

Town of North Topsail Beach

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

Aldermen:
Richard Grant
Connie Pletl



Alice Derian, ICMA-CM
Town Manager

Melinda Mier
Town Clerk

Nature's Tranquil Beauty

Zoning Board of Adjustment

Agenda

Wednesday, September 14, 2022 at 6:00 p.m.

- | | | |
|------|--|-----------|
| I. | Call to Order | 6:00 p.m. |
| II. | Adoption of Agenda | 6:01 p.m. |
| III. | Approval of Minutes, July 27, 2022 | 6:02 p.m. |
| IV. | Public Comment | 6:03 p.m. |
| V. | New Business | |
| | A. Oath's of Office | 6:05 p.m. |
| | • Scott Morse (reappointment) | |
| | • Stu Harness (appointment to alternate) | |
| | B. Case #V-22-03 | 6:10 p.m. |
| | C. Rules of Procedure | 6:30 p.m. |
| VI. | Discussion | 6:55 p.m. |
| VII. | Adjournment | 7:00 p.m. |

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

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

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Zoning Board of Adjustment Special Meeting Draft Minutes Wednesday, July 27, 2022 at 3:00 p.m. 2008 Loggerhead Ct, North Topsail Beach, NC 28460

Present: Hanna McCloud – Chair, Debra Swantek, Cameron Kuegel, Susan Meyer.

Present Other: Deborah Hill – Planning Director, Town Attorney Brian Edes, Kate Winzler – Clerk to the Zoning Board of Adjustment, Court Reporter Kim Altman.

Absent: Paul Dorazio – Vice Chair, Patricia Stigall, Scott Morse, Lisa Lee Kozlowski, and Stu Harness.

CALL TO ORDER: Chair McCloud called the meeting to order at 3:12 p.m.

ADOPTION OF AGENDA: Ms. Swantek made a motion to adopt the agenda. Mr. Kuegel seconded the motion. The motion passed unanimously, 4-0.

APPROVAL OF MINUTES: The Board consulted with Town Attorney Edes. Ms. Swantek made a motion to continue item three Approval of Minutes April 29, 2022 until the next Board of Adjustment meeting. Mr. Kuegel seconded the motion. The motion passed unanimously, 4-0.

PUBLIC COMMENT: Keith Wilkerson of 149 Sea Gull Lane reserved his comment and clarifying his intention to speak during the variance hearing.

NEW BUSINESS:

OATHS OF OFFICE: Clerk Winzler administered the oath of office to Hanna McCloud (reappointment) and Susan Meyer (appointment to alternate).

ELECTION OF CHAIR: Attorney Edes advised on the appointment of a chair for this meeting. Ms. Swantek made a motion to elect Hanna McCloud as the Chair for this meeting. Ms. Meyer seconded. The motion passed unanimously, 4-0.

ELECTION OF VICE CHAIR: Attorney Edes advised that as the Chair was present a Vice Chair is not required for the purpose of this meeting. Ms. Swantek suggested waiting to appoint a Vice Chair.

CASE #V-22-02: Attorney Edes reviewed the variance request and the rules of the quasi-judicial hearing. Mr. Edes posed questions to the Board, which the Board answered. Mr. Edes asked the

July 27, 2022 Board of Adjustment Special Meeting

applicant's agent, Mr. Charles Riggs, if he elected to go forward with the hearing today with only four Board members present. Mr. Riggs stated, "I understand we have the right to continue, and we would like to proceed."

Clerk Winzler swore in Keith Wilkerson of 149 Sea Gull Lane, Charles Riggs - agent for the applicant, and Planning Director Deb Hill.

Mr. Edes opened the evidentiary component of the hearing at 3:28 p.m.

Planning Director Hill presented the staff report.

Attorney Edes entered the agenda packet as Exhibit 1 without objection. Mr. Edes questioned Ms. Hill. Mr. Riggs cross examined Ms. Hill. Mr. Wilkerson did not have any questions for Ms. Hill. The Board questioned Ms. Hill. Mr. Edes entered the plat Map Book 21 Page 176 as referenced in the staff report as Exhibit 2 without objection.

Mr. Charles Riggs of 502 New Bridge St, Jacksonville, surveyor for the applicants Joseph and Lorraine Powers, spoke on their behalf. Mr. Riggs provided the Board with enlargements of the survey and the survey with an aerial overlay. As he addressed the Board, Mr. Riggs explained that the Powers are requesting a variance from the area requirements for lots in R-10. Lot 19 has 5,835 square feet with an adequate building envelope of 36.5' wide by 72' deep. The adjoiner to the east is Wilkinson, with a duplex on a 5,035 square foot lot, smaller than the subject lot. The adjoiner to the west is Wilkerson, with a single-family residence on an 8,298 square foot lot. All three of the lots have less than 10,000 square feet and are zoned R-10. Prior to requesting a variance, the Powers tried to remedy the area requirement by offering to purchase additional land to the north to meet the 10,000 square foot requirement but were unable to come to an agreement with that lot owner. The footprint of the structure would be 1,750 square feet at the most, and either a single-family or a duplex as allowed by the restrictive covenants of the subdivision map. The majority of the lots to the west of lot 19 are duplexes, and the lot immediately to the east is a duplex. The hardship was created in 1982 when the plat was recorded. Everyone else within the subdivision has had the opportunity to utilize their property, and the Powers would like to do the same.

