



State of North Carolina
Department of Justice

ROY COOPER
Attorney General

PO Box 629
Raleigh, North Carolina
27602

Reply to: Elizabeth Jill Weese
Environmental Division
Phone: (919) 716-6600
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TO: Coastal Resources Commission

FROM : Elizabeth Jill Weese *ESW*
Assistant Attorney General

DATE: October 8, 2014 (for the October 22-23 CRC Meeting)

RE: **Variance Request by Matthew Toloczko (CRC-VR-14-13)**

Petitioner Matthew Tolozco and his wife, own property located at 119 E. Sea Gull Street, in Nags Head, Dare County, North Carolina. Petitioner proposes to develop a driveway and parking area constructed of oyster shells seaward of the first line of stable natural vegetation. At the location of the property, the first line of stable natural vegetation is landward of the static vegetation line. Therefore, the first line of stable natural vegetation is the relevant reference point for measuring the oceanfront setback for this property. On August 27, 2014, the Division of Coastal Management denied the Petitioner's August 11, 2014 permit application because it was inconsistent with Rule 15A NCAC 7H .0309(a) in that the proposed development is seaward of the vegetation line. Petitioner seeks a variance from this provision to construct the driveway and parking area, as proposed in his permit application. Staff's positions on whether Petitioner meets or does not meet each of the required criteria for a variance are stated in Attachment C. Staff's position in summary is that Petitioner does not meet criteria I, II, or IV, but does meet criteria III.

The following additional information is attached to this memorandum:

Attachment A: Relevant Rules
Attachment B: Stipulated Facts
Attachment C: Petitioner's Positions and Staff's Responses to Criteria
Attachment D: Stipulated Exhibits
Attachment E: Petitioner's Variance Request Materials
Attachment F: Public Comments on Variance

cc: Matthew Toloczko, Petitioner
Charlotte Mitchell, Esq., Attorney for Petitioner, electronically
Braxton Davis, DCM Director, electronically
Frank Jennings, DCM District Manager, DCM Northeastern District, electronically
Mary L. Lucasse, Special Deputy Attorney General, CRC Counsel, electronically

ATTACHMENT A

RELEVANT RULES

.0305 GENERAL IDENTIFICATION AND DESCRIPTION OF LANDFORMS

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

...

(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. The 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 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.

(6) **Static Vegetation Line.** In areas within the boundaries of a large-scale beach fill project, the vegetation line that existed within one year prior to the onset of initial project construction shall be defined as the static vegetation line. A static vegetation line shall be established in coordination with the Division of Coastal Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo a large-scale beach fill project. Once a static vegetation line is established, and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line. **In all locations where the vegetation line as defined in this Rule is landward of the static vegetation line, the vegetation line shall be used as the reference point for measuring oceanfront setbacks.** A static vegetation line shall not be established where a static vegetation line is already in place, including those established by the Division of Coastal Management prior to the effective date of this Rule. A record of all static vegetation lines, including those established by the Division of Coastal Management prior to the effective date of this Rule, shall be maintained by the Division of Coastal Management for determining development standards as set forth in Rule .0306 of this Section. Because the impact of Hurricane Floyd (September 1999) caused significant portions of the vegetation line in the Town of Oak Island and the Town of Ocean Isle Beach to be relocated landward of its pre-storm position, the static line for areas landward of the beach fill construction in the Town of Oak Island and the Town of Ocean Isle Beach, the onset of which occurred in 2000, shall be defined by the general trend of

the vegetation line established by the Division of Coastal Management from June 1998 aerial orthophotography.

15A NCAC 7H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's Rules shall be located according to whichever of the following is applicable:

(1) The ocean hazard setback for development is measured in a landward direction from the vegetation line, the static vegetation line or the measurement line, whichever is applicable. The setback distance is determined by both the size of development and the shoreline erosion rate as defined in 15A NCAC 07H .0304. Development size is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings.

...

(2) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance. . . .

15A NCAC 7H .0309(a) USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

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

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet;
- (4) beach accessways consistent with Rule .0308(c) of this Subchapter;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands;
- (8) sand fences; and
- (9) swimming pools.

In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation;

has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback requirements of this Subchapter. . .

ATTACHMENT B

Stipulated Facts

1. Matthew Toloczko (“Petitioner”) and his wife own real property located at 119 E. Sea Gull Street, Nags Head, North Carolina (the “Property”). See Stipulated Exhibit #1 (deed).
2. The Property is located in both the Ocean Erodible AEC as well as the High Hazard Flood AEC.
3. A beach nourishment project undertaken by the Town of Nags Head in 2011 constructed a 200’ sand beach in front of this Property. See Stipulated Exhibits #6 and #7 (aerial photos). By 2014, the sand beach in front of this Property is much less than 200’. See Stipulated Exhibits #4 and #5 (aerial photos).
4. The Property is developed with a single family residence which is located seaward of both the static vegetation line and the first line of stable natural vegetation (“FLSNV” or “vegetation line”). See Stipulated Exhibit #8 (site plan).
5. On August 11, 2014, Petitioner applied for a Coastal Area Management Act (“CAMA”) Minor Permit to construct a driveway and parking area on the Property, seaward of the oceanfront setback requirements of Rule 15A NCAC 7H .0306(a). See Stipulated Exhibit #2.
6. At the location of the Property, the first line of stable natural vegetation is landward of the static vegetation line. Therefore, pursuant to 15A NCAC 7H .0305(a)(6), the first line of stable natural vegetation is the relevant reference point for measuring the oceanfront setback for this property. See Exhibit #8 (site plan).
7. On August 27, 2014, the Division of Coastal Management denied the Petitioner’s August 11, 2014 permit application because it was inconsistent with Rule 15A NCAC 7H .0309(a) in that the proposed development is seaward of the vegetation line. See Stipulated Exhibit #3.
8. 15 A NCAC 7H.0309 allows the development of driveways and parking areas constructed of clay, packed sand or gravel seaward of the oceanfront setback requirements of Rule 15A NCAC 7H .0306(a), so long as the development is landward of the static vegetation line or the first line of stable natural vegetation , whichever is applicable, and if all other provisions of Subchapter 7H and other state and local regulations are met.
9. Petitioner requests a variance to develop a driveway and parking area constructed of oyster shells seaward of the first line of stable natural vegetation (the “Driveway and Parking Area”).
10. DCM has received a number of comments from the public about this variance request. These comments are attached to the Variance Package.

Petitioner and Staff Positions on Variance Criteria**I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.****Petitioner's Position: Yes.**

The applicable regulation disallows the construction of any driveway or parking area, seaward of the oceanfront setback requirements of Rule 7H.0306(a), only if it is located landward of the vegetation line or static vegetation line. The Applicant's property located at 119 E. Sea Gull (the "House") is located seaward of the static vegetation line. Because the rule requires that driveways and parking areas be located landward of the static vegetation line, strict application of the rule would prevent the development of the driveway, thereby depriving the Applicant of access to the House.

Staff's Position: No.

Staff disagrees that strict application of Rule 15A NCAC 7H .0309(a) causes the petitioner unnecessary hardships. Petitioner continues to have access to the house via 4-wheel drive vehicle or on foot. Furthermore, in this case, the vegetation line (also known as "first line of stable natural vegetation") is landward of the static vegetation line. Therefore, the vegetation line—not the static vegetation line—is the relevant reference point for measuring the oceanfront setback for this property. Consequently, the proposed development is seaward of both the static vegetation line, as well as the vegetation line in violation of the Commission's Rule.

II. Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.**Petitioner's Position: Yes.**

The hardship results from the location of the House which, due to ocean erosion, is now seaward of the static vegetation line.

Staff's Position: No.

Staff disagrees that there are conditions peculiar to the petitioner's property which create any hardships. While there may be accelerated ocean erosion at this location, as recognized by the Commission's Rules addressing development within the Ocean Hazard category, ocean erosion occurs up and down the North Carolina coast. Staff does not consider the conditions present at this property to be so peculiar as to justify allowing new development which would violate the oceanfront setback rule.

III. Do the hardships result from actions taken by the Petitioner? Explain.

Petitioner's Position: No.

Due to years of erosion, the House is now located seaward of the static vegetation line.

Staff's Position: No.

Staff agrees that any hardship did not result from actions taken by the Petitioner.

IV. Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

Petitioner's Position: Yes.

The Applicant proposes to construct the driveway and parking to access the House. Because the House is located seaward of the static vegetation line due to years of erosion, the driveway and parking area must be located seaward of the static vegetation line. Without the driveway, access to the House is limited to four wheel drive ("4WD") vehicle. Vehicles that are non 4WD cannot access the house, such as emergency response vehicle, fire vehicles, police vehicles, municipal and state inspection vehicles, etc. In addition, without the driveway, pedestrian access to the House is limited.

The Applicant proposes to construct the driveway with oyster shells. Because oyster shells are pervious material that is commonly found on the beach, the material is not likely to cause or contribute to environmental degradation

Allowing the Applicant to construct the driveway and parking area in the proposed located: 1) is consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission as it will be constructed of material that will not cause or contribute to degradation of the beach; 2) secures the public safety and welfare by providing access to the Property, including access for emergency response vehicles, fire and police vehicles, and town and state inspection vehicles; and 3) preserves substantial justice by providing access—both non 4WD vehicular and accessible pedestrian access—to the Property, which is located seaward of the static vegetation line.

Staff's Position: No.

The purpose and intent of the ocean hazard setback rule found at 15A NCAC 7H .0306(a) is "to protect life and property." Allowing Petitioner to construct a driveway and parking area seaward of the oceanfront setback requirement violates the rule and, in Staff's opinion, is counter to those goals at this location. Furthermore, the proposed driveway is also seaward of the First Line of Stable Natural Vegetation, which is defined as "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.” See 7H.0305(a)(5). Staff believes that granting this variance will result in development that will likely require constant maintenance and/or will not exist for very long.

Among the Commission’s objectives with regard to the Ocean Hazard area is the attempt “to achieve a balance between the financial, safety, and social factors that are involved in hazard area development.” 15A NCAC 7H .0303(a). This objective--the desire to find balance among competing needs--is met in part by Rule 15A NCAC 7H .0309(a), which authorizes a limited number of exceptions to the ocean hazard setback rule. Staff believes that granting Petitioner a variance in this case is counter to that objective, or “spirit,” because the proposed development does not meet any of the requirements necessary to authorize an exception.

Staff also believes that granting a variance in this instance would not secure public safety and welfare or preserve substantial justice because the proposed development does not meet the requirements for an exception: namely, it would not be landward of the applicable vegetation line in an area where the ocean is rapidly eroding.

ATTACHMENT D

Stipulated Exhibits

1. Deed to property
2. Application for Minor CAMA permit
3. Denial Letter
4. Aerial Photograph (used in PowerPoint)
5. Aerial Photograph (used in PowerPoint)
6. Aerial Photograph (used in PowerPoint)
7. Aerial Photograph (used in PowerPoint)
8. Site plan showing oceanfront setback lines (used in PowerPoint)

26

016 PG 0-809

FILED

NOV 16 PM 3 16

RECORDS DEEDS
DARE COUNTY, N.C.

EXEMPT
DARE COUNTY TAX

COLLECTOR
NO. 5315-B

Excise Tax .00

Recording Time, Book and Page

Tax Lot No. Parcel Identifier No. 007443

Verified by County on the day of 19 by

Mail after recording to McCown & McCown, Manteo, NC 27954

This instrument was prepared by Wallace H. McCown

Brief description for the Index Lot 7, Goose Wing

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 3rd day of November, 1995, by and between

GRANTOR

GRANTEE

LYNN M. BAER, N/K/A LYNN E. TOLOCZKO

LYNN B. TOLOCZKO and husband,
MATTHEW TOLOCZKO, as tenants by
the entirety

2931 Maple Drive
Fairfax, VA 22031

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Nags Head, Nags Head Township, Dare County, North Carolina and more particularly described as follows:

Situate in Nags Head Township, Dare County, North Carolina, and being Lot No. 7 of the subdivision known as Goose Wing, as shown on a map or plat thereof made by Rose & Purcell, Inc., Engineers, dated January 1977, and recorded in Map Book 9, Page 57, Public Registry of Dare County, North Carolina.

10/16/809

3K|016 PG 0810

The property hereinabove described was acquired by Grantor by instrument recorded in
Book 836, page 618, Public Registry of Dare County, North Carolina

A map showing the above described property is recorded in Plat Book 9 page 57

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

Easements and restrictions of record.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

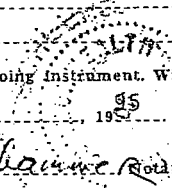
.....
(Corporate Name)
By:
.....
President
ATTEST:
.....
Secretary (Corporate Seal)

USE BLACK INK ONLY

Lynn M. Baer (SEAL)
Lynn M. Baer
Lynn B. Toloczko (SEAL)
Lynn B. Toloczko
..... (SEAL)
..... (SEAL)

SEAL-STAMP VIRGINIA ~~NORTH CAROLINA~~ FAIRFAX County.

Use Black Ink I, a Notary Public of the County and State aforesaid, certify that
Lynn M. Baer, N/K/A Lynn B. Toloczko
personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my
hand and official stamp or seal, this 4th day of November 1985
My commission expires: 6/30/96
Julius K. Schelhammer Notary Public



SEAL-STAMP NORTH CAROLINA, County.

Use Black Ink I, a Notary Public of the County and State aforesaid, certify that
personally came before me this day and acknowledged that he is Secretary of
..... a North Carolina corporation, and that by authority duly
given and as the act of the corporation, the foregoing instrument was signed in its name by its
President, sealed with its corporate seal and attested by as its Secretary.
Witness my hand and official stamp or seal, this: day of, 19.....
My commission expires: Notary Public

The foregoing Certificate(s) of Julius K. Schelhammer, a Notary Public of the Commonwealth of Virginia

is ~~are~~ certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Dorris A. Fry REGISTER OF DEEDS FOR DARE COUNTY
By *Vanzella M. Peterson* ~~XXXX~~ Assistant - Register of Deeds

NOTICE

CAMA PERMIT APPLIED FOR

PROJECT: CONSTRUCT OYSTER SHELL DRIVEWAY
AND PARKING AREA

COMMENTS ACCEPTED THROUGH AUGUST 26, 2014

APPLICANT:

Matthew Toloczko
119 EAST SEAGULL DRIVE
NAGS HEAD, N.C.



FOR MORE DETAILS CONTACT
THE LOCAL PERMIT OFFICER BELOW:

FRANK JENNINGS
1367 US 17 South
Elizabeth City, N.C. 27909
252-269-3901 ext. 235

OCEAN HAZARD AEC NOTICE

Project is in an: Ocean Eroding Area High Hazard Flood Area Inlet Hazard Area
Property Owner: Matthew Toloczko
Property Address: 119 EAST Seagull Drive, Nags Head, N.C.
Date Lot Was Platted: N/A

This notice is intended to make you, the applicant, aware of the special risks and conditions associated with development in this area, which is subject to natural hazards such as storms, erosion and currents. The rules of the Coastal Resources Commission require that you receive an AEC Hazard Notice and acknowledge that notice in writing before a permit for development can be issued.

The Commission's rules on building standards, oceanfront setbacks and dune alterations are designed to minimize, but not eliminate, property loss from hazards. By granting permits, the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development. Permits issued in the Ocean Hazard Area of Environmental Concern include the condition that structures be relocated or dismantled if they become imminently threatened by changes in shoreline configuration. The structure(s) must be relocated or dismantled within two (2) years of becoming imminently threatened, and in any case upon its collapse or subsidence.

The best available information, as accepted by the Coastal Resources Commission, indicates that the annual long-term average ocean erosion rate for the area where your property is located is 2 feet per year.

The rate was established by careful analysis of aerial photographs of the coastline taken over the past 50 years.

Studies also indicate that the shoreline could move as much as 25 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 12 feet deep in this area.

Preferred oceanfront protection measures are beach nourishment and relocation of threatened structures. Hard erosion control structures such as bulkheads, seawalls, revetments, groins, jetties and breakwaters are prohibited. Temporary sand bags may be authorized under certain conditions.

The applicant must acknowledge this information and requirements by signing this notice in the space below. Without the proper signature, the application will not be complete.

