Subdivision pursuant to the original subdivision plats. Lot "E" was recorded on the plat for the Seagull Subdivision on September 4, 1974. Following a detailed review by staff, I have determined that the plat approves Lots "1" through "33" as buildable lots, while the lettered lots, including Lot "E", were not buildable lots. Therefore, Lot "E" is not a buildable lot. The specific considerations of this determination are as follows.

The Seagull Subdivision was initially approved by the Board of Commissioners on June 17, 1974, and a subsequent revision was approved on September 2, 1974. The subdivision was first recorded on June 28, 1974, and a revision was recorded on September 4, 1974. The plat revision corrected right of way alignment with adjacent parcels. The approved plat included 33 buildable lots, and six non-buildable lettered lots ("A" through "F"). Lots "A" through "F" were not, and could not have been, recorded as buildable lots for one or more of the following reasons: (1) the lettered lots did not meet the dimensional requirements of the subdivision regulations of the time (20,000 square foot minimum lot size, 100-foot minimum lot width at the building line, and 200-foot minimum depth), (2) the soils were not suitable for on-site wastewater systems, or (3) the lots did not have adequate access.

The Seagull Subdivision file contains a preliminary plat dated June 6, 1974, that includes a breakdown of the "total acreage", "total lots", and "acreage in parks and other land uses". The acreage in parks and other land uses equaled the area of parcels A-F on the preliminary plat. This further indicates that parcels A-F were not approved as buildable lots.

Lot "E" was not recorded as a buildable lot in 1974 and does not comply with the Unified Development Ordinances' definition of an existing lot in Chapter 10.

"Existing Lot (Lot of Record)- A lot, which is a part of an approved subdivision, a plat of which has been recorded in the Office of the Registrar of Deeds of Currituck County, or a lot described

Lot of Record Determination
 Lot "E", Seagull Subdivision
 May 12, 2022

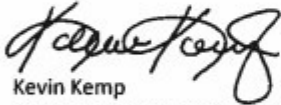
by metes and bounds, the description of which has been so recorded and which at the time of recordation and the time it was originally subdivided met all applicable subdivision and zoning regulations then in effect. In addition, this definition shall include lots for which a plat and/or deed is recorded in the Office of the Registrar of Deeds and the lot was created prior to August 2, 1965; a lot upon which an existing structure is located provided a valid building permit was obtained for the construction; or, a lot which at the time of creation met all subdivision and zoning requirements provided a plat is approved by the administrator and recorded with the Registrar of Deeds containing certification as to having met the then existing regulations in effect."

To be recognized as a lot of record on which development may occur, Lot "E" would need to meet the dimensional requirements of the current UDO. Lot "E" is located in the SFR zoning district. The UDO requires 120,000 square feet minimum lot area in that zoning district, under Section 3.4.4. Since Lot "E" is only 41,882 square feet, it does not meet the UDO dimensional requirements.

You may appeal the determination that Lot "E" is not a lot of record on which development may occur to the Board of Adjustment. An appeal must be filed to the Development Services Department within thirty (30) days of receipt of this determination. The Board of Adjustment may reverse or affirm this decision. I am happy to assist you with the appeal process should you wish to move forward.

If I can be of further assistance or you wish to discuss this more, please contact me at (252) 232-6075 or by email, kevin.kemp@currituckcountync.gov.

Respectfully,



Kevin Kemp
 Development Services Director

Cc: Ike McRee, County Manager/County Attorney

MB 5 Page 31



4E

Unofficial Document

NOTES:

1. THIS PLAT WILL BE USED WITHIN THE BOUNDARIES OF THE
2. THE BOUNDARIES WILL BE AS SHOWN ON THIS PLAT UNLESS OTHERWISE NOTED.
3. THE BOUNDARIES WILL BE AS SHOWN ON THIS PLAT UNLESS OTHERWISE NOTED.
4. ALL BOUNDARIES WILL BE AS SHOWN ON THIS PLAT UNLESS OTHERWISE NOTED.
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Seagull
FRUITVILLE TOWNSHIP
CURRITUCK COUNTY, NORTH CAROLINE
OWNED BY DONALD RICHON
LOTS 1 THRU 33

Quibbe & Associates
CONSULTING ENGINEERS & LAND SURVEYORS
INCORPORATED
1101 S. W. 11TH AVENUE, MIAMI, FLORIDA 33136
SHEET 3 OF 3

Book 5 Page 204

Attachment: 1 BOA 22-03 Delaney-Murphy Appeal Staff Report (BOA 22-03 Edward Delaney & Tara Murphy)