The Board questioned Mr. Riggs.

Mr. Riggs explained that the adjoiners' driveway is located within the cull-de-sac indicated on the subdivision plat, but which was never installed for these lots.

Mr. Edes asked several questions of Mr. Keith Wilkerson of 149 Sea Gull Lane, to establish that he had standing. Mr. Wilkerson explained that he owns property adjacent to the subject property.

Mr. Wilkerson questioned Mr. Riggs.

Mr. Edes entered the enlarged copy of the survey into evidence as exhibit 3.

Ms. Hill asked Mr. Riggs why he would not consider his clients' having a vested right in developing that property, as the plat was approved by the Onslow County Planning Board on November the 30th, 1982, and all the other lots have been developed. Mr. Riggs agreed that he does believe his clients have a vested right, as much right to build a house there as the other lots did. He explained the variance request was submitted to overcome the zoning ordinance which requires the lot have 10,000 square feet.

Attorney Edes asked Mr. Riggs if his client had received any development approval such as a building permit or zoning compliance, or if they had expended any money in reliance of a development approval by the Town since purchasing the property. Mr. Riggs answered he was

not aware that they had. Mr. Edes asked if the application illustrates the position of the applicants on the four criteria required to be proven to receive a variance and Mr. Riggs confirmed.

Mr. Keith Wilkerson of 149 Sea Gull Lane showed an electronic tablet to Ms. Hill and asked if the information on it pertained to the Town of North Topsail Beach. Ms. Hill stated that the information Mr. Wilkerson presented appeared to be from Municode, and the Town of North Topsail Beach is not on Municode. Chair McCloud asked if the information was irrelevant, to which Ms. Hill confirmed. Mr. Wilkerson stated his issue with building there that the lot is the smallest in the whole area, and he believed it was too small to build upon. He stated that the Charles Riggs survey encroaches into Mr. Wilkerson's property. Mr. Wilkerson stated a traffic concern regarding the driveway, as traffic turns around regularly on Sea Gull Lane, and there are 21 more homes to be built on the street, adding a more traffic and danger to the public. Mr. Wilkerson questioned the integrity of the Town's motto "Nature's Tranquil Beauty" if building lots smaller than required continues. He expressed concern for wildlife, including coyote, bobcats and deer.

Mr. Riggs cross examined Mr. Wilkerson, asking if Mr. Wilkerson acknowledged that the one-third setback Mr. Wilkerson previously mentioned pertains to another town, not the Town of North Topsail Beach. Mr. Wilkerson replied "Apparently." Mr. Riggs stated that he surveyed his clients' lot and at that time located Mr. Wilkerson's property line based upon the lot corners previously set. The fence that is encroaching is Mr. Wilkerson's fence, which it is encroaching onto the Powers' property. Mr. Riggs asked if Mr. Wilkerson would agree that the Powers have the right to use their property and to enjoy it as Mr. Wilkerson enjoys his property. Mr. Wilkerson replied, "No, I don't think they do." Mr. Riggs continued, asking if Mr. Wilkerson thought they don't have a right to use their property, and Mr. Wilkerson confirmed.

Ms. Hill did not have any questions for Mr. Wilkerson.

The Board questioned Mr. Wilkerson. Mr. Kuegel asked if Mr. Wilkerson had knowledge of the lot being for sale a year ago, and if he had tried to buy the lot. Mr. Wilkerson confirmed that he had tried to buy the lot but was unsuccessful. Mr. Kuegel asked for clarification on the driveway, but Mr. Wilkerson stated he did not know. Mr. Kuegel asked for the survey with aerial be projected onto the screen and asked how the duplex to the north accessed their structure. Mr. Wilkerson answered.

Mr. Edes entered the enlarged copy of the survey with the aerial overlay into evidence as Exhibit 4 without objection.

Mr. Riggs presented a final summary to the Board. He stated that the lot was created in November of 1982 with subdivision restrictive covenants allowing for a single-family or duplex, and the zoning today is R-10. The North Topsail Beach zoning rules allowing thirty percent coverage allows for a suitable dwelling on this lot; this lot buildable. It is the only lot which has not been developed in this area, as the remaining lots have been developed with both single-families and duplexes, and the Powers should have the same consideration as any of the adjoiners. Access to this lot is not an issue. Lot size is not an issue except for zoning. Water and sewer are available. This is not a hardship created by Mr. Powers. The adjoiners are enjoying their property, both single-family and duplexes. Mr. Powers would like to enjoy his with the same uses.