Matthew Toloczko 8/13/14
Property Owner Signature Date

SPECIAL NOTE: This hazard notice is required for development in areas subject to sudden and massive storms and erosion. Permits issued for development in this area expire on December 31 of the third year following the year in which the permit was issued. Shortly before work begins on the project site, the Local Permit Officer must be contacted to determine the vegetation line and setback distance at your site. If the property has seen little change since the time of permit issuance, and the proposed development can still meet the setback requirement, the LPO will inform you that you may begin work. Substantial progress on the project must be made within 60 days of this setback determination, or the setback must be remeasured. Also, the occurrence of a major shoreline change as the result of a storm within the 60-day period will necessitate remeasurement of the setback. It is important that you check with the LPO before the permit expires for official approval to continue the work after the permit has expired. Generally, if foundation pilings have been placed and substantial progress is continuing, permit renewal can be authorized. It is unlawful to continue work after permit expiration.

For more information, contact:

FRANK JENNINGS
Permit Officer
1367 US 17 South,
Address Elizabeth City, 27909
N.C.
252-264-3901 ext 235
Phone Number

Locality NAGS HEAD Permit Number _____

Ocean Hazard Estuarine Shoreline _____ ORW Shoreline _____ Public Trust Shoreline _____ Other _____

(For official use only)

GENERAL INFORMATION

LAND OWNER

Name Matthew Toloczko

Address 11147 Rich Meadow Dr

City Great Falls State VA Zip 22066 Phone 703-591-3213 / +1 (703) 623-9191

Email matthew.toloczko@inforeliance.com

AUTHORIZED AGENT

Name OBX Group Inc., dba Phoenix Restoration (Patricia L. Broom, President)

Address PO Box 2408

City Kill Devil Hills State NC Zip 27948 Phone 252-480-1044

Email info@phoenixobx.com

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 119 E Sea Gull Dr, Nags Head, NC 27959

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) Oyster Shell Driveway

SIZE OF LOT/PARCEL: 5647 SF square feet _____ acres

PROPOSED USE: Residential (Single-family Multi-family) Commercial/Industrial Other

COMPLETE EITHER (1) OR (2) BELOW (Contact your Local Permit Officer if you are not sure which AEC applies to your property):

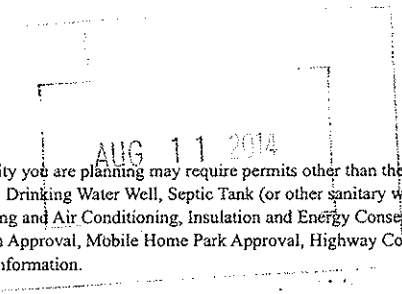
OCEAN HAZARD AECs: TOTAL FLOOR AREA OF PROPOSED STRUCTURE: 1119 square feet (includes air conditioned living space, parking elevated above ground level, non-conditioned space elevated above ground level but excluding non-load-bearing attic space)

COASTAL SHORELINE AECs: SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT UPON SURFACES: 1102.5 square feet (includes the area of the roof/drip line of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC. Attach your calculations with the project drawing.)

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality?

YES NO

If yes, list the total built upon area/impervious surface allowed for your lot or parcel: _____ square feet.



OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit, including, but not limited to: Drinking Water Well, Septic Tank (or other sanitary waste treatment system), Building, Electrical, Plumbing, Heating and Air Conditioning, Insulation and Energy Conservation, FIA Certification, Sand Dune, Sediment Control, Subdivision Approval, Mobile Home Park Approval, Highway Connection, and others. Check with your Local Permit Officer for more information.

STATEMENT OF OWNERSHIP:

I, the undersigned, an applicant for a CAMA minor development permit, being either the owner of property in an AEC or a person authorized to act as an agent for purposes of applying for a CAMA minor development permit, certify that the person listed as landowner on this application has a significant interest in the real property described therein. This interest can be described as: (check one)

an owner or record title, Title is vested in Lynn B & Matthew Toloczko, see Deed Book 1016 page 809 in the Dare _____ County Registry of Deeds.

an owner by virtue of inheritance. Applicant is an heir to the estate of _____; probate was in _____ County.

if other interest, such as written contract or lease, explain below or use a separate sheet & attach to this application.

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

I furthermore certify that the following persons are owners of properties adjoining this property. I affirm that I have given **ACTUAL NOTICE** to each of them concerning my intent to develop this property and to apply for a CAMA permit.

- | (Name) | (Address) |
|------------------------------|---|
| (1) <u>Kirk Cusick</u> | <u>110 S STATE LINE RD, GREENVILLE PA 16125</u> |
| (2) <u>Town of Nags Head</u> | <u>PO BOX 99, NAGS HEAD, NC 27959</u> |
| (3) _____ | _____ |
| (4) _____ | _____ |

ACKNOWLEDGEMENTS:

I, the undersigned, acknowledge that the land owner is aware that the proposed development is planned for an area which may be susceptible to erosion and/or flooding. I acknowledge that the Local Permit Officer has explained to me the particular hazardous problems associated with this lot. This explanation was accompanied by recommendations concerning stabilization and floodproofing techniques.

I furthermore certify that I am authorized to grant, and do in fact grant, permission to Division of Coastal Management staff, the Local Permit Officer and their agents to enter on the aforementioned lands in connection with evaluating information related to this permit application.

This the 5th day of August, 20 14

Digitally signed by Patricia Broom
DN: cn=Patricia Broom, o=OBX, email=pat@phoenixobx.com,
c=US
DATE: 2014.08.05 16:32:55 -0400

Landowner or person authorized to act as his/her agent for purpose of filing a CAMA permit application

This application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the Ocean Hazard AEC Notice where necessary, a check for \$100.00 made payable to the locality, and any information as may be provided orally by the applicant. The details of the application as described by these sources are incorporated without reference in any permit which may be issued. Deviation from these details will constitute a violation of any permit. Any person developing in an AEC without permit is subject to civil, criminal and administrative action.

SITE DRAWING/APPLICATION CHECKLIST

Please make sure your site drawing includes the following information required for a CAMA minor development permit. The Local Permit Officer will help you, if requested.

PHYSICAL DIMENSIONS

- Label roads
- Label highways right-of-ways
- Label local setback lines
- Label any and all structures and driveways currently existing on property
- Label adjacent waterbody

PHYSICAL CHARACTERISTICS

- Draw and label normal high water line (contact LPO for assistance)
- Draw location of on-site wastewater system

If you will be working in the ocean hazard area:

- Draw and label dune ridges (include spot elevations)
- Draw and label toe of dunes
- Identify and locate first line of stable vegetation (contact LPO for assistance)
- Draw and label erosion setback line (contact LPO for assistance)
- Draw and label topographical features (optional)

If you will be working in a coastal shoreline area:

- Show the roof overhang as a dotted line around the structure
- Draw and label landward limit of AEC
- Draw and label all wetland lines (contact LPO for assistance)
- Draw and label the 30-foot buffer line

DEVELOPMENT PLANS

- Draw and label all proposed structures
- Draw and label areas that will be disturbed and/or landscaped
- Note size of piling and depth to be placed in ground
- Draw and label all areas to be paved or graveled
- Show all areas to be disturbed
- Show landscaping

NOTE TO APPLICANT

Have you:

- completed all blanks and/or indicated if not applicable?
- notified and listed adjacent property owners?
- included your site drawing?
- signed and dated the application?
- enclosed the \$100.00 fee?
- completed an AEC Hazard Notice, if necessary? (Must be signed by the property owner)

FOR STAFF USE

Site Notice Posted Final Inspection Fee Received *#100 CK# 8559*
 Site Inspections _____

 Date of Action: Issued Exempted Denied Appeal Deadline (20 days from permit action) _____



APPLICATION FOR CAMA MINOR DEVELOPMENT PERMIT

In 1974, the North Carolina General Assembly passed the Coastal Area Management Act (CAMA) and set the stage for guiding development in fragile and productive areas that border the state's sounds and oceanfront. Along with requiring special care by those who build and develop, the General Assembly directed the Coastal Resources Commission (CRC) to implement clear regulations that minimize the burden on the applicant.

This application for a minor development permit under CAMA is part of the Commission's effort to meet the spirit and intent of the General Assembly. It has been designed to be straightforward and require no more time or effort than necessary from the applicant. Please go over this folder with the Local Permit Officer (LPO) for the locality in which you plan to build to be certain that you understand what information he or she needs before you apply.

Under CAMA regulations, the minor permit is to be issued within 25 days once a complete application is in hand. Often less time is needed if the project is simple. The process generally takes about 18 days. You can speed the approval process by making certain that your application is complete and signed, that your drawing meets the specifications given inside and that your application fee is attached.

Other permits are sometimes required for development in the coastal area. While these are not CAMA-related, we urge you to check with the Local Permit Officer to determine which of these you may need. A list is included on page two of this folder.

We appreciate your cooperation with the North Carolina Coastal Management Program and your willingness to build in a way that protects the resources of our beautiful and productive coast.

Coastal Resources Commission
Division of Coastal Management

APPLICATION: 1060CZKO LOCALITY: NAGS HEAD

PERMIT ISSUED USING
STATIC LINE EXCEPTION?
YES NO



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

August 27, 2014

CERTIFIED MAIL - #7012 0470 0002 0007 7641
RETURN RECEIPT REQUESTED

Mr. Matthew Toloczko
11147 Rich Meadow Drive
Great Falls, VA 22066

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
APPLICATION NUMBER - #082714A
PROJECT ADDRESS- 119 E. Sea Gull Drive, Nags Head

Dear Mr. Toloczko:

After reviewing your application in conjunction with the development standards required by the Coastal Area Management Act (CAMA) and the locally adopted Nags Head Land Use Plan and Ordinances, it is my determination that no permit may be granted for the project which you have proposed.

This decision is based on my findings that your request violates NCGS 113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines or Local Land Use Plans. You have applied to construct a driveway and parking area of oyster shell seaward of the static line and the vegetation line, which is inconsistent with 15 NCAC 7H.0309, which states in part that: (a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of the Subchapter if all other provisions of this Subchapter and other state and local regulations are met:...(2) driveways and parking areas with clay, packed sand or gravel. In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback requirements of this Subchapter.

1367 US 17 South, Elizabeth City, NC 27909
Phone: 252-264-3901 \ FAX: 252-264-3723 ; Internet: <http://portal.ncdenr.org/web/cm/dcm-home>

An Equal Opportunity \ Affirmative Action Employer

Exhibit 3

Mr. Matthew Toloczko
August 27, 2014
Page 2

Should you wish to appeal my decision to the Coastal Resources Commission, please contact me so I can provide you with the proper forms and any other information you may require. The Division of Coastal Management (DCM) Morehead City Headquarters Office must receive appeal notices within twenty (20) days of the date of this letter in order to be considered. Should you wish to request a Variance from the Commission, you must complete the enclosed DCM Form 11, CAMA Variance Request, and submit your request to the DCM office in Morehead City.

Respectfully yours,

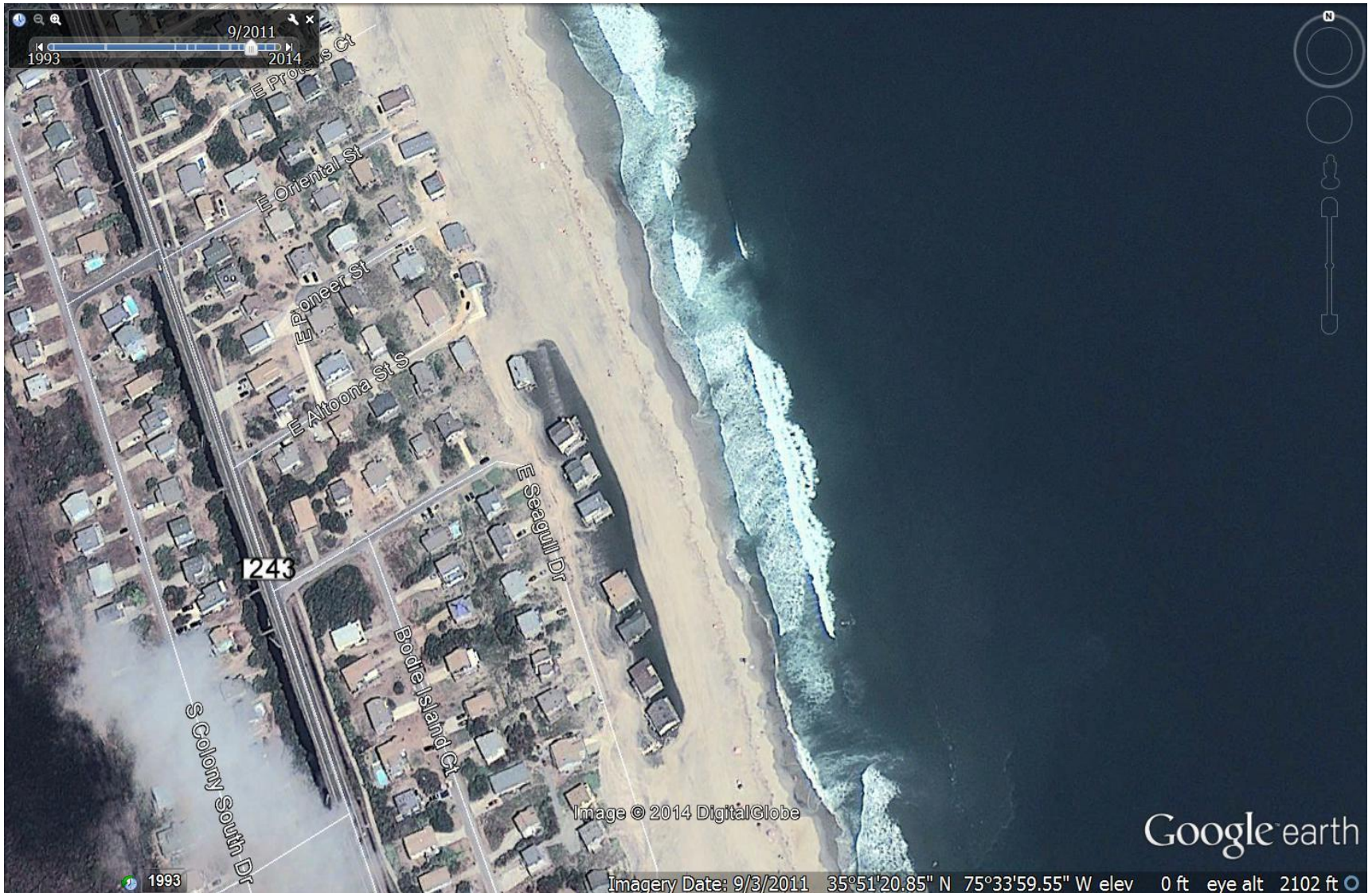


Frank Jennings, District Manager
Northeastern District Office
NC Division of Coastal Management

