

Town of North Topsail Beach

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

Aldermen:
Alfred Fontana
Richard Grant
Tom Leonard
Connie Pletl



Alice Derian, ICMA-CM
Town Manager

Melinda Mier
Town Clerk

Nature's Tranquil Beauty

Zoning Board of Adjustment

Agenda

Wednesday, March 22, 2023 at 5:30 p.m.

- | | | |
|------|---|-----------|
| I. | Call to Order | 5:30 p.m. |
| II. | Adoption of Agenda | 5:31 p.m. |
| III. | Approval of Minutes, January 30, 2023 | 5:32 p.m. |
| IV. | New Business | |
| | A. Case #AA23-000001: Appeal by Mark Boike | 5:34 p.m. |
| | B. Case #AA23-000002: Appeal by Llooyd Moore | 6:34 p.m. |
| | C. Case #AA23-000003: Appeal by Mark Wilson | 7:34 p.m. |
| V. | Discussion | |
| | A. Organizational matters pursuant to UDO §2.03.01. | 8:34 p.m. |
| VI. | Adjournment | 9:00 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.

Town of North Topsail Beach

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

Aldermen:
Alfred Fontana
Richard Grant
Tom Leonard
Connie Pletl



Alice Derian, ICMA-CM
Town Manager

Melinda Mier
Town Clerk

Nature's Tranquil Beauty

PUBLIC NOTICE Zoning Board of Adjustment Wednesday, March 22, 2023 at 5:30 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, March 22, 2023 at 5:30 p.m. at 5:30 p.m at Town Hall, 2008 Loggerhead Court, North Topsail Beach NC.

The purpose of this meeting is to hear and decide:

- Case #AA23-000001: Appeal by Mark Boike of decision by Deborah J. Hill, Planning Director to deny PERMIT # ZFP23-000029 based on § 10.07.02 REBUILDING OF DAMAGED DUNES (D) and (E).
- Case #AA23-000002: Appeal by Llooyd Moore of decision by Deborah J. Hill, Planning Director to deny PERMIT # ZFP23-000010 based on § 10.07.02 REBUILDING OF DAMAGED DUNES (D) and (E).
- Case #AA23-000003: Appeal by Mark Wilson of decision by Deborah J. Hill, Planning Director to issue a Notice of Violation and Citation based on § 10.07.02 REBUILDING OF DAMAGED DUNES; §10.02.01 DEVELOPMENT WITHOUT A PERMIT; §10.02.02 DEVELOPMENT INCONSISTENT WITH A PERMIT; §10.02.03 VIOLATION OF CONDITIONS IMPOSED; § 10.07.02 REBUILDING OF DAMAGED DUNES.

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

STAFF REPORT CONTACT INFORMATION

Deborah J. Hill MPA AICP CFM CZO, Planning Director

DOCKET/CASE/APPLICATION NUMBER

AA23-000001

APPLICANT/PROPERTY OWNER

Mark William Boike

PUBLIC HEARING DATE

Wednesday, March 22, 2023 at 5:30 p.m.

PROPERTY ADDRESS/LOCATION

340 Topsail Road

BRIEF SUMMARY OF REQUEST

Appeal by Mark Boike from Planning Director's decision dated 02/17/2023 to deny Zoning permit based on UDO § 10.07.02 (D) and (E) for application dated 02/09/2023 to:
 "replace decking board/ joist that support. decking boards with new wood. replace decking fasteners with 316 grade steel. replace pilings that support roof of gazabo."



MAP: Auto (Oblique) 12/24/2021

MAP SOURCE: CONNECTExplorer

EXISTING ZONING	EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
R-5	Residential	North MHR Single Family East R-5 unbuildable South N/A Atlantic Ocean West N/A 11 th Ave Public Crossover	1982 Dwelling 912 square feet	+/- 11,254 Square Feet

EXHIBITS

	page
Exhibit 1. Application by Mark Boike	2-5
1a. Written Order or decision being appealed	6
1b. Site plan or plot plan : GRAPHIC USING CONNECT EXPLORER 12/24/2021 AUTO OBLIQUE, in lieu of	7

Documents submitted by Deborah J. Hill, Planning Director. Pursuant to § 2.02.04 (E) The official who made the decision shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner:

Exhibit 2.	340 Topsail Road Onslow County Property Record	8-9
Exhibit 3.	Elevation Certificate 09 15 2020	10-13
Exhibit 4.	Notice for Property Owners, Contractors, and Design Professionals	14-15
4a.	Requirements for Applications for Permits for Substantial Improvements and Repair of Substantial Damage	16
4b.	Costs for Substantial Improvements and Repair of Substantial Damage*	17-18
4c.	Owner's Affidavit*	19
4d.	Contractor's Affidavit	20
4e.	Substantial Improvement or Substantial Damage Worksheet.	21
Exhibit 5.	Anne M Whelan - Admin/D.O.O.Carolina Odd Jobs, Inc email Fri 1/27/2023 5:50 PM*	22-23
Exhibit 6.	Kate Winzler email Subject: 340 Topsail Rd Stop Work Order dated 02/03/2023 - 12:49 PM	24
6a.	Topsail Rd 340 Stop Work Order 23.02.03*	25
Exhibit 7.	Exemption Number – 07-23 EX dated February 9, 2023	26
Exhibit 8.	Project Sketch Deck measurements submitted 02/09/2023	27
Exhibit 9.	Kate Winzler email Subject: 340 Topsail Rd 23-000139 Application Denied 02/21/2023 - 10:34 AM	28
Exhibit 10.	Staff Report: Dune Protection and Remediation: Proposed Text Amendments to UDO §10.07.02 Rebuilding of Damaged Dunes & Town Code Article 10 Sand Dune Protection	29-31

**PERMIT PROJECT**

FILE #: 23-000189

340 TOPSAIL RD NORTH TOPSAIL BEACH NC 28460-824

10.07.02 (D) (E)

**PERMIT #: AA23-000001**

Permit Type

Application for Appeal

Subtype

Application for Appeal



Work Description:

10.07.02 (D) (E)

Applicant

BOIKE MARK WILLIAM



Status

Ready for Payment



Valuation

0.00

**FEES & PAYMENTS**

Plan Check Fees

500.00

Permit Fees

0.00

Total Amount

500.00

Amount Paid

500.00

Balance Due

0.00



Non-Billable

**PERMIT DATES**

Application Date

02/23/2023

Approval Date

02/28/2023

Issue Date:

02/27/2023

Expiration Date:

08/27/2023

Close Date

Last Inspection

For Office Use Only☐ Apply Storm Damage Credit

Zoning District

R-5



CAMA Approval

Issued



CAMA Approval #

CAMA EX 07-23

PROJECT INFORMATION

Property Owner

BOIKE MARK WILLIAM



Property Owner Phone#

704-756-9210

Property Owner Email Address

mboike1@hotmail.com

I wish to appeal the following decision by (provide Administrative official)

Deborah J. Hill, Planning Director

The ruling was based on the following Ordinance provisions

10.07.02 (D) No disturbance, no development, no structure shall be permitted within 5.0 feet of the landward toe of the dune, dune buffer, except beach access crossovers as permitted.

10.07.02 (E) Any additions or improvements to existing structures must comply with the standards for new construction and be relocated outside of the dune buffer.



Summarized below, and on other sheets as necessary (attached), is my rationale for arguing that the administrative ruling is an improper or erroneous interpretation of the Ordinance

For the work involved in repairing the deck. It was my understanding I would not need a permit to repair the decking, after removing all the top boards in one section, It was determined with analysts after visually inspecting, the joists, that each contained a crevasse, which previous fasteners had entered, also each could be moved by hand, meaning the only thing that was holding the joist in place were the top boards. It was determined that current joists were not safe to use, and they were removed, in order to provide access safely to the door the section that had wood removed, was replaced with new wood and top decking was fastened securely. After this a stop work order was issued, I followed up on what was needed from a permitting perspective with building Inspections department. Note this project is only repairing existing, wood.

After consulting with the Mortgage holder of the property

These repairs are needed for not only safety, but the owner is responsible for keeping a sound structure.

These are all legal obligations that the property has Preservation, Maintenance, performed see (7.0)

7. Preservation, Maintenance and Protection of the Property; Inspections.

Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single

DOCUMENTS

Written Order or decision being appealed

[WrittenOrder.txt](#)



Copy of violation



Site plan or plot plan

[340.jpeg](#)



Other documents



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](#)



FEES



FEE	▼	DESC ▼	QUANTITY	AMOUNT	TOTAL	
Filing Fee					350.00	
Transcription Fee					150.00	
Plan Check Fees					500.00	
Permit Fees					0.00	
Total Fees					500.00	

PAYMENTS



DATE	TYPE	REFERENCE	NOTE	RECEIPT #	RECEIVED FROM	AMOUNT	
02/28/2023	Credit	252557183	AA23	82	- BOIKE M	500.00	
Amount Paid						500.00	
Balance Due						0.00	

EXHIBIT 1a

WRITTEN ORDER OR DECISION BEING APPEALED

ZFP23-000029 - zoning permit was denied as no construction allowed within 5 feet of toe of dune pursuant to § 10.07.02:

(D) No disturbance, no development, no structure shall be permitted within 5.0 feet of the landward toe of the dune, "dune buffer," except beach access crossovers as permitted.

(E) Any additions or improvements to existing structures must comply with the standards for new construction and be relocated outside of the "dune buffer." You have a right to appeal this decision by following the procedures outlined in §2.03.05 APPEALS OF ADMINISTRATIVE DECISIONS. § 160D-405. on page 2-6 of the UDO in the link below.

https://www.northtopsailbeachnc.gov/sites/default/files/fileattachments/planning_and_zoning/page/2369/2021_unified_development_ordinance.pdf

SITE PLAN OR PLOT PLAN: GRAPHIC USING CONNECT EXPLORER 12/24/2021 AUTO OBLIQUE, in lieu of



BOARD OF ADJUSTMENT 3/22/2023

AA23-000001

Parcel ID: 004509	Map #: 812-20	Tax Year: 2023
Luc: Waterfront Ocean	Class: Dwelling	NBHD: SEAHAVEN OCEAN SIDE
BOIKE MARK WILLIAM		340 TOPSAIL RD

Parcel

Parcel	004509
Tax Year	2023
Property Address	340 TOPSAIL RD
Unit Desc	
Unit #	
NBHD	3021 - SEAHAVEN OCEAN SIDE
Class	Dwelling
Land Use Code	14 - Waterfront Ocean
Living Units	
Mapping Acres	.2457
CAMA Acres	.2457
Location	
Fronting	
Zoning	R-5-R-5
Map #	812-20
PIN Number	426613045527
Total Cards	1
Record Type	R

Legal

Legal Description	L5 & L6 S4 BD SEAHAVEN BEACH
Township	114 - STUMP SOUND
City Code	26 - NORTH TOPSAIL BEACH
Jurisdiction	1426 - STUMP SOUND NORTH TOPSAIL BEACH
Plat Book-Page/Subd #	03-061
Fire District	NT - NORTH TOPSAIL

Owner Details

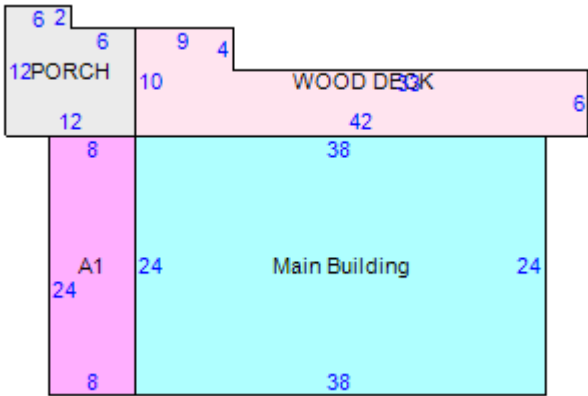
Owner 1	BOIKE MARK WILLIAM
Owner 2	
Customer ID	465059000
% Ownership	100
Nature of Ownership	-
Address	7301 PHELLOS CT RALEIGH, NC 27615-3439

Owner Mailing

Owner 1	BOIKE MARK WILLIAM
Owner 2	
Mailing Address	7301 PHELLOS CT RALEIGH NC 27615 3439

Public Comments

Line #	Dept	Comment
1	CONV	BP 6/98 500 BP 10/99 2,500



Item	Area
Main Building	912
WOOD DECK - 88:WOOD DECK	192
PORCH - 80:PORCH	132
WOOD DECK - 88:WOOD DECK	288

ELEVATION CERTIFICATE

Important: Follow the instructions on pages 1–9.

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

SECTION A – PROPERTY INFORMATION				FOR INSURANCE COMPANY USE	
A1. Building Owner's Name MARK BOIKE				Policy Number:	
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 340 TOPSAIL ROAD				Company NAIC Number:	
City NORTH TOPSAIL BEACH		State North Carolina		ZIP Code 28460	
A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.) LOTS 5 & 6, BLOCK D, SECTION NO. 4, SEAHAVEN BEACH					
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) <u>RESIDENTIAL</u>					
A5. Latitude/Longitude: Lat. <u>34d28'02"N</u> Long. <u>77d28'20"W</u> Horizontal Datum: <input type="checkbox"/> NAD 1927 <input checked="" type="checkbox"/> NAD 1983					
A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.					
A7. Building Diagram Number <u>5</u>					
A8. For a building with a crawlspace or enclosure(s):					
a) Square footage of crawlspace or enclosure(s) <u>0.00</u> sq ft					
b) Number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade <u>0</u>					
c) Total net area of flood openings in A8.b <u>0.00</u> sq in					
d) Engineered flood openings? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
A9. For a building with an attached garage:					
a) Square footage of attached garage <u>0.00</u> sq ft					
b) Number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade <u>0</u>					
c) Total net area of flood openings in A9.b <u>0.00</u> sq in					
d) Engineered flood openings? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
SECTION B – FLOOD INSURANCE RATE MAP (FIRM) INFORMATION					
B1. NFIP Community Name & Community Number NORTH TOPSAIL BEACH 370466			B2. County Name ONSLOW		B3. State North Carolina
B4. Map/Panel Number 3720426600	B5. Suffix K	B6. FIRM Index Date 06-19-2020	B7. FIRM Panel Effective/ Revised Date 06-19-2020	B8. Flood Zone(s) VE	B9. Base Flood Elevation(s) (Zone AO, use Base Flood Depth) 13'
B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9: <input type="checkbox"/> FIS Profile <input checked="" type="checkbox"/> FIRM <input type="checkbox"/> Community Determined <input type="checkbox"/> Other/Source: _____					
B11. Indicate elevation datum used for BFE in Item B9: <input type="checkbox"/> NGVD 1929 <input checked="" type="checkbox"/> NAVD 1988 <input type="checkbox"/> Other/Source: _____					
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Designation Date: _____ <input type="checkbox"/> CBRS <input type="checkbox"/> OPA					

JMC 9/15/2020

ELEVATION CERTIFICATE

BOARD OF ADJUSTMENT 8/22/2023

AA23-000001

OMB No. 1660-0008
Expiration Date: November 30, 2022

IMPORTANT: In these spaces, copy the corresponding information from Section A.			FOR INSURANCE COMPANY USE
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 340 TOPSAIL ROAD			Policy Number:
City NORTH TOPSAIL BEACH	State North Carolina	ZIP Code 28460	Company NAIC Number

SECTION C – BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: ☐ Construction Drawings* ☐ Building Under Construction* ☒ Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1–A30, AE, AH, A (with BFE), VE, V1–V30, V (with BFE), AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO. Complete Items C2.a–h below according to the building diagram specified in Item A7. In Puerto Rico only, enter meters.

Benchmark Utilized: NC CORS Vertical Datum: NAVD 1988

Indicate elevation datum used for the elevations in items a) through h) below.

☐ NGVD 1929 ☒ NAVD 1988 ☐ Other/Source: _____

Datum used for building elevations must be the same as that used for the BFE.

Check the measurement used.

- | | | | |
|---|------|--|---------------------------------|
| a) Top of bottom floor (including basement, crawlspace, or enclosure floor) | 15.6 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| b) Top of the next higher floor | N/A | <input type="checkbox"/> feet | <input type="checkbox"/> meters |
| c) Bottom of the lowest horizontal structural member (V Zones only) | 14.2 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| d) Attached garage (top of slab) | N/A | <input type="checkbox"/> feet | <input type="checkbox"/> meters |
| e) Lowest elevation of machinery or equipment servicing the building
(Describe type of equipment and location in Comments) | 10.5 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| f) Lowest adjacent (finished) grade next to building (LAG) | 7.0 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| g) Highest adjacent (finished) grade next to building (HAG) | 8.0 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| h) Lowest adjacent grade at lowest elevation of deck or stairs, including structural support | N/A | <input type="checkbox"/> feet | <input type="checkbox"/> meters |

SECTION D – SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Were latitude and longitude in Section A provided by a licensed land surveyor? ☒ Yes ☐ No ☐ Check here if attachments.

Certifier's Name JAMES A. LEWIS		License Number L-4562	
Title PROJECT MANAGER			
Company Name CHARLES F. RIGGS & ASSOCIATES, INC.			
Address 502 NEW BRIDGE STREET			
City JACKSONVILLE	State North Carolina	ZIP Code 28540	
Signature <i>James A. Lewis</i>	Date 9/15/2020	Telephone (910) 455-0877	Ext. 41

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments (including type of equipment and location, per C2(e), if applicable)
DWELLING IS ONE STORY ON PILINGS, OPEN BELOW.
BOTTOM OF METER BOX - 10.5'; BOTTOM OF HVAC UNIT = 15.4'

(CFRA #20-09-08)

ELEVATION CERTIFICATE

BOARD OF ADJUSTMENT 8/22/2023

BUILDING PHOTOGRAPHS

See Instructions for Item A6.

AA23-000001

OMB No. 1660-0008

Expiration Date: November 30, 2022

Page 12 of 28

IMPORTANT: In these spaces, copy the corresponding information from Section A.

FOR INSURANCE COMPANY USE

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.
340 TOPSAIL ROAD

Policy Number:

City
NORTH TOPSAIL BEACH

State
North Carolina

ZIP Code
28460

Company NAIC Number

If using the Elevation Certificate to obtain NFIP flood insurance, affix at least 2 building photographs below according to the instructions for Item A6. Identify all photographs with date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8. If submitting more photographs than will fit on this page, use the Continuation Page.



Photo One

Photo One Caption FRONT VIEW

Clear Photo One



Photo Two

Photo Two Caption REAR VIEW

Clear Photo Two

Jac 9/15/2020

ELEVATION CERTIFICATE

BOARD OF ADJUSTMENT 8/22/2023

BUILDING PHOTOGRAPHS

Continuation Page AA23-000091

OMB No. 1660-0008

Expiration Date: November 30, 2022 Page 13 of 28

IMPORTANT: In these spaces, copy the corresponding information from Section A.			FOR INSURANCE COMPANY USE
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 340 TOPSAIL ROAD			Policy Number:
City NORTH TOPSAIL BEACH	State North Carolina	ZIP Code 28460	Company NAIC Number

If submitting more photographs than will fit on the preceding page, affix the additional photographs below. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8.



Photo Three

Photo Three Caption RIGHT VIEW

Clear Photo Three



Photo Four

Photo Four Caption LEFT VIEW

Clear Photo Four

JAL 9/15/2020



Notice for Property Owners, Contractors, and Design Professionals.

TO: Property owners, contractors, and design professionals

FROM: Planning Department

SUBJECT: Notice for Work on Existing Buildings in Special Flood Hazard Areas
Substantial Improvement / Substantial Damage Worksheets

North Topsail Beach floodplain management regulations and codes specify that all new buildings to be constructed in Special Flood Hazard Areas (SFHAs) (regulated floodplains) are required to have their lowest floors elevated to or above the base flood elevation (BFE). The regulations also specify that **substantial improvement** of existing buildings (remodeling, rehabilitation, improvement, or addition) or buildings that have sustained **substantial damage** must be brought into compliance with the requirements for new construction. Please note that a building may be substantially damaged by any cause, including fire, flood, high wind, seismic activity, land movement, or neglect. It is important to note that all costs to repair a substantially damaged building to its pre-damage condition must be identified.

There are several aspects that must be addressed to achieve compliance with the floodplain management requirements. The requirements depend on several factors, including the flood zone at your property. The most significant compliance requirement is that the lowest floor, as defined in the regulations/code, must be elevated to or above the BFE. Please plan to meet with this department to review your proposed project, to go over the requirements, and to discuss how to bring your building into compliance.

Our regulations define these terms:

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, during the previous five (5) years the cost of which equals or exceeds fifty (50) percent of the market value of the structure (not including the market value of the land) before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

To make the substantial improvement determination or the substantial damage determination, we compare the cost of the proposed improvement or repairs to the market value of the building (excluding land, accessory structures, and landscaping). If the resulting ratio equals or exceeds 50 percent, the existing building must be brought into compliance with the floodplain management requirements for new buildings.

$$\frac{\text{Cost of Improvement or Cost to Repair to Pre-Damage Condition}}{\text{Market Value of Building}} \geq 50\%$$

Please note:

- You must provide an estimate of the cost to perform the proposed improvements or repairs. If your building has been damaged, the cost estimate must include all work required to repair the building to its pre-damage condition. The cost estimate must include all labor and materials. If the work will be done by a contractor, the contractor's overhead and profit must be included. If the work will be done by the owner or volunteers, market rates must be used to estimate the cost of materials and the value of labor. Attached to this notice is a list of costs that must be included and costs that are excluded. After we review the cost estimate, we may require that it be broken down to show all materials and labor estimates.
- You must provide a market value appraisal of the building that is prepared by a professional appraiser according to standard practices of the profession. We will review the appraisal to determine that it accurately describes your building and does not include the value of the land, accessory buildings, and landscaping. Alternatively, we will use the tax assessment value of your building as the estimate of the market value of the building before the work is performed.