July 27, 2022 Board of Adjustment Special Meeting

Mr. Edes asked Mr. Riggs if he was seeking a variance from any setbacks to which Mr. Riggs replied "No, there is satisfactory room to meet the required setbacks." Mr. Riggs stated that the application requests either a single-family or duplex because the covenants grant that right to the property owners. If the Board considers a duplex too much of a burden, Mr. and Mrs. Powers would be willing to accept a single-family variance condition. Mr. Edes stated that condition pertains to use, and generally variances do not go to use. If Mr. Riggs offered that condition, the Board should consider it. Ms. Hill recommended against that as general statute 160-D stipulates against it; the use is a vested right based on the Onslow County Planning Board approval in 1982, the subdivision is substantially developed with duplexes in that area. Mr. Hill recommended the Board review the variance for what it is with regards to the UDO Table 5-1 for conventional requirements for the R-10 zoning district. Mr. Riggs confirmed that the lot can handle either a single-family or a duplex very well. Ms. Meyer asked if parking would be an issue on the lot. Mr. Riggs responded no; the development of the lot would have to handle parking later. Mr. Edes stated that parking was beyond the scope of the variance. Ms. Hill read the fourth variance condition for Ms. Meyer.

Mr. Edes polled the room for a show of hands if anyone sworn in had not been given the opportunity to testify. No hands were raised. Mr. Edes performed an inventory of the evidence. Mr. Edes closed the evidentiary portion of the hearing at 4:29 p.m.

Mr. Kuegel asked if there were variances granted to construct on the adjoining lots. Ms. Hill stated not to her knowledge.

Mr. Edes offered that it is significant and undisputed that this was a legal lot of record as far back as 1982, pre-dating the passage of the Town's Unified Development Ordinance. Single-family and duplex are uses as a matter of right. Buying a piece of property knowing that you may need to get a variance is not considered under the law a self-created hardship. He offered his assistance during their deliberations.

Ms. Swantek asked Ms. Hill if this situation is common on the island with lots being zoned without meeting the minimum lot size. Ms. Hill responded in the affirmative, stating it is more common than an oddity. Ms. Swantek asked if this variance will meet the setbacks. Ms. Hill responded that Mr. Riggs stated they can develop the property and meet the setbacks; he is not requesting any other variance. Mr. Edes offered that if the setbacks were a concern, they could be included as a condition of the variance. Ms. Hill assured Ms. Swantek they must meet the setbacks. There was deliberation. Mr. Kuegel stated there are two neighboring dwellings on lots that do not conform to R-10, and a variance request does not dictate use. He questioned the development with regards to the encroaching fence. Attorney Edes stated the fence location is a private civil matter; the setback would be from the property line. There was discussion.

Ms. Meyer made a motion to approve the variance and adopt the findings of fact as put forth by staff and the applicant. Ms. Swantek seconded the motion. The Clerk called the role, and the motion passed unanimously, 4-0.

Attorney Edes stated, "By unanimous vote, the variance shall be granted without conditions."

Ms. Hill asked Attorney Edes about approving a swimming pool for a duplex which was subdivided by deed. The Board of Aldermen had previously directed the owner of a duplex which was subdivided by deed to recombine the lots prior to installing a swimming pool. Attorney Edes asked if an application had been made, to which Ms. Hill replied no. Mr. Edes offered there is a plethora of cases that stand for the proposition that just because the ordinance was not followed on a parcel, or ten, or fifty parcels does not mean that you are stopped from enforcing it on whatever parcel is being examined at the time. He stated that he does not like answering hypothetical questions, while he also understands if an applicant does not want to spend the money to complete an application. He advised Ms. Hill to obtain enough information from the applicant to make a staff decision, then to consult with him. Attorney Edes excused himself from the meeting at 4:49 p.m.

Ms. Hill discussed the transcript procedure with the Board. Court Reporter Kim Altman addressed the importance of not speaking over each other to create a clean record as well as the chain of exhibit ownership.

RULES OF PROCEDURE Planning Director Hill reviewed the Board of Adjustment rules of procedure considering the GS 160-D updates including special meetings, the nomination and proceedings of the Chair and the Vice Chair, quorums, duties of the Board, conflicts of interest, oath of office, holding the standard meetings in the first floor conference room at Town Hall, notice posting, voting, conduct of meeting, presentation of evidence, subpoenas, appeals, decisions, standing, stays, and variances. Ms. Hill offered to update the rules of procedure document and present it to the Board for discussion at the next meeting. She briefly mentioned training and ordering new introduction to zoning books with the 160-D changes as well as binders for the Board members. Ms. Swantek mentioned that she previously used her old binder to review information. Ms. Meyer stated that she would like a binder for Board packages and notes, and Mr. Kuegel agreed. Ms. Swantek asked if the binders would be huge. Ms. Hill offered to put the binders together a week before the meetings for the Board members to pick up at Town Hall, and then leave them after the meeting for the next meeting. Mr. Kuegel agreed. Ms. Hill added that she would print a calendar in the front of each binder.

DISCUSSION: None.

ADJOURNMENT: Ms. Swantek made a motion to adjourn. Mr. Kuegel seconded the motion. The motion passed unanimously, 4-0.

The Board of Adjustment meeting adjourned at 5:08 p.m.

