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General Counsel

TO: The Coastal Resources Commission

FROM: Christine A. Goebel, DEQ Assistant General Counsel

DATE: November 16, 2018 (for the November 27-29, 2018 CRC Meeting)

RE: **Variance Request by Michael and Catherine Zito (CRC-VR-18-04)**

Petitioners Michael and Catherine Zito (“Petitioners”) own property at 10224 Sea Gull Drive (the “Site”) in the South Nags Head area of the Town of Nags Head. The property is located within the Commission’s Ocean Hazard Area of Environmental Concern (“AEC”). This area of Nags Head is subject to a “static line” following a large-scale beach nourishment project in 2011.

In October of 2016, Petitioners former 2-story piling-supported structure was destroyed by fire. In July of 2017, Petitioners filed an initial CAMA Minor Permit application seeking to re-develop a new structure in the same size and in the same footprint as the pre-existing structure. After completing the application in spring of 2018, on April 26, 2018, the Town of Nags Head’s Coastal Area Management Act (“CAMA”) Local Permitting Officer (“LPO”) denied Petitioners’ CAMA Minor Permit application as the proposed addition does not meet the applicable 180’ setback from the static line and does not meet the 60’ setback exception under 15A NCAC 7H .0309. In August of 2018, Petitioners, through counsel, filed this variance petition to request the Commission vary the oceanfront setback rules so it can develop the re-developed structure as proposed.

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 Variance Criteria
Attachment D: Petitioner’s Variance Request Materials
Attachment E: Stipulated Exhibits including powerpoint

cc(w/enc.): Christopher Seawell, Esq., Petitioner’s Counsel, electronically
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically
Kelly Wyatt, Town of Nags Head CAMA LPO, electronically



RELEVANT STATUTES OR RULES**APPENDIX A****15A NCAC 07H .0301 OCEAN HAZARD CATEGORIES**

The next broad grouping is composed of those AECs that are considered natural hazard areas along the Atlantic Ocean shoreline where, because of their special vulnerability to erosion or other adverse effects of sand, wind, and water, uncontrolled or incompatible development could unreasonably endanger life or property. **Ocean hazard areas include beaches**, frontal dunes, inlet lands, and other areas in which geologic, vegetative and soil conditions indicate a substantial possibility of excessive erosion or flood damage.

15A NCAC 07H .0302 SIGNIFICANCE OF THE OCEAN HAZARD CATEGORY

(a) The primary causes of the hazards peculiar to the Atlantic shoreline are the constant forces exerted by waves, winds, and currents upon the unstable sands that form the shore. During storms, these forces are intensified and can cause significant changes in the bordering landforms and to structures located on them. Ocean hazard area property is in the ownership of a large number of private individuals as well as several public agencies and is used by a vast number of visitors to the coast. Ocean hazard areas are critical, therefore, because of both the severity of the hazards and the intensity of interest in the areas.

(b) The location and form of the various hazard area landforms, in particular the beaches, dunes, and inlets, are in a permanent state of flux, responding to meteorologically induced changes in the wave climate. For this reason, **the appropriate location of structures on and near these landforms must be reviewed carefully in order to avoid their loss or damage. As a whole, the same flexible nature of these landforms which presents hazards to development situated immediately on them offers protection to the land, water, and structures located landward of them.** The value of each landform lies in the particular role it plays in affording protection to life and property. (The role of each landform is described in detail in Technical Appendix 2 in terms of the physical processes most important to each.) Overall, however, the energy dissipation and sand storage capacities of the landforms are most essential for the maintenance of the landforms' protective function.

15A NCAC 07H .0303 MANAGEMENT OBJECTIVE OF OCEAN HAZARD AREAS

(a) The CRC recognizes that absolute safety from the destructive forces indigenous to the Atlantic shoreline is an impossibility for development located adjacent to the coast. The loss of life and property to these forces, however, can be greatly reduced by the proper location and design of structures and by care taken in prevention of damage to natural protective features particularly primary and frontal dunes. Therefore, it is the CRC's objective to provide management policies and standards for ocean hazard areas that serve to eliminate unreasonable danger to life and property and achieve a balance between the financial, safety, and social factors that are involved in hazard area development.

(b) The purpose of these Rules shall be to further the goals set out in G.S. 113A-102(b), with particular attention to minimizing losses to life and property resulting from storms and long-term erosion, preventing encroachment of permanent structures on public beach areas, preserving the natural ecological conditions of the barrier dune and beach systems, and reducing the public costs of inappropriately sited development. Furthermore, it is the objective of the Coastal Resources Commission to protect present common-law and statutory public rights of access to and use of the lands and waters of the coastal area.