If you have any questions regarding this information, please contact the Planning Department at 910.328.1349.

Attachments:

- ❖ Requirements for Applications for Permits for Substantial Improvements and Repair of Substantial Damage
- ❖ Costs for Substantial Improvements and Repair of Substantial Damage
- ❖ Owner's Affidavit
- ❖ Contractor's Affidavit
- ❖ Substantial Improvement or Substantial Damage Worksheet.

Requirements for Applications for Permits for Substantial Improvements and Repair of Substantial Damage

Please contact the Millcreek Building Department at 801.214.2700 if you have questions about the substantial improvement and substantial damage requirements. Your building may have to be brought into compliance with the floodplain management requirements for new construction.

Applications for permits to work on existing buildings that are located in Special Flood Hazard Areas must include the following:

- ❖ Current photographs of the exterior (front, rear, sides)
- ❖ If your building has been damaged, include photographs of the interior and exterior; provide pre-damage photos of the exterior, if available
- ❖ Detailed description of the proposed improvement (rehabilitation, remodeling, addition, etc.) or repairs
- ❖ Cost estimate of the proposed improvement or the cost estimate to repair the damaged building to its before-damage condition
- ❖ You may submit a market value appraisal prepared by a licensed professional appraiser or we will use the tax assessment value of the building
- ❖ Owner's affidavit (signed and dated)
- ❖ Contractor's affidavit (signed and dated)
- ❖ Substantial Improvement or Substantial Damage Worksheet.

Costs for Substantial Improvements and Repair of Substantial Damage

Included Costs

Items that must be included in the costs of improvement or costs to repair are those that are directly associated with the building. The following list of costs that must be included is not intended to be exhaustive, but characterizes the types of costs that must be included:

- ❖ Materials and labor, including the estimated value of donated or discounted materials and owner or volunteered labor
- ❖ Site preparation related to the improvement or repair (foundation excavation, filling in basements)
- ❖ Demolition and construction debris disposal
- ❖ Labor and other costs associated with demolishing, moving, or altering building components to accommodate improvements, additions, and making repairs
- ❖ Costs associated with complying with any other regulation or code requirement that is triggered by the work, including costs to comply with the requirements of the Americans with Disabilities Act (ADA)
- ❖ Costs associated with elevating a structure to an elevation that is lower than the BFE
- ❖ Construction management and supervision
- ❖ Contractor's overhead and profit
- ❖ Sales taxes on materials
- ❖ Structural elements and exterior finishes, including:
 - Foundations (e.g., spread or continuous foundation footings, perimeter walls, chain walls, pilings, columns, posts, etc.)
- ❖ Monolithic or other types of concrete slabs
- ❖ Bearing walls, tie beams, trusses
- ❖ Joists, beams, subflooring, framing, ceilings
- ❖ Interior non-bearing walls
- ❖ Exterior finishes (e.g., brick, stucco, siding, painting, and trim)
- ❖ Structural elements and exterior finishes (cont.):
 - Windows and exterior doors
 - Roofing, gutters, and downspouts
 - Hardware
 - Attached decks and porches
- ❖ Interior finish elements, including:
 - Floor finishes (e.g., hardwood, ceramic, vinyl, linoleum, stone, and wall-to-wall carpet over subflooring)
 - Bathroom tiling and fixtures
 - Wall finishes (e.g., drywall, paint, stucco, plaster, paneling, and marble)
 - Built-in cabinets (e.g., kitchen, utility, entertainment, storage, and bathroom)
- ❖ Interior doors
- ❖ Interior finish carpentry
- ❖ Built-in bookcases and furniture
- ❖ Hardware
- ❖ Insulation
- ❖ Utility and service equipment, including:
 - HVAC equipment
 - Plumbing fixtures and piping
 - Electrical wiring, outlets, and switches
 - Light fixtures and ceiling fans
 - Security systems
 - Built-in appliances
 - Central vacuum systems
 - Water filtration, conditioning, and re-circulation systems

Excluded Costs

Items that can be excluded are those that are not directly associated with the building. The following list characterizes the types of costs that may be excluded:

- ❖ Clean-up and trash removal
- ❖ Costs to temporarily stabilize a building so that it is safe to enter to evaluate required repairs
- ❖ Costs to obtain or prepare plans and specifications
- ❖ Land survey costs
- ❖ Permit fees and inspection fees
- ❖ Carpeting and re-carpeting installed over finished flooring such as wood or tiling
- ❖ Outside improvements, including landscaping, irrigation, sidewalks, driveways, fences, yard lights, swimming pools, pool enclosures, and detached accessory structures (e.g., garages, sheds, and gazebos)
- ❖ Costs required for the minimum necessary work to correct existing violations of health, safety, and sanitary codes
- ❖ Plug-in appliances such as washing machines, dryers, and stoves

**PROPERTY OWNER'S DAMAGE OR
IMPROVEMENT COST AFFIDAVIT**

Property Address: 340 Topsail rd
North Topsail NC 28460

Contractor's Name: Milam Plumbing INC

Property Owner's Name: Mark Boike

Property Owner's Mailing Address: 340 Topsail RD

Property Owner's Phone Number: 7047569210

I hereby attest to the fact that the repairs, reconstruction and/or remodeling list for the Damage or Improvement Review by me or by my contractor are **ALL OF THE DAMAGES** sustained by this structure **and/or ALL OF THE PROPOSED IMPROVEMENTS** to the structure, this must include all proposed repairs, additions, and/or improvements.

I UNDERSTAND THAT I AM SUBJECT TO ENFORCEMENT ACTION, WHICH MAY INCLUDE FINES, IF ANY INSPECTION OF THE PROPERTY REVEALS THAT I, OR MY CONTRACTOR, HAVE MADE REPAIRS OR IMPROVEMENTS NOT INCLUDED ON THE ATTACHED LIST OF REPAIRS OR THE APPROVED BUILDING PLANS.

In order to act as his/her own contractor, the structure must be the owner's personal residence and not a rental property.

See attached itemized list.

STATE OF _____

COUNTY OF _____

Before me this day personally appeared _____, who, being duly sworn, deposes and says that he/she read, understands, and agrees to comply with all the aforementioned conditions.

Property Owner's Signature

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary Public State of _____ My
commission expires: _____

Contractor's Affidavit: Substantial Improvement or Repair of Substantial Damage

Property Address: 340 Topsail RD

Parcel ID Number:

Owner's Name: Mark boike

Owner's Address/Phone: 704 7569210

Contractor: Milam Plumbing Inc

Contractor's License Number: 23986

Date of Contractor's Estimate: 11/21/2022

I hereby attest that I have personally inspected the building located at the above-referenced address and discussed the nature and extent of the work requested by the owner, including all improvements, rehabilitation, remodeling, repairs, additions, and any other form of improvement.

At the request of the owner, I have prepared a cost estimate for all of the improvement work requested by the owner and the cost estimate includes, at a minimum, the cost elements identified by the Town that are appropriate for the nature of the work. If the work is repair of damage, I have prepared a cost estimate to repair the building to its pre-damage condition. I acknowledge that if, during the course of construction, the owner requests more work or modification of the work described in the application, that a revised cost estimate must be provided to the [*insert community*], which will re-evaluate its comparison of the cost of work to the market value of the building to determine if the work is substantial improvement. Such re-evaluation may require revision of the permit and may subject the property to additional requirements.

I also understand that I am subject to enforcement action and/or fines if inspection of the property reveals that I have made or authorized repairs or improvements that were not included in the description of work and the cost estimate for that work that were the basis for issuance of a permit.

cONTRACTOR'S SIGNATURE _____

Date: _____

Notarized:

ELEMENT	COST OF MATERIAL	COST OF LABOR	TOTAL
FOUNDATION			
SUPERSTRUCTURE			
ROOF COVERING			
EXTERIOR FINISH			
DOORS/WINDOWS			
CABINETS/COUNTERTOPS			
FLOOR FINISH			
PLUMBING	1,407.31		
ELECTRICAL			
APPLIANCES			
INTERIOR FINISH			
HVAC			

From: [Carolina Odd Jobs](#)
To: [Martin, Tina R](#); [Ralph Allen](#); [Deb Hill](#)
Cc: [Carolina Odd Jobs](#)
Subject: URGENT-!!! 340 TopSail Rd, NTB, NC -NOT MAINTENANCE -FYI-MESS
Date: Friday, January 27, 2023 5:50:05 PM
Importance: High

Caution: This is an external email. Please take caution when clicking links or opening attachments. Contact the IT Department if you're unsure of the legitimacy of this email.

Hey,

I spoke to this gentleman 01/23/23 and explained the difference in maintenance and NOT maintenance, that he WOULD need a permit for any and all structural thru NTB, he WOULD need a CAMA Minor permit IF structural and ONLY maintenance exemption thru CAMA if just replacing a few board on existing, less than 50% repairs, BUT he still has to qualify this with CAMA and working on the beach clear permits with NTB.

We had an appt with him today to look at what he needs and he had joists, pilings, boards off, needs new pilings sank, this is NOT MAINTENANCE!! Jonathan met him late this afternoon and told him all of what he was doing required permits and we could help him with the process but he needed to stop and please ask for the town and CAMA assistance to continue, we don't want to see anyone hurt.

Thought I would let ya'll know since we looked at this and we have NOT ever done any work here and we advised him to NOT do anything here when we spoke to him on 01/23/23 on the phone.

Sincerely,

Anne M Whelan - Admin/D.O.O.

Carolina Odd Jobs, Inc

PO Box 990, SneadsFerry, NC 28460

919-207-2190 office call and leave message if needed

919-669-2694 cell -text only please Anne

cc: *Jonathan M Byrd -President*

coj@carolinaoddjobs.com

This email message and any attachment thereto is for the sole use of the intended recipient(s) and may contain confidential information. If you are not the intended recipient, please contact the sender by reply email and permanently delete this email,

any attachment(s) and all copies made of the original message or attachment(s). Any unauthorized review, use, disclosure or distribution is prohibited.

From: Mark Boike <mboike1@hotmail.com>

Sent: Monday, January 23, 2023 10:50 AM

To: Carolina Odd Jobs <COJ@carolinaoddjobs.com>; Tina.Martin@ncdenr.gov

<Tina.Martin@ncdenr.gov>

Subject: Preventive maintenance replacing pilings

Greetings Tina

I am doing, some maintenance, on my deck, and I wanted to replace the 4 pilings pictured. Would it be possible, to receive an exception letter, to have the work performed, before the rental on the property starts?

Thank you

Mark

Address

340 topsail Road

Noth topsail beach

Phone:704-756-9210

Referred to By:

John Cassidy

From: kwinzler@northtopsailbeachnc.gov
Sent: 02/03/2023 - 12:49 PM
To: mboike1@hotmail.com
CC: kwinzler@northtopsailbeachnc.gov, inspector@northtopsailbeachnc.gov
Subject: 340 Topsail Rd Stop Work Order

Attachments:

Topsail Rd 340 Stop Work Order 23.02.03.pdf

Greetings,

Please see attached.

Please follow the deck application instructions here:

<https://www.northtopsailbeachnc.gov/buildinginspections/page/deckstairsramp-application>

Kindly,

Kate Winzler, CMC, NCCMC

Permit Specialist & Deputy Town Clerk

Town of North Topsail Beach

2008 Loggerhead Ct

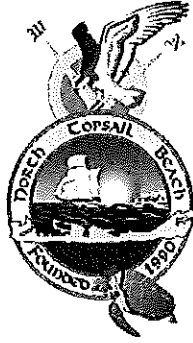
North Topsail Beach, NC 28460

910-328-1349



Town Of North Topsail Beach

2008 Loggerhead Court • North Topsail Beach, NC 28460



STOP WORK

ANY UNAUTHORIZED PERSON REMOVING THIS NOTICE WILL BE
PROSECUTED - REFER TO N.C.-G.S. 160D-404

OFFICE OF BUILDING INSPECTION OFFICIAL
TOWN OF NORTH TOPSAIL BEACH

340 Topsail Rd.
NOTICE

THIS BUILDING HAS BEEN INSPECTED AND

- ☐ ALL TRADES
- ☒ BUILDING
- ☐ DEMOLITION
- ☐ ELECTRICAL
- ☐ HEATING & AIR CONDITIONING
- ☐ PLUMBING
- ☒ OTHER

☒ IS NOT ACCEPTED

PLEASE CORRECT BEFORE ANY FURTHER WORK IS DONE.

COMMENTS:

Need A Building Permit,
Zoning & CAMA Approval for
Deck Work.

DATE

2/3/2023

INSPECTOR SIGNATURE

Reph Allen

910-328-1349

DO NOT REMOVE THIS NOTICE

ROY COOPER

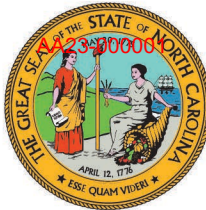
Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director

NORTH CAROLINA
Environmental Quality

February 9, 2023

Exemption Number – 07-23 EX

Mark Boike
340 Topsail Road
North Topsail Beach, NC 28460

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

**PROJECT ADDRESS: 340 Topsail Road, North Topsail Beach, Onslow County
AREA OF ENVIRONMENTAL CONCERN –Ocean Hazard Area**

I have reviewed the information submitted to this office in your inquiry concerning the necessary filing of an application for a minor development permit under the Coastal Area Management Act. After making a site inspection on January 31, 2023, I have determined that the activity you propose is exempt from needing a minor development permit as long as it remains consistent with your site drawing and materials list submitted on 1/23/2023, and meets the conditions specified below. If your plans should change and your project will no longer meet these conditions, please contact me before proceeding.

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

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

1. The project consists of the repair of the Covered deck. (12 x 12)
2. The proposed repairs shall be consistent with all other applicable local ordinances and North Carolina Building Code standards.

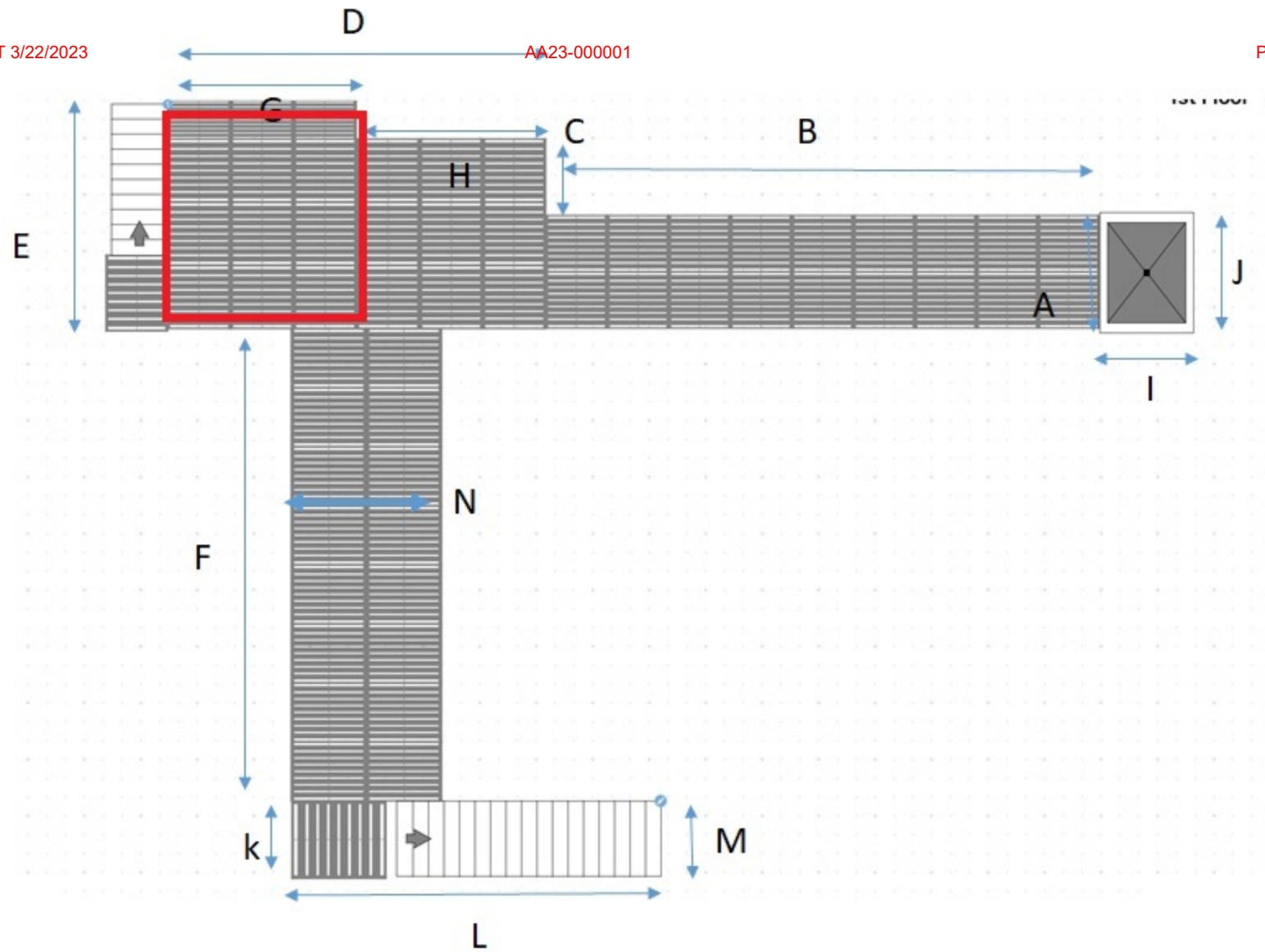
This exemption to CAMA permit requirements does not alleviate the necessity of your obtaining any other State, Federal or Local authorization and N.C. Building Permits. This exemption expires 90 days from the date of the letter.

Sincerely,

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



North Carolina Department of Environmental Quality | Division of Coastal Management
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557
252.808.2808



BOARD OF ADJUSTMENT 3/22/2023

AA23-000001

Page 28 of 28

From: kwinzler@northtopsailbeachnc.gov
Sent: 02/21/2023 - 10:34 AM
To: mboike1@hotmail.com
CC: dhill@northtopsailbeachnc.gov, kwinzler@northtopsailbeachnc.gov, inspector@northtopsailbeachnc.gov
Subject: 340 Topsail Rd 23-000139 Application Denied

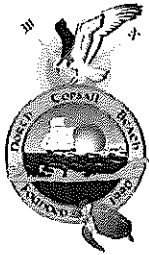
Greetings,
The department reviews of this application are complete. Please address the following at your convenience, as requested from these reviews:

1. ZFP23-000029 - repairs exceed CAMA permit issued to repair 12x12 (144 square feet) or deck. under no circumstances, may project exceed current footprint.
2. ZFP23-000029 - zoning permit was denied as no construction allowed within 5 feet of toe of dune pursuant to § 10.07.02:
 1. (D) No disturbance, no development, no structure shall be permitted within 5.0 feet of the landward toe of the dune, "dune buffer," except beach access crossovers as permitted.
 2. (E) Any additions or improvements to existing structures must comply with the standards for new construction and be relocated outside of the "dune buffer." You have a right to appeal this decision by following the procedures outlined in §2.03.05 APPEALS OF ADMINISTRATIVE DECISIONS. § 160D-405. on page 2-6 of the UDO in the link below.
https://www.northtopsailbeachnc.gov/sites/default/files/fileattachments/planning_and_zoning/page/2369/2021_unified_development_ordinance.pdf
3. SB23-000017 - See comments from Planning/Zoning Department.

Once the requested information is submitted and complete, it will be processed and sent to the Planning Department and Building Inspections Departments for review. This application is on hold until complete.
Thank you kindly,

Kate Winzler, CMC, NCCMC
Permit Specialist & Deputy Town Clerk
Town of North Topsail Beach
2008 Loggerhead Ct
North Topsail Beach, NC 28460
910-328-1349





Town of North Topsail Beach
Board of Aldermen

Agenda

Item:

Date:

PL

Section VII, ItemA.

HEARING

9/7/2022

Issue: Dune Protection and Remediation: Proposed Text Amendments to UDO §10.07.02 Rebuilding of Damaged Dunes & Town Code Article 10 Sand Dune Protection

Department: Planning

Prepared by: Deborah J. Hill MPA AICP CFM CZO

Presentation: Yes

BACKGROUND Pursuant to NCGS § 160D-301 (b) (4), the Planning Board is assigned the power and duty to advise the Board of Aldermen concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.

On August 11, 2022, the Planning Board reviewed UDO plat requirements for development permits; specifically, requirements for ocean front lots with respect to the dune. The Planning Board also discussed the both the Unified Development Ordinance §10.07.02 Rebuilding of Damaged Dunes and Town Code Article 10 Sand Dune Protection.