APPROVED
This 14th day of September 2022

CERTIFIED
This 14th day of September 2022

Hanna McCloud
Chair

Kate Winzler
Clerk

Town of North Topsail Beach

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

Aldermen:
Richard Grant
Connie Pletl



Alice Derian, ICMA-CM
Town Manager

Melinda Mier
Town Clerk

Nature's Tranquil Beauty

OATH OF OFFICE

STATE OF NORTH CAROLINA
COUNTY OF ONSLOW
TOWN OF NORTH TOPSAIL BEACH

I, **Scott Morse**, do solemnly swear that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will faithfully discharge the duties of my office as **Member of the Board of Adjustment** of the Town of North Topsail Beach, so help me God.
(North Carolina Constitution, Article VI, Section 7)

Sworn this the 14th day of September 2022.

Hanna McCloud

SEAL

Kate Winzler, CMC
Deputy Town Clerk

*As appointed by the Board of Alderman on June 1, 2022, for a three year term, May 1, 2025.

Town of North Topsail Beach

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Mike Benson, Mayor Pro Tem

Aldermen:
Richard Grant
Connie Pletl



Alice Derian, ICMA-CM
Town Manager

Melinda Mier
Town Clerk

Nature's Tranquil Beauty

OATH OF OFFICE

STATE OF NORTH CAROLINA
COUNTY OF ONSLOW
TOWN OF NORTH TOPSAIL BEACH

I, **Stuart Harness**, do solemnly swear that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will faithfully discharge the duties of my office as **Alternate Member of the Board of Adjustment** of the Town of North Topsail Beach, so help me God.
(North Carolina Constitution, Article VI, Section 7)

Sworn this the 14th day of September 2022.

Stuart Harness

SEAL

Kate Winzler, CMC
Deputy Town Clerk

*As appointed by the Board of Alderman on June 1, 2022.

STAFF REPORT (EXHIBIT 1)

CONTACT INFORMATION

Deborah J. Hill MPA AICP CFM CZO Planning Director

910.581.3008

dhill@northtopsailbeachnc.gov

DOCKET/CASE/APPLICATION NUMBER

CASE V-22-03

APPLICANT/PROPERTY OWNER

SMITH BRYON M & BETTY J
103 HEIRESS WYND, JACKSONVILLE, NC 28546

PUBLIC HEARING DATE (EXHIBIT 2)

Wednesday, September 9, 2022,

6:00 p.m.

PROPERTY ADDRESS/LOCATION

1935 NEW RIVER INLET RD

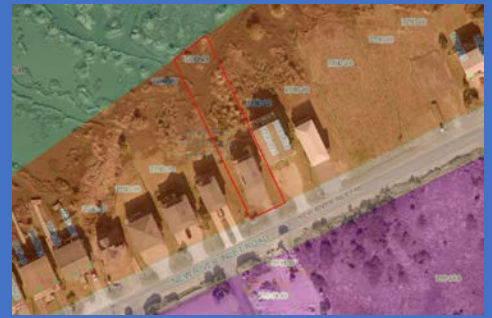
L21 B3 BAYVIEW

BRIEF SUMMARY OF REQUEST

A variance request by BRYON M & BETTY J SMITH from Unified Development Ordinance ARTICLE 5. DIMENSIONAL REQUIREMENTS for side yard setback in R-10 zoning district to allow for construction of a residential cargo lift for transporting luggage, groceries, medical supplies to an existing single family home at 1935 NEW RIVER INLET RD, North Topsail Beach NC.

(EXHIBIT 3).

FIGURE 1: MAP SOURCE Onslow County GIS 2022 AERIAL WITH ZONING LAYER



EXISTING ZONING	EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
R10	Single Family	North ConD Vacant East R10 Duplex South R5 MultiFamily West R10 Single Family	Single Family	.385 acres .108 acres non wetlands (EXHIBIT 4).

STAFF RECOMMENDATION

APPROVE**APPROVE WITH CONDITIONS****DENY****COMPATIBILITY** with the COMPREHENSIVE PLAN

The Future Land Use Map classifies the property as Medium Density Residential.

PROPERTY HISTORY

Lot 21 Block 3 was created with the plat *Bay View* filed 03/01/1983, and recorded as Map Book 21 Page 205 in the Onslow County Register of Deeds.

COMPATIBILITY with the Unified Development Ordinance (See attached Response to Standards)

Elevators, dumbwaiters are permitted by right in R-10 zoning.

§5.03 SETBACKS FOR ACCESSORY BUILDINGS.

Any accessory building must meet the same setback requirements as the principal building and not exceed the frontline of the main structure.

(Ord. passed 11-2-2011)

§5.06 OTHER YARD MODIFICATIONS.

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

§2.03.04 VARIANCES. (A) (2) A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

RESPONSE TO STANDARDS

North Carolina General Statute §160A-388(d) sets forth the standards for granting a variance, which is reflected in UDO § 2.02.06 VARIANCES. The following is staff's analysis as they relate to the criteria for granting a variance.