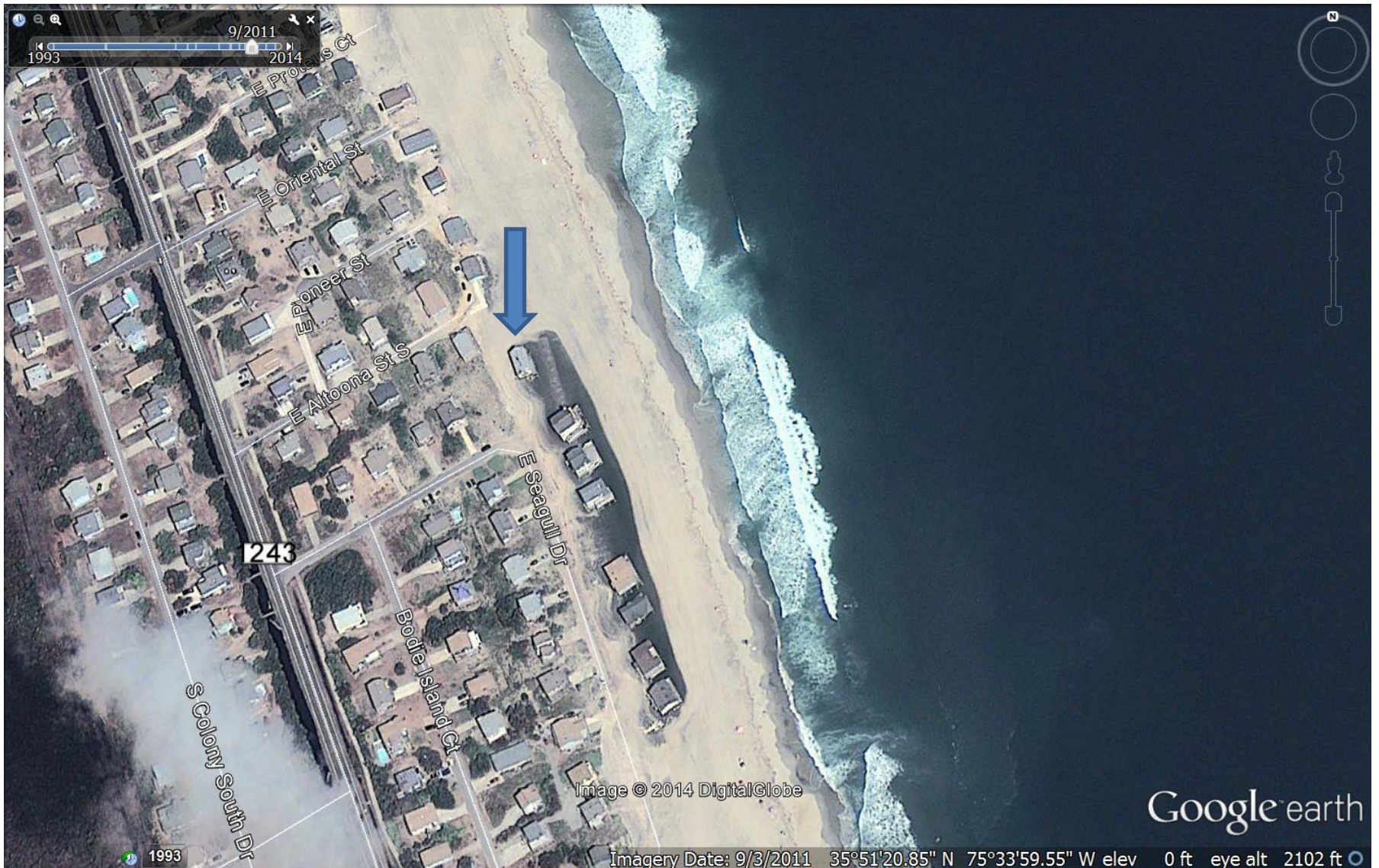
FJ/yc

Enclosure: DCM Form 11

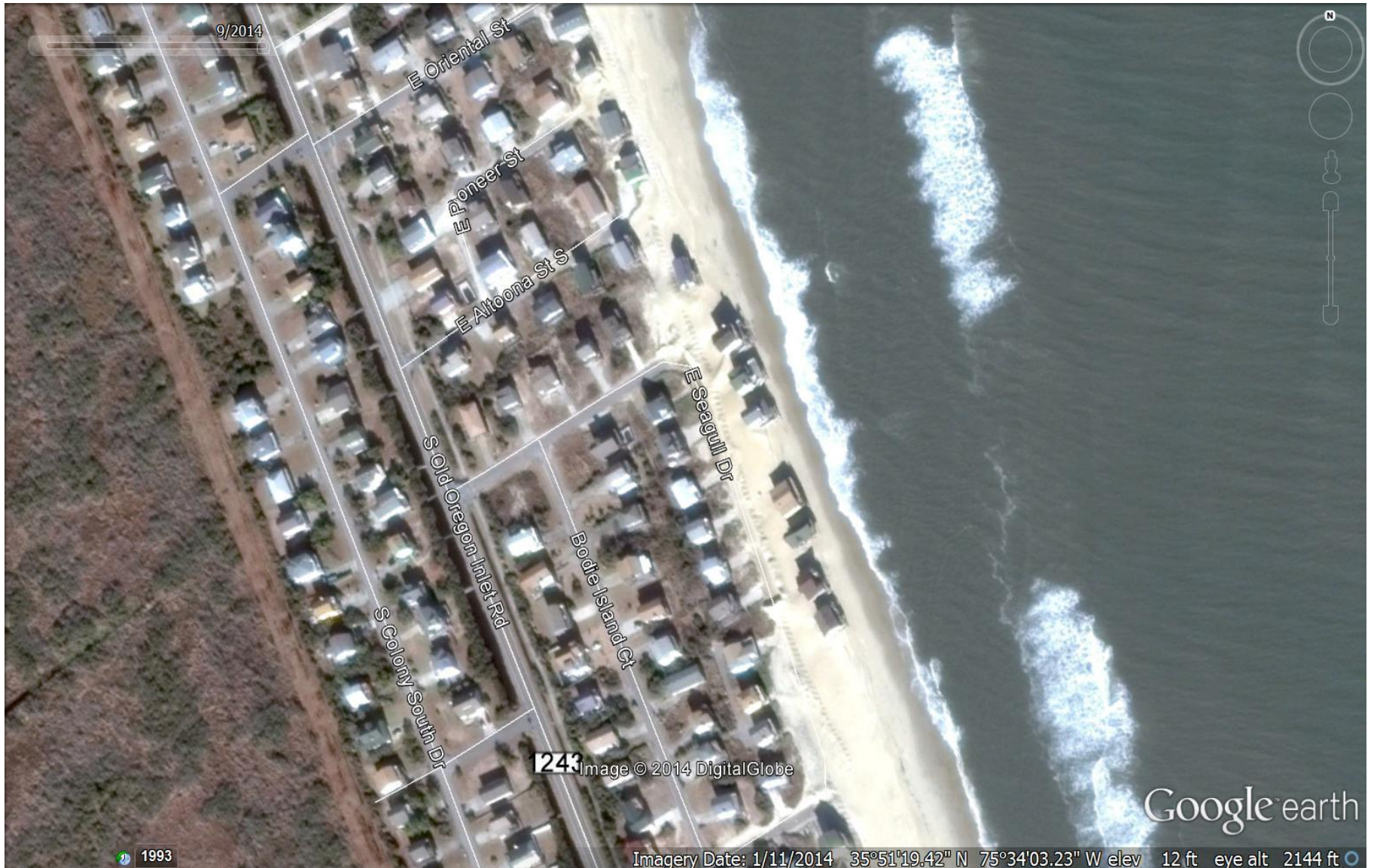
cc: Braxton C. Davis, Director, DCM, Morehead City
~~Jill Weese, Assistant Attorney General, Dept. of Justice, Raleigh~~
Cliff Ogburn, Manager, Town of Nags Head
Patricia Broom, President, Phoenix Restoration, Kill Devil Hills



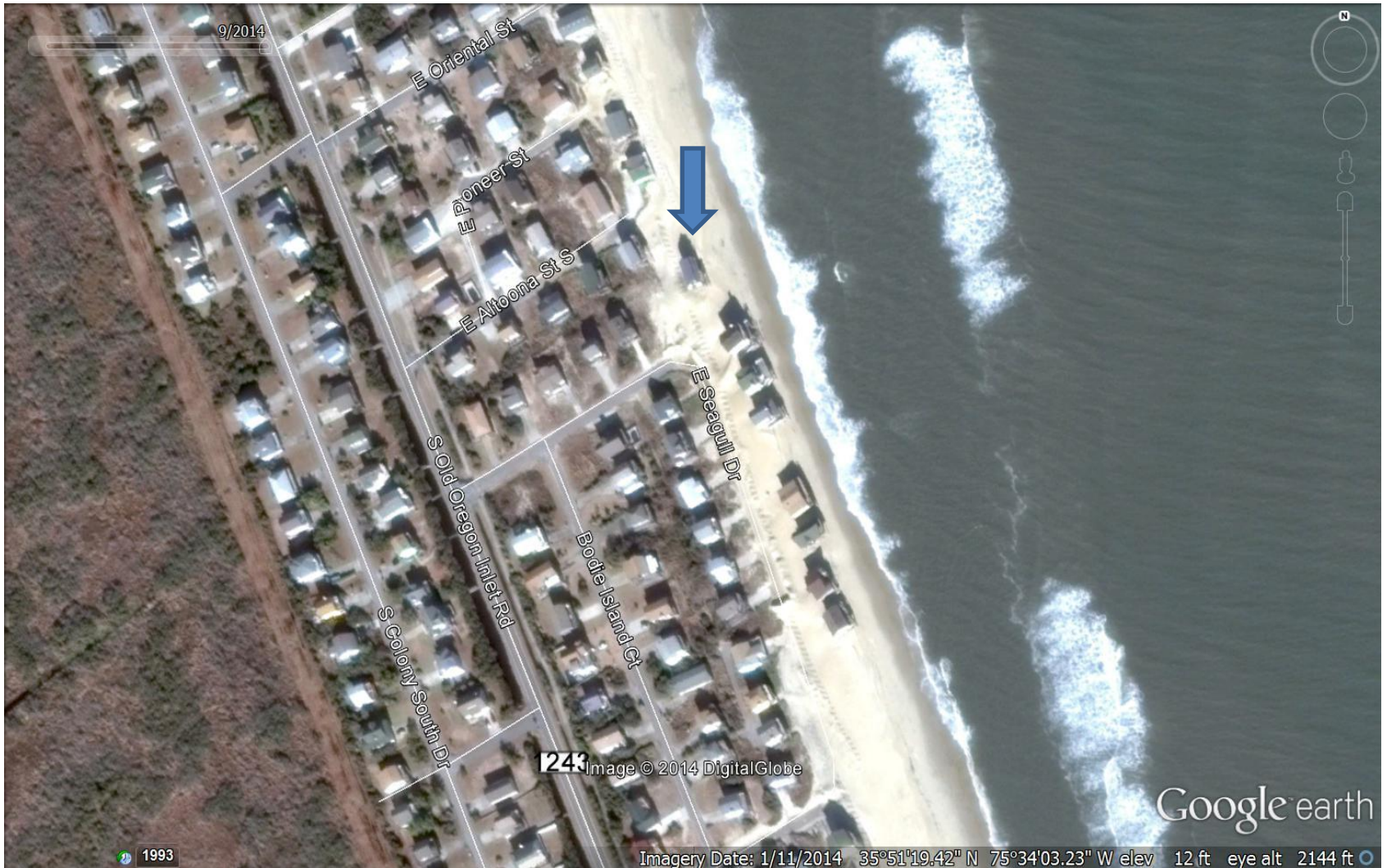
- Image taken 9/3/2011 source Google Earth



- Image taken 9/3/2011 source Google Earth

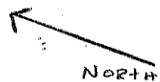


- Image taken 1/11/2014 source Google Earth



- Image taken 1/11/2014 source Google Earth

ATLANTIC OCEAN



MATTHEW TOLOCZKO
119 East Sengull Drive
Nags Head, N.C.
CAMA Minor Permit
Application
8/11/14 FI 1"=30'

STATE OF NORTH CAROLINA
BEACH NOURISHMENT AREA

LOT 8
PILING/ROPE FENCE

MHW 5/19-27/11

EXISTING
3 BEDROOM
WOOD FRAME
DWELLING ON
PILINGS

(E) CONCRETE TO BE
RETAINED OR REMOVED
AND REPLACED W/GRAVEL

ROPE AND PILING OR WIELD
PROTECTION FENCE INSTALLED
AS SHOWN

F.I.R.M. ZONE VE (11')
F.I.R.M. ZONE AE (10')

11/8/10

LOT 8

OYSTER SHELL
IN LIEU OF CONC.
PROPOSED

FLSNV 8/11/14 FAJ

S 15°02'00" N 90.76'
DRIVEWAY
N 52°00'00" E 72.06'
SEAGULL DRIVE
(80' W)

19-19
LOT LINE
PROPOSED
6" oyster shell
MATERIAL APPLIED
TO SURFACE TO
CREATE DRIVEWAY
AND PARKING AREA

ATTACHMENT E:
PETITIONER'S VARIANCE REQUEST MATERIALS

Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

CAMA VARIANCE REQUEST FORM

DCM FORM 11
DCM FILE No.: _____

PETITIONER'S NAME **MATTHEW TOLOCZKO**

COUNTY WHERE THE DEVELOPMENT IS PROPOSED **DARE**

Pursuant to N.C.G.S. § 113A-120.1 and 15A N.C.A.C. 07J .0700 *et seq.*, the above named Petitioner hereby applies to the Coastal Resources Commission (CRC) for a variance.

VARIANCE HEARING PROCEDURES

A variance petition will be considered by the CRC at a regularly scheduled meeting, heard in chronological order based upon the date of receipt of a complete petition. 15A N.C.A.C. 07J .0701(e). A complete variance petition, as described below, must be *received* by the Division of Coastal Management (DCM) a minimum of six (6) weeks in advance of the first day of a regularly scheduled CRC meeting to be eligible for consideration by the CRC at that meeting. 15A N.C.A.C. 07J .0701(e). The final set of stipulated facts must be agreed to at least four (4) weeks prior to the first day of a regularly scheduled meeting. 15A N.C.A.C. 07J .0701(e). The dates of CRC meetings can be found at DCM's website: www.nccoastalmanagement.net

If there are controverted facts that are significant in determining the propriety of a variance, or if the Commission determines that more facts are necessary, the facts will be determined in an administrative hearing. 15A N.C.A.C. 07J .0701(b).

VARIANCE CRITERIA

The petitioner has the burden of convincing the CRC that it meets the following criteria:

- (a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.
- (b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.
- (c) Do the hardships result from actions taken by the petitioner? Explain.
- (d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

Please make your written arguments that Petitioner meets these criteria on a separate piece of paper. The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as a variance hearing before the Commission. These opinions note that the practice of professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written or oral argument, may be considered the practice of law. Before you proceed with this variance request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.

For this variance request to be complete, the petitioner must provide the information listed below. The undersigned petitioner verifies that this variance request is complete and includes:

- A** The name and location of the development as identified on the permit application;
- B** A copy of the permit decision for the development in question;
- C** A copy of the deed to the property on which the proposed development would be located;
- D** A complete description of the proposed development including a site plan;
- E** A stipulation that the proposed development is inconsistent with the rule at issue;
- N/A** Proof that notice was sent to adjacent owners and objectors*, as required by 15A N.C.A.C. 07J .0701(c)(7);
- N/A** Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- G** Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- H** A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.

_____ This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

**Please contact DCM or the local permit officer for a full list of comments received on your permit application. Please note, for CAMA Major Permits, the complete permit file is kept in the DCM Morehead City Office.*

Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

Due to the above information and pursuant to statute, the undersigned hereby requests a variance.



September 10, 2014

Signature of Petitioner or Attorney

Date

Charlotte Mitchell
Law Office of Charlotte Mitchell

cmitchell@lawofficecm.com

Printed Name of Petitioner or Attorney

Email address of Petitioner or Attorney

PO Box 26212

919-260-9901

Mailing Address

Telephone Number of Petitioner or Attorney

Raleigh, NC 27611

N/A

City

State

Zip

Fax Number of Petitioner or Attorney

DELIVERY OF THIS HEARING REQUEST

This variance petition must be **received** by the Division of Coastal Management at least six (6) weeks before the first day of the regularly scheduled Commission meeting at which it is heard. A copy of this request must also be sent to the Attorney General's Office, Environmental Division. 15A N.C.A.C. 07J .0701(e).