In their review of Town Code Article 10 *Sand Dune Protection*, the Planning Board recommends that the Town Manager (or designee) has the authority to enforce; that each day unrepaired is a separate offense; and that the exceptions pertaining to development in § 10-49 be deleted, as development is addressed in the UDO.

In their review of Unified Development Ordinance §10.07.02 *Rebuilding of Damaged Dunes*, the Planning Board discussed a dune buffer, non-conforming status for existing encroachments into the buffer, additions or improvements to existing structures, fines, as well as dune restoration.

RECOMMENDATION On August 11, 2022, Ms. Lisa Brown made a motion that the Planning Board recommends that the Board of Aldermen conduct a public hearing on September 7, 2022 at 11:00 a.m. to receive input on a proposed amendment to North Topsail Beach Town Code Article IV Sand Dune Protection and the North Topsail Beach Unified Development Ordinance Article 10 Enforcement § 10.07.02 Dune Protection and Remediation; and that the Board of Aldermen adopt the proposed text amendments to UDO §10.07.02 Rebuilding of Damaged Dunes (attachment 1) & Town Code Article 10 Sand Dune Protection (attachment 2). Mr. Fred Fontana seconded. The motion passed unanimously, 6-0.

ATTACHMENT

1. Ordinance to Amend Unified Development Ordinance §10.07.02 Rebuilding of Damaged Dunes
2. Ordinance to Amend Town Code Article 10 Sand Dune Protection
3. Public Notice

Ordinance 22-00__

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
OF THE TOWN OF NORTH TOPSAIL BEACH, NORTH CAROLINA TO PROVIDE
DUNE PROTECTION MEASURES, MANDATORY REMEDIATION FOR DAMAGED
DUNES AND SET FINES**

WHEREAS, N.C. General Statutes 160 D Article 6 created new standards for the procedure for adopting, amending, or repealing development regulations that apply throughout North Carolina; and

WHEREAS, pursuant to N.C. General Statutes § 160D-601 a notice of the hearing has been given once a week for two successive calendar weeks in the Jacksonville Daily News.

WHEREAS, pursuant to N.C. General Statutes § 160D-603 if any resident or property owner in the town submits a written statement regarding this proposed amendment that has been properly initiated as provided in G.S. 160D-601, to the Town Clerk at least two business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Board of Aldermen.

WHEREAS, pursuant to N.C. General Statutes § 160D-604 the Planning Board has reviewed the proposed standards and recommended approval of this ordinance; and

WHEREAS, the Board of Aldermen has found this ordinance to be consistent with the Town's adopted CAMA Land Use Plan; and

WHEREAS, the Board of Aldermen has determined that is in public interest to update standards for dune protection measures, mandatory remediation for damaged dunes and set fines in the Unified Development Ordinance in compliance with the N.C. General Statutes.

NOW THEREFORE BE IT ORDAINED by the Board of Aldermen for the Town of North Topsail Beach, North Carolina that the Unified Development Ordinance shall be amended as follows:

PART I. That Subsection of the Unified Development Ordinance be amended with the addition of the following:

PART II. This ordinance shall be effective upon its adoption.

§ 10.07.02 REBUILDING OF DAMAGED DUNES.

- (A) —~~Any~~ All dunes in the ~~required natural area~~ Ocean Hazard Area that ~~is~~ are damaged during construction, or damage occurring as a result of such construction, or excavated in violation of this ordinance shall be restored to its original state using similar materials and stabilizing vegetation. It shall be the responsibility of the property owner to guarantee the protection of all identified dune systems and not allow the natural topography of the lot altered beyond that which has been authorized in the permit. The rebuilding of a dune shall be the ultimate responsibility of the property owner. Any dune in the required natural area that has been

damaged or excavated in violation of this ordinance shall be subject to a fine of \$1
restored within 60-7 days of notice.

Section VII, Item A.

- (B) Failure to repair damage to dunes and vegetation after 7 days, shall constitute a separate violation for each day that such failure continues after written notification by the Planning Director.
- (C) Any development proposed within the Ocean Hazard Area shall indicate on a plat submitted with the application, the dune contour/topography and dune profile by elevation, the landward toe of the dune by bearing and distance.
- (D) No disturbance, no development, no structure shall be permitted within 5.0 feet of the landward toe of the dune, "dune buffer," except beach access crossovers as permitted.
- (E) Any additions or improvements to existing structures must comply with the standards for new construction and be relocated outside of the "dune buffer."
- (F) If any provision of this article is in conflict with a rule or regulation adopted by the State Coastal Resources Commission dealing with oceanfront erosion control, then the most stringent rule or regulation shall control and apply.

(Ord. passed 11-2-2011)

This ordinance is effective upon its adoption.
Adopted this the 7th day of September, 2022.

APPROVED:


Joann McDermon, Mayor

(Seal)

ATTEST:


Melinda Mier, Town Clerk

Town of North Topsail Beach

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

Aldermen:
Alfred Fontana
Richard Grant
Tom Leonard
Connie Pletl



Alice Derian, ICMA-CM
Town Manager

Melinda Mier
Town Clerk

Nature's Tranquil Beauty **Zoning Board of Adjustment** **Wednesday, March 22, 2023, 5:30 p.m.** **NOTICE OF DECISION**

To Whom It May Concern:

The Board of Adjustment for the Town of North Topsail Beach, Onslow County, North Carolina, held an evidentiary hearing on March 22, 2023 to consider Case # AA23-000001, an appeal by Mark William Boike of an administrative decision by Planning Director Deborah J. Hill on 02/17/2023 to deny permit ZFP23-000029 for his single family house at 340 Topsail Road to "Replace decking board/ joist that support. decking boards with new wood. replace decking fasteners with 316 grade steel. replace pilings that support roof of gazabo. Authorized work per CAMA 07-203 EX Repair 12'x12 covered deck only....," as "zoning permit was denied as no construction allowed within 5 feet of toe of dune pursuant to § 10.07.02" and "repairs exceed CAMA permit issued to repair 12x12 (144 square feet) or deck. under no circumstances, may project exceed current footprint."

WHEREAS, the Board may affirm the staff decision, reverse the staff decision, or modify the staff decision, and the board may "make any order, requirement, decision, or determination that ought to be made;" and

WHEREAS, the Board has considered all technical evaluations, all relevant factors, all standards specified in the Unified Development Ordinance §2.03.05 and North Carolina General Statutes § 160D-405; and

WHEREAS, having heard all of the evidence and arguments presented at the hearing by all sworn witnesses, the Board has determined any contested facts and applied relevant legal standards based on competent, material, and substantial evidence in the record, as indicated in the minutes attached to this NOTICE.

THEREFORE, on the basis of the foregoing, it is the DECISION of the Board to (indicate by ✓ and line out others):

- ☐ Affirm the staff decision;
- ☐ Reverse the staff decision; or
- ☐ Modify the staff decision; and

The Board may "make any order, requirement, decision, or determination that ought to be made;" as follows:

The decision of the Board of Adjustment may be appealed to the superior court in the nature of certiorari pursuant to G.S. 160D-1402.

Ordered this 22th day of March, 2023:

Certified:

X

Hanna McCloud
Chair

X

Kathryn Winzler
Secretary

STAFF REPORT CONTACT INFORMATION

Deborah J. Hill MPA AICP CFM CZO, Planning Director

DOCKET/CASE/APPLICATION NUMBER

AA23-000002

APPLICANT/PROPERTY OWNER

MJL Enterprises Inc - c/o Lloyd Moore

PUBLIC HEARING DATE

Wednesday, March 22, 2023 at 5:30 p.m.

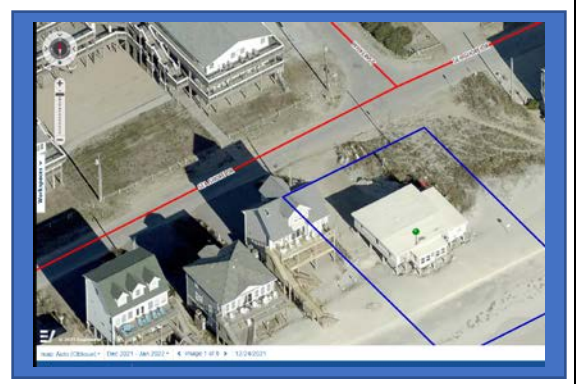
PROPERTY ADDRESS/LOCATION

274 Sea Shore

BRIEF SUMMARY OF REQUEST

Appeal by MJL Enterprises Inc - c/o Lloyd Moore from Planning Director's decision dated 01/20/2023 to deny Zoning permit ZFP23-000010 based on UDO § 10.07.02 (D) and (E) for application dated 02/11/2023 to:

"Rebuild (1) - 96 square foot uncovered oceanfront Deck 16'x6'. Per CAMA 06-23 EX: The project consists of repair of the decking, handrails, and steps oceanside (16x6 deck)."



MAP: Auto (Oblique) 12/24/2021

MAP SOURCE: CONNECTExplorer

EXISTING ZONING	EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
R-8	Residential	North R-10 Apartments East R-10 unbuildable South N/A Atlantic Ocean West R-8 Single Family	1948 Dwelling 1736 square feet	2 lots +/- 13,537 Square Feet

EXHIBITS

	page
Exhibit 1. Application by MJL Enterprises Inc - c/o Lloyd Moore	2-5
1a. Written Order or decision being appealed	6
1b. Site plan or plot plan : Onslow County Tax Office Property Card Sketch	7

Documents submitted by Deborah J. Hill, Planning Director. Pursuant to § 2.02.04 (E) The official who made the decision shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner:

Exhibit 2. CAMA Exemption Number 06-23 EX dated 1/19/2023	8
2a. Sketch plan	9
Exhibit 3. Staff Report: Dune Protection and Remediation: Proposed Text Amendments to UDO §10.07.02 Rebuilding of Damaged Dunes & Town Code Article 10 Sand Dune Protection	10-12
Exhibit 4.	

**PERMIT PROJECT**

FILE #: 23-000190

274 SEA SHORE DR NORTH TOPSAIL BEACH NC 28460

10.07.02 (D) (E)

**PERMIT #: AA23-000002**

Permit Type

Application for Appeal

Subtype

Application for Appeal



Work Description:

10.07.02 (D) (E)

Applicant

MJL Enterprises Inc - c/o Lloyd Moore



Status

Ready for Payment



Valuation

0.00

**FEES & PAYMENTS**

Plan Check Fees

500.00

Permit Fees

0.00

Total Amount

500.00

Amount Paid

500.00

Balance Due

0.00



Non-Billable

**PERMIT DATES**

Application Date

02/23/2023

Approval Date

02/28/2023

Issue Date:

02/28/2023

Expiration Date:

08/28/2023

Last Inspection

For Office Use Only

☐ Apply Storm Damage Credit

Zoning District

R-8



CAMA Approval

Issued



CAMA Approval #

06.23-EX

PROJECT INFORMATION

Property Owner

MJL ENTERPRISES INC



Property Owner Phone#

910-442-9101

Property Owner Email Address

mooreqc009@gmail.com

I wish to appeal the following decision by (provide Administrative official)

Deb Hill Planning Director

The ruling was based on the following Ordinance provisions

10.07.02 (D) No disturbance, no development, no structure shall be permitted within 5.0 feet of the landward toe of the dune, dune buffer, except beach access crossovers as permitted.

10.07.02 (E) Any additions or improvements to existing structures must comply with the standards for new construction and be relocated outside of the dune buffer.



Summarized below, and on other sheets as necessary (attached), is my rationale for arguing that the administrative ruling is an improper or erroneous interpretation of the Ordinance

1. We do not believe ordinance 10.07.02(D), and 10.07.02 (E) apply to the request to build a simple replacement 6x16 deck, that was severely damaged and destroyed during recent hurricanes and tropical storms. The deck will be partially built over a berm not dune.
 - a. The berm is less than 5.0 feet and is not an established dune.
2. Hired local Surveyor Charles Riggs to lead the project.
3. Hired local contractor AME Builders to carefully rebuild the deck back to its original footprint per the Onslow tax record sketch.
3. Contacted and received CAMA acceptance approval for the deck build back.
4. Hired Coastal Transplant of plant seagrass and work closely with me to evaluate the berm after the deck is built per CAMA guidelines.

DOCUMENTS

Written Order or decision being appealed

[274 Sea Shore Dr ZFP23-000010 Denial \(003\).pdf](#)



Copy of violation

[274 Sea Shore Dr ZFP23-000010 Denial-001.pdf](#)



Site plan or plot plan

[274 SEA SHORE DR ONSLOW COUNTY TAX RECORDS SKETCH.pdf](#)



Other documents



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](#)



FEES



FEE	▼	DESC ▼	QUANTITY	AMOUNT	TOTAL	
Filing Fee					350.00	
Transcription Fee					150.00	

From: kwinzler@northtopsailbeachnc.gov
Sent: 02/17/2023 - 08:40 AM
To: mooreqc009@gmail.com
CC: kwinzler@northtopsailbeachnc.gov
Subject: 274 Sea Shore Dr 23-000067 Application Reviews Completed

Greetings,

The department reviews of this application are complete. Please address the following at your convenience, as requested from these reviews:

1. SB23-000008 - See Planning/Zoning comments.
2. ZFP23-000010 - PLANS INSUFFICIENT. NO CONSTRUCTION ALLOWED WITHIN 5 FEET OF TOE OF DUNE PURSUANT TO § 10.07.02 (C) Any development proposed within the Ocean Hazard Area shall indicate on a plat submitted with the application, the dune contour/topography and dune profile by elevation, the landward toe of the dune by bearing and distance. (D) No disturbance, no development, no structure shall be permitted within 5.0 feet of the landward toe of the dune, dune buffer, except beach access crossovers as permitted. (E) Any additions or improvements to existing structures must comply with the standards for new construction and be relocated outside of the dune buffer. (F) If any provision of this article is in conflict with a rule or regulation adopted by the State Coastal Resources Commission dealing with oceanfront erosion control, then the most stringent rule or regulation shall control and apply.

Once the requested information is submitted and complete, it will be processed and sent to the Planning Department and Building Inspections Departments for review. This application is on hold until complete.

Thank you kindly,

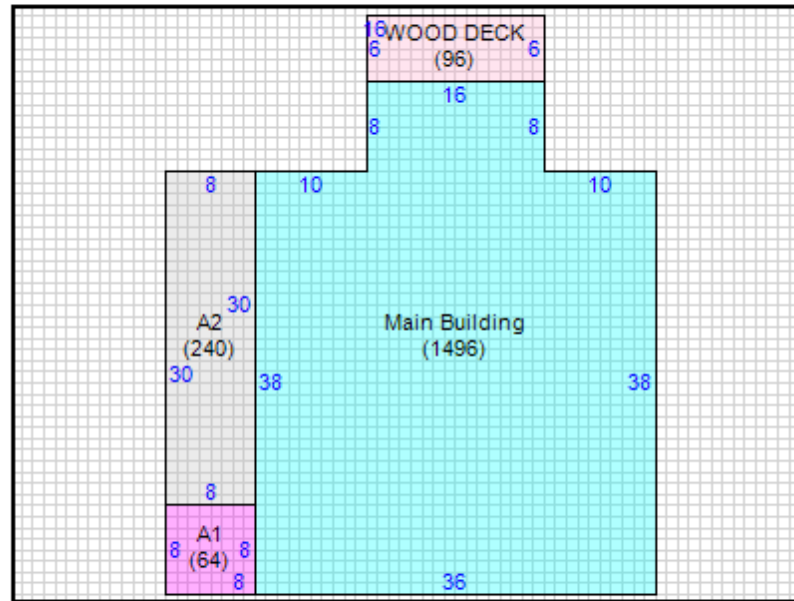
Kate Winzler, CMC, NCCMC
Permit Specialist & Deputy Town Clerk
Town of North Topsail Beach
2008 Loggerhead Ct
North Topsail Beach, NC 28460
910-328-1349



Parcel ID: 009363
 Luc: Waterfront Ocean
 MJL ENTERPRISES INC

Map #: 803-4
 Class: Dwelling

Tax Year: 2022
 NBHD: WINTERHAVEN - OCEAN SIDE
 274 SEA SHORE DR



Options

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

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director



January 19, 2023

Exemption Number – 06-23 EX

MJL Enterprises
2356 Pinnacle Parkway
North Topsail Beach, NC 28460

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

**PROJECT ADDRESS: 274 Sea Shore Drive., North Topsail Beach, Onslow County
AREA OF ENVIRONMENTAL CONCERN – Ocean Hazard Area**

I have reviewed the information submitted to this office in your inquiry concerning the necessary filing of an application for a minor development permit under the Coastal Area Management Act. After making a site inspection on January 11, 2023, I have determined that the activity you propose is exempt from needing a minor development permit as long as it remains consistent with your site drawing and materials list submitted on 12/21/2022, and meets the conditions specified below. If your plans should change and your project will no longer meet these conditions, please contact me before proceeding.

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

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

1. The project consists of the repair of the decking, handrails, and steps ocean side. (16 x 6 deck)
2. The proposed repairs shall be consistent with all other applicable local ordinances and North Carolina Building Code standards.

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

Sincerely,

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



North Carolina Department of Environmental Quality | Division of Coastal Management
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557
252.808.2808

Property Owner: Lloyd Moore

Address: 274 SeaShore Dr NTB 28460

Project No: 2023-001

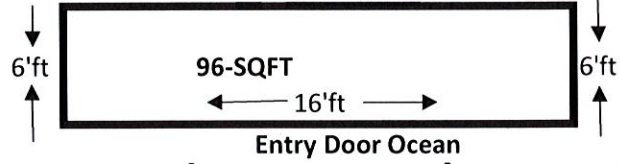
License Contractor: AME Builders

License No: 39713

Date: 1/19/2023



Steps 6 = 24-SQFT



RECEIVED
JAN 19 2023
DCM-4HD CITY

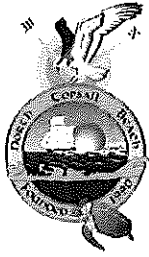
274 SeaShore House

NOTE: 96-SQFT DECK FRONT OCEAN SIDE

Entry Door Street

Beach Access

Revision: 1/19/2023



Town of North Topsail Beach
Board of Aldermen

Agenda	PL	Section VII, ItemA.
Item:	HEARING	
Date:	9/7/2022	

Issue: Dune Protection and Remediation: Proposed Text Amendments to UDO §10.07.02 Rebuilding of Damaged Dunes & Town Code Article 10 Sand Dune Protection

Department: Planning

Prepared by: Deborah J. Hill MPA AICP CFM CZO

Presentation: Yes

BACKGROUND Pursuant to NCGS § 160D-301 (b) (4), the Planning Board is assigned the power and duty to advise the Board of Aldermen concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.

On August 11, 2022, the Planning Board reviewed UDO plat requirements for development permits; specifically, requirements for ocean front lots with respect to the dune. The Planning Board also discussed the both the Unified Development Ordinance §10.07.02 Rebuilding of Damaged Dunes and Town Code Article 10 Sand Dune Protection.

In their review of Town Code Article 10 *Sand Dune Protection*, the Planning Board recommends that the Town Manager (or designee) has the authority to enforce; that each day unrepaired is a separate offense; and that the exceptions pertaining to development in § 10-49 be deleted, as development is addressed in the UDO.

In their review of Unified Development Ordinance §10.07.02 *Rebuilding of Damaged Dunes*, the Planning Board discussed a dune buffer, non-conforming status for existing encroachments into the buffer, additions or improvements to existing structures, fines, as well as dune restoration.

RECOMMENDATION On August 11, 2022, Ms. Lisa Brown made a motion that the Planning Board recommends that the Board of Aldermen conduct a public hearing on September 7, 2022 at 11:00 a.m. to receive input on a proposed amendment to North Topsail Beach Town Code Article IV Sand Dune Protection and the North Topsail Beach Unified Development Ordinance Article 10 Enforcement § 10.07.02 Dune Protection and Remediation; and that the Board of Aldermen adopt the proposed text amendments to UDO §10.07.02 Rebuilding of Damaged Dunes (attachment 1) & Town Code Article 10 Sand Dune Protection (attachment 2). Mr. Fred Fontana seconded. The motion passed unanimously, 6-0.

ATTACHMENT

1. Ordinance to Amend Unified Development Ordinance §10.07.02 Rebuilding of Damaged Dunes
2. Ordinance to Amend Town Code Article 10 Sand Dune Protection
3. Public Notice

ATTACHMENT I

Ordinance 22-00__

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
OF THE TOWN OF NORTH TOPSAIL BEACH, NORTH CAROLINA TO PROVIDE
DUNE PROTECTION MEASURES, MANDATORY REMEDIATION FOR DAMAGED
DUNES AND SET FINES**

WHEREAS, N.C. General Statutes 160 D Article 6 created new standards for the procedure for adopting, amending, or repealing development regulations that apply throughout North Carolina; and

WHEREAS, pursuant to N.C. General Statutes § 160D-601 a notice of the hearing has been given once a week for two successive calendar weeks in the Jacksonville Daily News.

WHEREAS, pursuant to N.C. General Statutes § 160D-603 if any resident or property owner in the town submits a written statement regarding this proposed amendment that has been properly initiated as provided in G.S. 160D-601, to the Town Clerk at least two business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Board of Aldermen.