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

Staff Analysis:

Cargo lift will not reach to 3rd floor on left side due to obstruction by deck on 2nd floor. Dimensions of cargo lift are 52" x 54"

(2) The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

Staff Analysis:

Applicant states that 78 year-old mother-in-law fell and broke leg and hip and is nursing home at time of application and to be released. Family requires lift to care for mother-in-law.

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

Staff Analysis:

Placement of the cargo lift on the right side, into the side setback will reach the 3rd deck without blocking parking.

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

Staff Analysis:

The variance requested will assist the family in transporting supplies to the 3rd floor and caring for mother-in-law.

EXHIBITS

- EXHIBIT (1) V 22 03 Staff Report
 - EXHIBIT (2) Public Notice
 - EXHIBIT (3) V 22 02 Variance Application
 - EXHIBIT (4) Site Plan: B Smith Lift Proposal.pdf
 - EXHIBIT (5) Bryon Smith pics1.pdf
 - EXHIBIT (6) Bryon Smith pics2.pdf
 - EXHIBIT (7) B smith site prep sheet.pdf
 - EXHIBIT (8) B Smith Sk001.pdf
 - EXHIBIT (9) B Smith Sk002.pdf
 - EXHIBIT (10) B Smith Sk003.pdf
 - EXHIBIT (11) B Smith Sk004.pdf
 - EXHIBIT (12) B Smith home.pdf
 - EXHIBIT (13) B Smith back.pdf
 - EXHIBIT (14) B Smith home lift idea sketch.pdf
 - EXHIBIT (15) B Smith next door house lift.pdf
 - EXHIBIT (16) B Smith next door lift top floor.pdf
 - EXHIBIT (17) B Smith next door lift slab.pdf
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Town of North Topsail Beach

EXHIBIT 2

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

Alice Derian, ICMA-CM
Town Manager

Aldermen:
Richard Grant
Don Harte
Connie Pletl

Melinda Mier
Town Clerk



Nature's Tranquil Beauty

NOTICE

Zoning Board of Adjustment
Meeting

Wednesday, September 14 at 6:00 p.m.

Public Notice is hereby given that the Town of North Topsail Beach Zoning Board of Adjustment will hold an Evidentiary Hearing following quasi-judicial procedures on Wednesday, September 14 at 6:00 p.m at Town Hall, 2008 Loggerhead Court, North Topsail Beach NC.

The purpose of this meeting is to hear and decide Case #V-22-03, a variance request by BRYON M & BETTY J SMITH from Unified Development Ordinance ARTICLE 5. DIMENSIONAL REQUIREMENTS for side yard corner setback in R-10 zoning district to allow for construction of a residential cargo lift for transporting luggage, groceries, medical supplies to an existing single family home at 1935 NEW RIVER INLET RD, North Topsail Beach NC.

Following the public hearing, the Board may discuss organizational matters pursuant to the Unified Development Ordinance §2.03.01.

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

Deborah J. Hill MPA AICP CFM CZO
Planning Director



LOGIN



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VIEW PERMIT

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Permit #: VAR22-000003

Project #: 22-000916

Status: Online Application Received

Address: 1935 NEW RIVER INLET RD

Description: Residential cargo lift for transporting luggage, groceries, medical supplies to a existing home



© Google © Southeastern Unmanned Aerial Solutions

Permit	Reviews	Documents	Inspections
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Permit #:

VAR22-000003

Permit Type:

Application for Variance

Sub Type:

Application for Variance

Issue Date:

Expiration Date:

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

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

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

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

Zoning District:

R-10

CAMA Approval:

N/A

PROJECT INFORMATION

Property Owner:

SMITH BRYON M & BETTY J

Property Owner Phone#:

910-455-0053

Property Owner Email Address:

bmslawoffice@yahoo.com

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

Condition #1

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

The ability to move furniture , appliances, luggage, groceries, items from ground level to mid and top deck livable space would be severely compromised, medical equipment, oxygen bottles, and bedding for senior citizens.

Condition #2

That the hardship must result from conditions peculiar to property:

Placement of residential lift shown as the survey step 4' into side yard setback; side yard on survey identifies that to be 8'8".
 DJH: "A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability. Applicant states that mother/mother-in-law, 78 years old just fell and broke her leg and hip; currently in nursing home, soon to be released and will need lift to be cared for by family; i.e., moving oxygen tanks, etc. Installing stair chair on interior.

Condition #3

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

The setbacks as identified on the survey are consistent with the plans submitted at the time the home was first developed, setback requirement have since change due to greater development and build out of the total lots.

Condition #4

That the variance **must** be consistent with spirit and purpose of UDO, public safety secured, substantial justice achieved:
 This variance would be consistent with aiding to the overall public safety, fire, and wellbeing of the homeowners and tax payers who have and will continue aging in years ahead without such variance in where vertical mobility will become of greater concern.