Contact Information for DCM:

Contact Information for Attorney General's Office:

By mail, express mail or hand delivery:

Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

By mail:

Environmental Division
9001 Mail Service Center
Raleigh, NC 27699-9001

By Fax:

(252) 247-3330

By express mail:

Environmental Division
114 W. Edenton Street
Raleigh, NC 27603

Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

By Email:

Check DCM website for the email
address of the current DCM Director
www.nccoastalmanagement.net

By Fax:

(919) 716-6767

Revised: July 2014

Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

A. Name and Location of Development

**Matthew Toloczko
119 E. Seagull Drive
Nags Head, NC**

Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

B. Copy of Permit Decision



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

August 27, 2014

CERTIFIED MAIL - #7012 0470 0002 0007 7641
RETURN RECEIPT REQUESTED

Mr. Matthew Toloczko
11147 Rich Meadow Drive
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1367 US 17 South, Elizabeth City, NC 27909
Phone: 252-264-3901 \ FAX: 252-264-3723 ; Internet: <http://portal.ncdenr.org/web/cm/dcm-home>

An Equal Opportunity \ Affirmative Action Employer

Mr. Matthew Toloczko
August 27, 2014
Page 2

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Respectfully yours,



Frank Jennings, District Manager
Northeastern District Office
NC Division of Coastal Management

FJ/yc

Enclosure: DCM Form 11

cc: Braxton C. Davis, Director, DCM, Morehead City
Jill Weese, Assistant Attorney General, Dept. of Justice, Raleigh
Cliff Ogburn, Manager, Town of Nags Head
Patricia Broom, President, Phoenix Restoration, Kill Devil Hills

Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

C. Copy of Deed

Deed Date: 11/06/1995
Bk/Pg: 1016/0809

26

016 PG 0-809

EXEMPT
DARE COUNTY TAX
COLLECTOR
NO. 5359

FILED
NOV 16 PM 3 16
RECORDS
DARE COUNTY, N.C.

Excise Tax .00

Recording Time, Book and Page

Tax Lot No. Parcel Identifier No. 007443
Verified by County on the day of 19
by

Mail after recording to McCown & McCown, Manteo, NC 27954

This instrument was prepared by Wallace H. McCown

Brief description for the Index Lot 7, Goose Wing

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 3rd day of November, 1995, by and between

GRANTOR
LYNN M. BAER, N/K/A LYNN B. TOLOCZKO

GRANTEE
LYNN B. TOLOCZKO and husband,
MATTHEW TOLOCZKO, as tenants by
the entirety
2931 Maple Drive
Fairfax, VA 22031

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Nags Head, Nags Head Township,

Dare County, North Carolina and more particularly described as follows:

Situate in Nags Head Township, Dare County, North Carolina, and being Lot No. 7 of the subdivision known as Goose Wing, as shown on a map or plat thereof made by Rose & Purcell, Inc., Engineers, dated January 1977, and recorded in Map Book 9, Page 57, Public Registry of Dare County, North Carolina.

1016/809

EX 016 PG 0810

The property hereinabove described was acquired by Grantor by instrument recorded in
Book 836, page 618, Public Registry of Dare County, North Carolina

A map showing the above described property is recorded in Plat Book 9 page 57.....

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

Easements and restrictions of record.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

.....
(Corporate Name)
By:
..... President
ATTEST:
.....
..... Secretary (Corporate Seal)

USE BLACK INK ONLY

Lynn M. Baer (SEAL)
Lynn M. Baer
Lynn B. Toloczko (SEAL)
Lynn B. Toloczko
..... (SEAL)
..... (SEAL)

SEAL-STAMP VIRGINIA ~~FAIRFAX~~ FAIRFAX County.

I, a Notary Public of the County and State aforesaid, certify that
Lynn M. Baer, N/K/A Lynn B. Toloczko
personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my
hand and official stamp or seal, this 4th day of November 1985
My commission expires: 6/30/96 Julius K. Schelhammer, Notary Public

SEAL-STAMP NORTH CAROLINA, County.

I, a Notary Public of the County and State aforesaid, certify that
personally came before me this day and acknowledged that he is
a North Carolina corporation, and that by authority duly
given and as the act of the corporation, the foregoing instrument was signed in its name by its
President, sealed with its corporate seal and attested by as its Secretary.
Witness my hand and official stamp or seal, this day of 19.....
My commission expires: Notary Public

The foregoing Certificate(s) of Julius K. Schelhammer, a Notary Public of the Commonwealth of Virginia.

is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Dorris A. Fry REGISTER OF DEEDS FOR DARE COUNTY
By Vanzella M. Petersen DEPUTY Assistant - Register of Deeds

Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

D. Proposed Development and Site Plan

OCEAN HAZARD AEC NOTICE

Project is in an: Ocean Erodible Area High Hazard Flood Area Inlet Hazard Area

Property Owner: Matthew Toloczko

Property Address: 119 EAST Seagull Drive, Nags Head, N.C.

Date Lot Was Platted: N/A

This notice is intended to make you, the applicant, aware of the special risks and conditions associated with development in this area, which is subject to natural hazards such as storms, erosion and currents. The rules of the Coastal Resources Commission require that you receive an AEC Hazard Notice and acknowledge that notice in writing before a permit for development can be issued.

The Commission's rules on building standards, oceanfront setbacks and dune alterations are designed to minimize, but not eliminate, property loss from hazards. By granting permits, the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development. Permits issued in the Ocean Hazard Area of Environmental Concern include the condition that structures be relocated or dismantled if they become imminently threatened by changes in shoreline configuration. The structure(s) must be relocated or dismantled within two (2) years of becoming imminently threatened, and in any case upon its collapse or subsidence.

The best available information, as accepted by the Coastal Resources Commission, indicates that the annual long-term average ocean erosion rate for the area where your property is located is 5 feet per year.

The rate was established by careful analysis of aerial photographs of the coastline taken over the past 50 years.

Studies also indicate that the shoreline could move as much as 25 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 12 feet deep in this area.

Preferred oceanfront protection measures are beach nourishment and relocation of threatened structures. Hard erosion control structures such as bulkheads, seawalls, revetments, groins, jetties and breakwaters are prohibited. Temporary sand bags may be authorized under certain conditions.

The applicant must acknowledge this information and requirements by signing this notice in the space below. Without the proper signature, the application will not be complete.

SPECIAL NOTE: This hazard notice is required for development in areas subject to sudden and massive storms and erosion. Permits issued for development in this area expire on December 31 of the third year following the year in which the permit was issued. Shortly before work begins on the project site, the Local Permit Officer must be contacted to determine the vegetation line and setback distance at your site. If the property has seen little change since the time of permit issuance, and the proposed development can still meet the setback requirement, the LPO will inform you that you may begin work. Substantial progress on the project must be made within 60 days of this setback determination, or the setback must be remeasured. Also, the occurrence of a major shoreline change as the result of a storm within the 60-day period will necessitate remeasurement of the setback. It is important that you check with the LPO before the permit expires for official approval to continue the work after the permit has expired. Generally, if foundation pilings have been placed and substantial progress is continuing, permit renewal can be authorized. It is unlawful to continue work after permit expiration.

For more information, contact:

FRANK JENNINGS

~~Local~~ Permit Officer

1367 US 17 South.

Address Elizabeth City, 27909
N.C.

~~Local~~

252-264-3901 ext

Phone Number

235

Property Owner Signature

Date

BEFORE YOU BUILD

Setting Back for Safety: A Guide to Wise Development Along the Oceanfront

When you build along the oceanfront, you take a calculated risk. Natural forces of water and wind collide with tons of force, even on calm days.

Man-made structures cannot be guaranteed to survive the force of a hurricane. Long-term erosion (or barrier island migration) may take from two to ten feet of the beach each year, and, sooner or later, will threaten oceanfront structures. These are the facts of life for oceanfront property owners.

The Coastal Resources Commission (CRC) has adopted rules for building along the oceanfront. The rules are intended to avoid an unreasonable risk to life and property, and to limit public and private losses from storm and long-term erosion. These rules lessen but do not eliminate the element of risk in oceanfront development.

As you consider building along the oceanfront, the CRC wants you to understand the rules and the risks. With this knowledge, you can make a more informed decision about where and how to build in the coastal area.

The Rules

When you build along the oceanfront, coastal management rules require that the structure be sited to fit safely into the beach environment.

Structures along the oceanfront, less than 5,000 square feet in size, must be behind the frontal dune, landward of the crest of the primary dune, and set back from the first line of stable natural vegetation a distance equal to 30 times the annual erosion rate (a minimum of 60 feet). The setback calculation increases as the size of the structure increases [15A NCAC 7H.0306(a)(2)]. For example: A structure between 5,000 and 10,000 square feet would require a setback from the first line of stable, natural vegetation to a distance equal to 60 times the annual erosion rate (a minimum of 120 feet). The graduated setback continues to increase through structure sizes greater than 100,000 square feet.

The Reasons

The beachfront is an ever-changing landform. The beach and the dunes are natural "shock absorbers," taking the beating of the wind and waves and protecting the inland areas. By incorporating building setbacks into the regulations, you have a good chance of enjoying the full life of the structure. At first, it seems very inviting to build your dream house as close to the beach as possible, but in five years you could find the dream has become a nightmare as high tides and storm tides threaten your investment.

The Exception

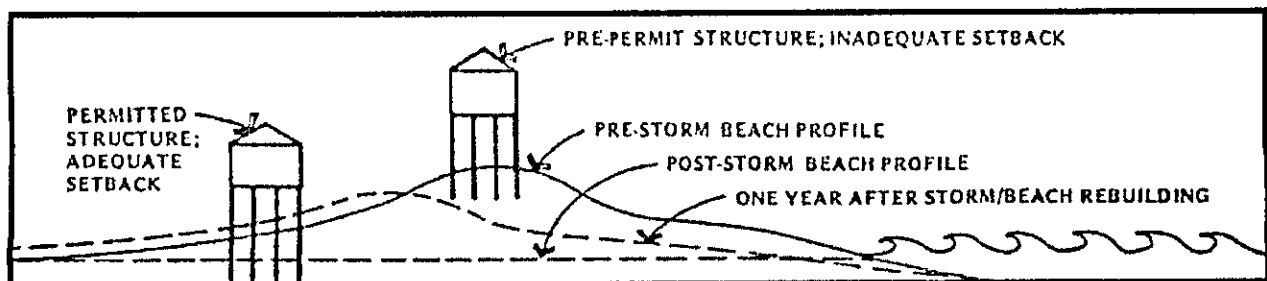
The Coastal Resources Commission recognized that these rules, initially passed in June 1979, might prove a hardship for some property owners. Therefore, they established an exception for lots that cannot meet the setback requirement. The exception allows buildings in front of the current setback, if the following conditions apply:

- 1) the lot must have been platted as of June 1, 1979, and is not capable of being enlarged by combining with adjoining land under the same ownership;
- 2) development must be constructed as far back on the property as possible and in no case less than 60 feet landward of the vegetation line;
- 3) no development can take place on the frontal dune;
- 4) special construction standards on piling depth and square footage must be met; and
- 5) all other CAMA, state and local regulations must be met.

The exception is not available in the Inlet Hazard Area.

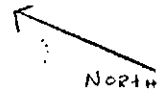
To determine eligibility for the exception the Local Permit Officer will make these measurements and observations:

- ___ required setback from vegetation line
- ___ exception setback (maximum feasible)
- ___ rear property line setback
- ___ max. allowable square footage on lowest floor



After the storm, the house on the dune will be gone. The other house has a much better chance of survival.

ATLANTIC OCEAN



MATTHEW TOLOCZKO
119 East Seagull Drive
Nags Head, N.C.
CAMA ALIEN PERMIT
Application
8/11/14 FT 1"=30'

STATE OF NORTH CAROLINA
BEACH NEIGHBORHOOD AREA

LOT 8
PILING / ROPE
FENCE

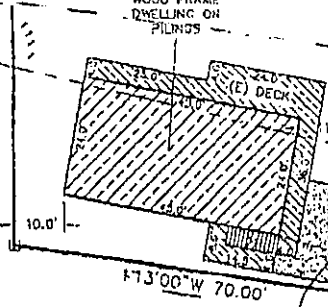
MHW 5/19-27/11

EXISTING
3 BEDROOM
WOOD FRAME
DWELLING ON
PILINGS

(E) CONCRETE TO BE
RETAINED OR REMOVED
AND REPLACED W/ GRAVEL

(D) ROPE AND PILING DRIFTFIELD
PROTECTION FENCE INSTALLED
AS SHOWN

F.I.R.M. ZONE VE (11')
F.I.R.M. ZONE AE (10')



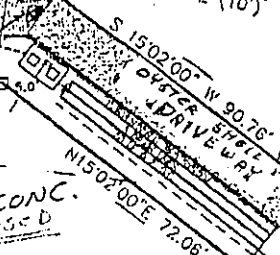
11/8/18

STATIC VEGETATION LINE

LOT 8

OYSTER SHELL
IN LIEU OF CONC.
PROPOSED

FLSNV 8/11/14 FT

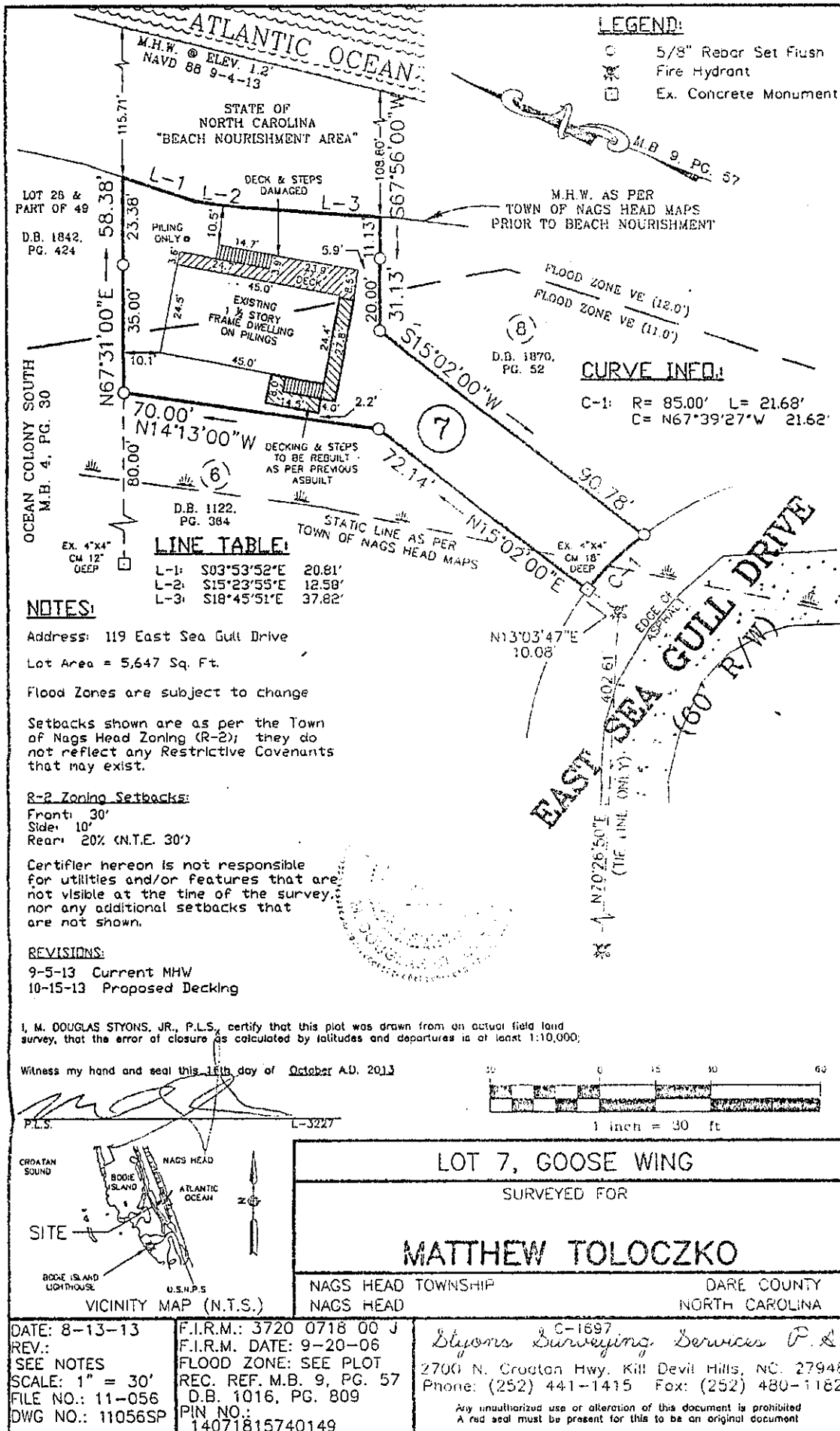


SEAGULL DRIVE
(60' R/W)

A-A

LOT LINE

PROPOSED
6" oyster shell
MATERIAL APPLIED
TO SURFACE TO
CREATE DRIVEWAY
AND PARKING AREA



Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

E. Stipulation

The proposed driveway and parking area to be constructed of oyster shell is inconsistent with 15 A NCAC 7H.0309, which allows the development of driveways and parking areas constructed of clay, packed sand or gravel seaward of the oceanfront setback requirements of Rule 7H.0306(a), only if landward of the vegetation line or static vegetation line, whichever is applicable.