WHEREAS, pursuant to N.C. General Statutes § 160D-604 the Planning Board has reviewed the proposed standards and recommended approval of this ordinance; and

WHEREAS, the Board of Aldermen has found this ordinance to be consistent with the Town's adopted CAMA Land Use Plan; and

WHEREAS, the Board of Aldermen has determined that is in public interest to update standards for dune protection measures, mandatory remediation for damaged dunes and set fines in the Unified Development Ordinance in compliance with the N.C. General Statutes.

NOW THEREFORE BE IT ORDAINED by the Board of Aldermen for the Town of North Topsail Beach, North Carolina that the Unified Development Ordinance shall be amended as follows:

PART I. That Subsection of the Unified Development Ordinance be amended with the addition of the following:

PART II. This ordinance shall be effective upon its adoption.

§ 10.07.02 REBUILDING OF DAMAGED DUNES.

- (A) —~~Any~~ All dunes in the ~~required natural area~~ Ocean Hazard Area that ~~is~~ are damaged during construction, or damage occurring as a result of such construction, or excavated in violation of this ordinance shall be restored to its original state using similar materials and stabilizing vegetation. It shall be the responsibility of the property owner to guarantee the protection of all identified dune systems and not allow the natural topography of the lot altered beyond that which has been authorized in the permit. The rebuilding of a dune shall be the ultimate responsibility of the property owner. Any dune in the required natural area that has been

damaged or excavated in violation of this ordinance shall be subject to a fine of \$1
restored within 60-7 days of notice.

Section VII, Item A.

- (B) Failure to repair damage to dunes and vegetation after 7 days, shall constitute a separate violation for each day that such failure continues after written notification by the Planning Director.
- (C) Any development proposed within the Ocean Hazard Area shall indicate on a plat submitted with the application, the dune contour/topography and dune profile by elevation, the landward toe of the dune by bearing and distance.
- (D) No disturbance, no development, no structure shall be permitted within 5.0 feet of the landward toe of the dune, "dune buffer," except beach access crossovers as permitted.
- (E) Any additions or improvements to existing structures must comply with the standards for new construction and be relocated outside of the "dune buffer."
- (F) If any provision of this article is in conflict with a rule or regulation adopted by the State Coastal Resources Commission dealing with oceanfront erosion control, then the most stringent rule or regulation shall control and apply.

(Ord. passed 11-2-2011)

This ordinance is effective upon its adoption.
Adopted this the 7th day of September, 2022.

APPROVED:


Joann McDermon, Mayor

(Seal)

ATTEST:


Melinda Mier, Town Clerk

Town of North Topsail Beach

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

Aldermen:
Alfred Fontana
Richard Grant
Tom Leonard
Connie Pletl



Alice Derian, ICMA-CM
Town Manager

Melinda Mier
Town Clerk

Nature's Tranquil Beauty

Zoning Board of Adjustment Wednesday, March 22, 2023, 5:30 p.m. NOTICE OF DECISION

To Whom It May Concern:

The Board of Adjustment for the Town of North Topsail Beach, Onslow County, North Carolina, held an evidentiary hearing on March 22, 2023 to consider Case # AA3-000002, Appeal by MJL Enterprises Inc - c/o Lloyd Moore from Planning Director's decision dated 01/20/2023 to deny Zoning permit ZFP23-000010 based on UDO § 10.07.02 (D) and (E) for application dated 02/11/2023 to: "Rebuild (1) - 96 square foot uncovered oceanfront Deck 16'x6'. Per CAMA 06-23 EX: The project consists of repair of the decking, handrails, and steps oceanside (16x6 deck)."

WHEREAS, the Board may affirm the staff decision, reverse the staff decision, or modify the staff decision, and the board may "make any order, requirement, decision, or determination that ought to be made;" and

WHEREAS, the Board has considered all technical evaluations, all relevant factors, all standards specified in the Unified Development Ordinance §2.03.05 and North Carolina General Statutes § 160D-405; and

WHEREAS, having heard all of the evidence and arguments presented at the hearing by all sworn witnesses, the Board has determined any contested facts and applied relevant legal standards based on competent, material, and substantial evidence in the record, as indicated in the minutes attached to this NOTICE.

THEREFORE, on the basis of the foregoing, it is the DECISION of the Board to (indicate by ✓ and line out others):

- ☐ Affirm the staff decision;
- ☐ Reverse the staff decision; or
- ☐ Modify the staff decision; and

The Board may "make any order, requirement, decision, or determination that ought to be made," as follows:

The decision of the Board of Adjustment may be appealed to the superior court in the nature of certiorari pursuant to G.S. 160D-1402.

Ordered this 22th day of March, 2023:

Certified:

X

Hanna McCloud
Chair

X

Kathryn Winzler
Secretary

STAFF REPORT CONTACT INFORMATION

Deborah J. Hill MPA AICP CFM CZO, Planning Director

DOCKET/CASE/APPLICATION NUMBER

AA23-000003

APPLICANT/PROPERTY OWNER

Cedar Homes Investments, LLC Mark
Wilson/Chad Bell

PUBLIC HEARING DATE

PROPERTY ADDRESS/LOCATION

4122 ISLAND DR

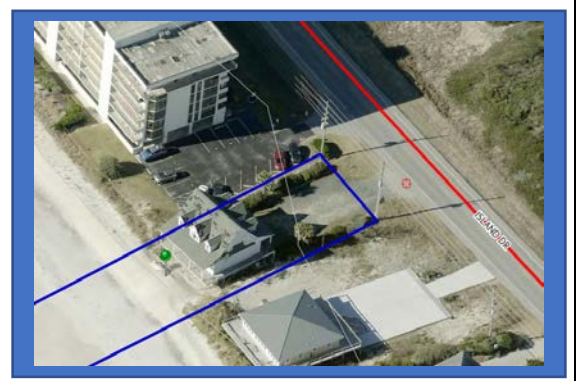
Wednesday, March 22, 2023 at 5:30 p.m.

BRIEF SUMMARY OF REQUEST

Appeal by Cedar Homes Investments, LLC Mark Wilson/Chad Bell from Planning Director's Written Order or decision Written Order or Decision Being Appealed:

- § 10.07.02 REBUILDING OF DAMAGED DUNES.
- §10.02.01 DEVELOPMENT WITHOUT A PERMIT.
- §10.02.02 DEVELOPMENT INCONSISTENT WITH A PERMIT.
- §10.02.03 VIOLATION OF CONDITIONS IMPOSED.
- § 10.07.02 REBUILDING OF DAMAGED DUNES.

You are hereby ordered to restore the dune to its original state using similar materials and stabilizing vegetation within 7 days of this notice and subject to a fine of \$10,000.



MAP: Auto (Oblique) 12/24/2021

MAP SOURCE: CONNECTExplorer

EXISTING ZONING	EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
R-20	Residential	North R-20 Single Family East R-20 u Single Family South N/A Atlantic Ocean West R-5 Condos	1970 Dwelling 2805 square feet	15,041 Square Feet

EXHIBITS

	page
Exhibit 1. Application by Mark Boike	3-6
1a. Written Order or decision being appealed	7
1b. Stop Work Order Issued by Ralph Allen dated 3/7/2023	8
1c. 4122 Island Dr Survey 2018	9
1d. 4122 Island Dr Survey 2022	10
1e. Exemption Number – EX47-22 dated October 26, 2022	11
i. Notice for Property Owners, Contractors, and Design Professionals	12-13
ii. Requirements for Applications for Permits for Substantial Improvements and Repair of Substantial Damage	14
iii. Costs for Substantial Improvements and Repair of Substantial Damage*	15-16
iv. Owner's Affidavit*	17
v. Contractor's Affidavit	18
vi. Substantial Improvement or Substantial Damage Worksheet.	19
1f. Notice of Appeal	20-23
1g. Photo IMG_9224.jpg	24
1h. Photo IMG_9223.jpg	25

Documents submitted by Deborah J. Hill, Planning Director. Pursuant to § 2.02.04 (E) The official who made the decision shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner:

Exhibit 2. Notice Of Determination (Residential) dated November 21, 2022	26
Exhibit 3. Deborah J. Hill, Planning Director email RE: 4122 Island Drive Stop Work Order, Notice of Violation, Order to Restore, Citation, and Right to Appeal dated Wed 3/8/2023 9:58 AM	27-34

Exhibit 4.	Ralph Allen email FW: 4122 Island Dr Survey Wed 3/8/2023 4:49 PM/Mark Wilson email Subject: 4122 Island Dr Survey dated Wednesday, March 8, 2023 12:23 PM	35
4a.	Survey dated June 13, 2022	36
Exhibit 5.	Robb Mairs, LPO Minor Permits Coordinator, NC Division of Coastal Management email RE: [External] 4122 Island Drive APPEAL dated Tue 3/14/2023 5:06 PM and Deborah J. Hill, Planning Director email to Tina Martin, Division of Coastal Management, Field Representative; RE: [External] 4122 Island Drive APPEAL dated March 13, 2023 5:06 PM through March 14, 2023 3:25:00 PM	37-43
5a.	Post Project Dune Guidance	44-49
Exhibit 6.	Staff Report: Dune Protection and Remediation: Proposed Text Amendments to UDO §10.07.02 Rebuilding of Damaged Dunes & Town Code Article 10 Sand Dune Protection	50-53

**PERMIT PROJECT**

FILE #: 22-001174

4122 ISLAND DR NORTH TOPSAIL BEACH NC 28460-821

REPLACING WINDOWS, ROOF, REPAIRING DECK, NEW CABINETS AND COUNTERTOPS, FLOORING, PAINT, LIGHTING, AND PLUMBING FIXTURES. SUBSTANTIAL IMPROVEMENT NOTICE OF DETERMINATION 22.11.21.

**PERMIT #: AA23-000003**

Permit Type

Application for Appeal

Subtype

Application for Appeal



Work Description:

4122 Island Dr

Applicant

Cedar Homes Investments, LLC - Mark Wilson



Status

Ready for Payment



Valuation

0.00

**FEES & PAYMENTS**

Plan Check Fees

500.00

Permit Fees

0.00

Total Amount

500.00

Amount Paid

500.00

Balance Due

0.00



Non-Billable

**PERMIT DATES**

Application Date

03/08/2023

Approval Date

03/13/2023

Issue Date:

Expiration Date:

Last Inspection

For Office Use Only

☐ Apply Storm Damage Credit

Zoning District

R-15



CAMA Approval

Issued



CAMA Approval #

EX47-22

PROJECT INFORMATION

Property Owner

Cedar Homes Investments LLC - Chad Bell



Property Owner Phone#

540-287-8780

Property Owner Email Address

billing@cedarhomesllc.com

I wish to appeal the following decision by (provide Administrative official)

Deborah Hill

The ruling was based on the following Ordinance provisions

§ 10.07.02 REBUILDING OF DAMAGED DUNES.

§10.02.01 DEVELOPMENT WITHOUT A PERMIT.

§10.02.02 DEVELOPMENT INCONSISTENT WITH A PERMIT.

§10.02.03 VIOLATION OF CONDITIONS IMPOSED.

§ 10.07.02 REBUILDING OF DAMAGED DUNES.

Summarized below, and on other sheets as necessary (attached), is my rationale for arguing that the administrative ruling is an improper or erroneous interpretation of the Ordinance

See Attached Other Documents

DOCUMENTS

Written Order or decision being appealed

[Written Order or Decision Being Appealed.docx](#)

Copy of violation

[2023.03.07 Stop Work Order 4122 Island Dr.pdf](#)

Site plan or plot plan

[4122 Island Dr Survey 2018.pdf](#)

Other documents

[4122 Island Dr Survey 2022.pdf](#)[EX 47-22 4122 Island Drive 50% Repair.pdf](#)[Notice Of Appeal.docx](#)[IMG_9224.jpg](#)[IMG_9223.jpg](#)

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](#)**FEES**

FEE	▼	DESC ▼	QUANTITY	AMOUNT	TOTAL	
Filing Fee					350.00	
Transcription Fee					150.00	
Plan Check Fees					500.00	
Permit Fees					0.00	
Total Fees					500.00	

PAYMENTS

DATE	TYPE	REFERENCE	NOTE	RECEIPT #	RECEIVED FROM	AMOUNT	
03/13/2023	Cred	152619469	AA23	116	Cedar Ho	500.00	
Amount Paid						500.00	
Balance Due						0.00	

Written Order or Decision Being Appealed

- § 10.07.02 REBUILDING OF DAMAGED DUNES.
- §10.02.01 DEVELOPMENT WITHOUT A PERMIT.
- §10.02.02 DEVELOPMENT INCONSISTENT WITH A PERMIT.
- §10.02.03 VIOLATION OF CONDITIONS IMPOSED.
- § 10.07.02 REBUILDING OF DAMAGED DUNES.

You are hereby ordered to restore the dune to its original state using similar materials and stabilizing vegetation within 7 days of this notice and subject to a fine of \$10,000.

Town Of North Topsail Beach

2008 Loggerhead Court • North Topsail Beach, NC 28460



STOP WORK

ANY UNAUTHORIZED PERSON REMOVING THIS NOTICE WILL BE
PROSECUTED - REFER TO N.C.-G.S. 160D-404

OFFICE OF BUILDING INSPECTION OFFICIAL
TOWN OF NORTH TOPSAIL BEACH

4122 Island Drive

3/7/2023

NOTICE

THIS BUILDING HAS BEEN INSPECTED AND

- ☐ ALL TRADES
- ☒ BUILDING
- ☐ DEMOLITION
- ☐ ELECTRICAL
- ☐ HEATING & AIR CONDITIONING
- ☐ PLUMBING
- ☒ OTHER

☒ IS NOT ACCEPTED

PLEASE CORRECT BEFORE ANY FURTHER WORK IS DONE.

COMMENTS:

"Dune Crossover" Approval
Need CAMA, Zoning & Building Permit

DATE _____

INSPECTOR SIGNATURE

Ralph Allen

910-328-1349

DO NOT REMOVE THIS NOTICE

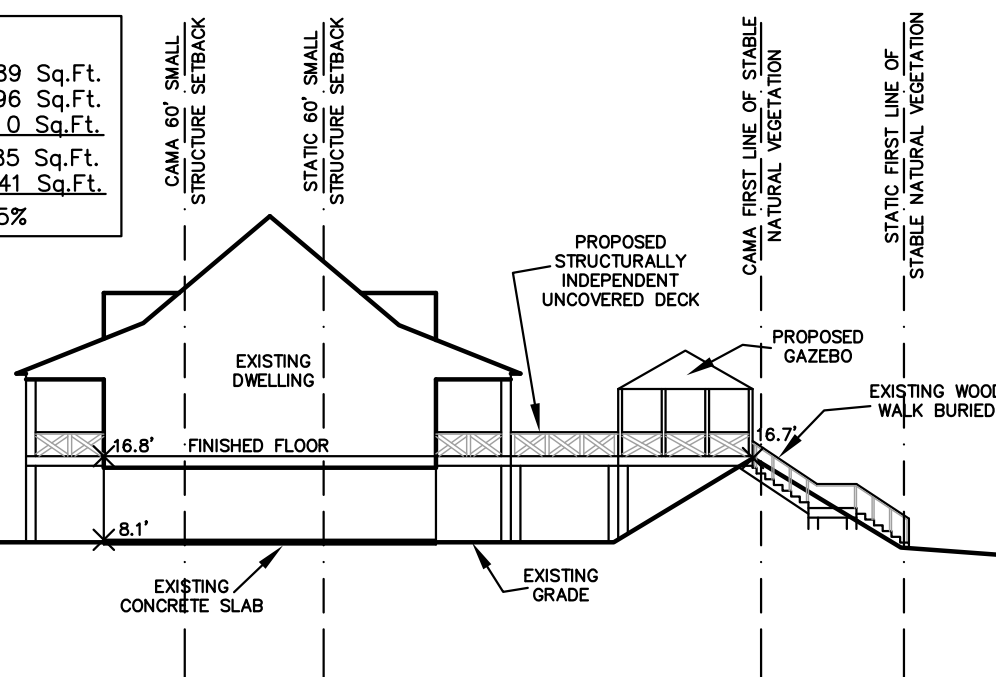
I, CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY AS SHOWN HEREON IN ACCORDANCE WITH THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA. THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS: 1:10,000+

CHARLES FRANCIS RIGGS P.L.S. L-2981

THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE "VE" WHICH IS A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND THE NATIONAL FLOOD INSURANCE PROGRAM. COMMUNITY PANEL NUMBER 370466 3720426600J, NOVEMBER 3, 2005

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

NOTE	
EXISTING DWELLING WITHOUT EAVES	= 1989 Sq.Ft.
PROPOSED GAZEBO	= 196 Sq.Ft.
EXISTING GRAVEL DRIVE	= 0 Sq.Ft.
PROPOSED TOTAL IMPERVIOUS SURFACE	= 2185 Sq.Ft.
TOTAL LOT AREA	= 15041 Sq.Ft.
PROPOSED IMPERVIOUS AREA	= 14.5%



NOTE	
EXISTING DECK WITHIN 60' SMALL STRUCTURE SETBACK	= 307 Sq.Ft.
PROPOSED DECK WITHIN 60' SMALL STRUCTURE SETBACK	= 193 Sq.Ft.
PROPOSED TOTAL DECK WITHIN 60' SMALL STRUCTURE SETBACK	= 500 Sq.Ft.

NOW OR FORMERLY STAINBACK FAMILY PARTNERSHIP No 2 D.B. 1824, P. 762 M.B. 59, P. 126

NOW OR FORMERLY ST MORITZ D.B. 837, P. 948 M.B. 18, P. 18

FLOOD ZONE "VE" (ELEVATION=14.0'+2')

FLOOD ZONE "VE" (ELEVATION=15.0'+2')

NOTE
BENCHMARK: SMN
NORTHING: 269965.66'
EASTING: 2468984.57'
ELEVATION: 6.87'
HORIZONTAL DATUM: NAD 83 (2011)
VERTICAL DATUM: NAVD 88
COMBINED FACTOR: 0.99997784
HORIZONTAL & VERTICAL DATUM OBTAINED WITH TOPCON GRS USING N.C. GEODETIC CONTINUOUS OPERATING REFERENCE STATIONS

OWNERS
SEFTON D. PADGETT, Jr.

TITLE SOURCE
D.B. 4719, P. 339

TAX MAP #
769-2

REFERENCES
D.B. 4719, P. 339
M.B. 18, P. 18
M.B. 59, P. 126

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

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

ACTUAL FIELD SURVEY DATE: FEBRUARY 14, 2018
MAPPING DATE: MARCH 9, 2018
FIELD BOOK: 1010, PAGE: 15

PROJECT NUMBER: 17-12-09

CHARLES F. RIGGS & ASSOCIATES, INC. (C-730)

LAND SURVEYING - CONVENTIONAL & GLOBAL POSITIONING SYSTEMS,
LAND PLANNING & COMPUTER MAPPING

502 NEW BRIDGE STREET
P.O. BOX 1570
JACKSONVILLE, NC 28540-1570
TELEPHONE: (910) 455-0877

LANDFALL EXECUTIVE SUITES
1213 CULBRETH DRIVE
WILMINGTON, NC 28405
TELEPHONE: (910) 681-7444
E-MAIL: riggsland@riggslandnc.com

BOUNDARY, PHYSICAL & PARTIAL TOPOGRAPHIC SURVEY &
PRELIMINARY PLOT PLAN

FOR

SEFTON D. PADGETT, Jr.