MAP 5 PAGE 5D

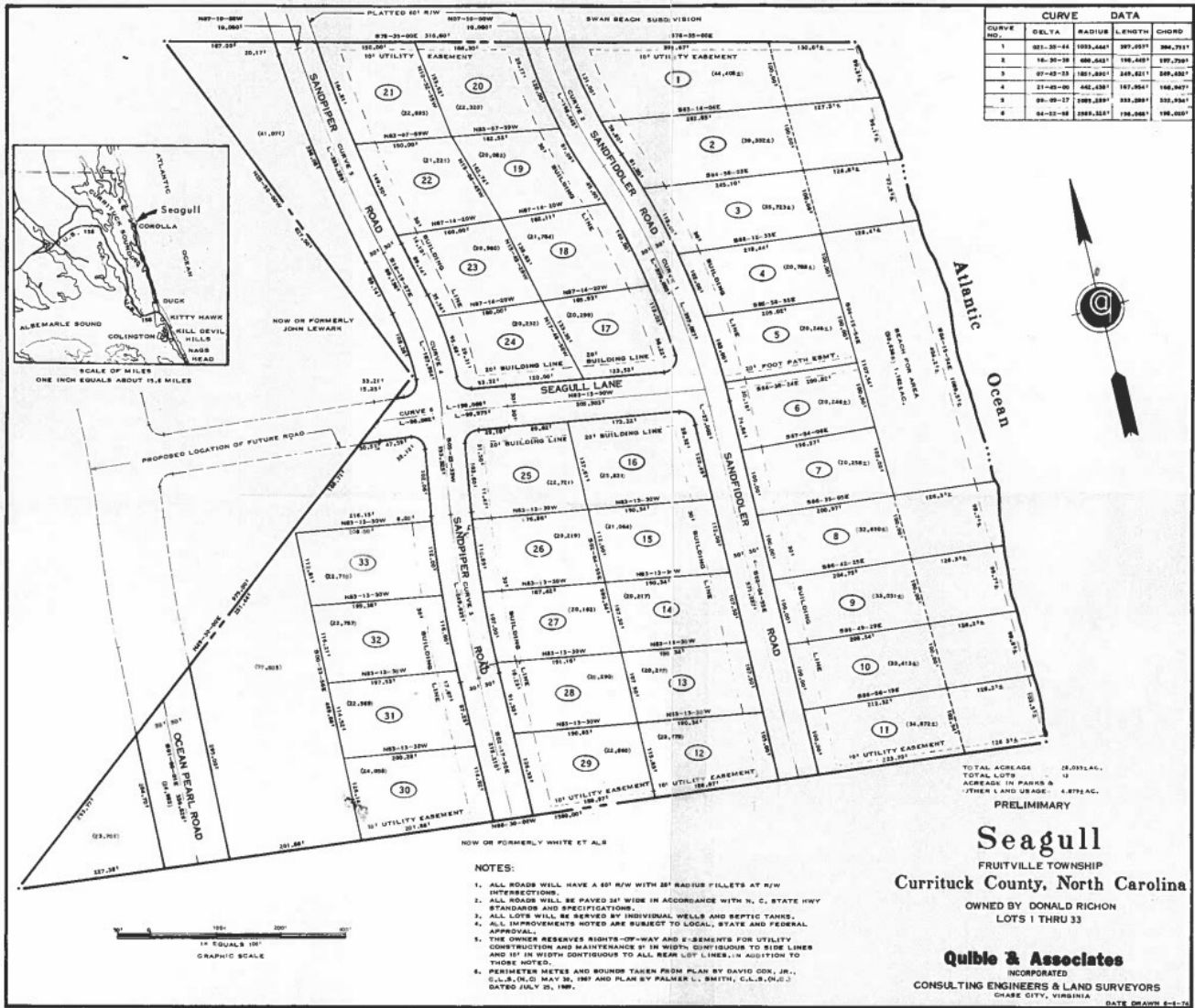
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Book 1 Page 050

Attachment: 1 BOA 22-03 Delaney-Murphy Appeal Staff Report (BOA 22-03 Edward Delaney & Tara Murphy)

ATTACHMENT D: Preliminary Plat



Attachment: 1 BOA 22-03 Delaney-Murphy Appeal Staff Report (BOA 22-03 Edward Delaney & Tara Murphy)



Appeal Application

OFFICIAL USE ONLY:

Case Number: _____

Date Filed: _____

Gate Keeper: _____

Amount Paid: _____

Contact Information

APPLICANT:		PROPERTY OWNER:	
Name:	<u>Edward Delaney & wife, Tara Murphy</u>	Name:	<u>Same</u>
Address:	<u>146 Tamarack Circle</u> <u>Skillman, NJ 08558</u>	Address:	_____
Telephone:	<u>732.823.7415</u>	Telephone:	_____
E-Mail Address:	<u>Tamesq1@cs.com</u>	E-Mail Address:	_____

LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: Same

Property Information

Physical Street Address: Sandpiper Road

Location: Lot E, Seagull Subdivision

Parcel Identification Number(s): 101C-000-000E-0000

Statement of Error, or Improper Decision or Interpretation

I wish to appeal a: Decision or Interpretation Notice of Violation

The determination being dated 05/12 /2022.

Grounds for appeal

State the facts you are prepared to prove to the Board of Adjustment that should lead the board to conclude that the decision of the administrator was made in error.

See attached sheet.

Please include all related support materials with the application.

I, the undersigned, do certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief. All information submitted and required as part of this application process shall become public record.