Toloczko Variance Application
119 E. Sea Gull
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F. Notice

Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

G. Variance Criteria

(a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.

The applicable regulation disallows the construction of any driveway or parking area, seaward of the oceanfront setback requirements of Rule 7H.0306(a), only if it is located landward of the vegetation line or static vegetation line. The Applicant's property located at 119 E. Sea Gull (the "House") is located seaward of the static vegetation line. Because the rule requires that driveways and parking areas be located landward of the static vegetation line, strict application of the rule would prevent the development of the driveway, thereby depriving the Applicant of access to the House.

(b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.

Yes. The hardship results from the location of the House, which is seaward of the static vegetation line as a result of years of erosion.

(c) Do the hardships result from actions taken by the petitioner? Explain.

No. Due to years of erosion, the House is now located seaward of the static vegetation line.

(d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

The Applicant proposes to construct the driveway and parking to access the House. Because the House is located seaward of the static vegetation line due to years of erosion, the driveway and parking area must be located seaward of the static vegetation line. Without the driveway, access to the House is limited to four wheel drive ("4WD") vehicle. Vehicles that are non 4WD cannot access the house, such as emergency response vehicle, fire vehicles, police vehicles, municipal and state inspection vehicles, etc. In addition, without the driveway, pedestrian access to the House is limited.

The Applicant proposes to construct the driveway with oyster shells. Because oyster shells are pervious material that is commonly found on the beach, the material is not likely to cause or contribute to environmental degradation

Allowing the Applicant to construct the driveway and parking area in the proposed located: 1) is consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission as it will be constructed of material that will not cause or contribute to degradation of the beach; 2) secures the public safety and welfare by providing access to the Property, including

Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

access for emergency response vehicles, fire and police vehicles, and town and state inspection vehicles; and 3) preserves substantial justice by providing access—both non 4WD vehicular and accessible pedestrian access—to the Property, which is located seaward of the static vegetation line.

Toloczko Variance Application
119 E. Sea Gull
Nags Head, NC

Proposed Statement of Facts

1. Matthew Toloczko (“Applicant”) is the owner of real property located at 119 E. Sea Gull Street, Nags Head, North Carolina (the “Property”).
2. The Property is developed with a single family residence.
3. On August 11, 2014, Applicant applied for a Coastal Area Management Act (“CAMA”) Minor Permit to construct a driveway and parking area on the Property, seaward of the oceanfront setback requirements of Rule 7H.0306(a).
4. 15 A NCAC 7H.0309 allows the development of driveways and parking areas constructed of clay, packed sand or gravel seaward of the oceanfront setback requirements of Rule 7H.0306(a), so long as landward of the static vegetation line or vegetation line, whichever is applicable.
5. The house on the Property is located seaward of the static vegetation line.
6. Applicant requests permission to develop a driveway and parking area constructed of oyster shells, seaward of the static vegetation line (the “Driveway and Parking Area”).
7. The Driveway and Parking Area do not constitute an unreasonable danger to life and property and achieve a balance between the financial, safety, and social factors that are involved in hazard area development.

CRC-VR-14-13

ATTACHMENT F:
PUBLIC COMMENTS ON VARIANCE

Walker, Michele

From: Weese, Elizabeth
Sent: Monday, September 29, 2014 3:02 PM
To: Weese, Elizabeth
Subject: FW: variance request

From: Michael Siers [<mailto:michael.siers@resortrealty.com>]
Sent: Thursday, September 11, 2014 2:36 PM
To: Jennings, Frank
Subject: variance request

Frank,

I feel if this variance is allowed then we are opening up this issue for more request. In some cases for those who see it will just do it without permission. Like you said, this is not an issue just in this area. I don't think it will be an issue that we will soon see the end of based on the court ruling.

Please take this as my objection

Thank you for your time.

Thanks,

[Michael Siers](#)

[Resort Realty](#)

Outer Banks NC

252-489-3861 Cell: Call or Text

252-255-3512 Direct Office

888-438-8632 Fax

Toll Free

800-268-0152 ext 2012

Michael.Siers@resortrealty.com

OBX4u.com

"A referral is sending someone you care about to someone you trust. Thank you for all of your referrals and for trusting me with your families, friends, and colleagues."

Walker, Michele

From: Willis, Angela <angela.willis@ncdenr.gov>
Sent: Friday, September 19, 2014 11:14 AM
To: Weese, Elizabeth
Subject: FW: South Nags Head condemned homes - Sea Gull Lane

[Tolozcko variance request comments.](#)

From: Davis, Braxton C
Sent: Friday, September 19, 2014 11:11 AM
To: Cox, Mike (DGIF)
Subject: RE: South Nags Head condemned homes - Sea Gull Lane

Mr. Cox, thank you for your email, your comments will be included in the official record for consideration by the Coastal Resources Commission.

Braxton Davis
Director, NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557
(252) 808-2808 ext. 202

Please visit www.nccoastalmanagement.net to subscribe to Coastal Management's quarterly newsletter, the CAMAgram.

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

From: Cox, Mike (DGIF) [<mailto:Mike.Cox@dgif.virginia.gov>]
Sent: Friday, September 19, 2014 10:02 AM
To: Davis, Braxton C
Subject: South Nags Head condemned homes - Sea Gull Lane

Mr. Davis,

My wife, Barbara, & I own a home at 107 E. Oriental Street in South Nags Head.

My home is a few blocks North of a property on Sea Gull Drive which has requested a variance to install an oyster shell driveway.

My family is unequivocally opposed to the installation of any kind of driveway at this location other than the natural sand which is already there.

This property is located east of the dune line on the beach and the waves crash under and around this home daily. Oyster shells or any material other than sand would be washed out immediately and would be spread all over the beach to make for an unsightly beach, unpleasant walking, cut feet, etc.

We respectfully request that you not grant this variance for this homeowner or any others east of the natural dune based on the conditions and concerns described above.

Also, regarding all the condemned homes south of our house along Sea Gull Drive that have been in litigation for TOO many years, if you force one homeowner to take down his/her home that was ocean front and condemned (Ex. Mr.

Moore's house at the end of our street about 4 years ago AND these Sea Gull Drive homes were also condemned then but still stand), then this should be applied to these homes that are a disgrace to Nags Head and the state of North Carolina to allow them to stand in the shape and condition they presently are. I ask you to visit this area and see for yourself what problems lie awaiting the next BIG storm to come and then, are you prepared for the debris and the complaints from us the homeowners when this happens?

I bought this home as an investment and future retirement home. It is now time for someone to act on these homes and stop allowing variances and second chances. These homes have got to go before someone gets hurt which could be a tourist, a child or a local homeowner! There are already laws set for these homes and now is the time to enforce them. Our neighborhood is tired of seeing those condemned signs on these homes and realize that someone must have BIG money and political POWER to keep this litigation on-going to the point it is an embarrassment to all!

Time to act is now.

Thanks for your consideration and attention to this matter.

Name Michael and Barbara Cox
Address 9415 Alameda Ave, Henrico, VA 23294
Phone 804-270-1165

Owners and future resident of: 107 E. Oriental Street, S. Nags Head, NC 27959

Walker, Michele

From: Willis, Angela <angela.willis@ncdenr.gov>
Sent: Tuesday, September 23, 2014 9:45 AM
To: Weese, Elizabeth
Subject: FW: Beach Erosion at MP 20.5

Comments on Tolozcko variance request.
Angela

From: Davis, Braxton C
Sent: Monday, September 22, 2014 12:09 PM
To: Willis, Angela
Subject: FW: Beach Erosion at MP 20.5

Braxton Davis
Director, NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557
(252) 808-2808 ext. 202

Please visit www.nccoastalmanagement.net to subscribe to Coastal Management's quarterly newsletter, the CAMAgram.

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

From: home [<mailto:johnbleattler@comcast.net>]
Sent: Monday, September 22, 2014 10:48 AM
To: Davis, Braxton C
Subject: Re: Beach Erosion at MP 20.5

John and I are in total agreement with comments listed below and are opposed to oyster shells for driveways on the Ghetto homes. I still can't believe they will even have room for driveways once the septic systems are installed. We can only pray that once the septic washes out again, they will have better judgement to not allow this to happen again.

It will happen again, we know it and I believe you know it as well.

John and Edie Bleattler
10111 Old Oregon Inlet Road

Sent from my iPad

On Sep 19, 2014, at 8:39 AM, Chip Willis <cwillisatwork@yahoo.com> wrote:

From: "Davis, Braxton C" <Braxton.Davis@NCDENR.Gov>
To: Chip Willis <cwillisatwork@yahoo.com>; Kathryn Willis <wordlywork@yahoo.com>

Sent: Thursday, September 18, 2014 5:27 PM
Subject: RE: Oyster Shell Drive

Mr. Willis,
Thank you for your email, we will include your comments in the official record for consideration by the Coastal Resources Commission.

Braxton Davis
Director, NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557
(252) 808-2808 ext. 202

Please visit www.nccoastalmanagement.net to subscribe to Coastal Management's quarterly newsletter, the CAMAgram.

Chip Willis
Design Estimator
Design Craft Homes, Inc.
PH: 540/972-3122
FX: 540/972-3887
www.designcrafthomes.com

From: Jim Griesi <jvgriesi@gmail.com>
To: 'Debbie Hickey' <deb85hickey@gmail.com>; 'cahoonr' <cahoonr@embarqmail.com>
Cc: 'Fred Schaan' <fredschaan@msn.com>; 'Mike & Ellen Valorose' <valorose@comcast.net>; 'Stuart & Marcia Byerley' <marciabyerley@yahoo.com>; 'Ross & Meg Clem' <megssheep@aol.com>; 'Dennis & Lori May' <maydenn@peoplepc.com>; 'Tony & Barbara Maskello' <amaskello@comcast.net>; 'Diane & Leo Milanowski' <milanowski@msn.com>; 'Cliff Ogburn' <cliff.ogburn@nagsheadnc.gov>; 'Debby Nein' <neinwd@cox.net>; 'Stacy LaLuna' <stacy@documentdestructionva.com>; 'Doug & Arva Hendrix' <dhendrix@cox.net>; 'Dean & Connie Everett' <deaneverett@verizon.net>; 'Chipper Artz' <chipartz@cox.net>; 'Marie & Ernie Bridgers' <mpb49@suddenlink.net>; 'Miles & Ann Alban' <albananne@hotmail.com>; 'Nags Head' <AllMayorComm@townofnagshead.net>; 'Roberta Thuman' <roberta.thuman@nagsheadnc.gov>; gordon.myers@ncwildlife.org; louis.daniel@ncdenr.gov; john.skvarla@ncdenr.gov; "'Braxton.Davis@ncdenr.gov'" <braxton.davis@ncdenr.gov>; 'Edie & John Bleattler' <johnbleattler@comcast.net>; frankgorhamcrc@gmail.com; lbaldwincrc@gmail.com; cahooncrc@gmail.com; dorseycrc@bhic.org; ldallen1212@gmail.com; bob.emory@weyerhaeuser.com; marc.hairston.crc@gmail.com; greglewiscrc@ec.rr.com; jsimmons.crc@mmc-nc.com; harrysimmons@earthlink.net; johnsnipes@comcast.net; lowynns@mchsi.com; 'Stacy LaLuna' <stacy0825@aol.com>; 'Dave & Cyndi Lemarie' <davcynlemarie@hotmail.com>; 'Dennis & Margie Banks' <dbanks8226@yahoo.com>; 'Diane Atkinson' <datkinson14@verizon.net>; 'Marie & Ernie Bridgers' <ebridgers@aol.com>; 'Kerry and Becky Magalis' <rmagalis@shentel.net>; 'Stuart & Marcia Byerley' <sbyerley@netzero.net>; 'Teresa Freyberger' <freyberger.tadm@cox.net>; "Griesi, Nanette J." <Nanette_Griesi@bshsi.org>; 'xgrocerbill .' <grocerwill@verizon.net>; mfdipa@wm.edu; annca@cox.net; "'Jennings, Frank'" <frank.jennings@ncdenr.gov>; 'Kevin Brinkley' <kevin.brinkley@nagsheadnc.gov>; 'Kevin Zorc' <kevin.zorc@nagsheadnc.gov>; 'Andy Garman' <andy.garman@nagsheadnc.gov>; 'David Morton' <david.morton@nagsheadnc.gov>; 'Steve Szymanski' <steve.szymanski@nagsheadnc.gov>; 'Barbara Stevens' <barbsteven@aol.com>; irenesarratt@gmail.com; 'keith sawyer' <aksawyer54@yahoo.com>; 'Keith Sawyer' <consideritdoneobx@gmail.com>; 'Jim Frain' <jpfrain@verizon.net>; 'joandlin' <joandlin@cox.net>; 'Carol Alley' <calley@mchsi.com>; 'Chip Willis' <cwillisatwork@yahoo.com>; 'donna edwards2' <she1391@verizon.net>; 'JohnKessinger' <JohnKessinger@verizon.net>; 'Kathryn Willis' <wordlywork@yahoo.com>; 'Keith J Gates' <kgates1212@msn.com>; 'Keith699' <keith@a1cycling.com>; 'Mike Cox' <Bonkerstc@aol.com>; 'Ron Mann' <ron.mann@stealthshredding.com>; traci.spencer@yahoo.com; 'Carolyn Brooker' <cqbrooker@gmail.com>; 'Goody Tyler' <goodytyler@cox.net>; 'Bee McLeod' <bee.mcleod@cox.net>; 'Lenore Kertes' <butchandnor@yahoo.com>

Sent: Thursday, September 18, 2014 3:52 PM
Subject: RE: Beach Erosion at MP 20.5

Hi All,

So I just successfully did as Debbie suggested. So, In summary you simply send an email to Braxton.Davis@ncdenr.gov

Braxton Davis
Director, NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557
(252) 808-2808 ext. 202

Here is the body of what was sent:

Mr. Davis,

I own a home at 10119 South Colony South Drive in South Nags Head.

My home is a few blocks West of a property on Sea Gull Drive which has requested a variance to install an oyster shell driveway.

My family and I, all 5 of us are unequivocally opposed to the installation of any kind of driveway at this location other than the natural sand which is already there.

This property is located east of the dune line on the beach and the waves crash under and around this home daily. Oyster shells or any material other than sand would be washed out immediately and would be spread all over the beach to make for an unsightly beach, unpleasant walking, cut feet, etc.

We respectfully request that you not grant this variance for this homeowner or any others east of the natural dune based on the conditions and concerns described above.

Thanks for your consideration and attention to this matter.

Name
Address
Phone

From: Debbie Hickey [<mailto:deb85hickey@gmail.com>]

Sent: Thursday, September 18, 2014 10:39 AM

To: cahoonr

Cc: Fred Schaan; Jim Griesi; Mike & Ellen Valorose; Stuart & Marcia Byerley; Ross & Meg Clem; Dennis & Lori May; Tony & Barbara Maskello; Diane & Leo Milanowski; Cliff Ogburn; Debby Nein; Stacy LaLuna; Doug & Arva Hendrix; Dean & Connie Everett; Chipper Artz; Marie & Ernie Bridgers; Miles & Ann Alban; Nags Head; Roberta Thuman; gordon.myers@ncwildlife.org; louis.daniel@ncdenr.gov; john.skvarla@ncdenr.gov; Braxton.Davis@ncdenr.gov; Edie & John Bleattler; frankgorhamcrc@gmail.com; lbaldwincrc@gmail.com; cahooncrc@gmail.com; dorseycrc@bhic.org; ldallen1212@gmail.com; bob.emory@weyerhaeuser.com; marc.hairston.crc@gmail.com; greglewiscrc@ec.rr.com; jsimmons.crc@mmc-nc.com; harrysimmonscrc@earthlink.net; johnsnipescrc@gmail.com; lowynns@mchsi.com; Stacy LaLuna; Dave & Cyndi Lemarie; Dennis &

Margie Banks; Diane Atkinson; Marie & Ernie Bridgers; Kerry and Becky Magalis; Stuart & Marcia Byerley; Teresa Freyberger; Griesi, Nanette J.; xgrocerbill .; mfdipa@wm.edu; annca@cox.net; Jennings, Frank; Kevin Brinkley; Kevin Zorc; Andy Garman; David Morton; Steve Szymanski; Barbara Stevens; irenesarratt@gmail.com; keith sawyer; Keith Sawyer; Jim Frain; joandlin; Carol Alley; Chip Willis; donna edwards2; JohnKessinger; Kathryn Willis; Keith J Gates; Keith699; Mike Cox; Ron Mann; traci.spencer@yahoo.com; Carolyn Brooker; Goody Tyler; Bee McLeod; Lenore Kertesz
Subject: Re: Beach Erosion at MP 20.5

Thanks Renee.