TRACT AS DESCRIBED IN D.B. 4719, P. 339
STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA
SEFTON D. PADGETT, Jr., OWNER, D.B. 4719, P. 339
4122 ISLAND DRIVE

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

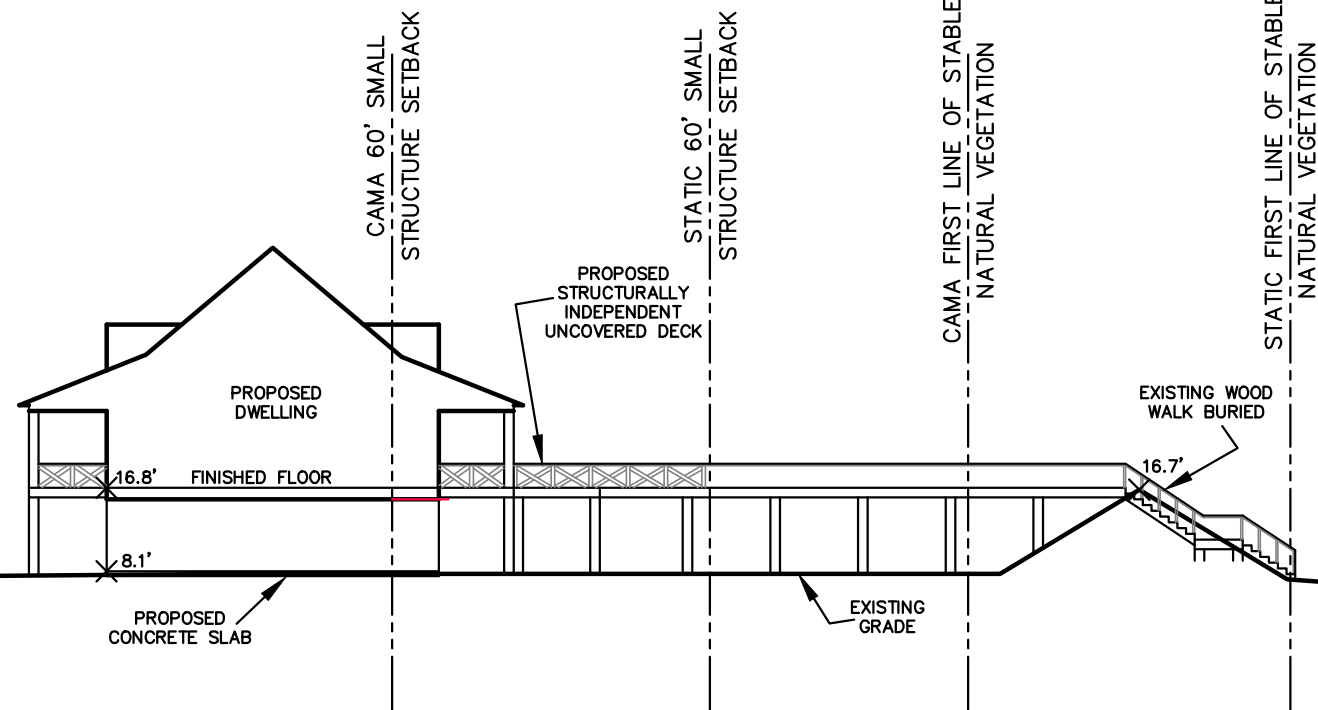
PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES

THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE VARIES WHICH IS A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND THE NATIONAL FLOOD INSURANCE PROGRAM. COMMUNITY PANEL NUMBER 370466 3720426600K JUNE 19, 2020

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



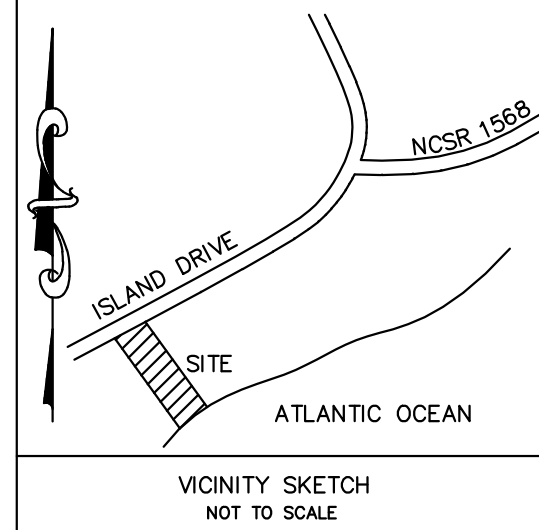
NC HIGHWAY 210-ISLAND DRIVE
100' R/W (ASPHALT-PUBLIC)



NOTE
LAND DISTURBANCE FROM R/W TO TOP OF DUNE WITH ADDITIONAL DISTURBANCE FOR PROPOSED WOOD WALK, GAZEBO, DECK & BEACH STEPS
PILING DEPTH AS PER ENGINEER
LANDSCAPING AS PER TOWN OF TOPSAIL BEACH ORDINANCES
PROPOSED STORMWATER TO BE ENGINEERED

NOTE
PROPOSED DWELLING IS TWO STORY ON PILINGS OVER CONCRETE SLAB, PARTIALLY ENCLOSED BELOW FOR ENTRY, GARAGE & STORAGE

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



AREA
15041 Sq.Ft.
0.345 ACRES

NOTE
BENCHMARK: SMN
NORTHING: 269965.66'
EASTING: 2468984.57'
ELEVATION: 6.87'
HORIZONTAL DATUM: NAD 83 (2011)
VERTICAL DATUM: NAVD 88
COMBINED FACTOR: 0.99997784
HORIZONTAL & VERTICAL DATUM OBTAINED WITH TOPCON GRS USING N.C. GEODETIC CONTINUOUS OPERATING REFERENCE STATIONS

OWNERS
SEFTON D. PADGETT, Jr.
D.B. 4719, P. 339

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

TAX MAP #
769-2

REFERENCES
D.B. 837, P. 948
D.B. 1824, P. 762
D.B. 4719, P. 339
D.B. 4745, P. 656
M.B. 18, P. 18
M.B. 59, P. 126

NOTE
DWELLING WAS
CONSTRUCTED IN 1970
PRIOR TO ONSLOW
COUNTY ZONING

ALL POINTS NON MONUMENTED
UNLESS OTHERWISE NOTED

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

GRAPHIC SCALE

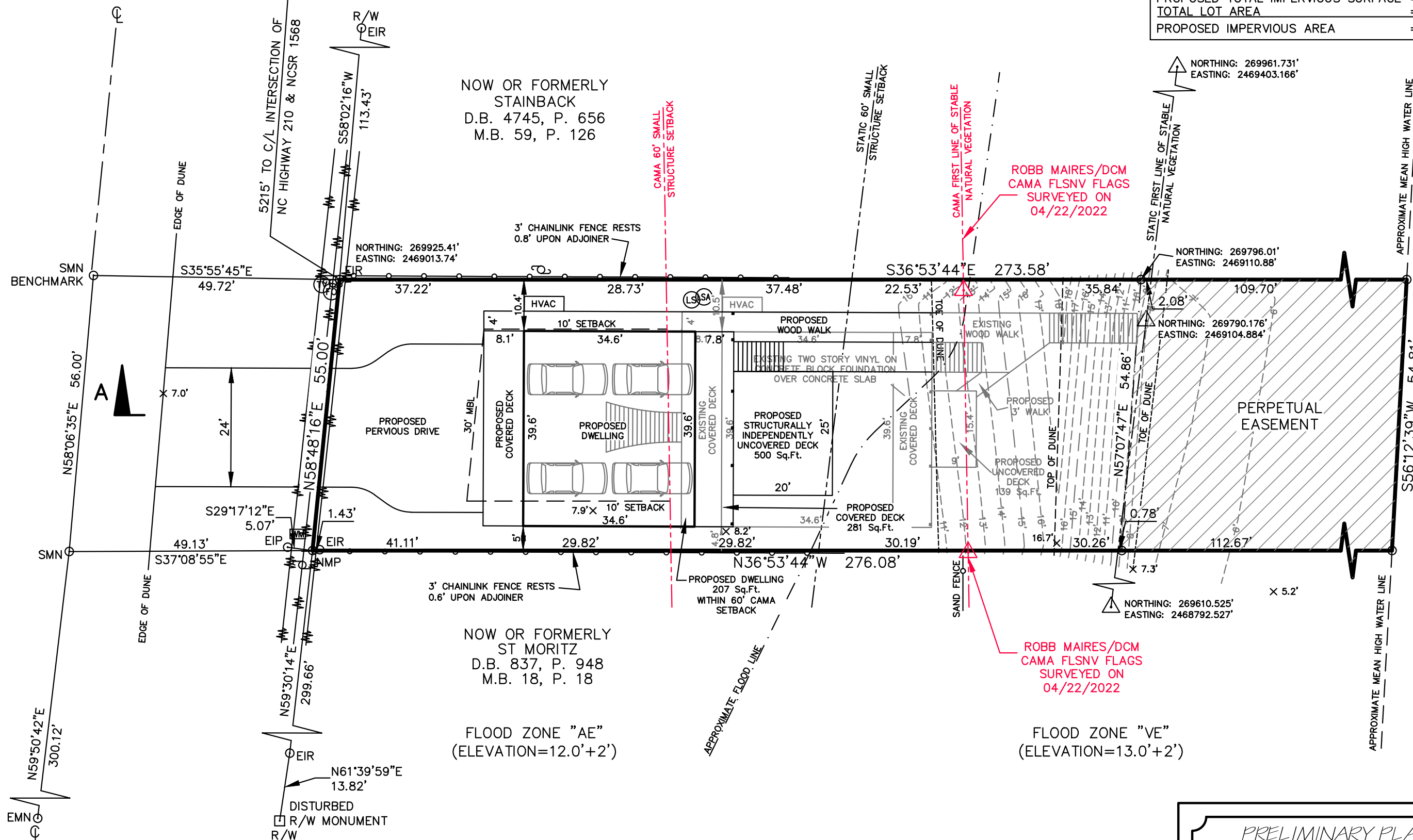


(IN FEET)
1 inch = 20 ft.

ACTUAL FIELD SURVEY DATE: APRIL 22, 2022
MAPPING DATE: JUNE 13, 2022
FIELD BOOK: 1010, PAGE: 15

PROJECT NUMBER: 17-12-09 JTG

NC HIGHWAY 210 - ISLAND DRIVE
100' R/W (ASPHALT-PUBLIC)



CHARLES F. RIGGS & ASSOCIATES, INC. (C-730)

LAND SURVEYING - CONVENTIONAL & GLOBAL POSITIONING SYSTEMS,
LAND PLANNING & COMPUTER MAPPING

502 NEW BRIDGE STREET
P.O. BOX 1570
JACKSONVILLE, NC 28540-1570
TELEPHONE: (910) 455-0877

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

E-MAIL: riggsland@riggslandnc.com

BOUNDARY & PARTIAL TOPOGRAPHIC SURVEY & PRELIMINARY PLOT PLAN
FOR

SEFTON D. PADGETT, Jr.

TRACT AS DESCRIBED IN D.B. 4719, P. 339
STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA
SEFTON D. PADGETT, Jr., OWNER, D.B. 4719, P. 339
4122 ISLAND DRIVE

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director



October 26, 2022

Exemption Number – **EX47-22**

Cedar Home Investments
10472 Georgetown Dr.
Spotsylvania, VA 23533

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

**PROJECT ADDRESS: 4122 Island Drive., North Topsail Beach, Onslow County
AREA OF ENVIRONMENTAL CONCERN – Ocean Hazard Area AEC – Ocean Erodible Area**

Dear Mr. Wilson:

I have reviewed the information submitted to this office in your inquiry concerning the necessary filing of an application for a minor development permit under the Coastal Area Management Act. After making a site inspection on February 8, 2022, I have determined that the activity you propose is exempt from needing a minor development permit as long as it remains consistent with your site drawing and materials list submitted on 8/26/2022, and meets the conditions specified below. If your plans should change and your project will no longer meet these conditions, please contact me before proceeding.

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

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

1. The project consists of the repair of the single-family residence (2,156 square feet), as shown on the attached drawing and materials list and the existing stairs which attach to the deck associated with the maintenance.
2. The proposed repairs shall be consistent with all other applicable local ordinances and North Carolina Building Code standards.

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

Sincerely,

A handwritten signature in cursive script that reads "Tina Martin".

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



North Carolina Department of Environmental Quality | Division of Coastal Management
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557
252.808.2808

Notice for Property Owners, Contractors, and Design Professionals

TO: Property Owners, Contractors, and Design Professionals

FROM: Deborah J. Hill MPA AICP CFM CZO, Planning Director

SUBJECT: Notice for Work on Existing Buildings in Special Flood Hazard Areas
Substantial Improvement / Substantial Damage Worksheets

The Town's floodplain management regulations and codes specify that all new buildings to be constructed in Special Flood Hazard Areas (SFHAs) (regulated floodplains) are required to have their lowest floors elevated to or above the base flood elevation (BFE). The regulations also specify that **substantial improvement** of existing buildings (remodeling, rehabilitation, improvement, or addition) or buildings that have sustained **substantial damage** must be brought into compliance with the requirements for new construction. Please note that a building may be substantially damaged by any cause, including fire, flood, high wind, seismic activity, land movement, or neglect. It is important to note that all costs to repair a substantially damaged building to its pre-damage condition must be identified.

There are several aspects that must be addressed to achieve compliance with the floodplain management requirements. The requirements depend on several factors, including the flood zone at your property. The most significant compliance requirement is that the lowest floor, as defined in the regulations/code, must be elevated to or above the BFE. Please plan to meet with this department to review your proposed project, to go over the requirements, and to discuss how to bring your building into compliance.

Our regulations define these terms:

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

To make the substantial improvement determination or the substantial damage determination, we compare the cost of the proposed improvement or repairs to the market value of the building (excluding land, accessory structures, and landscaping). If the resulting ratio equals or exceeds 50 percent, the existing building must be brought into compliance with the floodplain management requirements for new buildings.

$$\frac{\text{Cost of Improvement or Cost to Repair to Pre-Damage Condition}}{\text{Market Value of Building}} \geq 50\%$$

Please note:

- You must provide an estimate of the cost to perform the proposed improvements or repairs. If your building has been damaged, the cost estimate must include all work required to repair the building to its pre-damage condition. The cost estimate must include all labor and materials. If the work will be done by a contractor, the contractor's overhead and profit must be included. If the work will be done by the owner or volunteers, market rates must be used to estimate the cost of materials and the value of labor. Attached to this notice is a list of costs that must be included and costs that are excluded. After we review the cost estimate, we may require that it be broken down to show all materials and labor estimates.
- You must provide a market value appraisal of the building that is prepared by a professional appraiser according to standard practices of the profession. We will review the appraisal to determine that it accurately describes your building and does not include the value of the land, accessory buildings, and landscaping. Alternatively, we will use the tax assessment value of your building as the estimate of the market value of the building before the work is performed.

If you have any questions regarding this information, please contact the Floodplain Administrator at (910) 328-1349.

Attachments:

Requirements for Applications for Permits for Substantial Improvements and Repair of Substantial Damage

Costs for Substantial Improvements and Repair of Substantial Damage

Owner's Affidavit

Contractor's Affidavit

Requirements for Applications for Permits for Substantial Improvements and Repair of Substantial Damage

Please contact Floodplain Administrator at (910) 328-1349. if you have questions about the substantial improvement and sub-stantial damage requirements. Your building may have to be brought into compliance with the floodplain management requirements for new construction.

Applications for permits to work on existing buildings that are located in Special Flood Hazard Areas must include the following:

- Current photographs of the exterior (front, rear, sides)
- If your building has been damaged, include photographs of the interior and exterior; provide pre-damage photos of the exterior, if available
- Detailed description of the proposed improvement (rehabilitation, remodeling, addition, etc.) or repairs
- Cost estimate of the proposed improvement or the cost estimate to repair the damaged building to its before-damage condition
- Elevation certificate or elevation survey
- You may submit a market value appraisal prepared by a licensed professional appraiser or we will use the tax assessment value of the building
- Owner's affidavit (signed and dated)
- Contractor's affidavit (signed and dated)

Costs for Substantial Improvements and Repair of Substantial Damage

Included Costs

Items that must be included in the costs of improvement or costs to repair are those that are directly associated with the building. The following list of costs that must be included is not intended to be exhaustive, but characterizes the types of costs that must be included:

- Materials and labor, including the estimated value of donated or discounted materials and owner or volunteered labor
- Site preparation related to the improvement or repair (foundation excavation, filling in basements)
- Demolition and construction debris disposal
- Labor and other costs associated with demolishing, moving, or altering building components to accommodate improvements, additions, and making repairs
- Costs associated with complying with any other regulation or code requirement that is triggered by the work, including costs to comply with the requirements of the Americans with Disabilities Act (ADA)
- Costs associated with elevating a structure to an elevation that is lower than the BFE
- Construction management and supervision
- Contractor's overhead and profit
- Sales taxes on materials
- Structural elements and exterior finishes, including:
 - Foundations (e.g., spread or continuous foundation footings, perimeter walls, chainwalls, pilings, columns, posts, etc.)
 - Monolithic or other types of concrete slabs
 - Bearing walls, tie beams, trusses
 - Joists, beams, subflooring, framing, ceilings
 - Interior non-bearing walls
 - Exterior finishes (e.g., brick, stucco, siding, painting, and trim)
- Structural elements and exterior finishes (cont.):
 - Windows and exterior doors
 - Roofing, gutters, and downspouts
 - Hardware
 - Attached decks and porches
- Interior finish elements, including:
 - Floor finishes (e.g., hardwood, ceramic, vinyl, linoleum, stone, and wall-to-wall carpet over subflooring)
 - Bathroom tiling and fixtures
 - Wall finishes (e.g., drywall, paint, stucco, plaster, paneling, and marble)
 - Built-in cabinets (e.g., kitchen, utility, entertainment, storage, and bathroom)
 - Interior doors
 - Interior finish carpentry
 - Built-in bookcases and furniture
 - Hardware
 - Insulation
- Utility and service equipment, including:
 - HVAC equipment
 - Plumbing fixtures and piping
 - Electrical wiring, outlets, and switches
 - Light fixtures and ceiling fans
 - Security systems
 - Built-in appliances
 - Central vacuum systems
 - Water filtration, conditioning, and recirculation systems

Excluded Costs

Items that can be excluded are those that are not directly associated with the building. The following list characterizes the types of costs that may be excluded:

- Clean-up and trash removal
- Costs to temporarily stabilize a building so that it is safe to enter to evaluate required repairs
- Costs to obtain or prepare plans and specifications
- Land survey costs
- Permit fees and inspection fees
- Carpeting and recarpeting installed over finished flooring such as wood or tiling
- Outside improvements, including landscaping, irrigation, sidewalks, driveways, fences, yard lights, swimming pools, pool enclosures, and detached accessory structures (e.g., garages, sheds, and gazebos)
- Costs required for the minimum necessary work to correct existing violations of health, safety, and sanitary codes
- Plug-in appliances such as washing machines, dryers, and stoves

Owner's Affidavit: Substantial Improvement or Repair of Substantial Damage

Property Address: 4122 Island Dr. N. Topsail Beach N.C. 28460

Parcel ID Number: 019887

Owner's Name: Cedar Homes Investments, LLC

Owner's Address/Phone: 10472 Georgetown Dr. Spotsylvania VA 23533

Contractor: Michael Riggs

Contractor's License Number: 79171

Date of Contractor's Estimate: 08/24/2022

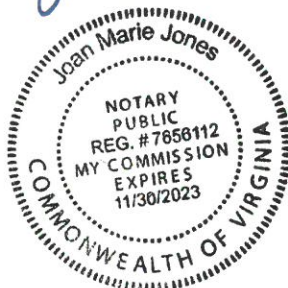
I hereby attest that the description included in the permit application for the work on the existing building that is located at the property identified above is all of the work that will be done, including all improvements, rehabilitation, remodeling, repairs, additions, and any other form of improvement. I further attest that I requested the above-identified contractor to prepare a cost estimate for all of the work, including the contractor's overhead and profit. I acknowledge that if, during the course of construction, I decide to add more work or to modify the work described, that the N. Topsail Beach will re-evaluate its comparison of the cost of work to the market value of the building to determine if the work is substantial improvement. Such re-evaluation may require revision of the permit and may subject the property to additional requirements.

I also understand that I am subject to enforcement action and/or fines if inspection of the property reveals that I have made or authorized repairs or improvements that were not included in the description of work and the cost estimate for that work that were the basis for issuance of a permit.

Owner's Signature: 

Date: 8/25/2022

Notarized:  8/25/2022



Contractor's Affidavit: Substantial Improvement or Repair of Substantial Damage

Property Address: 4122 Island Dr. N. Topsail Beach N.C. 28460

Parcel ID Number: 019887

Owner's Name: Cedar Homes Investments, LLC

Owner's Address/Phone: 10472 Georgetown Dr. Spotsylvania VA 23533

Contractor: Michael Riggs

Contractor's License Number: 79171

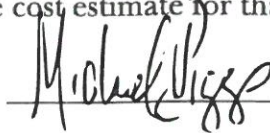
Date of Contractor's Estimate: 08/24/2022

I hereby attest that I have personally inspected the building located at the above-referenced address and discussed the nature and extent of the work requested by the owner, including all improvements, rehabilitation, remodeling, repairs, additions, and any other form of improvement.

At the request of the owner, I have prepared a cost estimate for all of the improvement work requested by the owner and the cost estimate includes, at a minimum, the cost elements identified by the Town that are appropriate for the nature of the work. If the work is repair of damage, I have prepared a cost estimate to repair the building to its pre-damage condition. I acknowledge that if, during the course of construction, the owner requests more work or modification of the work described in the application, that a revised cost estimate must be provided to the N Topsail Beach, which will re-evaluate its comparison of the cost of work to the market value of the building to determine if the work is substantial improvement. Such re-evaluation may require revision of the permit and may subject the property to additional requirements.


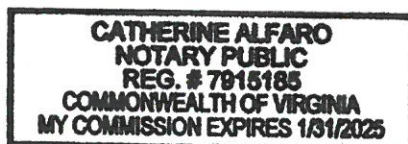
I also understand that I am subject to enforcement action and/or fines if inspection of the property reveals that I have made or authorized repairs or improvements that were not included in the description of work and the cost estimate for that work that were the basis for issuance of a permit.