 DOCUMENTS

Site plan or plot plan:

B Smith Lift Proposal.pdf

Other documents:

Bryon Smith pics1.pdf

Bryon Smith pics2.pdf

B smith site prep sheet.pdf

B Smith Sk001.pdf

B Smith Sk002.pdf

B Smith Sk003.pdf

B Smith Sk004.pdf

B Smith home.pdf

B Smith back.pdf

B Smith home lift idea sketch.pdf

B Smith next door house lift.pdf

B Smith next door lift top floor.pdf

B Smith next door lift slab.pdf

I hereby certify that all information above is true and correct. That all work under this permit shall comply and conform to all Town ordinances, State and Federal laws pertaining thereto, whether specified or not, and in accordance with any plans

submitted or required to be submitted regulating building codes and building construction in the Town of North Topsail Beach, NC. I further agree to remove all construction debris from the site when completed, and that I am the owner or authorized by the owner to do the work described in this permit.

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

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

Signature:

signature.png

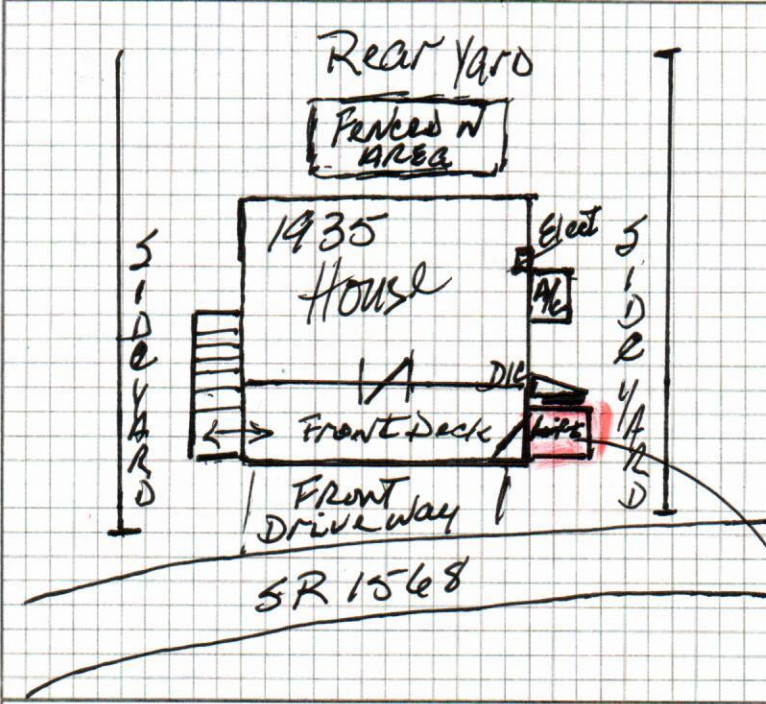


EXHIBIT 6 Bryon Smith pics2.pdf



SITE PREPARATION SHEET

NAME: Bryon M Smith ADDRESS: 1935 New River Shadet Rd
 CITY: N. Topsail Beach STATE: NC ZIP: _____ PHONE: (910) 455-0053



STANDARD <input type="checkbox"/>	<input type="checkbox"/> 2-STOP <input checked="" type="checkbox"/> 3 STOP
PASS-THRU (DRAW GATE) <input type="checkbox"/>	FASCIA KIT <input type="checkbox"/> Y <input checked="" type="checkbox"/> N
	FOUNDATION REQ. <input checked="" type="checkbox"/> STD. <input type="checkbox"/> AE <input type="checkbox"/> VE
<i>Back Brace</i> <i>46" x 48"</i>	UNDERGROUND UTILITIES, SPRINKLERS/SERVICES <input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> ?
	GROUND TO TOP DECK _____
<i>LIFT Placement</i>	TOP DECK TO ROOF EVE _____ " (N/A) <input type="checkbox"/>
	CANOPY COLOR # _____

DRAW PLAN VIEW OF INSTALLATION
 SET BACK: SIDE _____ BACK _____ FRONT _____

DECK INFORMATION

NUMBER OF DECK POSTS THAT NEED TO BE MOVED Cut out side railing 60" replace w/ Gate.

DECK MODIFICATION REQUIRED? Y N
 (If yes explain below)

PICTURES:

<input checked="" type="checkbox"/> SIDE VIEW	<input checked="" type="checkbox"/> DECK & RAILINGS & POST
<input checked="" type="checkbox"/> ELEV VIEW	<input checked="" type="checkbox"/> REMOTE CONTROL LOCATION
<input checked="" type="checkbox"/> GROUND	<input checked="" type="checkbox"/> DISCONNECT LOCATION
<input checked="" type="checkbox"/> ELEC PANEL	