All, I resent my email to Mr Davis and got a reply right away that it will be added to the public record, so I encourage everyone to do so.

Thanks,
Debbie

On Wed, Sep 17, 2014 at 11:10 PM, cahoonr <cahoonr@embarqmail.com> wrote:
The mail should be directed to Braxton Davis
Director of North Carolina Coastal Management
400 Commerce Ave
Morehead City, NC 28855714

Renee Cahoon

A disclaimer : I am a member of the NC Coastal Resources Commission but will not hear this variance as a conflict of interest as Nags Head is in litigation with Mr. Tolascko

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: Fred Schaan

Date:09/17/2014 4:08 PM (GMT-05:00)

To: 'Jim Griesi'

Cc: 'Mike & Ellen Valorose' , 'Stuart & Marcia Byerley' , 'Ross & Meg Clem' , 'Dennis & Lori May' , 'Tony & Barbara Maskello' , 'Diane & Leo Milanowski' , 'Cliff Ogburn' , neinwd@cox.net, 'Debbie Hickey' , 'Stacy LaLuna' , 'Doug & Arva Hendrix' , 'Dean & Connie Everett' , 'Chipper Artz' , 'Marie & Ernie Bridgers' , 'Miles & Ann Alban' , 'Nags Head' , 'Roberta Thuman' , gordon.myers@ncwildlife.org, louis.daniel@ncdenr.gov, john.skvarla@ncdenr.gov, "'Braxton.Davis@ncdenr.gov'" , 'Edie & John Bleattler' , frankgorhamcrc@gmail.com, lbaldwincrc@gmail.com, cahooncrc@gmail.com, dorseycrc@bhc.org, ldallen1212@gmail.com, bob.emory@weyerhaeuser.com, marc.hairston.crc@gmail.com, greglewiscrc@ec.rr.com, jsimmons.crc@mmc-nc.com, harrysimmons.crc@earthlink.net, johnsnipescrc@gmail.com, lowynns@mchsi.com, 'Stacy LaLuna' , 'Dave & Cyndi Lemarie' , 'Dennis & Margie Banks' , 'Diane Atkinson' , 'Marie & Ernie Bridgers' , 'Kerry and Becky Magalis' , 'Stuart & Marcia Byerley' , 'Teresa Freyberger' , "'Griesi, Nanette J.'" , grocerwill@verizon.net, mfdipa@wm.edu, annca@cox.net, "'Jennings, Frank'" , 'Kevin Brinkley' , 'Kevin Zorc' , 'Andy Garman' , 'David Morton' , 'Steve Szymanski' , 'Barbara Stevens' , irenesarratt@gmail.com, 'keith sawyer' , 'Keith Sawyer' , 'Debbie Hickey' , 'Jim Frain' , 'joandlin' , 'Carol Alley' , 'Chip Willis' , 'donna edwards2' , 'JohnKessinger' , 'Kathryn Willis' , 'Keith J Gates' , 'Keith699' , 'Mike Cox' , 'Ron Mann' , "'Griesi, Nanette J.'" , traci.spencer@yahoo.com
Subject: RE: Beach Erosion at MP 20.5

Hello All

I basically said the same thing, I stated that they should not issue the permit for oyster shell driveway, unless they have done it for other ocean front homes. If they have

And they deny them it will only go to court and we all know how that turns out. I also stated if they issue them a permit for an oyster shell drive they can't very well deny Anyone else along our 10 miles of beachfront. I also questioned if my vote or anyone else's as far from the homes as I am has any legal status.

I spoke with a friend from the area and he said they have to notify everyone within a mile. In NJ where I live 60% of the time they only have to notify everyone Within 200 feet of the subject property.

I think it is going to be a disaster without a hard surface drive that can only be used by a four wheel vehicle. I have a four wheel vehicle and know you can get stuck In dry soft sand even with 4 wheel drive. Being rental housed people are going to come with regular cars or even all-wheel drive and think they can park. We all Know that street is not wide enough for parking.

However I do feel we are beating a dead horse on this subject with the town, it is out of their control and the genius in state and county government that gave them Permission will have to deal with the problems. There will be many not even thought of yet. One thing I can see happening tenant with come with one or two four-wheel Drive vehicles and the other two or three cars will be spread around the neighborhood and walk to the to the house or be pickup up by a 4 wheeler. I think the Nags Head Police will have a big job on their hands.

Fred W. Schaan
111 Oriental Street
Nags Head, NC 27959

-----Original Message-----

From: Jim Griesi [mailto:jvgriesi@gmail.com]

Sent: Tuesday, September 16, 2014 4:38 PM

Cc: 'Mike & Ellen Valorose'; 'Stuart & Marcia Byerley'; 'Ross & Meg Clem'; 'Dennis & Lori May'; 'Tony & Barbara Maskello'; 'Diane & Leo Milanowski'; 'Cliff Ogburn'; 'Fred Schaan'; neinwd@cox.net; 'Debbie Hickey'; 'Stacy LaLuna'; 'Doug & Arva Hendrix'; 'Dean & Connie Everett'; 'Chipper Artz'; 'Marie & Ernie Bridgers'; 'Miles & Ann Alban'; 'Nags Head'; 'Roberta Thuman'; gordon.myers@ncwildlife.org; louis.daniel@ncdenr.gov; john.skvarla@ncdenr.gov; Braxton.Davis@ncdenr.gov; 'Edie & John Bleattler'; frankgorhamcrc@gmail.com; lbaldwincrc@gmail.com; cahooncrc@gmail.com; dorseycrc@bhic.org; ldallen1212@gmail.com; bob.emory@weyerhaeuser.com; marc.hairston.crc@gmail.com; greglewiscrc@ec.rr.com; jsimmons.crc@mmc-nc.com; harrysimmons.crc@earthlink.net; johnsnipescrc@gmail.com; lowynns@mchsi.com; 'Stacy LaLuna'; 'Dave & Cyndi Lemarie'; 'Dennis & Margie Banks'; 'Diane Atkinson'; 'Marie & Ernie Bridgers'; 'Kerry and Becky Magalis'; 'Stuart & Marcia Byerley'; 'Teresa Freyberger'; Griesi, Nanette J.; grocerwill@verizon.net; mfdipa@wm.edu; annca@cox.net; 'Jennings, Frank'; 'Kevin Brinkley'; 'Kevin Zorc'; 'Andy Garman'; 'David Morton'; 'Steve Szymanski'; 'Barbara Stevens'; irenesarratt@gmail.com; 'keith sawyer'; 'Keith Sawyer'; 'Debbie Hickey'; 'Jim Frain'; 'joandlin'; 'Carol Alley'; 'Chip Willis'; 'donna edwards2'; 'JohnKessinger'; 'Kathryn Willis'; 'Keith J Gates'; 'Keith699'; 'Mike Cox'; 'Ron Mann'; Griesi, Nanette J.; traci.spencer@yahoo.com

Subject: RE: Beach Erosion at MP 20.5

Hi All,

I was informed this week that the town just notified that a variance request for the oyster shell driveway has been filed for one of the "Ghetto" Houses.

I sent an OPPOSITION email to frank.jennings@ncmail.net per Town direction.

Will you? PLEASE TAKE ACTION! We can start to make a real difference if we collectively stand up and make our voices heard! ☹

Below is what I just sent. Try to make it "read receipt" if you know how. Better yet, get in front of Mr. Jennings if you know how. One on one visits are the most powerful message.

From: Jim Griesi [mailto:jvgriesi@gmail.com]
Sent: Tuesday, September 16, 2014 4:24 PM
To: frank.jennings@ncmail.net
Cc: Griesi, Nanette J.; jvgriesi@gmail.com; Cliff Ogburn
Subject: RE: Variance Request
Importance: High

Mr. Jennings,

I own a home at 10119 South Colony South Drive in South Nags Head.

My home is a few blocks West of a property on Sea Gull Drive which has requested a variance to install an oyster shell driveway.

My family and I, all 5 of us are unequivocally opposed to the installation of any kind of driveway at this location other than the natural sand which is already there.

This property is located east of the dune line on the beach and the waves crash under and around this home daily. Oyster shells or any material other than sand would be washed out immediately and would be spread all over the beach to make for an unsightly beach, unpleasant walking, cut feet, etc.

We respectfully request that you not grant this variance for this homeowner or any others east of the natural dune based on the conditions and concerns described above.

Thanks for your consideration and attention to this matter.

James V Griesi Jr. and Family
10119 South Colony South Drive
Nags head, NC 27959
[757-287-2944](tel:757-287-2944)

BTW-We are now 33 STRONG on Nextdoor!

-----Original Message-----

From: Jim Griesi [mailto:jvgriesi@gmail.com]
Sent: Thursday, September 04, 2014 2:28 PM
To: 'Fred Schaan'; neinwd@cox.net; 'Diane & Leo Milanowski'; 'Cliff Ogburn'
Cc: 'Mike & Ellen Valorose'; 'Stuart & Marcia Byerley'; 'Ross & Meg Clem'; 'Dennis & Lori May'; 'Tony & Barbara Maskello'; 'Debbie Hickey'; 'Stacy LaLuna'; 'Doug & Arva Hendrix'; 'Dean & Connie Everett'; 'Chipper Artz'; 'Marie & Ernie Bridgers'; 'Miles & Ann Alban'; 'Nags Head'; 'Roberta Thuman'; gordon.myers@ncwildlife.org;
louis.daniel@ncdenr.gov; john.skvarla@ncdenr.gov; Braxton.Davis@ncdenr.gov; 'Edie & John Bleattler'; frankgorhamcrc@gmail.com; lbaldwincrc@gmail.com;
cahooncrc@gmail.com; dorseycrc@bhic.org; ldallen1212@gmail.com;
bob.emory@weyerhaeuser.com; marc.hairston.crc@gmail.com;
greglewiscrc@ec.rr.com; jsimmons.crc@mmc-nc.com; harrysimmonscrc@earthlink.net;
johnsnipescrc@gmail.com; lowynns@mchsi.com; 'Stacy LaLuna'; 'Dave & Cyndi Lemarie'; 'Dennis & Margie Banks'; 'Diane Atkinson'; 'Marie & Ernie Bridgers'; 'Kerry and Becky Magalis'; 'Stuart & Marcia Byerley'; 'Teresa Freyberger'; Griesi, Nanette J.;
grocerwill@verizon.net; mfdipa@wm.edu; annca@cox.net; 'Jennings, Frank'; 'Kevin Brinkley'; 'Kevin Zorc'; 'Andy Garman'; 'David Morton'; 'Steve Szymanski'; 'Barbara Stevens'; irenesarratt@gmail.com; 'keith sawyer'; 'Keith Sawyer'; 'Debbie Hickey'; 'Jim Frain'; 'joandlin'; 'Carol Alley'; 'Chip Willis'; 'donna edwards2'; 'JohnKessinger'; 'Kathryn Willis'; 'Keith J Gates'; 'Keith699'; 'Mike Cox'; 'Ron Mann'; Griesi, Nanette J.
Subject: RE: Beach Erosion at MP 20.5

We have now gained 18 new members! That is not a typo! 18! Incredible!

-----Original Message-----

From: Jim Griesi [mailto:jvgriesi@gmail.com]
Sent: Tuesday, September 02, 2014 4:32 PM
Subject: RE: Beach Erosion at MP 20.5

Sorry for all the emails today but we are up to 9 now! Altoona and Pioneer Ct addresses are now included in our "Nextdoor" neighborhood.

Thx
Jim

This email is free from viruses and malware because avast! Antivirus protection is active.

<http://www.avast.com>

Walker, Michele

From: Willis, Angela <angela.willis@ncdenr.gov>
Sent: Monday, September 22, 2014 9:00 AM
To: Weese, Elizabeth
Subject: FW: Beach Erosion at MP 20.5

Comments on Tolozcko variance request.

-----Original Message-----

From: Davis, Braxton C
Sent: Monday, September 22, 2014 8:49 AM
To: Willis, Angela
Subject: FW: Beach Erosion at MP 20.5

Braxton Davis
Director, NC Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557
(252) 808-2808 ext. 202

Please visit www.nccoastalmanagement.net to subscribe to Coastal Management's quarterly newsletter, the CAMAgram.

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

-----Original Message-----

From: Jim Griesi Jr [<mailto:jvgriesi@gmail.com>]
Sent: Saturday, September 20, 2014 8:36 AM
To: Dennis May
Cc: Fred Schaan; Mike & Ellen Valorose; Stuart & Marcia Byerley; Ross & Meg Clem; Tony & Barbara Maskello; Diane & Leo Milanowski; Cliff Ogburn; neinwd@cox.net; Debbie Hickey; Stacy LaLuna; Doug & Arva Hendrix; Dean & Connie Everett; Chipper Artz; Marie & Ernie Bridgers; Miles & Ann Alban; Nags Head; Roberta Thuman; Myers, Gordon S.; Daniel, Louis; Skvarla, John; Davis, Braxton C; Edie & John Bleattler; frankgorhamcrc@gmail.com; lbaldwincrc@gmail.com; cahooncrc@gmail.com; dorseycrc@bhic.org; ldallen1212@gmail.com; bob.emory@weyerhaeuser.com; marc.hairston.crc@gmail.com; greglewiscrc@ec.rr.com; jsimmons.crc@mmc-nc.com; harrysimmons.crc@earthlink.net; johnsnipescrc@gmail.com; lowynns@mchsi.com; Stacy LaLuna; Dave & Cyndi Lemarie; Dennis & Margie Banks; Diane Atkinson; Marie & Ernie Bridgers; Kerry and Becky Magalis; Stuart & Marcia Byerley; Teresa Freyberger; Griesi, Nanette J.; grocerwill@verizon.net; mfdipa@wm.edu; annca@cox.net; Jennings, Frank; Kevin Brinkley; Kevin Zorc; Andy Garman; David Morton; Steve Szymanski; Barbara Stevens; irenesarratt@gmail.com; Keith Sawyer; Keith Sawyer; Jim Frain; joandlin; Carol Alley; Chip Willis; donna edwards2; JohnKessinger; Kathryn Willis; Keith J Gates; Keith699; Mike Cox; Ron Mann; traci.spencer@yahoo.com
Subject: Re: Beach Erosion at MP 20.5

Thx for the confirmation. I think we are up to 5 now.

Respectfully,
Jim Griesi
jvgriesi@gmail.com
Cell 757.287.2944
Sent from my iPhone

> On Sep 19, 2014, at 10:57 PM, Dennis May <maydenn@peoplepc.com> wrote:

>
>

> for whomever is keeping score, my email was noted hope this helps:

> =====

>

> Mr. May,

> Thank you for your email, your comments will be included in the official record for consideration by the Coastal Resources Commission.

>

> -----

> Braxton Davis

> Director, NC Division of Coastal Management

> 400 Commerce Avenue

> Morehead City, NC 28557

> (252) 808-2808 ext. 202

>

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> Management's quarterly newsletter, the CAMAgram.

> E-mail correspondence to and from this address is subject to the North

> Carolina Public Records Law and may be disclosed to third parties.

>

>

> -----Original Message-----

> From: Dennis May [<mailto:maydenn@peoplepc.com>]

> Sent: Thursday, September 18, 2014 8:23 PM

> To: Davis, Braxton C

> Subject: Sea Gull Dr - shell driveway variance.