CONTRACTORS SIGNATURE



Date: 8/25/2022

Notarized:


08/25/2022

ELEMENT	COST OF MATERIAL	COST OF LABOR	TOTAL
FOUNDATION	\$0.00	\$0.00	\$0.00
SUPERSTRUCTURE	\$750.00	\$1,250.00	\$2,000.00
ROOF COVERING	\$4,800.00	\$6,700.00	\$11,500.00
EXTERIOR FINISH	\$11,200.00	\$6,400.00	\$17,600.00
DOORS/WINDOWS	\$12,100.00	\$2,700.00	\$14,800.00
CABINETS/COUNTERTOPS	\$5,800.00	\$2,000.00	\$7,800.00
FLOOR FINISH	\$4,650.00	\$5,810.00	\$10,460.00
PLUMBING	\$5,800.00	\$2,500.00	\$8,300.00
ELECTRICAL	\$2,500.00	\$2,500.00	\$5,000.00
APPLIANCES	\$3,500	\$200.00	\$3,700.00
INTERIOR FINISH	\$15,500.00	\$10,000.00	\$25,500.00
HVAC	\$5,000.00	\$2,000.00	\$7,000.00
	\$71,600.00	\$42,060.00	\$113,660.00

Notice Of Appeal

To Whom It May Concern:

This is an appeal on behalf Cedar Homes Investments, the owner of **4122 Island Dr, North Topsail Beach, N.C.**

This is an appeal because I firmly believed the Planning Director acted quickly without examining all supporting documents and speaking with the Town Building Inspector and myself.

I have listed below the Ordinances that the Planning Directed stated that has been violated and will list my justification or cause for nullification for each in RED.

§ 10.07.02 REBUILDING OF DAMAGED DUNES.

(A) All dunes in the Ocean Hazard Area that are damaged during construction, or damage occurring as a result of such construction, or excavated in violation of this ordinance shall be restored to its original state using similar materials and stabilizing vegetation. It shall be the responsibility of the property owner to guarantee the protection of all identified dune systems and not allow the natural topography of the lot altered beyond that which has been authorized in the permit. The rebuilding of a dune shall be the ultimate responsibility of the property owner. Any dune in the required natural area that has been damaged or excavated in violation of this ordinance shall be subject to a fine of \$10,000 and restored within 7 days of notice.

(B) Failure to repair damage to dunes and vegetation after 7 days, shall constitute a separate violation for each day that such failure continues after written notification by the Planning Director.

(C) Any development proposed within the Ocean Hazard Area shall indicate on a plat submitted with the application, the dune contour/topography and dune profile by elevation, the landward toe of the dune by bearing and distance.

(D) No disturbance, no development, no structure shall be permitted within 5.0 feet of the landward toe of the dune, "dune buffer," except beach access crossovers as permitted.

(E) Any additions or improvements to existing structures must comply with the standards for new construction and be relocated outside of the "dune buffer."

(F) If any provision of this article is in conflict with a rule or regulation adopted by the State Coastal Resources Commission dealing with oceanfront erosion control, then the most stringent rule or regulation shall control and apply.

(Ord. passed 11-2-2011)

This ordinance is effective upon its adoption.
Adopted this the 7th day of September, 2022.

I have reviewed your FILE #: 22-001174 Renovation of 2156 square foot single-family residence: replacing Windows, Roof, Repairing deck, new cabinets and countertops, flooring, paint, lighting, and plumbing fixtures. Bringing electrical to code. Adding insulation to walls and attic. replacing existing mechanical systems. Setting tubs/showers for 3 bathrooms with toilets, fixtures, and a water heater. Replace some deck boards, handrails and stair treads- no change in footprint. Owner exemption affidavit pursuant to G.S. 87-14 (a) (1) signed and notarized 11/15/2022. Approval condition: "Please be advised that we may need to make another determination if you elect to perform work other than that described and defined in your current permit application, including additional renovations or upgrades or the building of an addition. Construction activities that are undertaken without a proper permit are violations and may result in citations, fines, the removal of the non-compliant construction, or other legal action."

No Zoning/Floodplain application was submitted, no permits were authorized for the development into the dune, as evidenced by the Building Inspector on March 7, 2023. This is a violation of

- **§10.02.01 DEVELOPMENT WITHOUT A PERMIT.**

To engage in any development, use, construction, remodeling or other activity of any natures upon land or improvements thereto subject to the jurisdiction of this ordinance without all the required permits, certificate or other forms of authorization as set forth in this ordinance.
(Ord. passed 11-2-2011)

- **§10.02.02 DEVELOPMENT INCONSISTENT WITH A PERMIT.**

To engage in any development, use, construction, remodeling or other activity of any nature upon land or improvements thereto inconsistent with any approved plan, permit, certificate or other forms of authorization as set forth in this ordinance.
(Ord. passed 11-2-2011)

- **§10.02.03 VIOLATION OF CONDITIONS IMPOSED.**

To violate by act or omission any term, variance, modification, condition or qualification placed by the Planning Director, in accordance with this ordinance, upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereto.
(Ord. passed 11-2-2011)

- **§ 10.07.02 REBUILDING OF DAMAGED DUNES.**

(A) All dunes in the Ocean Hazard Area that are damaged during construction, or damage occurring as a result of such construction, or excavated in violation of this ordinance shall be restored to its original state using similar materials and stabilizing vegetation. It shall be the responsibility of the property owner to guarantee the protection of all identified dune systems and not allow the natural topography of the lot altered beyond that which has been authorized in the permit. The rebuilding of a dune shall be the ultimate responsibility of the property owner. Any dune in the required natural area that has been damaged or excavated in violation of this ordinance shall be subject to a fine of \$10,000 and restored within 7 days of notice.

(B) Failure to repair damage to dunes and vegetation after 7 days, shall constitute a separate violation for each day that such failure continues after written notification by the Planning Director.

As highlighted by the Planning Director, those words stand true. "NO CHANGE IN FOOTPRINT". There is no change in the footprint of the property, no additions are to be done, nor expansions. The matter she is referencing is the steps down to the top of the dune, or landing. She is stating that I am disturbing the dune. If you look at the two surveys (one dated 2018 and the other 2022), you can see that the footprint of the house does in fact have a crossover, going over the dune, has support columns in the dune. As outlined in my building permit as well as the CAMA permit, I am to repair said parts of the deck. I have also attached photos, indicating the crossover before we started repair and were issued the stop work order for visual representation.

1. I will note, that the CAMA representative did inform me on site, that it would be in my best interest not to keep the crossover, but to just keep the current switchback and a rope walkway down. She showed me the switchback of a house, 2 houses south of our residence as an example. As stated in her permit; "Structures may be repaired in a similar manner, size, and location as the original structure." She also notes: The project consists of the repair of the single-family residence (2,156 square feet), as shown on the attached drawing and materials list and the existing stairs which attach to the deck associated with the maintenance."

With that being noted, I cannot be in violation of this ordinance as I am doing what is listed on the CAMA permit and on my approved building permit (where the CAMA permit has to be submitted and reviewed by the towns Permit Specialist and the Planning Director) by the town of N. Topsail Beach.

I should also note that the Notice of Determination from the Planning Director states:

“The Town of North Topsail Beach has reviewed your recent application for a permit remodel house exterior and exterior for the existing residential structure located at 4122 ISLAND DR, North Topsail Beach, NC 28460. Some of these repairs are required as a result of flood damage from Hurricane Florence of September 14, 2018. The Planning Department has determined that this structure is located within a mapped Special Flood Hazard Area on the Flood Insurance Rate Map (FIRM), Panel 3720426600K, with an effective date of 6/19/20. As required by our floodplain management regulations and/or building code, we have evaluated the proposed repair work and determined that the damage does not constitute Substantial Damage for this structure. This determination is based on a comparison of the cost estimate of the proposed cost of repairs to the appraised value of the structure (excluding land value). When the cost of repairs is less than 50 percent of the pre-damage market value of the structure, the damage is not considered to be Substantial Damage, **so no additional requirements** apply for this structure.

I should also add from her email that she states: “You are hereby ordered to restore the dune to its original state using similar materials and stabilizing vegetation within 7 days of this notice and subject to a fine of \$10,000.”

By that statement alone, does that mean I need to build that wood walkthrough, crossover and switchback back to is “original state? Because that’s how it was originally, and from what I saw, it looked as if that crossover was there for decades, but I can only legally prove that it has been there since 2018 (as dated in one of the surveys) that has been the original state, and this new amendment wasn’t in effect until September of 2022.

I ask the Board to dismiss this complaint. I have a professional relationship with the Building Inspector, and he can attest that I do not cut corners, and I do anything that he asks of me, and I see to it that it is done. My goal here is not to shortchange the town nor to backdoor anyone or get away with anything. Every county, city and town I have worked in has rules, and I tend to follow them to the letter. I believe this complaint is from a lack of oversight, lack of communication or misinterpretation on all parties. I ask that I be able to continue the construction of my crossover so I can fully restore the dunes to their original state.

Thank you





Town of North Topsail Beach

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

Aldermen:
Alfred Fontana
Richard Grant
Tom Leonard
Connie Pletl



Alice Derian, ICMA-CM
Town Manager

Melinda Mier
Town Clerk

Nature's Tranquil Beauty

CEDAR HOMES INVESTMENTS LLC
4122 ISLAND DR
N TOPSAIL BEACH, NC 28460-8214

November 21, 2022

NOTICE OF DETERMINATION (RESIDENTIAL)

Dear CEDAR HOMES INVESTMENTS LLC:

The Town of North Topsail Beach has reviewed your recent application for a permit remodel house exterior and exterior for the existing residential structure located at 4122 ISLAND DR, North Topsail Beach, NC 28460. Some of these repairs are required as a result of flood damage from Hurricane Florence of September 14, 2018.

The Planning Department has determined that this structure is located within a mapped Special Flood Hazard Area on the Flood Insurance Rate Map (FIRM), Panel 3720426600K, with an effective date of 6/19/20. As required by our floodplain management regulations and/or building code, we have evaluated the proposed repair work and determined that the damage does not constitute Substantial Damage for this structure. This determination is based on a comparison of the cost estimate of the proposed cost of repairs to the appraised value of the structure (excluding land value). When the cost of repairs is less than 50 percent of the pre-damage market value of the structure, the damage is not considered to be Substantial Damage, so no additional requirements apply for this structure.

Please be advised that we may need to make another determination if you elect to perform work other than that described and defined in your current permit application, including additional renovations or upgrades or the building of an addition. Construction activities that are undertaken without a proper permit are violations and may result in citations, fines, the removal of the non-compliant construction, or other legal action.

Questions regarding the inspection process may be directed to me or Mr. Ralph Allen of the Building Department at (910) 328-1349 between the hours of 8:00 AM and 5:00 PM, Monday through Friday, or e-mailed to dhill@northtopsailbeachnc.gov.

Sincerely,


Deborah J. Hill, MPA AICP CZO CFM
Planning Director

cc: file





Deb Hill

From: Deb Hill
Sent: Wednesday, March 8, 2023 9:58 AM
To: Mark Wilson
Cc: billing@cedarhomesllc.com; Ralph Allen; Kate Winzler; Alice Derian
Subject: RE: 4122 Island Drive Stop Work Order, Notice of Violation, Order to Restore, Citation, and Right to Appeal
Attachments: 20230307_100633.jpg; 20230307_100618.jpg

Please be advised that on September 7, 2022, the Board of Aldermen adopted an amendment to the Unified Development Ordinance to provide dune protection measures, mandatory remediation for damaged dunes and set fines.

§ 10.07.02 REBUILDING OF DAMAGED DUNES.

- (A) All dunes in the Ocean Hazard Area that are damaged during construction, or damage occurring as a result of such construction, or excavated in violation of this ordinance shall be restored to its original state using similar materials and stabilizing vegetation. It shall be the responsibility of the property owner to guarantee the protection of all identified dune systems and not allow the natural topography of the lot altered beyond that which has been authorized in the permit. The rebuilding of a dune shall be the ultimate responsibility of the property owner. Any dune in the required natural area that has been damaged or excavated in violation of this ordinance shall be subject to a fine of \$10,000 and restored within 7 days of notice.
- (B) Failure to repair damage to dunes and vegetation after 7 days, shall constitute a separate violation for each day that such failure continues after written notification by the Planning Director.
- (C) Any development proposed within the Ocean Hazard Area shall indicate on a plat submitted with the application, the dune contour/topography and dune profile by elevation, the landward toe of the dune by bearing and distance.
- (D) No disturbance, no development, no structure shall be permitted within 5.0 feet of the landward toe of the dune, "dune buffer," except beach access crossovers as permitted.
- (E) Any additions or improvements to existing structures must comply with the standards for new construction and be relocated outside of the "dune buffer."
- (F) If any provision of this article is in conflict with a rule or regulation adopted by the State Coastal Resources Commission dealing with oceanfront erosion control, then the most stringent rule or regulation shall control and apply.

(Ord. passed 11-2-2011)

This ordinance is effective upon its adoption.

Adopted this the 7th day of September, 2022.

I have reviewed your FILE #: 22-001174 Renovation of 2156 square foot single-family residence: replacing Windows, Roof, Repairing deck, new cabinets and countertops, flooring, paint, lighting, and plumbing fixtures. Bringing electrical to code. Adding insulation to walls and attic. replacing existing mechanical systems. Setting tubs/showers for 3 bathrooms with toilets, fixtures, and a water heater. **Replace some deck boards, handrails**

and stair treads- no change in footprint. Owner exemption affidavit pursuant to G.S. 87-14 (a) (1) signed and notarized 11/15/2022. Approval condition: "Please be advised that we may need to make another determination if you elect to perform work other than that described and defined in your current permit application, including additional renovations or upgrades or the building of an addition. Construction activities that are undertaken without a proper permit are violations and may result in citations, fines, the removal of the non-compliant construction, or other legal action."

No Zoning/Floodplain application was submitted, no permits were authorized for the development into the dune, as evidenced by the Building Inspector on March 7, 2023. This is a violation of

- **§10.02.01 DEVELOPMENT WITHOUT A PERMIT.**

To engage in any development, use, construction, remodeling or other activity of any natures upon land or improvements thereto subject to the jurisdiction of this ordinance without all the required permits, certificate or other forms of authorization as set forth in this ordinance.

(Ord. passed 11-2-2011)

- **§10.02.02 DEVELOPMENT INCONSISTENT WITH A PERMIT.**

To engage in any development, use, construction, remodeling or other activity of any nature upon land or improvements thereto inconsistent with any approved plan, permit, certificate or other forms of authorization as set forth in this ordinance.

(Ord. passed 11-2-2011)

- **§10.02.03 VIOLATION OF CONDITIONS IMPOSED.**

To violate by act or omission any term, variance, modification, condition or qualification placed by the Planning Director, in accordance with this ordinance, upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereto.

(Ord. passed 11-2-2011)

- **§ 10.07.02 REBUILDING OF DAMAGED DUNES.**

(A) All dunes in the Ocean Hazard Area that are damaged during construction, or damage occurring as a result of such construction, or excavated in violation of this ordinance shall be restored to its original state using similar materials and stabilizing vegetation. It shall be the responsibility of the property owner to guarantee the protection of all identified dune systems and not allow the natural topography of the lot altered beyond that which has been authorized in the permit. The rebuilding of a dune shall be the ultimate responsibility of the property owner. Any dune in the required natural area that has been damaged or excavated in violation of this ordinance shall be subject to a fine of \$10,000 and restored within 7 days of notice.

(B) Failure to repair damage to dunes and vegetation after 7 days, shall constitute a separate violation for each day that such failure continues after written notification by the Planning Director.

You are hereby ordered to restore the dune to its original state using similar materials and stabilizing vegetation within 7 days of this notice and subject to a fine of \$10,000.

You have a right to appeal pursuant to UDO §2.03.05 APPEALS OF ADMINISTRATIVE DECISIONS. § 160D-405, which can be found online at

https://www.norhtopsailbeachnc.gov/sites/default/files/fileattachments/planning_and_zoning/page/2369/2021_unified_development_ordinance.pdf

Deborah J. Hill MPA AICP CFM CZO

Planning Director

Town of North Topsail Beach

2008 Loggerhead Ct.

North Topsail Beach, NC 28460

910.328.1349



From: Mark Wilson <fullsend0369@gmail.com>

Sent: Wednesday, March 8, 2023 8:41 AM

To: Kate Winzler <kwinzler@norhtopsailbeachnc.gov>

Cc: billing@cedarhomesllc.com; Deb Hill <dhill@norhtopsailbeachnc.gov>; Ralph Allen <rallen@norhtopsailbeachnc.gov>

Subject: Re: 4122 Island Drive Stop Work Order

Caution: This is an external email. Please take caution when clicking links or opening attachments. Contact the IT Department if you're unsure of the legitimacy of this email.

Good Morning,

We aren't doing a beach access, we are doing exactly what was listed on the cama permit and the building permit. Simply repairing what was there to a similar manner. The back steps are landing on the dune, and traversing back to the house.

This is what was advised to me by Tina Martin when she met me at the property, as she stated they aren't wanting decks going over the dunes because it impedes on Dune Management.

We are repairing the deck to it's pre storm condition minus the deck going over the dunes.

The Cama permit states that "Structures may be repaired in a similar manner, size and location as the original structure"

Please see attached older photos of deck, I've spoke to Ralph about this matter as it was a disgruntled neighbor who doesn't want her view blocked. Which, I don't see how it would be.





Respectfully,

Mark Wilson
Construction Project Manager
Cell: (919) 394-7282

This email, including attachments, may contain information that is private or confidential. If you received this communication in error, please delete it from your system without copying it and notify sender by reply communication

On Mar 8, 2023, at 08:20, kwinzler@northtopsailbeachnc.gov wrote:

Greetings,
Please find the document attached.
To make a beach access application, follow the instructions here:
<https://www.northtopsailbeachnc.gov/buildinginspections/page/beach-access-application>
Kindly,

Kate Winzler, CMC, NCCMC
Permit Specialist & Deputy Town Clerk
Town of North Topsail Beach
2008 Loggerhead Ct
North Topsail Beach, NC 28460
910-328-1349

From: [Ralph Allen](#)
To: [Deb Hill](#)
Subject: FW: 4122 Island Dr Survey
Date: Wednesday, March 8, 2023 4:49:20 PM
Attachments: [17-12-09 PPP 3 PRE 3.pdf](#)

Mark sent me this.

From: Mark Wilson <fullsend0369@gmail.com>
Sent: Wednesday, March 8, 2023 12:23 PM
To: Ralph Allen <rallen@northtopsailbeachnc.gov>
Subject: 4122 Island Dr Survey

Caution: This is an external email. Please take caution when clicking links or opening attachments. Contact the IT Department if you're unsure of the legitimacy of this email.

Hey Mr. Allen,

Here is the survey from the surveyor who has worked this property over the years.

Survey is dated April of 2022.

If it's hard to understand, he was hired to create a survey as a proposal showing what the house would look like if they moved the house back 60' from the dune setback.

In the survey, it shows the existing wood walkway going over the dunes.

Let me know how you'd like to proceed.

Thank you.

Respectfully,

Mark Wilson

Construction Project Manager
Cell: (919) 394-7282

This email, including attachments, may contain information that is private or confidential. If you received this communication in error, please delete it from your system without copying it and notify sender by reply communication

Pursuant to North Carolina General Statutes, Chapter 132, email correspondence to and from this address may be considered public record under the North Carolina Public Records Law and may possibly be disclosed to third parties.