15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS

The ocean hazard AECs contain all of the following areas:

(1) Ocean Erodible Area. This is the area where there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The oceanward boundary of this area is the mean low water line. The landward extent of this area is determined as follows:

(a) a distance landward from the first line of stable and natural vegetation as defined in 15A NCAC 07H .0305(a)(5) to the recession line established by multiplying the long-term annual erosion rate times 60; provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates are the long-term average based on available historical data. The current long-term average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled "2011 Long-Term Average Annual Shoreline Rate Update" and approved by the Coastal Resources Commission on May 5, 2011 (except as such rates may be varied in individual contested cases, declaratory, or interpretive rulings). In all cases, the rate of shoreline change shall be no less than two feet of erosion per year. The maps are available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at <http://www.nccoastalmanagement.net>; and (b) a distance landward from the recession line established in Sub-Item (1)(a) of this Rule to the recession line that would be generated by a storm having a one percent chance of being equaled or exceeded in any given year.

15A NCAC 07H .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.

(2) In areas with a development line, the ocean hazard setback line shall be set at a distance in accordance with Subparagraphs (a)(3) through (9) of this Rule. In no case shall new development be sited seaward of the development line.

(3) In no case shall a development line be created or established below the mean high water line.

(4) The setback distance shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:

(A) The total square footage of heated or air-conditioned living space;

(B) The total square footage of parking elevated above ground level; and

(C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.

Decks, roof-covered porches, and walkways are not included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

(5) 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. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback is established based on the following criteria:

(A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;

15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

(b) Where application of the oceanfront setback requirements of Rule .0306(a) of this Subchapter would preclude placement of permanent substantial structures on lots existing as of June 1, 1979, buildings shall be permitted seaward of the applicable setback line in ocean erodible areas, but not inlet hazard areas or unvegetated beach areas, if each of the following conditions are met:

(1) The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;

(2) The development is at least 60 feet landward of the vegetation line or static vegetation line, whichever is applicable;

(3) The development is not located on or in front of a frontal dune, but is entirely behind the landward toe of the frontal dune;

(4) The development incorporates each of the following design standards, which are in addition to those required by Rule .0308(d) of this Subchapter.

(A) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;

(B) The footprint of the structure shall be no more than 1,000 square feet, and the total floor area of the structure shall be no more than 2,000 square feet. For the purpose of this Section, roof-covered decks and porches that are structurally attached shall be included in the calculation of footprint;

(C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases concrete, asphalt or turfstone may also be used;

(D) No portion of a building's total floor area, including elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, may extend oceanward of the total floor area of the landward-most adjacent building. When the geometry or orientation of a lot precludes the placement of a building in line with the landward most adjacent structure of similar use, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.

(5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.

15A NCAC 07J .0210 REPLACEMENT OF EXISTING STRUCTURES

Replacement of structures **damaged or destroyed by natural elements, fire or normal deterioration** is considered development and requires CAMA permits. Replacement of structures shall be permitted if the replacements is consistent with current CRC rules. Repair of structures damaged by natural elements, fire or normal deterioration is not considered development and shall not require CAMA permits. The CRC shall use the following criteria to determine whether proposed work is considered repair or replacement.

- (1) **NON-WATER DEPENDENT STRUCTURES.** Proposed work is considered replacement if the cost to do the work exceeds 50 percent of the market value of an existing structure immediately prior to the time of damage or the time of request. Market value and costs are determined as follows:
 - (a) Market value of the structure does not include the value of the land, value resulting from the location of the property, value of accessory structures, or value of other improvements located on the property. Market value of the structure shall be determined by the Division based upon information provided by the applicant using any of the following methods:
 - (i) appraisal;
 - (ii) replacement cost with depreciation for age of the structure and quality of construction; or
 - (iii) tax assessed value.
 - (b) The cost to do the work is the cost to return the structure to its pre-damaged condition, using labor and materials obtained at market prices, regardless of the actual cost incurred by the owner to restore the structure. It shall include the costs of construction necessary to comply with local and state building codes and any improvements that the owner chooses to construct. The cost shall be determined by the Division utilizing any or all of the following:
 - (i) an estimate provided by a North Carolina licensed contractor qualified by license to provide an estimate or bid with respect to the proposed work;
 - (ii) an insurance company's report itemizing the cost, excluding contents and accessory structures; or
 - (iii) an estimate provided by the local building inspections office.