>

> Mr. Davis,

>

> I own a home at 114 Pioneer Ct in South Nags Head. I'm north of the house requesting the variance. This area WILL wash out over during the winter Noreasters and distribute whatever materials are used for a driveway down the beach. While one would think seeing shells on the beach is a common occurrence, oyster shells present a particular problem to those in bear feet. Most shells on the beach have been pummeled by the surf for quite some time. Fresh oyster shells have not and are a hazard to ourselves in our children when several tons are distributed in one location. This summer will roll in with yet another hazard to deal with from the owners on Sea Gull Drive.

>

> They also will be an eye soar until the ocean fully claims them.

>

> I'd appreciate it if you'd consider my opinion above and not approve any variance for any driveway on Seagull Drive. These folks knew the rules when they engaged in these reconstruction projects - they'll just have to follow the 4 wheel drive rules common in the northern beaches for their rental clientele.

>

> Thank you for giving me your time and consideration in this matter,

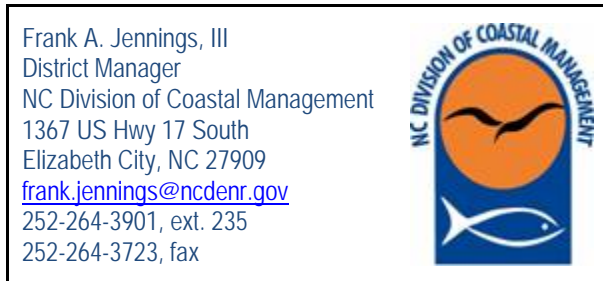
>

> V/R
>
> Dennis May
> 114 Pioneer St.
> Nags Head, NC
>

Walker, Michele

From: Jennings, Frank <frank.jennings@ncdenr.gov>
Sent: Thursday, September 18, 2014 8:23 AM
To: Weese, Elizabeth
Cc: Davis, Braxton C
Subject: FW: Variance Request South Nags Head

Toloczko File



Please visit www.nccoastalmanagement.net to subscribe to Coastal Management's quarterly newsletter, the CAMAgram.

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: Debbie Hickey [<mailto:deb85hickey@gmail.com>]
Sent: Wednesday, September 17, 2014 8:43 AM
To: Jennings, Frank
Subject: Variance Request South Nags Head

Mr. Jennings,

I own a home at 10105 South Colony South Drive in South Nags Head.

My home is across the beach road from a property on Sea Gull Drive which has requested a variance to install an oyster shell driveway.

My family and I are unequivocally opposed to the installation of any kind of driveway at this location other than the natural sand which is already there.

This property is located east of the dune line on the beach and the waves crash under and around this home daily. Oyster shells or any material other than sand would be washed out immediately and would be spread all over the beach to make for an unsightly beach, unpleasant walking, cut feet, etc. As a person who walks this beach regularly I do not want to worry about my or my dog's feet being cut up by the shells.

We respectfully request that you **not** grant this variance for this homeowner or any others east of the natural dune based on the conditions and concerns described above. We in the neighborhood have endured the trash and debris that continually are produced by this particular row of condemned houses for the last four years, it is time to stop the madness.

Thanks for your consideration and attention to this matter.

Sincerely,

Debbie Hickey

Walker, Michele

From: Jennings, Frank <frank.jennings@ncdenr.gov>
Sent: Tuesday, September 16, 2014 4:54 PM
To: Weese, Elizabeth
Cc: Davis, Braxton C
Subject: FW: Variance Request

Importance: High

Jill,
For your file.
Thanks, Frank

Frank A. Jennings, III
District Manager
NC Division of Coastal Management
1367 US Hwy 17 South
Elizabeth City, NC 27909
frank.jennings@ncdenr.gov
252-264-3901, ext. 235
252-264-3723, fax



Please visit www.nccoastalmanagement.net to subscribe to
Coastal Management's quarterly newsletter, the CAMAgram.

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: Jim Griesi [<mailto:jvgriesi@gmail.com>]
Sent: Tuesday, September 16, 2014 4:24 PM
To: Jennings, Frank
Cc: Griesi, Nanette J.; jvgriesi@gmail.com; Cliff Ogburn
Subject: RE: Variance Request
Importance: High

Mr. Jennings,

I own a home at 10119 South Colony South Drive in South Nags Head.

My home is a few blocks West of a property on Sea Gull Drive which has requested a variance to install an oyster shell driveway.

My family and I, all 5 of us are unequivocally opposed to the installation of any kind of driveway at this location other than the natural sand which is already there.

This property is located east of the dune line on the beach and the waves crash under and around this home daily. Oyster shells or any material other than sand would be washed out immediately and would be spread all over the beach to make for an unsightly beach, unpleasant walking, cut feet, etc.

We respectfully request that you not grant this variance for this homeowner or any others east of the natural dune based on the conditions and concerns described above.

Thanks for your consideration and attention to this matter.

James V Griesi Jr. and Family
10119 South Colony South Drive
Nags head, NC 27959
757-287-2944

Walker, Michele

From: Jennings, Frank <frank.jennings@ncdenr.gov>
Sent: Thursday, September 18, 2014 8:25 AM
To: Weese, Elizabeth
Cc: Davis, Braxton C
Subject: FW: Beach Erosion at MP 20.5

Toloczko file

Frank A. Jennings, III
District Manager
NC Division of Coastal Management
1367 US Hwy 17 South
Elizabeth City, NC 27909
frank.jennings@ncdenr.gov
252-264-3901, ext. 235
252-264-3723, fax



Please visit www.nccoastalmanagement.net to subscribe to Coastal Management's quarterly newsletter, the CAMAgram.

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: cahoonr [mailto:cahoonr@embarqmail.com]
Sent: Wednesday, September 17, 2014 11:10 PM
To: Fred Schaan; 'Jim Griesi'
Cc: 'Mike & Ellen Valorose'; 'Stuart & Marcia Byerley'; 'Ross & Meg Clem'; 'Dennis & Lori May'; 'Tony & Barbara Maskello'; 'Diane & Leo Milanowski'; 'Cliff Ogburn'; neinwd@cox.net; 'Debbie Hickey'; 'Stacy LaLuna'; 'Doug & Arva Hendrix'; 'Dean & Connie Everett'; 'Chipper Artz'; 'Marie & Ernie Bridgers'; 'Miles & Ann Alban'; 'Nags Head'; 'Roberta Thuman'; Myers, Gordon S.; Daniel, Louis; Skvarla, John; Davis, Braxton C; 'Edie & John Bleattler'; frankgorhamcrc@gmail.com; lbaldwincrc@gmail.com; cahooncrc@gmail.com; dorseycrc@bhc.org; ldallen1212@gmail.com; bob.emory@weyerhaeuser.com; marc.hairston.crc@gmail.com; greglewiscrc@ec.rr.com; jsimmons.crc@mmc-nc.com; harrysimmonscrc@earthlink.net; johnsnipescrc@gmail.com; lowynns@mchsi.com; 'Stacy LaLuna'; 'Dave & Cyndi Lemarie'; 'Dennis & Margie Banks'; 'Diane Atkinson'; 'Marie & Ernie Bridgers'; 'Kerry and Becky Magalis'; 'Stuart & Marcia Byerley'; 'Teresa Freyberger'; 'Griesi, Nanette J.'; grocerwill@verizon.net; mfdipa@wm.edu; annca@cox.net; Jennings, Frank; 'Kevin Brinkley'; 'Kevin Zorc'; 'Andy Garman'; 'David Morton'; 'Steve Szymanski'; 'Barbara Stevens'; irenesarratt@gmail.com; 'keith sawyer'; 'Keith Sawyer'; 'Jim Frain'; 'joandlin'; 'Carol Alley'; 'Chip Willis'; 'donna edwards2'; 'JohnKessinger'; 'Kathryn Willis'; 'Keith J Gates'; 'Keith699'; 'Mike Cox'; 'Ron Mann'; traci.spencer@yahoo.com
Subject: RE: Beach Erosion at MP 20.5

The mail should be directed to Braxton Davis
Director of North Carolina Coastal Management
400 Commerce Ave
Morehead City, NC 28855714

Renee Cahoon

A disclaimer : I am a member of the NC Coastal Resources Commission but will not hear this variance as a conflict of interest as Nags Head is in litigation with Mr. Tolascko

----- Original message -----

From: Fred Schaan

Date:09/17/2014 4:08 PM (GMT-05:00)

To: 'Jim Griesi'

Cc: 'Mike & Ellen Valorose', 'Stuart & Marcia Byerley', 'Ross & Meg Clem', 'Dennis & Lori May', 'Tony & Barbara Maskello', 'Diane & Leo Milanowski', 'Cliff Ogburn', neinwd@cox.net, 'Debbie Hickey', 'Stacy LaLuna', 'Doug & Arva Hendrix', 'Dean & Connie Everett', 'Chipper Artz', 'Marie & Ernie Bridgers', 'Miles & Ann Alban', 'Nags Head', 'Roberta Thuman', gordon.myers@ncwildlife.org, louis.daniel@ncdenr.gov, john.skvarla@ncdenr.gov, "'Braxton.Davis@ncdenr.gov'", 'Edie & John Bleattler', frankgorhamcrc@gmail.com, lbaldwincrc@gmail.com, cahooncrc@gmail.com, dorseycrc@bhic.org, ldallen1212@gmail.com, bob.emory@weyerhaeuser.com, marc.hairston.crc@gmail.com, greglewiscrc@ec.rr.com, jsimmons.crc@mmc-nc.com, harrysimmons.crc@earthlink.net, johsnipes.crc@gmail.com, lowynns@mchsi.com, 'Stacy LaLuna', 'Dave & Cyndi Lemarie', 'Dennis & Margie Banks', 'Diane Atkinson', 'Marie & Ernie Bridgers', 'Kerry and Becky Magalis', 'Stuart & Marcia Byerley', 'Teresa Freyberger', "'Griesi, Nanette J.'", grocerwill@verizon.net, mfdipa@wm.edu, annca@cox.net, "'Jennings, Frank'", 'Kevin Brinkley', 'Kevin Zorc', 'Andy Garman', 'David Morton', 'Steve Szymanski', 'Barbara Stevens', irenesarratt@gmail.com, 'keith sawyer', 'Keith Sawyer', 'Debbie Hickey', 'Jim Frain', 'joandlin', 'Carol Alley', 'Chip Willis', 'donna edwards2', 'JohnKessinger', 'Kathryn Willis', 'Keith J Gates', 'Keith699', 'Mike Cox', 'Ron Mann', "'Griesi, Nanette J.'", traci.spencer@yahoo.com

Subject: RE: Beach Erosion at MP 20.5

Hello All

I basically said the same thing, I stated that they should not issue the permit for oyster shell driveway, unless they have done it for other ocean front homes. If they have And they deny them it will only go to court and we all know how that turns out. I also stated if they issue them a permit for an oyster shell drive they can't very well deny Anyone else along our 10 miles of beachfront. I also questioned if my vote or anyone else's as far from the homes as I am has any legal status.

I spoke with a friend from the area and he said they have to notify everyone within a mile. In NJ where I live 60% of the time they only have to notify everyone Within 200 feet of the subject property.

I think it is going to be a disaster without a hard surface drive that can only be used by a four wheel vehicle. I have a four wheel vehicle and know you can get stuck In dry soft sand even with 4 wheel drive. Being rental housed people are going to come with regular cars or even all-wheel drive and think they can park. We all Know that street is not wide enough for parking.

However I do feel we are beating a dead horse on this subject with the town, it is out of their control and the genius in state and county government that gave them Permission will have to deal with the problems. There will be many not even thought of yet. One thing I can see happening tenant with come with one or two four-wheel Drive vehicles and the other two or three cars will be spread around the neighborhood and walk to the to the house or be pickup up by a 4 wheeler. I think the Nags Head Police will have a big job on their hands.

Fred W. Schaan

111 Oriental Street

Nags Head, NC 27959

-----Original Message-----

From: Jim Griesi [<mailto:jvgriesi@gmail.com>]

Sent: Tuesday, September 16, 2014 4:38 PM

Cc: 'Mike & Ellen Valorose'; 'Stuart & Marcia Byerley'; 'Ross & Meg Clem'; 'Dennis & Lori May'; 'Tony & Barbara Maskello'; 'Diane & Leo Milanowski'; 'Cliff Ogburn'; 'Fred Schaan'; neinwd@cox.net; 'Debbie Hickey'; 'Stacy LaLuna'; 'Doug & Arva Hendrix'; 'Dean & Connie Everett'; 'Chipper Artz'; 'Marie & Ernie Bridgers'; 'Miles & Ann Alban'; 'Nags Head'; 'Roberta Thuman'; gordon.myers@ncwildlife.org; louis.daniel@ncdenr.gov; john.skvarla@ncdenr.gov; 'Braxton.Davis@ncdenr.gov'; 'Edie & John Bleattler'; frankgorhamcrc@gmail.com; lbaldwincrc@gmail.com; cahooncrc@gmail.com; dorseycrc@bhic.org; ldallen1212@gmail.com; bob.emory@weyerhaeuser.com; marc.hairston.crc@gmail.com; greglewiscrc@ec.rr.com; jsimmons.crc@mmc-nc.com; harrysimmons.crc@earthlink.net; johsnipes.crc@gmail.com; lowynns@mchsi.com; 'Stacy LaLuna'; 'Dave & Cyndi Lemarie'; 'Dennis & Margie Banks'; 'Diane Atkinson'; 'Marie & Ernie Bridgers'; 'Kerry and Becky Magalis'; 'Stuart & Marcia Byerley'; 'Teresa Freyberger'; Griesi, Nanette J.; grocerwill@verizon.net; mfdipa@wm.edu; annca@cox.net; 'Jennings, Frank'; 'Kevin Brinkley'; 'Kevin Zorc'; 'Andy Garman'; 'David Morton'; 'Steve Szymanski'; 'Barbara Stevens'; irenesarratt@gmail.com; 'keith sawyer'; 'Keith Sawyer'; 'Debbie Hickey'; 'Jim Frain'; 'joandlin'; 'Carol Alley'; 'Chip Willis'; 'donna edwards2'; 'JohnKessinger'; 'Kathryn Willis'; 'Keith J Gates'; 'Keith699'; 'Mike Cox'; 'Ron Mann'; Griesi, Nanette J.; traci.spencer@yahoo.com

Subject: RE: Beach Erosion at MP 20.5

Hi All,

I was informed this week that the town just notified that a variance request for the oyster shell driveway has been filed for one of the "Ghetto" Houses.

I sent an OPPOSITION email to frank.jennings@ncmail.net per Town direction.

Will you? PLEASE TAKE ACTION! We can start to make a real difference if we collectively stand up and make our voices heard! ☹

Below is what I just sent. Try to make it "read receipt" if you know how. Better yet, get in front of Mr. Jennings if you know how. One on one visits are the most powerful message.

From: Jim Griesi [<mailto:jvgriesi@gmail.com>]

Sent: Tuesday, September 16, 2014 4:24 PM

To: frank.jennings@ncmail.net

Cc: Griesi, Nanette J.; jvgriesi@gmail.com; Cliff Ogburn

Subject: RE: Variance Request

Importance: High

Mr. Jennings,

I own a home at 10119 South Colony South Drive in South Nags Head.

My home is a few blocks West of a property on Sea Gull Drive which has requested a variance to install an oyster shell driveway.

My family and I, all 5 of us are unequivocally opposed to the installation of any kind of driveway at this location other than the natural sand which is already there.

This property is located east of the dune line on the beach and the waves crash under and around this home daily. Oyster shells or any material other than sand would be washed out immediately and would be spread all over the beach to make for an unsightly beach, unpleasant walking, cut feet, etc.

We respectfully request that you not grant this variance for this homeowner or any others east of the natural dune based on the conditions and concerns described above.

Thanks for your consideration and attention to this matter.

James V Griesi Jr. and Family
10119 South Colony South Drive
Nags head, NC 27959
757-287-2944

BTW-We are now 33 STRONG on Nextdoor!