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

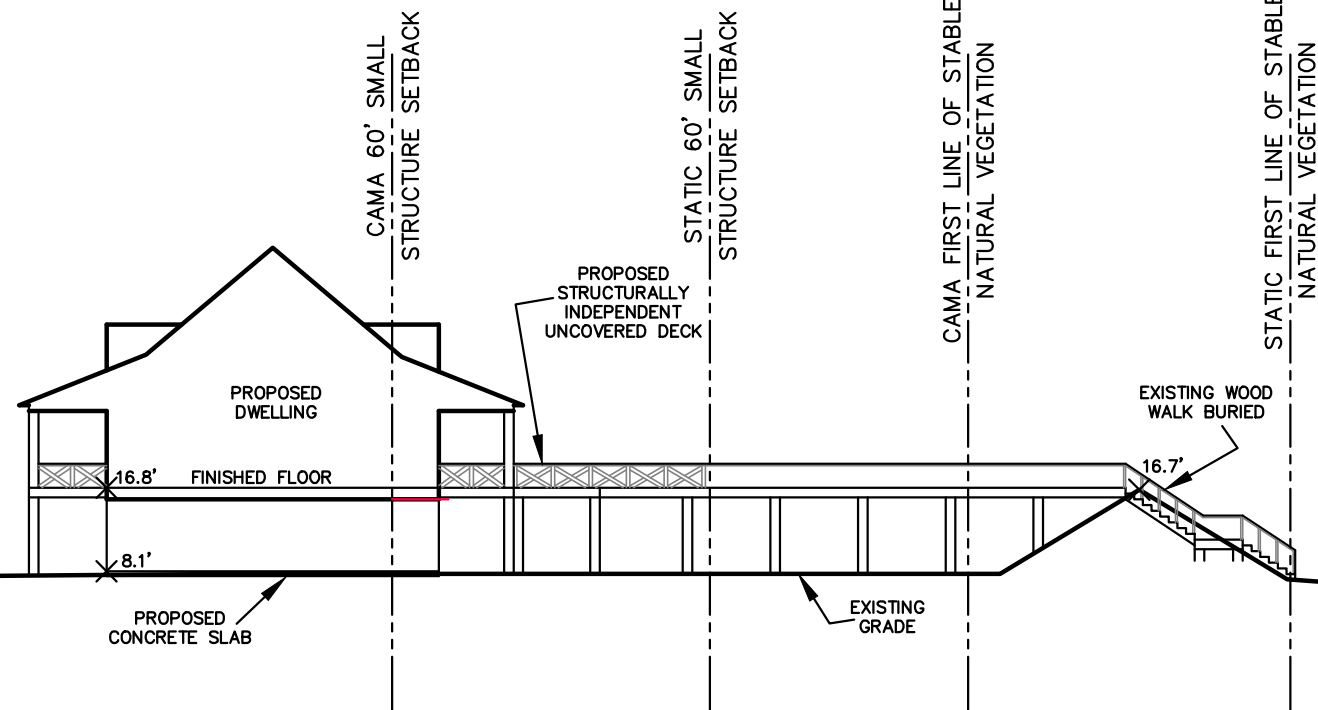
PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES

THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE VARIES WHICH IS A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND THE NATIONAL FLOOD INSURANCE PROGRAM. COMMUNITY PANEL NUMBER 370466 3720426600K JUNE 19, 2020

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



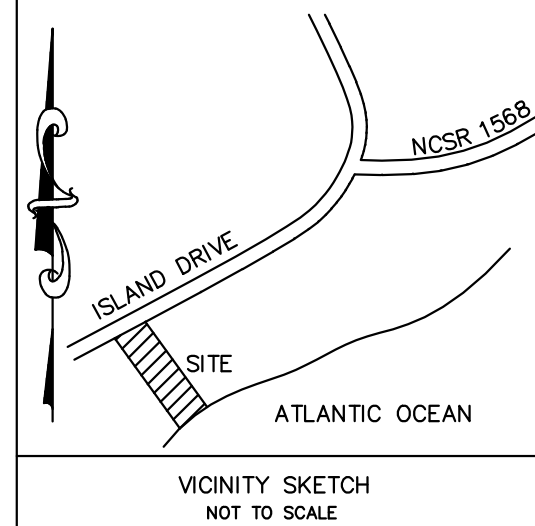
NC HIGHWAY 210-ISLAND DRIVE
100' R/W (ASPHALT-PUBLIC)



NOTE
LAND DISTURBANCE FROM R/W TO TOP OF DUNE WITH ADDITIONAL DISTURBANCE FOR PROPOSED WOOD WALK, GAZEBO, DECK & BEACH STEPS
PILING DEPTH AS PER ENGINEER
LANDSCAPING AS PER TOWN OF TOPSAIL BEACH ORDINANCES
PROPOSED STORMWATER TO BE ENGINEERED

NOTE
PROPOSED DWELLING IS TWO STORY ON PILINGS OVER CONCRETE SLAB, PARTIALLY ENCLOSED BELOW FOR ENTRY, GARAGE & STORAGE

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



AREA
15041 Sq.Ft.
0.345 ACRES

NOTE
BENCHMARK: SMN
NORTHING: 269965.66'
EASTING: 2468984.57'
ELEVATION: 6.87'
HORIZONTAL DATUM: NAD 83 (2011)
VERTICAL DATUM: NAVD 88
COMBINED FACTOR: 0.99997784
HORIZONTAL & VERTICAL DATUM OBTAINED WITH TOPCON GRS USING N.C. GEODETIC CONTINUOUS OPERATING REFERENCE STATIONS

OWNERS
SEFTON D. PADGETT, Jr.
D.B. 4719, P. 339

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

TAX MAP #
769-2

REFERENCES
D.B. 837, P. 948
D.B. 1824, P. 762
D.B. 4719, P. 339
D.B. 4745, P. 656
M.B. 18, P. 18
M.B. 59, P. 126

NOTE
DWELLING WAS
CONSTRUCTED IN 1970
PRIOR TO ONSLOW
COUNTY ZONING

ALL POINTS NON MONUMENTED
UNLESS OTHERWISE NOTED

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

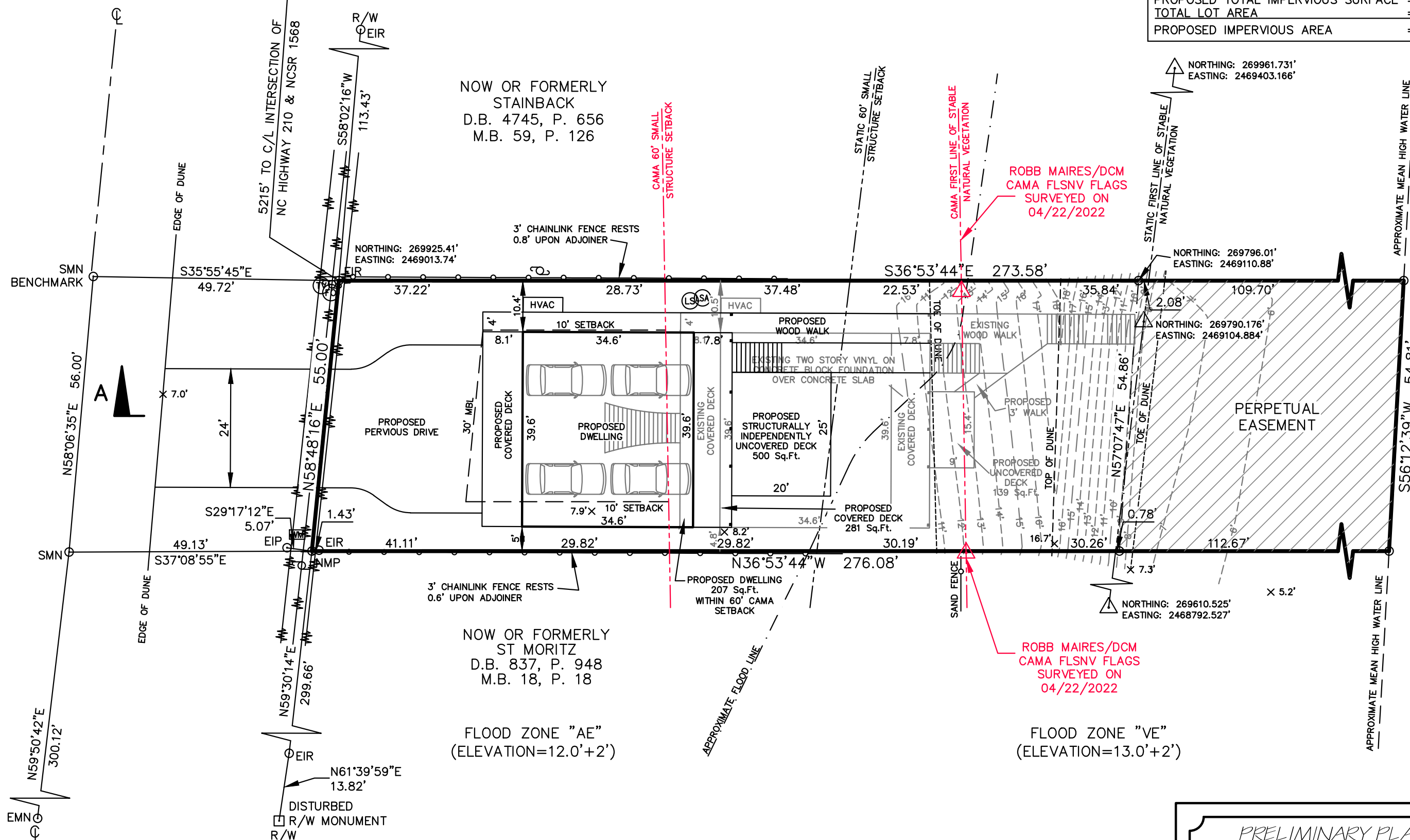
GRAPHIC SCALE



ACTUAL FIELD SURVEY DATE: APRIL 22, 2022
MAPPING DATE: JUNE 13, 2022
FIELD BOOK: 1010, PAGE: 15

PROJECT NUMBER: 17-12-09 JTG

NC HIGHWAY 210 - ISLAND DRIVE
100' R/W (ASPHALT-PUBLIC)



NOW OR FORMERLY
STAINBACK
D.B. 4745, P. 656
M.B. 59, P. 126

NOW OR FORMERLY
ST MORITZ
D.B. 837, P. 948
M.B. 18, P. 18

FLOOD ZONE "AE"
(ELEVATION=12.0'+2')

FLOOD ZONE "VE"
(ELEVATION=13.0'+2')

PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES

CHARLES F. RIGGS & ASSOCIATES, INC. (C-730)

LAND SURVEYING - CONVENTIONAL & GLOBAL POSITIONING SYSTEMS,
LAND PLANNING & COMPUTER MAPPING

502 NEW BRIDGE STREET
P.O. BOX 1570
JACKSONVILLE, NC 28540-1570
TELEPHONE: (910) 455-0877

LANDFALL EXECUTIVE SUITES
1213 CULBRETH DRIVE
WILMINGTON, NC 28405
TELEPHONE: (910) 681-7444
E-MAIL: riggsland@riggslandnc.com

BOUNDARY & PARTIAL TOPOGRAPHIC SURVEY & PRELIMINARY PLOT PLAN
FOR

SEFTON D. PADGETT, Jr.

TRACT AS DESCRIBED IN D.B. 4719, P. 339
STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA
SEFTON D. PADGETT, Jr., OWNER, D.B. 4719, P. 339
4122 ISLAND DRIVE

From: [Mairs, Robb L](#)
To: [Deb Hill](#)
Cc: [Martin, Tina R](#)
Subject: RE: [External] 4122 Island Drive APPEAL
Date: Tuesday, March 14, 2023 5:07:47 PM
Attachments: [image002.png](#)
[image003.png](#)
[Post Project Dune Guidance.pdf](#)

Caution: This is an external email. Please take caution when clicking links or opening attachments. Contact the IT Department if you're unsure of the legitimacy of this email.

Hi Deb,

Thanks for the heads up on this. Here's the policy memo that addresses starter dunes we discussed. If this is a starter dune with planted vegetation that is not deemed as stable natural vegetation, the property owner would be limited to post and rope to access the beach. We can come out to do a site visit to make this determination, which I have copied Tina Martin.

Thanks,

Robb

Robb Mairs

LPO Minor Permits Coordinator
North Carolina Division of Coastal Management
North Carolina Department of Environmental Quality
127 Cardinal Drive Extension
Wilmington, NC 28405
Office: (910) 796-7301
Cell: (910) 789-2577 (preferred)
Robb.Mairs@ncdenr.gov

Click [HERE](#) to Find the DCM Field Rep in your CAMA region.



Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.

From: Deb Hill <dhill@northtopsailbeachnc.gov>
Sent: Tuesday, March 14, 2023 4:47 PM
To: Mairs, Robb L <robb.mairs@ncdenr.gov>
Subject: FW: [External] 4122 Island Drive APPEAL

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Deborah J. Hill MPA AICP CFM CZO

Planning Director

Town of North Topsail Beach

2008 Loggerhead Ct.
North Topsail Beach, NC 28460
910.328.1349



From: Deb Hill
Sent: Tuesday, March 14, 2023 3:26 PM
To: Martin, Tina R <Tina.Martin@ncdenr.gov>
Subject: RE: [External] 4122 Island Drive APPEAL

I have checked my records and am asking Ralph and Kate to check theirs as well.

The issue with the crossover is that it wasn't mentioned in their application to us. The police were called to the site for them tearing into the dunes and sandbags. The Police called Ralph and Ralph issued a Stop Work Order. I had to issue a \$10,000 fine.

By your statement, "They would be granted an accessway exemption to replace if they weren't already doing the 50% repair." We would have no way of knowing whether or not you had rolled the accessway exemption into their **EX47-22 for MAINTENANCE AND REPAIR OF EXISTING STRUCTURES**, as it was not mentioned and as it was not existing since 2018. The applicant failed to include the accessway in his discussion with us or his application with us.

Did the CAMA EX47-22 include rebuilding and relocating the 2018 crossover?

Deborah J. Hill MPA AICP CFM CZO

Planning Director

Town of North Topsail Beach

2008 Loggerhead Ct.
North Topsail Beach, NC 28460
910.328.1349



From: Martin, Tina R <Tina.Martin@ncdenr.gov>

Sent: Tuesday, March 14, 2023 1:25 PM

To: Deb Hill <dhill@northtopsailbeachnc.gov>

Subject: RE: [External] 4122 Island Drive APPEAL

Caution: This is an external email. Please take caution when clicking links or opening attachments. Contact the IT Department if you're unsure of the legitimacy of this email.

Not the pictures but yes, the estimate. I included this when I sent out the exemption to him and you all awhile back. I know I saw plans but I can't find them in my records mostly because exemptions are handled differently than minor permits. I did spend at least an hour with them in the fall talking about the repairs. What is the issue with them doing the crossover. They would be granted an accessway exemption to replace if they weren't already doing the 50% repair.

Tina Martin

Field Representative

Division of Coastal Management

400 Commerce Avenue Morehead City, 28557

Mobile: (252) 725-3908

Tina.Martin@ncdenr.gov

www.deq.nc.gov

<http://portal.ncdenr.org/web/cm/dcm-home>

[Find a Field Rep \(arcgis.com\)](http://arcgis.com)



E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

From: Deb Hill <dhill@northtopsailbeachnc.gov>
Sent: Tuesday, March 14, 2023 1:13 PM
To: Martin, Tina R <Tina.Martin@ncdenr.gov>
Subject: RE: [External] 4122 Island Drive APPEAL

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Is that what he submitted to you on 8/26/2022?

He did not submit an application for the crossover here.

His application was for

FILE #: 22-001174

4122 ISLAND DR NORTH TOPSAIL BEACH NC 28460-821

REPLACING WINDOWS, ROOF, REPAIRING DECK, NEW CABINETS AND COUNTERTOPS, FLOORING, PAINT, LIGHTING, AND PLUMBING FIXTURES. SUBSTANTIAL IMPROVEMENT NOTICE OF DETERMINATION 22.11.21.

Work description:

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

He did not re-construct the crossover *as it was* in 2018, he relocated it, into the sandbags and vegetated dunes. Please see pictures.

Was the replacement of the 2018 crossover permitted by your letter of exemption EX47-22 for MAINTENANCE AND REPAIR OF EXISTING STRUCTURES - [G.S. 113-103(5)(B)(5) and [15A NCAC 7K.0103(a)]?

Deborah J. Hill MPA AICP CFM CZO

Planning Director

Town of North Topsail Beach

2008 Loggerhead Ct.

North Topsail Beach, NC 28460

910.328.1349



From: Martin, Tina R <Tina.Martin@ncdenr.gov>

Sent: Tuesday, March 14, 2023 12:20 PM

To: Deb Hill <dhill@northtopsailbeachnc.gov>

Subject: RE: [External] 4122 Island Drive APPEAL

Caution: This is an external email. Please take caution when clicking links or opening attachments. Contact the IT Department if you're unsure of the legitimacy of this email.

2018 Aerials and before show crossover in place.

Tina Martin

Field Representative

Division of Coastal Management

400 Commerce Avenue Morehead City, 28557

Mobile: (252) 725-3908

Tina.Martin@ncdenr.gov

www.deq.nc.gov

<http://portal.ncdenr.org/web/cm/dcm-home>

[Find a Field Rep \(arcgis.com\)](#)



E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

From: Deb Hill <dhill@northtopsailbeachnc.gov>

Sent: Monday, March 13, 2023 5:06 PM

To: Martin, Tina R <Tina.Martin@ncdenr.gov>

Subject: [External] 4122 Island Drive APPEAL

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an

attachment to [Report Spam](#).

Have a question for you.

Mark states that:

As highlighted by the Planning Director, those words stand true. "NO CHANGE IN FOOTPRINT". There is no change in the footprint of the property, no additions are to be done, nor expansions. The matter she is referencing is the steps down to the top of the dune, or landing. She is stating that I am disturbing the dune. If you look at the two surveys (one dated 2018 and the other 2022), you can see that the footprint of the house does in fact have a crossover, going over the dune, has support columns in the dune. As outlined in my building permit as well as the CAMA permit, I am to repair said parts of the deck. I have also attached photos, indicating the crossover before we started repair and were issued the stop work order for visual representation.

1. I will note, that the CAMA representative did inform me on site, that it would be in my best interest not to keep the crossover, but to just keep the current switchback and a rope walkway down. She showed me the switchback of a house, 2 houses south of our residence as an example. As stated in her permit; "Structures may be repaired in a similar manner, size, and location as the original structure." She also notes: The project consists of the repair of the single-family residence (2,156 square feet), as shown on the attached drawing and materials list and the existing stairs which attach to the deck associated with the maintenance."

With that being noted, I cannot be in violation of this ordinance as I am doing what is listed on the CAMA permit and on my approved building permit (where the CAMA permit has to be submitted and reviewed by the towns Permit Specialist and the Planning Director) by the town of N. Topsail Beach.

He is basing his position on a verbal conversation he alleges he had with you; that the CAMA permit covers the verbal conversation he alleges to have had with you.

- Did the CAMA permit include rebuilding and relocating the crossover?
- May I have a copy of the site drawing and materials list submitted on 8/26/2022?

Deborah J. Hill MPA AICP CFM CZO

Planning Director

Town of North Topsail Beach

2008 Loggerhead Ct.

North Topsail Beach, NC 28460

910.328.1349



Pursuant to North Carolina General Statutes, Chapter 132, email correspondence to and from this address may be considered public record under the North Carolina Public Records Law and may possibly be disclosed to third parties.

To: DCM Regulatory Staff / Local Permitting Officers

From: Braxton Davis, DCM Director



Date: July 20, 2020

Subject: Rules and Procedures related to post-project dune restoration

As beach nourishment projects continue to increase in scope and frequency, a few questions have emerged with respect to the appropriate siting of accessways and sand fencing on newly nourished areas. In the past, beach profile designs focused on rebuilding the flat sand beach berm that tied into the existing dune. However, many of these projects are now incorporating higher elevation emergency berms waterward of the remaining frontal dune to provide additional levels of protection during future storm events. These features are variably referred to as an "emergency berm," "shelf," or "incipient dune," among other terminologies. Here I will refer to these features as a "starter dune" (see Figure 1).

In many cases, Towns and property owners want to plant these starter dunes with vegetation to facilitate stabilization. Property owners and local governments have also requested to extend structural accessways over these areas to reduce impacts of foot traffic on the starter dune and its newly planted vegetation. In addition to accessways, property owners and communities have sought to install sand fencing at the toe or on the slope of the new starter dune (rather than adjacent to the original frontal dune) to further expand and stabilize the starter dune.

While the Division fully recognizes the importance of a robust dune system, DCM has concerns regarding public access to the public trust/dry sand beach and has also received input from the NC Wildlife Resources Commission and US Fish & Wildlife Service expressing concerns about the placement of sand fencing and beach accessways on newly constructed starter dunes. These concerns are due to the gradual design slopes that may allow for sea turtle nesting, and concerns that natural erosion and storm events may significantly erode areas that are not yet stabilized. If new structural accessways were permitted over a starter dune, derelict structures could soon end up on an eroding beach or scattered as storm debris. Also, if sand fencing were permitted to be placed waterward of the toe or on the slope of this new feature, there is an increased potential for sea turtle/hatchling entrapment and exclusion of the public from even broader public trust/dry sand beach areas.

In determining the appropriate siting of structural accessways and sand fencing, N.C. Coastal Resources Commission Rules reference the first line of stable, natural vegetation and/or the toe of the frontal dune. The frontal dune is defined as "the first mound of sand located landward of the ocean beach that has stable and natural vegetation present." [15A NCAC 07H .0305(a)(4)] Therefore, recently nourished areas, even if planted with vegetation, typically will not qualify as a frontal dune until they have stable, natural vegetation. With time, these areas may become stable and naturalized. As with determining the first line of stable, natural vegetation (FLSNV) for construction setbacks, indications of "stable and natural" vegetation include the establishment of new rhizomes in addition to the planted sprigs, the reduction of an obvious planted "grid" pattern, and/or the presence of additional species of vegetation. Prior to this, if the toe of the

original frontal dune is buried during nourishment construction, the visible FLSNV or any erosion scarp (or substantial drop in elevation) along the original frontal dune should be used in lieu of the buried toe of the original frontal dune to determine the allowable location of sand fencing and beach accessways.

To address these issues, the following is specific guidance for siting these types of structures:

Beach accessways should not be authorized to extend onto or over emergency berms or “starter dunes” until they are stabilized with natural vegetation and are determined to have become the frontal dune, in accordance with the Commission’s general use standards for structural accessways in 15A 07H .0308(c), which states:

- (1) Structural accessways shall be permitted across primary or frontal dunes so long as they are designed and constructed in a manner that entails negligible alteration of the primary or frontal dune; and...
- (5) Structural accessways may be constructed no more than six feet seaward of the waterward toe of the frontal or primary dune, provided they do not interfere with public trust rights and emergency access along the beach.

Limited stairs may be added to damaged structural accessways that are broken off above ground level in order to allow safe access to the beach, but shall be constructed parallel to the ocean.

Commission rules for **sand fencing** exemptions [15A NCAC 07K .0212] require that:

- (6) Sand fencing shall be placed as far landward as possible to avoid interference with sea turtle nesting, existing public access, recreational use of the beach, and emergency vehicle access; and
- (6)(c) Sand fencing installed waterward of the crest of the frontal or primary dune shall be installed at an angle no less than 45 degrees to the shoreline. Individual sections of sand fence shall not exceed more than 10 feet in length (except for public accessways) and shall be spaced no less than seven feet apart, and shall not extend more than 10 feet waterward of the following locations, whichever is most waterward, as defined in 15A NCAC 7H .0305: the first line of stable natural vegetation, the toe of the frontal or primary dune, or erosion escarpment of frontal or primary dune;

While this rule allows placement at the waterward-most location of these three reference features, in all cases consideration should be given to the first part of the rule (“as far landward as possible”). Sand fencing may also be installed along the length of public accessways, but should also be terminated as landward as possible and no more than 10 feet waterward of the FLSNV, toe of the frontal or primary dune, or erosion escarpment of the frontal or primary dune. In no case should sand fencing extend onto the wet sand beach area, as stated in subpart (a) of the rule.