NOTES: _____

ELECTRICAL

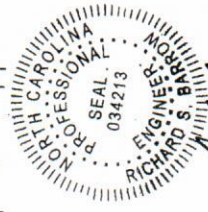
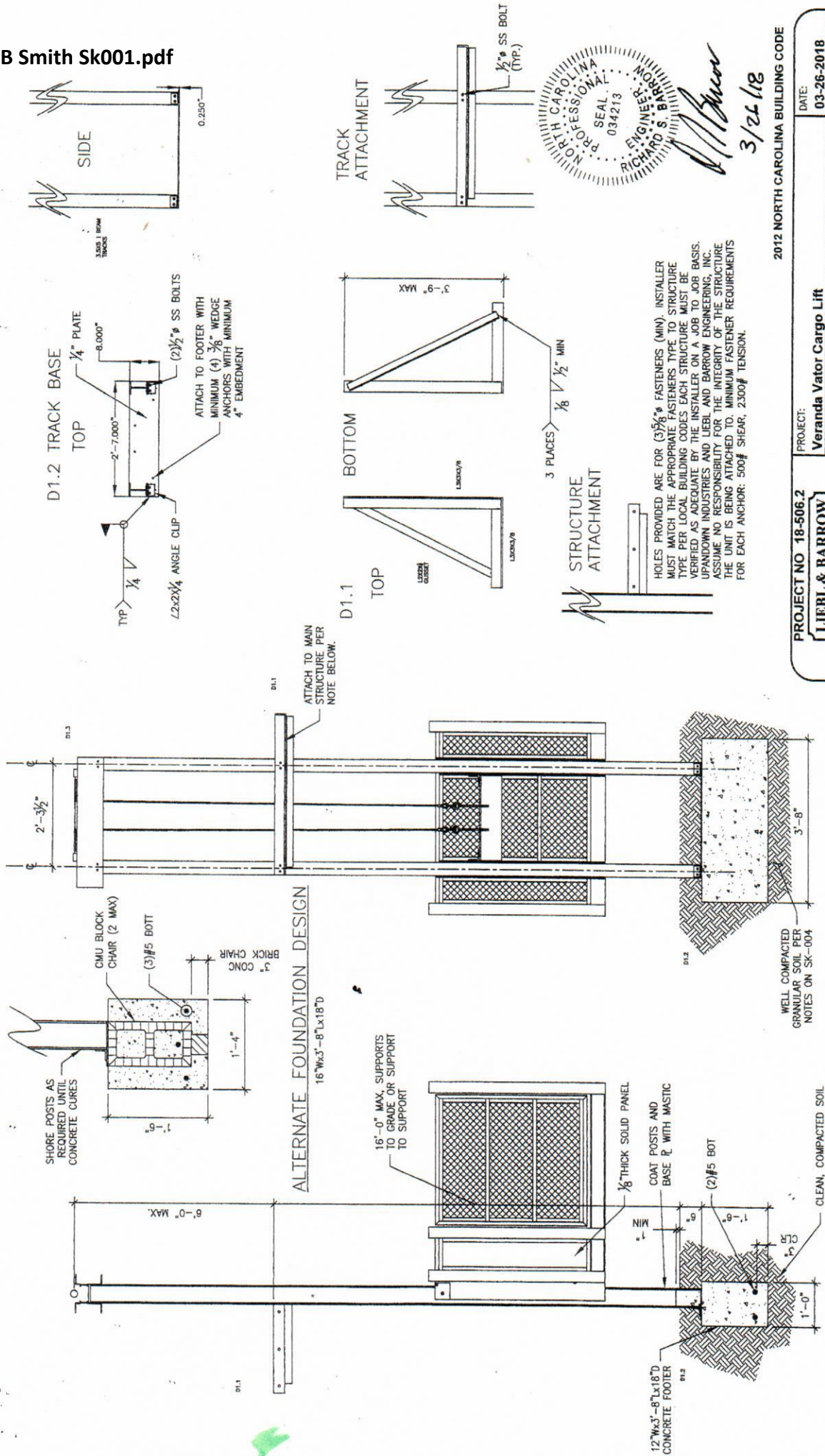
PANEL MFG. _____

DISTANCE FROM PANEL TO CONTROL BOX 40' (run in ft.)

DISTANCE FROM CONTROL BOX TO PLATFORM LIFT 12' (run in ft.)

ELECTRICAL NOTES: 220/240 Disconnect provide by Homeowner and already in place; provided by Dorsey Electric (910) 808-8315 Lic # 32656

Consumer Mobility Service
 118-A Market Street Box 6
 New Bern, NC
 28560



Richard S. Barrow
3/22/18

PROJECT: 18-506.2		PROJECT: 2012 NORTH CAROLINA BUILDING CODE	
CLIENT: LIEBL & BARROW		DATE: 03-26-2018	
DESCRIPTION: Upandown Industries		SKETCH: SK-001	
SCALE: As Noted		OF 4	
PROJECT: Veranda Vator Cargo Lift			
CLIENT: Upandown Industries			
DESCRIPTION: CARGO LIFT			
North Carolina Locations Meeting Design Criteria			

CA. PROVISIONS
10970 SOUTH CLEVELAND AVENUE, SUITE #105
FORT WORTH, TEXAS 76134
239-235-4817 FAX
www.lieblbarrow.com • E-mail: info@lieblbarrow.com



Richard S. Barrow
3/26/19

WORK SHALL CONFORM TO ALL APPLICABLE STATE, COUNTY AND CITY ORDINANCES/CODES.