Tara A. Murphy 5/31/22
 Appellant/Applicant Date

Attachment: 2 BOA 22-03 Delaney-Murphy Appeal Application (BOA 22-03 Edward Delaney & Tara Murphy)

Owner Verification

If the person who is requesting the Board of Adjustment to take action on a particular piece of property is not the owner of the property, or under contract to purchase, then the actual owner of the land must complete this section. If the owner is the appellant/application please do not complete this section.

Dear Sir or Madame:

I am the owner of the property located at Lot E, Seagull Subdivision, Parcel No. 101C-000-000E-0000

I hereby authorize E. Crouse Gray, Jr. and the firm of Gray & Lloyd, LLP to appear with my consent before the Board of Adjustment in order to request an appeal or interpretation at the above location. I authorize you to advertise and present this matter in my name as the owner of the property.

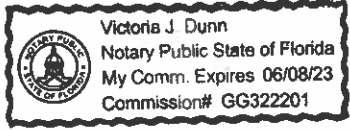
Further, I hereby authorize county officials to enter my property for purposes of determining zoning compliance.

If you have any questions, you may contact me at the following at the address, phone number, or email address listed on this application.

Respectfully yours,
Tam A. Mealy
Owner _____ Date _____

Sworn to and subscribed before me, this the 31 day of May, 2022.

[Signature]
Notary Public
My commission expires: 06/08/2023



Attachment: 2 BOA 22-03 Delaney-Murphy Appeal Application (BOA 22-03 Edward Delaney & Tara Murphy)

**ATTACHMENT TO
APPEAL APPLICATION**

Grounds for appeal:

The Development Services Director, in the Lot of Record Determination letter of May 12, 2022 is confusing two different concepts. The first concept is whether there was a subdivision which created Lot E. It is the position of the applicant that the subdivision plat, which was approved by the Commissioners for Seagull Subdivision, as originally recorded in Map Book 5, Page 33 and 34, which subdivision plat of Seagull Subdivision included a parcel denominated as "E". This clearly created a lot.

The Currituck County Commissioners further approved a second plat of Seagull Subdivision as recorded in Map Book 5, Pages 49 and 50, which still contained a delineation of a parcel denominated as "E" and therefore, clearly subdivided and created a Lot E.

The issue as to whether Lot E was a buildable lot at the time it was created is different of whether in fact it was subdivided.

There is nothing on the plats of record in Map Book 5, Pages 33 and 34, and Map Book 5, Pages 49 and 50 specifically stating that Lot E is not buildable. It clearly had, at that time, 20,000 square feet. It clearly had adequate access. It clearly met all dimensional requirements, including a 100ft. minimum lot width at the building line and a 200ft. minimum depth. The only issue then being whether soils were suitable for onsite wastewater system. There is no delineation on either plat indicating that the soils of Lot E were not suitable for an onsite wastewater system.

As such, there is nothing of record, as recorded, concerning Lot E to show that it is not a buildable lot as approved by the Currituck County Commissioners.

Notice is also taken to the fact that Lot D and a revised Lot A have since been built upon.

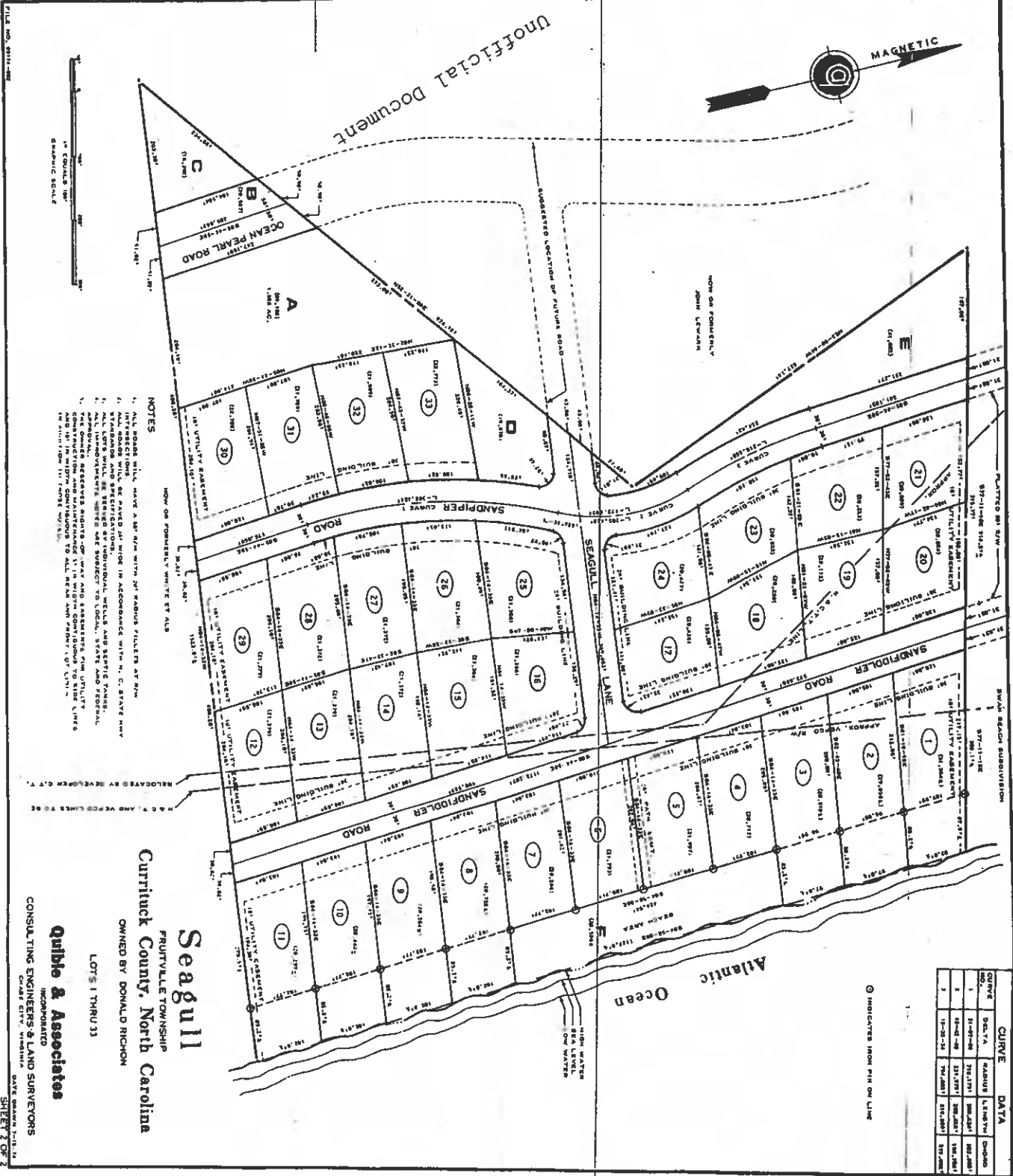
The documents which applicant proposes to submit in support of its appeal are as follows and attached hereto:

1. Minutes of Board of Commissioner's Meeting from June 17, 1974.
2. Minutes of Board of Commissioner's Meeting from September 2, 1974.
3. Recorded plats of Seagull Subdivision as recorded in Map Book 5, Pages 33 and 34.
4. Recorded plats of Seagull Subdivision as recorded in Map Book 5, Pages 49 and 50.
5. All documents as requested pursuant to Freedom of Information Act Request by letter dated May 31, 2022.

Official Document

Official Document

Official Document



- NOTES**
1. ALL RIGHTS SHALL HAVE A SIX (6) FOOT WIDE RIGHT OF WAY RIGHTS FILLETS AT THE FULL WIDTH.
 2. ALL RIGHTS SHALL BE AVOIDED AT WIDE IN ACCORDANCE WITH N. C. STATE HAVE.
 3. ALL RIGHTS SHALL BE SERVED BY INDIVIDUAL WELLS AND SERVICE TANKS.
 4. ALL IMPROVEMENTS, UTILITIES AND SUBJECT TO LOCAL, STATE AND FEDERAL.
 5. THE OWNER RECEIVES RIGHTS OF WAY AND EASEMENTS FOR ALL UTILITIES AND EASEMENTS AND SHALL BE RESPONSIBLE FOR THE COST OF THE SAME.
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Seagull
 FRUITVILLE TOWNSHIP
 Currituck County, North Carolina
 OWNED BY DONALD RICHON
 LOTS 1 THRU 33

Quible & Associates
 INCORPORATED
 CONSULTING ENGINEERS & LAND SURVEYORS
 CHARLES CITY, VIRGINIA
 DATE DRAWN: 11-13-14
 SHEET 2 OF 2

Attachment: 2 BOA 22-03 Delaney-Murphy Appeal Application (BOA 22-03 Edward Delaney & Tara Murphy)

Currituck, N.C.
June 17, 1974

The Board of Commissioners met in regular session on June 17, 1974 at 7:00 P.M. at the Courthouse the regular meeting place.

Present: Vice-Chairman H. O. Capps, presiding, and Commissioners R. H. Ferrell, Marvin Snowden, and James Voliva.

Absent: H. D. Newbern, Jr.

Minutes

The minutes of June 3, 1974 were read and approved.

Public Hearing

A public hearing was held on the 1974-75 budget estimate. No one appeared to speak for or against the proposed budget.

Ocean Sands Water
Sewer bids

The following bids for water and sewer improvements at Ocean Sands, Currituck County, North Carolina were received and opened on June 5, 1974 by the County Manager;

Central Builders	699,495
Hilco Inc.	718,000
Roanoak Construction	959,400
Hunt Contracting	1,035,572

The lowest bid exceed the amount of funds available for the project. Therefore, on the motion of Commissioner Ferrell, seconded by Commissioner Snowden. All bids were rejected the engineer was instructed to alter the plans and specifications and the County Manager was instructed to readvertise the contract.

Truck Bids

Bids for four pick-up trucks were received on June 3, 1974 by the County Manager. No bids were received which were properly responsive to the invitation to bid. On the motion of Commissioner Ferrell, seconded by Commissioner Snowden, all bids were rejected and, mosquitos presenting a hazard to the public health, an emergency was declared and the County Manager was authorized to negotiate any responsible dealer for the purchase of four pick-up trucks.