-----Original Message-----

From: Jim Griesi [<mailto:jvgriesi@gmail.com>]

Sent: Thursday, September 04, 2014 2:28 PM

To: 'Fred Schaan'; neinwd@cox.net; 'Diane & Leo Milanowski'; 'Cliff Ogburn'

Cc: 'Mike & Ellen Valorose'; 'Stuart & Marcia Byerley'; 'Ross & Meg Clem'; 'Dennis & Lori May'; 'Tony & Barbara Maskello'; 'Debbie Hickey'; 'Stacy LaLuna'; 'Doug & Arva Hendrix'; 'Dean & Connie Everett'; 'Chipper Artz'; 'Marie & Ernie Bridgers'; 'Miles & Ann Alban'; 'Nags Head'; 'Roberta Thuman';

gordon.myers@ncwildlife.org; louis.daniel@ncdenr.gov; john.skvarla@ncdenr.gov;

'Braxton.Davis@ncdenr.gov'; 'Edie & John Bleattler'; frankgorhamcrc@gmail.com; lbaldwincrc@gmail.com;

cahooncrc@gmail.com; dorseycrc@bhic.org; ldallen1212@gmail.com; bob.emory@weyerhaeuser.com;

marc.hairston.crc@gmail.com; greglewiscrc@ec.rr.com; jsimmons.crc@mmc-nc.com;

harrysimmons.crc@earthlink.net; johnsnipes.crc@gmail.com; lowynns@mchsi.com; 'Stacy LaLuna'; 'Dave &

Cyndi Lemarie'; 'Dennis & Margie Banks'; 'Diane Atkinson'; 'Marie & Ernie Bridgers'; 'Kerry and Becky

Magalis'; 'Stuart & Marcia Byerley'; 'Teresa Freyberger'; Griesi, Nanette J.; grocerwill@verizon.net;

mfdipa@wm.edu; annca@cox.net; 'Jennings, Frank'; 'Kevin Brinkley'; 'Kevin Zorc'; 'Andy Garman'; 'David

Morton'; 'Steve Szymanski'; 'Barbara Stevens'; irenesarratt@gmail.com; 'keith sawyer'; 'Keith Sawyer';

'Debbie Hickey'; 'Jim Frain'; 'joandlin'; 'Carol Alley'; 'Chip Willis'; 'donna edwards2'; 'JohnKessinger';

'Kathryn Willis'; 'Keith J Gates'; 'Keith699'; 'Mike Cox'; 'Ron Mann'; Griesi, Nanette J.

Subject: RE: Beach Erosion at MP 20.5

We have now gained 18 new members! That is not a typo! 18! Incredible!

-----Original Message-----

From: Jim Griesi [<mailto:jvgriesi@gmail.com>]

Sent: Tuesday, September 02, 2014 4:32 PM

Subject: RE: Beach Erosion at MP 20.5

Sorry for all the emails today but we are up to 9 now! Altoona and Pioneer Ct addresses are now included in our "Nextdoor " neighborhood.

Thx
Jim

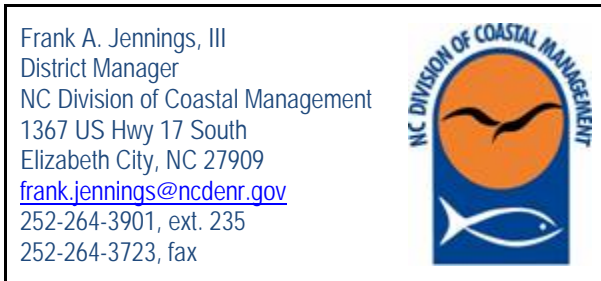
This email is free from viruses and malware because avast! Antivirus protection is active.

<http://www.avast.com>

Walker, Michele

From: Jennings, Frank <frank.jennings@ncdenr.gov>
Sent: Thursday, September 18, 2014 8:22 AM
To: Weese, Elizabeth
Cc: Davis, Braxton C
Subject: FW: Oyster Shell Drive

Toloczko File



Please visit www.nccoastalmanagement.net to subscribe to Coastal Management's quarterly newsletter, the CAMAgram.

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: Chip Willis [<mailto:cwillisatwork@yahoo.com>]
Sent: Tuesday, September 16, 2014 10:23 PM
To: Jennings, Frank; jvgriesi@gmail.com; Kathryn Willis
Subject: Oyster Shell Drive

Mr. Jennings,

I own a home at 104 East Oriental in South Nags Head a few blocks North of a property on Sea Gull Drive which has requested a variance to install an oyster shell driveway.

My family and I are opposed to the installation of any kind of driveway at this location other than the natural sand which is already there.

I believe that oyster shells or any material other than sand would be washed out immediately and would be spread all over the beach to make for unpleasant walking and otherwise create a hazard to passers-by.

We respectfully request that you not grant this variance for this homeowner or any others east of the natural dune based on the conditions and concerns described above.

Thanks for your consideration and attention to this matter.

Russell H. Willis, III

Chip Willis

Design Estimator

Design Craft Homes, Inc.

PH: 540/972-3122

FX: 540/972-3887

www.designcrafthomes.com

Walker, Michele

From: mvdipaola@cox.net
Sent: Wednesday, September 10, 2014 12:26 PM
To: Jennings, Frank
Cc: grocerwill@verizon.net
Subject: Oyster shell driveway waiver

We are writing to express our strong opposition to granting permission for any materials other than beach sand to be added to the driveways of properties being repaired/renovated on Seagull Drive in south Nags Head. We have owned 20100 E. Seagull since 1986 and have been victims of debris and other foreign materials degrading the beach and being hazards to our family and guests for the past decade. The surf easily breeches the areas where the driveways are being placed during storms and any foreign materials will wind up degrading the beach quality and creating a hazard for those trying to use the beach.

Michael DiPaola & William DiPaola
10200 E.Seagull Dr.
Nags Head, NC 27959

Walker, Michele

From: Bill DiPaola <grocerwill@verizon.net>
Sent: Thursday, September 11, 2014 2:14 PM
To: Michelle Gray
Cc: Andy Artz; Andy Garman; Anne & Miles Alban; Ben Gallop; C. Michael Reilly; Carolyn Brooker; Carolyn Morris; Chip Artz; Cliff Ogburn; Dale Curtis; David Morton; Debby & Walter Nein; Dennis May; Jennings, Frank; Fred Flanigan; Fred Schaan; Gina Artz; Jim Morris; Joe Dix; John & Edie Bleattler; Julian Domanski; Kathryn Willis; Kelly Wyatt; Kevin Brinkley; Lee & Diane Milanowski; Mary Aiken; Mike Siers; Pat Broom; Ray Losego; Roberta Thuman; Steve Kettells; Steve Pitler; CAC - Anthony Maskello
Subject: Re: Variance Request

Send opposition e-mails to frank.jennings@ncmail.net

Sent from my iPad

On Sep 10, 2014, at 5:04 PM, Michelle Gray <michelle.gray@nagsheadnc.gov> wrote:

Town Manager Ogburn was just notified that a variance request for the oyster shell driveway has been filed.

Michelle # Gray

Town of Nags Head

michelle.gray@nagsheadnc.gov

252-449-2021

Walker, Michele

From: Fred Schaan <fredschaan@verizon.net>
Sent: Thursday, September 11, 2014 3:13 PM
To: Jennings, Frank
Subject: Oyster Shells Driveway

I live at 111 Oriental Street, I believe I am too far removed from the subject property to have any legal input to the

Question of a variance for a oyster shell Driveway.

My view point is that this property should not be given a variance for a oyster shell driveway if it hasn't been done

For other ocean front properties. If it is done for this property you will be setting a precedent for the whole 10 miles

Of Nags Head Ocean front properties.

Fred W. Schaan

111 Oriental Street PO Box 297

Nags Head, NC 27959



This email is free from viruses and malware because [avast! Antivirus](#) protection is active.

Walker, Michele

From: Carolyn Brooker <cqbrooker@gmail.com>
Sent: Saturday, September 13, 2014 3:07 PM
To: Jennings, Frank
Subject: Variance request for oyster shell driveway on Seagull Drive, Nags Head

Mr. Jennings,

I own and live year round in my permanent residence at 110 S Proteus Court in Sough Nags Head.

My home is a few blocks north of a property on Sea Gull Drive which has requested a variance to install an oyster shell driveway.

I am totally opposed to the installation of any kind of driveway at this location other than the natural sand which is already there.

This property is located east of the dune line on the beach and the waves crash under and around this home daily. Oyster shells or any material other than sand would be washed out immediately and would be spread all over the beach to make for an unsightly beach, unpleasant walking, cut feet, etc.

Please do not grant this variance for this homeowner or any others east of the natural dune.

Thanks for your consideration.

Carolyn Brooker
110 E Proteus Court
Nags Head, NC 27959
770-880-2993

Walker, Michele

From: Carolyn Brooker <cqbrooker@gmail.com>
Sent: Saturday, September 13, 2014 3:09 PM
To: Bill DiPaola
Cc: Michelle Gray; Andy Artz; Andy Garman; Anne & Miles Alban; Ben Gallop; C. Michael Reilly; Carolyn Morris; Chip Artz; Cliff Ogburn; Dale Curtis; David Morton; Debby & Walter Nein; Dennis May; Jennings, Frank; Fred Flanigan; Fred Schaan; Gina Artz; Jim Morris; Joe Dix; John & Edie Bleattler; Julian Domanski; Kathryn Willis; Kelly Wyatt; Kevin Brinkley; Lee & Diane Milanowski; Mary Aiken; Mike Siers; Pat Broom; Ray Losego; Roberta Thuman; Steve Kettells; Steve Pitler; CAC - Anthony Maskello
Subject: Re: Variance Request

I just sent Frank Jennings the following email. If you are also opposed, please send one too!

Mr. Jennings,

I own and live year round in my permanent residence at 110 S Proteus Court in Sough Nags Head.

My home is a few blocks north of a property on Sea Gull Drive which has requested a variance to install an oyster shell driveway.

I am totally opposed to the installation of any kind of driveway at this location other than the natural sand which is already there.

This property is located east of the dune line on the beach and the waves crash under and around this home daily. Oyster shells or any material other than sand would be washed out immediately and would be spread all over the beach to make for an unsightly beach, unpleasant walking, cut feet, etc.

Please do not grant this variance for this homeowner or any others east of the natural dune.

Thanks for your consideration.

Carolyn Brooker
110 E Proteus Court
Nags Head, NC 27959
770-880-2993

On Thu, Sep 11, 2014 at 2:13 PM, Bill DiPaola <grocerwill@verizon.net> wrote:
Send opposition e-mails to frank.jennings@ncmail.net

Sent from my iPad

On Sep 10, 2014, at 5:04 PM, Michelle Gray <michelle.gray@nagsheadnc.gov> wrote:

Town Manager Ogburn was just notified that a variance request for the oyster shell driveway has been filed.

Michelle # Gray

Town of Nags Head

michelle.gray@nagsheadnc.gov

[252-449-2021](tel:252-449-2021)

Walker, Michele

From: Mary Aiken <maryaiken4444@gmail.com>
Sent: Saturday, September 13, 2014 8:03 PM
To: Jennings, Frank
Subject: Fwd: Variance Request

My home is on Altoona St, parallel to a property on Sea Gull Drive which has requested a variance to install an oyster shell driveway.

I am totally opposed to the installation of any kind of driveway at this location other than the natural sand which is already there.

This property is located east of the dune line on the beach and the waves crash under and around this home daily. Oyster shells or any material other than sand would be washed out immediately and would be spread all over the beach to make for an unsightly beach, unpleasant walking, cut feet, etc.

Please do not grant this variance for this homeowner or any others east of the natural dune.

Thanks for your consideration.

Mary Aiken

205 Altoona Street

Nags Head, NC 27959
252 331 9026

On Thu, Sep 11, 2014 at 2:13 PM, Bill DiPaola <grocerwill@verizon.net> wrote:
Send opposition e-mails to frank.jennings@ncmail.net

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On Sep 10, 2014, at 5:04 PM, Michelle Gray <michelle.gray@nagsheadnc.gov> wrote:

Town Manager Ogburn was just notified that a variance request for the oyster shell driveway has been filed.

Michelle # Gray

Town of Nags Head

michelle.gray@nagsheadnc.gov

[252-449-2021](tel:252-449-2021)

Walker, Michele

From: Ellen Heatwole <ellenheatwole@ymail.com>
Sent: Friday, September 12, 2014 8:59 AM
To: Jennings, Frank
Subject: Oyster Shell Driveway on East Seagull Drive

Good Morning,

I am the home and property owner of 101 East Seagull Drive and I am writing to voice my concerns and oppose the variance for an oyster shell driveway at the house at the end of East Seagull Drive, Nags Head. The driveway, which has been cut into an existing dune already, is not suitable to such a request. The oyster shells will be buried, scattered on the public beach and into the road which has severe obstacles already. The driveway in question meets the road and a dumpster, which means that it will be constantly shifting because of dumpster removal, plowing of sand and of course the ever changing landscape of the beach itself.

It is my opinion that the only thing this oyster shell driveway will do ,is it to put more foreign objects onto our beach, into our sand and street. I believe that it is in the best interest of all parties to keep it as natural as possible and considering the houses location, that would be to leave it sand.

The beach and all that goes along with it, is a fragile entity, the town, county, state and citizens must act in a manner that honors and protects our best resource and reason that people from all over flock here.

Thoughtfully, Ellen S. Heatwole, property owner

Ellen S. Heatwole, Pastor

Bethel UMC (Because U Matter to Christ)

17380 Dawn Blvd.

Hanover, VA 23069

804-994-5344 O.

804-839-7064 C.

Bethel UMC is excited to invite all people to seek, grow and live faith in Christ.

Walker, Michele

From: Tony & Barb Maskello <amaskello@comcast.net>
Sent: Sunday, September 14, 2014 11:24 PM
To: Jennings, Frank
Subject: Variance for Ostyer Shells for Driveway on Seagull Dr.

Mr. Jennings,

We own a home at 203 E. Altoona St in Nags Head.

Our home is one street north of a property on Sea Gull Drive which has requested a variance to install an oyster shell driveway.

I am totally opposed to the installation of any kind of substance for a driveway at this location other than the natural sand which is already there.

This property is located east of the dune line on the beach and the introduction of any substance other than the sand that is deposited there naturally would migrate to the beach by the natural action of the waves and tides that wash under this house causing the beach to be unsightly and unpleasant when walking.

Please do not grant this variance for this homeowner or any others east of the natural dune.

Thanks for your consideration in this matter.

Anthony & Barbara Maskello
203 E. Altoona St.
Nags Head, NC

1361 Trenton Ave
Whiting NJ 08759
732-350-3935

Walker, Michele

From: Jennings, Frank <frank.jennings@ncdenr.gov>
Sent: Tuesday, September 16, 2014 7:34 AM
To: Diane and Leo Milanowski
Subject: RE: Info on Variance Request on Seagull Drive

Mr. and Mrs. Milanowski:

I will send you a copy of the variance request. While there is no comment period associated with the variance procedure, public comments are being accepted and forwarded to the Assistant Attorney General staff representing DCM as well as the Director of DCM, Braxton Davis and will be accepted up until the petition is heard. If you would like acknowledgement, please specify so on your comment. The variance request is scheduled to be heard on October 22nd at the Coastal Resources meeting which will be held in Wilmington. The variance rules are found in 15NCAC 07J .0701 VARIANCE PETITIONS. Our web site address is: www.nccoastalmanagement.net.

Frank A. Jennings, III
District Manager
NC Division of Coastal Management
1367 US Hwy 17 South
Elizabeth City, NC 27909
frank.jennings@ncdenr.gov
252-264-3901, ext. 235
252-264-3723, fax



Please visit www.nccoastalmanagement.net to subscribe to

Coastal Management's quarterly newsletter, the CAMAgram.

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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.
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From: Diane and Leo Milanowski [<mailto:milanowski@msn.com>]
Sent: Monday, September 15, 2014 4:15 PM
To: Jennings, Frank
Subject: Info on Variance Request on Seagull Drive

Mr. Jennings, My name is Leo Milanowski, and I have a home on Pioneer Court in Nags Head. I understand that a variance has been requested to install an oyster bed driveway at the damaged homes due south of us. Is the variance request available on line or electronically? Also, how long is the community comment phase open, and what period of time does DENR-CAMA-CRC have to respond to the requestor. If there is a place on line that provides these detail, please let me know. Thanks for your help, Leo Milanowski