THE DESIGN PROFESSIONAL WAIVES ANY AND ALL RESPONSIBILITY AND LIABILITY FOR PROBLEMS WHICH ARISE FROM FAILURE TO FOLLOW THESE PLANS AND THE DESIGN INTENT THEY CONVEY.

SPACE BENEATH LIFT MUST BE KEPT CLEAR OF PEOPLE AND OBSTRUCTIONS.

G. DESIGN SOIL BEARING PRESSURE:
AN ALLOWANCE GROSS SOIL BEARING OF 2,000 PSF HAS BEEN ASSUMED FOR DESIGN. THE FOUNDATION SHALL BEAR ON SOIL THAT IS STABLE, CLEAN AND FREE OF ORGANIC MATERIAL. BEFORE CONSTRUCTION COMMENCES THE SOIL BEARING CAPACITY SOIL CONDITIONS SHALL BE VERIFIED BY CONTRACTOR.

NOTES:

A. PROJECT: VERANDA VATOR CARGO LIFT.

B. LOCATION: LIMITED TO SITE INDICATED IN NORTH CAROLINA COMPLYING WITH DESIGN CRITERIA IN SECTION D.

C. PRIMARY STRUCTURE:
LIFT DESIGN DOES NOT CONSIDER OVERALL STABILITY OF PRIMARY STRUCTURE. THE CONTRACTOR SHALL CONFIRM THAT LOADS FROM LIFT MAY BE RESISTED BY PRIMARY STRUCTURE AND THAT THE SUBGRADE SOIL IS ADEQUATE TO RESIST THE REQUIRED LOADS. CONTRACTOR SHALL HIRE A LOCAL ENGINEER AS NECESSARY AND AS REQUIRED BY LOCAL BUILDING CODE/OFFICIAL.

LIEBL & BARROW ENGINEERING, INC. DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ADEQUACY OF THE PRIMARY STRUCTURE OR THE SUBGRADE.

D. BUILDING CODES: LIFT SYSTEM HAS BEEN DESIGNED IN ACCORDANCE WITH THE 2012 NORTH CAROLINA BUILDING CODE, USING THE FOLLOWING DESIGN CRITERIA:

1. FLOOR LIVE LOAD: 1000 POUNDS TOTAL.
2. CAB DEAD LOAD: 250 POUNDS
3. GROUND SNOW LOAD: NA
4. WIND DESIGN DATA: ASCE 7-10, RISK CATEGORY II OPEN STRUCTURE, $h \leq 30'$
 - a. EXPOSURE D
 - b. VULTIMATE = 160 MPH (3 SECOND GUST)
 - c. VASD = 124 MPH

LIFT SHALL BE LOWERED TO GRADE ON THE EVENT OF ASD WIND SPEEDS IN EXCESS OF 100 MPH (CATEGORY II HURRICANE)

5. LIVE AND DEAD LOADS HAVE BEEN INCREASED BY 25% FOR IMPACT.
6. LIFT IS NOT FOR USE BY PASSENGERS.
7. LIFT SHALL BE LOWERED TO GRADE IN THE EVENT OF ASD WIND SPEEDS IN EXCESS OF 100 MPH (CATEGORY II) HURRICANE

ALUMINUM DESIGN PER THE ALUMINUM ASSOCIATION - ALUMINIUM DESIGN MANUAL.

E. MATERIAL SPECIFICATIONS:

1. CONCRETE: $f_c = 3000$ psi (MIN).
2. REBAR: ASTM A615 GRADE 60
3. STRUCTURAL ALUMINIUM.
 - a. 6061 T6
 - b. FILLER ALLOY FOR WELDS 5183 OR 5556 (MINIMUM ALLOWABLE STRESS IN FILLET WELD IS 7 ksi)
4. ASTM A304 STAINLESS STEEL BOLTS.

F. GENERAL NOTES:
DRAWINGS SHALL NOT BE SCALED, REFER TO DIMENSIONAL INFORMATION PROVIDED.

THE STRUCTURE IS DESIGNED TO BE SELF SUPPORTING AND STABLE AFTER THE LIFT FRAME WORK IS COMPLETE. IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE ERECTION PROCEDURES AND SEQUENCE TO INSURE SAFETY OF THE BUILDING AND ITS COMPONENTS DURING ERECTION. THIS INCLUDES THE ADDITION OF NECESSARY SHORING, SHEETING, TEMPORARY BRACING, GUYS AND TIEDOWNS.

2012 NORTH CAROLINA BUILDING CODE

PROJECT NO 18-506.2	PROJECT: Veranda Vator Cargo Lift	DATE: 03-26-2018
LIEBL & BARROW Structural Engineering CA #0000033 10070 SOUTH FOREST WYDYS, FLORIDA 32907 336-336-7007 FAX# 336-336-7007 Website: www.lieblbarrow.com • E-mail: info@lieblbarrow.com	CLIENT: Upandown Industries	SKETCH: SK-004
	DESCRIPTION: CARGO LIFT	SCALE: As Noted
North Carolina Locations Meeting Design Criteria		OF 4









1943



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EXHIBIT (17) B Smith next door lift slab.pdf