Flood hazard study

On the motion of Commissioner Ferrell, seconded by Commissioner Snowden, the following resolution was adopted:

RESOLUTION

WHEREAS, certain areas of the county of Currituck are subject to periodic floodings;
 and,
 WHEREAS, the damages due to flooding may become more pronounced as development increases;
 and,
 WHEREAS, the availability of federal flood insurance for the citizens of the County is dependent upon th adoption of a flood plain ordinance regulating the development within the areas affected by flooding; and
 WHEREAS, flood plain regulations must necessarily be based on the technical studies delineating the boundaries of the flood way, flood way fringe, and other features of the flood plain; and
 WHEREAS, the Board of Commissioners recognizes it responsibility to promote the protection of the County's environmental resources;
 NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of Currituck, North Carolina,
 That the North Carolina Office of Water and Air Resources be requested to make the necessary arrangements with the appropriate federal agency to initiate the studies required for mapping the following water bodies listed below that are affected by periodic flooding within the jurisdiction of the County of Currituck, North Carolina, looking towards preparation of a ordinance regulation development within the flood plain.

Attachment: 2 BOA 22-03 Delaney-Murphy Appeal Application (BOA 22-03 Edward Delaney & Tara Murphy)

1. The Atlantic Ocean adjacent to Currituck County.
2. The Currituck Sound; Tulls Bay; Coinjock Bay; North Landing River.
3. The Northwest River to the Virginia-North Carolina state line.
4. Shingle landing Creek.
5. The Albemarle Sound adjacent to Currituck County.
6. The North River
7. Indian Creek northward to N.C. 168.
8. The Inter-coastal water-way Canal

Final Action on Zoning matters

On the motion of Commissioner Ferrell, seconded by Commissioner Snowden, one and one-half acres of Bessie Casons land on Knott's Island were rezoned from RA-20 to RA-20MH by adding this area to the adjacent RA-20MH zoning south of Brumley Road.

On the motion of Commissioner Ferrell, seconded by Commissioner Snowden, three and one-half acres on Tulls Creek Road belonging to Edna Wilson were rezoned from RA-20 to RA-20MH.

On the motion of Commissioner Ferrell, seconded by Commissioner Snowden, a parcel bounded on the east by S.R. 1251 on the south by Newbern Drive on the north by the Virginia-North Carolina state line and on the east by lot 4 in the New Acres Subdivision was rezoned from RA-20MH to C.S.

School Budget Amendments

On the motion of Commissioner Snowden, seconded by Commissioner Ferrell, the following amendments to the School Budget were approved:

<u>Amount</u>	<u>From</u>	<u>To</u>
\$ 700.00	682.2	684.1
800.00	682.5	684.1
200.00	685.1	684.1
675.00	682.6	684.1
<u>\$2375.00</u>		
\$2800.00	641.1	643

Computer bids

Bids on a Mini-Computer Accounting System were received on May 3, 1974 and opened by the County Manager. The following bid by the Burroughs Corporation was the only bid received;

Equipment \$26,056.33

On the motion of Commissioner Ferrell, seconded by Commissioner Snowden the bid of the Burroughs Corporation was accepted and the Contract awarded. The Finance Officer was advised to order the equipment.

FY 1974-75 Budget

On the motion of Commissioner Ferrell, seconded by Commissioner Snowden, the FY 1974-75 Budget estimate, with changes ordered by the Board to date, was tentitively approved.

Subdivision plats

On the motion of Commissioner Voliva, seconded by Commissioner Snowden, the final plats for Phase IV and Phase V of the Ocean Sands Subdivision were approved.

On the motion of Commissioner Ferrell seconded by Commissioner Voliva, the preliminary plat of Section I tract 1-A of the Pine Island development was approved.

Attachment: 2 BOA 22-03 Delaney-Murphy Appeal Application (BOA 22-03 Edward Delaney & Tara Murphy)

On the motion of Commissioner Ferrell seconded by Commissioner Snowden, the final plat of the Seagull Subdivision was approved. The meeting was adjourned until 7:00 P.M. Monday June 24, 1974.

ATTEST:

Julius Aeri

Chairman

[Signature]

[Signature]

[Signature]

H. O. Caffer

[Signature]

Attachment: 2 BOA 22-03 Delaney-Murphy Appeal Application (BOA 22-03 Edward Delaney & Tara Murphy)

CURRITUCK, NORTH CAROLINA
September 2, 1974

Water Bonds

The Board of Commissioners met in regular session at the County Courthouse in Currituck, North Carolina, at seven o'clock P. M. on September 2, 1974. Present: Chairman H. D. Newbern, Jr., presiding, and Commissioners H. O. Capps, James Voliva, and Marvin Snowden. Absent: Commissioner R. H. Ferrell

The Chairman announced that this was the date and hour fixed by the Board of Commissioners for the public hearing upon the order entitled: "ORDER AUTHORIZING \$2,500,000 WATER BONDS" and that the Board would immediately hear anyone who might wish to be heard on the question of the validity of said order or the advisability of issuing said bonds. No one appeared, either in person or by attorney, to be heard on the question of the validity of said order or the advisability of issuing said bonds, and the Clerk of the Board of Commissioners announced that no written statement relating to said question had been received.