Sand fencing proposed waterward of these locations, with different alignments, or with different materials can be considered through a minor permit application, but in accordance with the

general use standards for sand fencing in 15A 07H .0311(c): “sand fencing shall not be installed in a manner than impedes, traps or otherwise endangered sea turtles, sea turtle nests, or sea turtle hatchlings.” For this reason, CAMA minor permit applications for sand fencing are subject to review by the Wildlife Resources Commission and the U.S. Fish & Wildlife Service in order to determine whether or not the proposed design or installation will have an adverse impact on sea turtles or other threatened and endangered species. Sand fencing that is non-compliant should be immediately removed by the property owner, or is subject to enforcement action. All sand fencing that is non-functioning, damaged or unsecured should also be immediately removed by the property owner, in accordance with 15A NCAC 07H .0311(d).

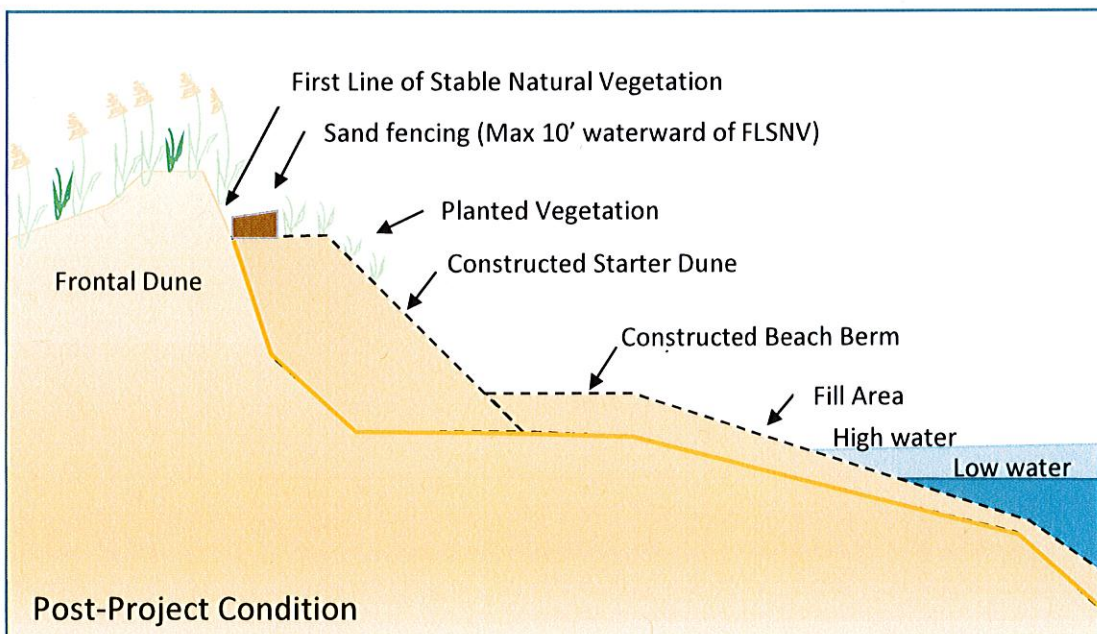
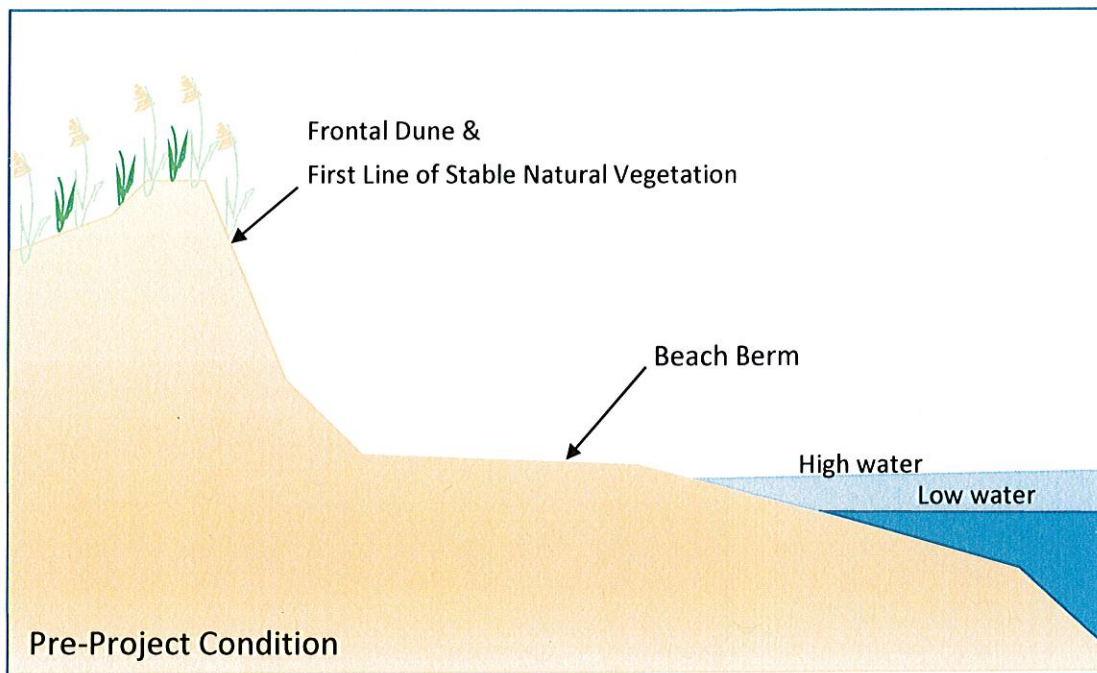
The Division recognizes and appreciates efforts to plant and stabilize newly constructed starter dunes to provide better storm protection for communities, and fully supports efforts to ensure access to our State’s beaches. The Commission’s rules are intended to find the right balance between the desire for structures that would enhance access and protect sensitive dunes and dune vegetation, with the potential increased exposure and damage to these structures from coastal storms and erosion, potential impacts to sea turtles, and potential impacts to public trust rights on the dry sand beach. With these goals in mind, the Division will not consider small post-and-rope pathways over newly constructed starter dunes, subject to the following design guidelines, as “development” requiring a CAMA permit. Post-and-rope pathways can provide a temporary solution until structural accessways can be authorized in accordance with the rules, once the dune vegetation has successfully established and stabilized. These conditions have also been coordinated with NCWRC and USFWS. In order to qualify, the following conditions for post-and-rope pathways must be followed:

- Posts must not be greater than 4x4 inches, should extend no deeper than 5 feet below grade, should not use concrete footers, and should maintain spacing of at least 7 feet between posts;
- Posts should be installed by hand without the use of heavy equipment;
- Only rope railings – no wooden or other railing systems will be allowed;
- Rope railings should be at least 3 feet above ground in order to avoid sea turtle interactions; and
- Paths shall be shore-perpendicular only for access to the beach; should not extend more than 6 feet waterward of planted vegetation or the toe of the constructed slope, ***whichever is more landward***; post-and-rope shall not obstruct recreation, access, or emergency vehicles; and shall in no case extend below the high water line.

As is common in our line of work, please keep in mind there may be certain circumstances which may not be clear-cut and should be addressed on a case-by-case basis. If there any questions or concerns about this policy in general, please let me know. If you have any questions regarding application of this policy to specific projects and circumstances, please contact your field representative or district manager for assistance.

As always, thanks for everything you do for the State of North Carolina.

Figure 1. Pre- and post-nourishment beach profiles.



Applicable rule references:**15A NCAC 07H .0305 GENERAL IDENTIFICATION AND DESCRIPTION OF LANDFORMS**

(a) This Paragraph describes natural and man-made features that are found within the ocean hazard area of environmental concern.

- (1) Ocean Beaches. Ocean beaches are lands consisting of unconsolidated soil materials that extend from the mean low water line landward to a point where either:
 - (A) the growth of vegetation occurs; or
 - (B) a distinct change in slope or elevation alters the configuration of the landform, whichever is farther landward.
- (2) Nearshore. The nearshore is the portion of the beach seaward of mean low water that is characterized by dynamic changes both in space and time as a result of storms.
- (3) Primary Dunes. Primary dunes are the first mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. Primary dunes extend landward to the lowest elevation in the depression behind that same mound of sand commonly referred to as the "dune trough".
- (4) Frontal Dunes. The frontal dune is the first mound of sand located landward of ocean beaches that has stable and natural vegetation present.
- (5) Vegetation Line. The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. The Division of Coastal Management or Local Permit Officer shall determine the location of the stable and natural vegetation line based on visual observations of plant composition and density. If the vegetation has been planted, it may be considered stable when the majority of the plant stems are from continuous rhizomes rather than planted individual rooted sets. Planted vegetation may be considered natural when the majority of the plants are mature and additional species native to the region have been recruited, providing stem and rhizome densities that are similar to adjacent areas that are naturally occurring. In areas where there is no stable and natural vegetation present, this line may be established by interpolation between the nearest adjacent stable natural vegetation by on-ground observations or by aerial photographic interpretation.

15A NCAC 07H .0311 INSTALLATION AND MAINTENANCE OF SAND FENCING

- (a) Sand fencing may only be installed for the purpose of building sand dunes by trapping wind blown sand; the protection of the dune(s) and vegetation (planted or existing).
- (b) Sand fencing shall not impede existing public access to the beach, recreational use of the beach, or emergency vehicle access. Sand fencing shall not be installed in a manner that impedes or restricts established common law and statutory rights of public access and use of public trust lands and waters.
- (c) Sand fencing shall not be installed in a manner that impedes, traps or otherwise endangers sea turtles, sea turtle nests or sea turtle hatchlings. CAMA permit applications for sand fencing shall be subject to review by the Wildlife Resources Commission and the U.S. Fish and Wildlife Service in order to determine whether or not the proposed design or installation will have an adverse impact on sea turtles or other threatened or endangered species.
- (d) Non-functioning, damaged, or unsecured sand fencing shall be immediately removed by the property owner.
- (e) Sand fencing shall not be placed on the wet sand beach area.

History Note: Authority G.S. 113A-107; 113A-113(b)(6);

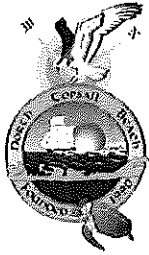
Eff. August 1, 2002.

15A NCAC 07K .0212 INSTALLATION AND MAINTENANCE OF SAND FENCING

Sand fences that are installed and maintained subject to the following criteria are exempt from the permit requirements of the Coastal Area Management Act:

- (1) Sand fencing may only be installed for the purpose of: building sand dunes by trapping wind blown sand; the protection of the dune(s) and vegetation (planted or existing).
- (2) Sand fencing shall not impede existing public access to the beach, recreational use of the beach or emergency vehicle access. Sand fencing shall not be installed in a manner that impedes or restricts established common law and statutory rights of public access and use of public trust lands and waters.
- (3) Sand fencing shall not be installed in a manner that impedes, traps or otherwise endangers sea turtles, sea turtle nests or sea turtle hatchlings.
- (4) Non-functioning, damaged, or unsecured, sand fencing shall be immediately removed by the property owner.
- (5) Sand fencing shall be constructed from evenly spaced thin wooden vertical slats connected with twisted wire, no more than 5 feet in height. Wooden posts or stakes no larger than 2" X 4" or 3" diameter shall support sand fencing.
- (6) Location. Sand fencing shall be placed as far landward as possible to avoid interference with sea turtle nesting, existing public access, recreational use of the beach, and emergency vehicle access.
 - (a) Sand fencing shall not be placed on the wet sand beach area.
 - (b) Sand fencing installed parallel to the shoreline shall be located no farther waterward than the crest of the frontal or primary dune; or
 - (c) Sand fencing installed waterward of the crest of the frontal or primary dune shall be installed at an angle no less than 45 degrees to the shoreline. Individual sections of sand fence shall not exceed more than 10 feet in length (except for public accessways) and shall be spaced no less than seven feet apart, and shall not extend more than 10 feet waterward of the following locations, whichever is most waterward, as defined in 15A NCAC 7H .0305: the first line of stable natural vegetation, the toe of the frontal or primary dune, or erosion escarpment of frontal or primary dune; and
 - (d) Sand fencing along public accessways may equal the length of the accessway, and may include a 45 degree funnel on the waterward end. The waterward location of the funnel shall not exceed 10 feet waterward of the locations identified in Item (6)(c) of this Rule.

*History Note: Authority G.S. 113A-103(5)c.;
Eff. August 1, 2002.*



Town of North Topsail Beach
Board of Aldermen

Agenda

Item:

Date:

PL

HEARING

9/7/2022

Section VII, ItemA.

Issue: Dune Protection and Remediation: Proposed Text Amendments to UDO §10.07.02 Rebuilding of Damaged Dunes & Town Code Article 10 Sand Dune Protection

Department: Planning

Prepared by: Deborah J. Hill MPA AICP CFM CZO

Presentation: Yes

BACKGROUND Pursuant to NCGS § 160D-301 (b) (4), the Planning Board is assigned the power and duty to advise the Board of Aldermen concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.

On August 11, 2022, the Planning Board reviewed UDO plat requirements for development permits; specifically, requirements for ocean front lots with respect to the dune. The Planning Board also discussed the both the Unified Development Ordinance §10.07.02 Rebuilding of Damaged Dunes and Town Code Article 10 Sand Dune Protection.

In their review of Town Code Article 10 *Sand Dune Protection*, the Planning Board recommends that the Town Manager (or designee) has the authority to enforce; that each day unrepaired is a separate offense; and that the exceptions pertaining to development in § 10-49 be deleted, as development is addressed in the UDO.

In their review of Unified Development Ordinance §10.07.02 *Rebuilding of Damaged Dunes*, the Planning Board discussed a dune buffer, non-conforming status for existing encroachments into the buffer, additions or improvements to existing structures, fines, as well as dune restoration.

RECOMMENDATION On August 11, 2022, Ms. Lisa Brown made a motion that the Planning Board recommends that the Board of Aldermen conduct a public hearing on September 7, 2022 at 11:00 a.m. to receive input on a proposed amendment to North Topsail Beach Town Code Article IV Sand Dune Protection and the North Topsail Beach Unified Development Ordinance Article 10 Enforcement § 10.07.02 Dune Protection and Remediation; and that the Board of Aldermen adopt the proposed text amendments to UDO §10.07.02 Rebuilding of Damaged Dunes (attachment 1) & Town Code Article 10 Sand Dune Protection (attachment 2). Mr. Fred Fontana seconded. The motion passed unanimously, 6-0.

ATTACHMENT

1. Ordinance to Amend Unified Development Ordinance §10.07.02 Rebuilding of Damaged Dunes
2. Ordinance to Amend Town Code Article 10 Sand Dune Protection
3. Public Notice

ATTACHMENT I

Ordinance 22-00__

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
OF THE TOWN OF NORTH TOPSAIL BEACH, NORTH CAROLINA TO PROVIDE
DUNE PROTECTION MEASURES, MANDATORY REMEDIATION FOR DAMAGED
DUNES AND SET FINES**

WHEREAS, N.C. General Statutes 160 D Article 6 created new standards for the procedure for adopting, amending, or repealing development regulations that apply throughout North Carolina; and

WHEREAS, pursuant to N.C. General Statutes § 160D-601 a notice of the hearing has been given once a week for two successive calendar weeks in the Jacksonville Daily News.

WHEREAS, pursuant to N.C. General Statutes § 160D-603 if any resident or property owner in the town submits a written statement regarding this proposed amendment that has been properly initiated as provided in G.S. 160D-601, to the Town Clerk at least two business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Board of Aldermen.

WHEREAS, pursuant to N.C. General Statutes § 160D-604 the Planning Board has reviewed the proposed standards and recommended approval of this ordinance; and

WHEREAS, the Board of Aldermen has found this ordinance to be consistent with the Town's adopted CAMA Land Use Plan; and

WHEREAS, the Board of Aldermen has determined that is in public interest to update standards for dune protection measures, mandatory remediation for damaged dunes and set fines in the Unified Development Ordinance in compliance with the N.C. General Statutes.

NOW THEREFORE BE IT ORDAINED by the Board of Aldermen for the Town of North Topsail Beach, North Carolina that the Unified Development Ordinance shall be amended as follows:

PART I. That Subsection of the Unified Development Ordinance be amended with the addition of the following:

PART II. This ordinance shall be effective upon its adoption.

§ 10.07.02 REBUILDING OF DAMAGED DUNES.

- (A) —~~Any~~ All dunes in the ~~required natural area~~ Ocean Hazard Area that ~~is~~ are damaged during construction, or damage occurring as a result of such construction, or excavated in violation of this ordinance shall be restored to its original state using similar materials and stabilizing vegetation. It shall be the responsibility of the property owner to guarantee the protection of all identified dune systems and not allow the natural topography of the lot altered beyond that which has been authorized in the permit. The rebuilding of a dune shall be the ultimate responsibility of the property owner. Any dune in the required natural area that has been

damaged or excavated in violation of this ordinance shall be subject to a fine of \$1
restored within 60-7 days of notice.

Section VII, Item A.

- (B) Failure to repair damage to dunes and vegetation after 7 days, shall constitute a separate violation for each day that such failure continues after written notification by the Planning Director.
- (C) Any development proposed within the Ocean Hazard Area shall indicate on a plat submitted with the application, the dune contour/topography and dune profile by elevation, the landward toe of the dune by bearing and distance.
- (D) No disturbance, no development, no structure shall be permitted within 5.0 feet of the landward toe of the dune, "dune buffer," except beach access crossovers as permitted.
- (E) Any additions or improvements to existing structures must comply with the standards for new construction and be relocated outside of the "dune buffer."
- (F) If any provision of this article is in conflict with a rule or regulation adopted by the State Coastal Resources Commission dealing with oceanfront erosion control, then the most stringent rule or regulation shall control and apply.

(Ord. passed 11-2-2011)

This ordinance is effective upon its adoption.
Adopted this the 7th day of September, 2022.

APPROVED:


Joann McDermon, Mayor

(Seal)

ATTEST:


Melinda Mier, Town Clerk

Town of North Topsail Beach

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

Aldermen:
Alfred Fontana
Richard Grant
Tom Leonard
Connie Pletl



Alice Derian, ICMA-CM
Town Manager

Melinda Mier
Town Clerk

Nature's Tranquil Beauty **Zoning Board of Adjustment** **Wednesday, March 22, 2023, 5:30 p.m.** **NOTICE OF DECISION**

To Whom It May Concern:

The Board of Adjustment for the Town of North Topsail Beach, Onslow County, North Carolina, held an evidentiary hearing on March 22, 2023 to consider Case # AA23-000003, an appeal by Cedar Homes Investments, LLC Mark Wilson/Chad Bell of the following decision by Planning Director Deborah J. Hill:

Written Order or Decision Being Appealed:

- § 10.07.02 REBUILDING OF DAMAGED DUNES.
- § 10.02.01 DEVELOPMENT WITHOUT A PERMIT.
- § 10.02.02 DEVELOPMENT INCONSISTENT WITH A PERMIT.
- § 10.02.03 VIOLATION OF CONDITIONS IMPOSED.
- § 10.07.02 REBUILDING OF DAMAGED DUNES.

You are hereby ordered to restore the dune to its original state using similar materials and stabilizing vegetation within 7 days of this notice and subject to a fine of \$10,000.

Based on:

- § 10.07.02 REBUILDING OF DAMAGED DUNES.
- § 10.02.01 DEVELOPMENT WITHOUT A PERMIT.
- § 10.02.02 DEVELOPMENT INCONSISTENT WITH A PERMIT.
- § 10.02.03 VIOLATION OF CONDITIONS IMPOSED.
- § 10.07.02 REBUILDING OF DAMAGED DUNES.

WHEREAS, the Board may affirm the staff decision, reverse the staff decision, or modify the staff decision, and the board may “make any order, requirement, decision, or determination that ought to be made;” and

WHEREAS, the Board has considered all technical evaluations, all relevant factors, all standards specified in the Unified Development Ordinance §2.03.05 and North Carolina General Statutes § 160D-405; and

WHEREAS, having heard all of the evidence and arguments presented at the hearing by all sworn witnesses, the Board has determined any contested facts and applied relevant legal standards based on competent, material, and substantial evidence in the record, as indicated in the minutes attached to this NOTICE.

THEREFORE, on the basis of the foregoing, it is the DECISION of the Board to (indicate by ✓ and line out others):

☐ Affirm the staff decision; ☐ Reverse the staff decision; or ☐ Modify the staff decision; and

The Board may “make any order, requirement, decision, or determination that ought to be made,” as follows:

The decision of the Board of Adjustment may be appealed to the superior court in the nature of certiorari pursuant to G.S. 160D-1402.

Ordered this 22th day of March, 2023: Certified:

X

Hanna McCloud
Chair

X

Kathryn Winzler
Secretary