STIPULATED FACTS**ATTACHMENT B**

1. Petitioners Michael and Catherine Zito ("Petitioners") own an oceanfront lot located at 10224 Seagull Drive (the "Lot") in South Nags Head, Dare County, North Carolina (Lot 48 and adjacent washed out road parcel, Goosewing Subdivision). The Lot and this portion of Goosewing Subdivision were platted in 1977, as shown on the subdivision plat recorded on March 24, 1977 in Map Book 9, Page 57 of the Dare County Registry.
2. Petitioners purchased the Lot on August 29, 2008, as evidenced by a deed recorded at Book 1777, Page 455 of the Dare County Registry, a copy of which is attached. In 2016, the Town of Nags Head closed Seagull Drive, and adjacent owners such as Petitioners, were deeded half the width of the platted road (subject to an access easement by other subdivision lot owners), as noted in the resolution recorded at Book 2125, Page 243 of the Dare County Registry, a copy of which is attached. The Lot (original and washout) are shown on the survey of the Zito Lot sealed by Manson Ray Meekins, P.L.S. on December 13, 2017, attached ("Meekins Survey").
3. The current Lot is approximately 73 feet wide by 140 feet deep, for a total of 10,220 square feet (or 0.23 acres), as shown on the Meekins Survey. The CAMA Minor Permit application including the Site Survey is attached.
4. The Lot is in Flood Zone VE (Elevations 11' & 12') as shown on the Meekins Survey.
5. The Lot is within the Ocean Erodible Area of Environmental Concern ("AEC"), a subcategory of the Ocean Hazard AEC designated by the Coastal Resources Commission ("CRC") in 15A NCAC 7H .0304.
6. The Annual Average Erosion Rate at the Lot is 6' per year with the applicable setback for a building measuring 5,000 square feet or less in Total Floor Area is 180' landward of the applicable setback line ($6 \times 30 = 180$).
7. Petitioners' former two-story piling-supported home was built in 1982. While the tax card lists the area of the prior structure as 1,536 square feet, a 2008 appraisal of the prior structure lists a 32' by 28' footprint, for a two-story total area of approximately 1,792 square feet of heated space and 384 square feet of detached uncovered wood slated decking. The site also included an a/c platform, stairs, and a gravel driveway. Photos of the former home from the 2007 map of the access road, Dare County Tax Card and Google Earth are attached as stipulated exhibits. A copy of the 2008 appraisal is also attached.
8. On October 10, 2016, the home was destroyed by fire. The septic tank and drain field remained. A Google Earth Photo of the Lot taken on March 24, 2017 is attached as a stipulated exhibit.
9. Beginning shortly after the fire, Town officials communicated with Petitioners' counsel Mr. Seawell and Petitioners' consultant Mr. Wood to find out if Petitioners planned to try and re-build, and if not, would require removal of the septic system and drain field.

10. On or about July 31, 2017, Petitioners' attorney Mr. Seawell submitted an initial CAMA Minor Permit application to the Town of Nags Head's CAMA Local Permit Officer ("LPO") for review. Following the Town's receipt of the application on August 4, 2017, on August 15, 2017, LPO Kelly Wyatt notified Petitioners' consultant Mr. Wood of several deficiencies in the CAMA permit application and specifically the site plan survey. Due to the incomplete nature of the application, it was placed on hold.
11. Petitioners' CAMA Minor Permit Application remained on hold until the application was deemed complete after the March 1, 2018 septic authorization was received by the Town. A copy of the CAMA Minor Permit application materials is attached as a stipulated exhibit.
12. Petitioners propose to rebuild his home in the same 32' x 28' footprint of the home destroyed, with a resulting maximum Total Floor Area of 1,792 square feet (not the 2,048 listed on the CAMA minor permit application). Additionally, Petitioners have also proposed 384 square feet of detached uncovered wood slated decking an HVAC platform and two sets of stairs. Petitioners also propose that their driveway would be constructed of clay, packed sand or gravel per 15A NCAC 7H .0309 (a)(2).
13. If Petitioners rebuild in the same location, the southeast corner of the house would be approximately 12' landward of the static vegetation line and the northeast corner of the proposed dwelling is approximately 20' landward of the static vegetation line.
14. The existing septic tank and drain field were authorized for use for a reconstructed home, as evidenced by the attached Improvement Permit No. 27602, issued on March 1, 2018.
15. The CRC has adopted an erosion setback ("Erosion Setback") requirement that applies to development along the oceanfront. 15A NCAC 7H .0306(a).
16. The Erosion Setback is generally measured from the first line of stable natural vegetation ("FLSNV"). "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 more stable upland areas. [It] is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment." 15A NCAC 7H .0305(a)(5).
17. In the case of the Lot and this area of Nags Head, oceanfront erosion setbacks are measured from a Static Vegetation Line, which is the location of the FLSNV immediately before a large-scale beach nourishment project per 15A NCAC 7H .0305(a)(6) and 7H .0306 (a)(11). In this case, the Town undertook a large-scale beach nourishment project in 2010, and a Static Vegetation Line was established at that time. The Static Vegetation Line is shown on the Meekins Survey.
18. Based on a site visit by DCM District Manager Frank Jennings on August 7, 2018, he determined that if he were to delineate the FLSNV on the Lot, it would be in the approximate location of the Static Vegetation Line, as shown on the Meekins Survey. Mr. Jennings checked the FLSNV following Hurricane Florence, and it remained in the same place.