Thereupon, upon motion of Commissioner Snowden, seconded by Commissioner Capps and carried, the order introduced and passed on first reading on August 26, 1974 entitled: "ORDER AUTHORIZING \$2,500,000 WATER BONDS" was read a second time and placed upon its final passage. The vote upon the final passage of said order was: Ayes: Commissioners Capps, Newbern, Snowden, Voliva. Noes: None

The Chairman then announced that the order entitled: "ORDER AUTHORIZING \$2,500,000 WATER BONDS" had been adopted.

The Clerk of the Board of Commissioners was thereupon directed to publish said order once in The Daily Advance, and to publish at the foot of said order the appended statement, as required by The Local Government Bond Act, as amended.

Thereupon Commissioner Snowden introduced the following resolution which was read:

RESOLUTION CALLING A SPECIAL BOND REFERENDUM

BE IT RESOLVED by the Board of Commissioners for the County of Currituck:

Section 1. A special bond referendum is hereby called to be held between 6:30 A.M. and 7:30 P.M., on Tuesday, November 5, 1974, at which there shall be submitted to the qualified voters of Currituck County the question stated in the Notice of Special Bond Referendum set forth in Section 3 of this resolution.

Section 2. For said referendum, (i) the regular registration books for elections in said County shall be used and the registration books, process or records shall be open for the registration of qualified persons and for public inspection in the manner, under the conditions and at the times and places as provided in said notice set forth in Section 3 of this resolution, (ii) the registrars, judges and other election officers appointed by the County Board of Elections of Currituck County for the several precincts and voting places shall be the election officers for such precincts and voting places, and (iii) subject to change as provided by law, the precincts and voting places shall be those fixed by said County Board of Elections as provided in said notice set forth in Section 3 of this resolution.

Section 3. The Clerk of the Board of Commissioners shall cause a notice to be published in The Daily Advance once at least fourteen days before October 7, 1974 (being the last day on which persons may register for said referendum) and once again not less than seven days before said day, such notice to read substantially as follows:

NOTICE OF SPECIAL BOND REFERENDUM
in the
COUNTY OF CURRITUCK, NORTH CAROLINA

A special bond referendum will be held throughout Currituck County between 6:30 A. M. and 7:30 P. M., on Tuesday, November 5, 1974, at which there will be submitted to the qualified voters of said County the following question:

Shall the order adopted on September 2, 1974 authorizing not exceeding \$2,500,000 Water Bonds of the County of Currituck, North Carolina, for the purpose of providing funds, with any other available funds, for constructing a water-works system for said County, including supply, storage, treatment, distribution and appurtenant facilities and the acquisition of necessary land, rights of way and equipment, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, be approved?

The question hereinabove set forth contains a statement of the purpose for which the bonds are authorized by the order referred to in said question.

If said bonds are issued taxes in an amount sufficient to pay the principal and interest thereon will be levied upon all taxable property in the County of Currituck.

For said referendum the regular registration books for elections in the County of Currituck will be used and the registration books, process or records will continue to be open for the registration of qualified persons and the acceptance of registration applications between the hours of 9:00 A.M. and 1:00 P. M. on Monday, Wednesday and Friday of each week at the office of the County Board of Elections in the office of the Tax Collector, County Courthouse in Currituck, North Carolina,

The registrars will not attend the voting places except on the date of the referendum.

The last day for new registration of those not now registered under Currituck County's permanent registration system is Monday, October 7, 1974.

The last day on which registered voters who have moved residence from one precinct to another may transfer registration is Monday, October 7, 1974.

The registration books will be open to public inspection by any registered voter of the County between the hours of 9:00 A.M. and 1:00 P.M. on Monday, Wednesday and Friday of each week at the office of the County Board of Elections mentioned above and such days are Challenge Days.

Any qualified voter of the County who is qualified to vote by absentee ballot under the provisions of the General Statutes of North Carolina, particularly Article 20 of Chapter 163, in a statewide primary or general election is authorized to vote an absentee ballot in said special bond referendum in accordance with said provisions of the General Statutes relating to absentes voting. Any qualified voter of the County who is qualified to vote by absentee ballot in said special bond referendum may apply for an absentee ballot not earlier than sixty days prior to said special bond referendum and not later than 6:00 P.M., Wednesday, October 30, 1974, at the office of the County Board of Elections mentioned above.

Qualified voters who are not certain whether they are registered or whether they are qualified to vote by absentee ballot should contact the County Board of Elections at the office of said Board mentioned above.

The registrars, judges and other election officers appointed by the County Board of Elections will serve as the election officers for said referendum.

Subject to change as provided by law, the precincts and voting places for said referendum are as follows:

PRECINCT	VOTING PLACE
Powells Point	Community Center
Jarvisburg	Community Center
Grandy	Lower Currituck Fire Department
Narrow Shore	Club House
Churches Island	Jones' Store
Coinjock	Club House
Courthouse	Courthouse
Indian Ridge	Shawboro Community Building
Moyock	Fire Department
Gibbs Woods	Home of Sarah Whitehurst
Knotts Island	Knotts Island Elementary School
Whaleshead	John Austin's Store

Norton E. Byrd
Chairman of County Board of Elections

Section 4. The form of the paper ballot to be used for said referendum shall be substantially as follows:

OFFICIAL BALLOT

SPECIAL BOND REFERENDUM

COUNTY OF CURRITUCK, NORTH CAROLINA

November 5, 1974

Instructions

- To vote in favor of the order make a cross (X) mark in the square to the right of the word "YES".
- To vote against the order make a cross (X) mark in the square to the right of the word "NO".
- If you tear or deface or wrongly mark this ballot, return it and get another.

..... Shall the order adopted on September 2, 1974, authorizing not exceeding
YES . . . \$2,500,000 Water Bonds of the County
. . . of Currituck, North Carolina, for the
..... purpose of providing funds, with any
other available funds, for constructing
a waterworks system for said County,
..... including supply, storage, treatment,
. . . distribution and appurtenant facilities
NO . . . and the acquisition of necessary land,
..... rights of way and equipment, and auth-
orizing the levy of taxes in an amount
sufficient to pay the principal of and
the interest on said bonds, be approved?

(Facsimile of signature)
Chairman of County Board of Elections

Attachment: 2 BOA 22-03 Delaney-Murphy Appeal Application (BOA 22-03 Edward Delaney & Tara Murphy)

Section 5. The Clerk of the Board of Commissioners is hereby directed to mail or deliver a certified copy of this resolution to the County Board of Elections of Currituck County within three days after the adoption hereof.

Section 6. This resolution shall take effect upon its passage.

Thereupon, upon motion of Commissioner Snowden, seconded by Commissioner Capps, the foregoing resolution entitled: "RESOLUTION CALLING A SPECIAL BOND REFERENDUM" was passed by the following vote:

Ayes: Commissioners Capps, Newbern, Snowden, Voliva.

Noes: None

The minutes of July 15 and August 5 were read and approved. Mr. Newbern and County Manager Graham Pervier reported to the Board on their meeting with BOR, HEW, GSA, and ECSU officials in Atlanta to discuss disposition of the surplus Federal property at the Naval Radio Receiving Facility. On the motion of Mr. Snowden, seconded by Mr. Voliva, the solid waste collection franchise rate schedule was amended as follows: The rate for mobile home parks of 10 units or more where the entire tract is in single ownership shall be \$4.00 per unit per month for twice weekly pickup of household solid waste and twice monthly pickup of such refuse as discarded furniture and appliances. After a public hearing, on the motion of Mr. Capps, seconded by Mr. Voliva, the request of Gary Jones to rezone 10 acres on SR 1257 north of Wards roads (tax parcel 74-46) was rezoned from RA-20 to RA-20MH. After a public hearing, on the motion of Mr. Capps, seconded by Mr. Snowden, the request of Thomas Henderson to rezone approximately 14 acres on Baxter's Lane from LI to RA-20 including the following parcels; O'Dell, Stone Eure, Godfrey, Vaughan, Henderson, Phine, Starboard, was approved. After a public hearing, no action was taken on the request of Ralph Forbes to rezone 1/2 acre on U.S. 158 near Manie from A-01 to HC. Bob Aldridge and Bob Jefferies appeared to discuss the Albemarle Hospital's building program and pending bond

Minutes
Surplus Property

Solid Waste Rates

Public Hearings

Albemarle Hospital

Attachment: 2 BOA 22-03 Delaney-Murphy Appeal Application (BOA 22-03 Edward Delaney & Tara Murphy)

Seagull Subdivision

School Budget

issue in Pasquotank County. The addition is planned to include 53 beds and other facilities including X-ray and labs. Mr. Aldridge explained that Currituck residents use 11.2% of the patient days at the hospital, and requested that the Commissioners support the hospital.

On the motion of Commissioner Snowden, seconded by Commissioner Voliva, a corrected plat for the Seagull Subdivision was approved.

(Mr. Ferrell joined the meeting at this point.)

On the motion of Mr. Snowden, seconded by Mr. Voliva the following budget amendments were adopted:

- (1) \$12,000 in the General Revenue Sharing Fund appropriated for a school activity bus was reappropriated to the school capital outlay fund for mobile classrooms.
- (2) \$5,000 in the contingency account in the general fund was appropriated to the school capital outlay fund for mobile classrooms.
- (3) \$12,000 in the contingency account in the general fund was appropriated to the School capital reserve fund for an activity bus.

ATTEST:

John J. Ferrell

John J. Ferrell
Chairman

William J. Snowden

James M. Voliva

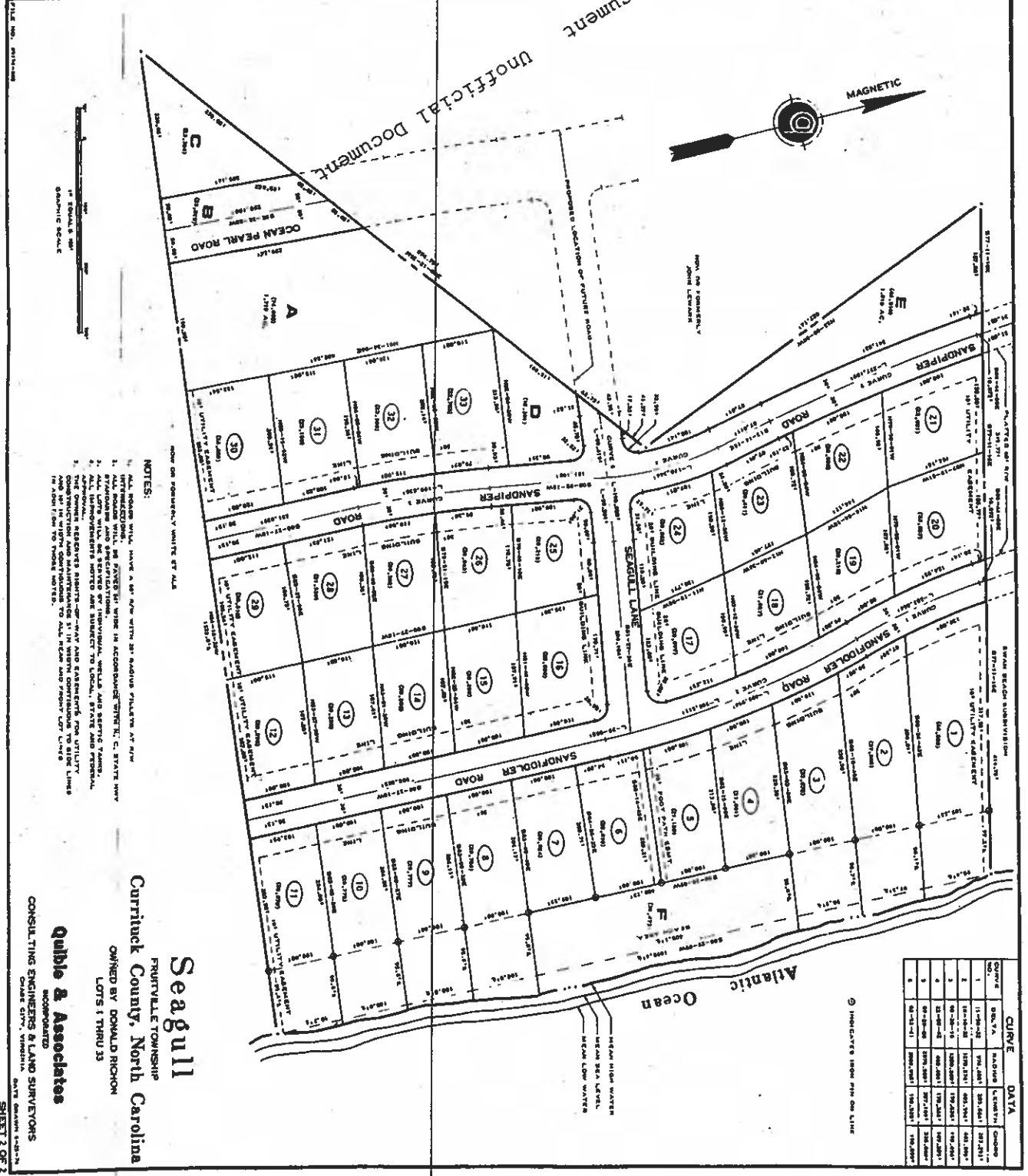
John J. Ferrell

Attachment: 2 BOA 22-03 Delaney-Murphy Appeal Application (BOA 22-03 Edward Delaney & Tara Murphy)

Unofficial Document

Unofficial Document

Unofficial Document



CURVE	DATA
1	150'-0" RADIUS 150'-0" CHORD 90°
2	150'-0" RADIUS 150'-0" CHORD 90°
3	150'-0" RADIUS 150'-0" CHORD 90°
4	150'-0" RADIUS 150'-0" CHORD 90°
5	150'-0" RADIUS 150'-0" CHORD 90°
6	150'-0" RADIUS 150'-0" CHORD 90°
7	150'-0" RADIUS 150'-0" CHORD 90°
8	150'-0" RADIUS 150'-0" CHORD 90°
9	150'-0" RADIUS 150'-0" CHORD 90°

- NOTES:
- ALL ROADS WILL HAVE A 30' R/W WITH AN 8' SIDEWALK AT THE INTERSECTION. BE SETTING IN ACCORDANCE WITH C. STATE HWY STANDARDS AND SPECIFICATIONS.
 - ALL LOTS WILL BE SET FOR INDIVIDUAL UTILITY AND SERVICE TRENCHES. THE TRENCHES WILL BE SET IN ACCORDANCE WITH THE C. STATE STANDARDS AND SPECIFICATIONS.
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Seagull
 FRUITVILLE TOWNSHIP
 Currituck County, North Carolina
 OWNED BY DONALD RICHON
 LOTS 1 THRU 35

Quibbe & Associates
 INCORPORATED
 CONSULTING ENGINEERS & LAND SURVEYORS
 CHARLOTTE, VIRGINIA 22070
 SHEET 2 OF 2