19. On the Lot, structures measuring less than 5,000 square feet must be set back at a distance of 30 times the long-term annual erosion rate affecting the Lot from the FLSNV. 15A NCAC 07H .0306(a)(5)(A). The average annual erosion rate for the Lot is 6 feet per year. Therefore, the Erosion Setback applicable to the Lot, for the 1,792 square foot Total Floor Area, is 180 feet (30 years x 6 feet).
20. On Petitioners' Lot, the 180-foot setback from the Static Vegetation Line is located across South Bodie Isle Court, which is seen on the Meekins Survey and the attached aerial photographs.
21. On Petitioners' Lot, a 60-foot setback from the Static Vegetation Line would be located just behind the proposed house footprint, based on scaling 60-feet on the Meekins Survey.
22. Petitioners stipulate that the proposed development is inconsistent with the applicable Erosion Setback rule requiring development to meet the 180' ocean erosion setback of 15A NCAC 7H .0306, and with the "grandfather" rule of 15A NCAC 7H .0309(b) which would allow re-building if the proposed building was placed 60-feet landward of the Static Vegetation Line and the other conditions of this grandfather provision were met.
23. As part of the CAMA Minor Permit process, Petitioners sent notice of the proposed development to their adjacent riparian neighbors, Ms. Cornell and The Mandozzis, by certified mail, return receipt requested. Ms. Cornell returned the form and indicated that she did not object to the development, as seen on the attached form. The Mandozzis received the certified letter on August 7, 2017, but the completed form was not received by the LPO.
24. On April 26, 2018, the CAMA LPO for the Town of Nags Head denied Petitioners' CAMA Minor Permit application, through the attached denial letter. The Minor Permit was denied due to the proposed house not meeting the applicable ocean erosion setbacks.
25. The CRC's rules governing variance procedures require that "[b]efore filing a petition for a variance from a rule of the Commission, the person must seek relief from local requirements restricting use of the property, and there must not be pending litigation between the petitioner and any other person which may make the request for a variance moot." 15A NCAC 7J .0701(a).
26. The Town has a rear building setback of 25 feet ("Town Setback"), as shown on the Meekins Survey. This setback area is currently where the septic field is located. For this reason, Petitioners have not sought relief from the Town's Setback because even with a variance from the Town Setback, they would not move the septic field from its current location. Additionally, they wish to re-build the house in the same footprint as the burned house. Petitioners seek a variance from the procedural rule 15A NCAC 7J .0701(a) so as to not have to seek a local variance first.
27. Petitioners seek a variance from the Commission to construct the 1,792 square foot residence as proposed in their CAMA minor permit application, along with the 384 square feet of open decking- the same size as the former residence, the HVAC platform, two sets of stairs and the clay/sand/gravel driveway and parking area.

28. Aerial and ground-level photographs of the Lot and the surrounding properties are attached as exhibits and as part of the PowerPoint exhibit.

29. As part of the variance process, Petitioners are required by 15A NCAC 7J .0701(c)(7) to send notice to their adjacent riparian neighbors to inform them they are seeking this variance from the Commission. Copies of these notice letters, dated August 16, 2018, and the certified mail receipts are attached.

30. In this matter, the Division of Coastal Management is represented by Christine Goebel, Assistant General Counsel for DEQ. The Petitioners are represented by Christopher Seawell, Esq. of the firm of Aldridge, Seawell & Twichell, PLLC.

31. Pursuant to a duly issued CAMA major permit, the Town has authorized the Town Manager to execute a construction contract for the dredging, placement and grading of environmental protection measures in connection with a beach nourishment project to be completed during the year 2019 for 3,731,661 cubic yards of sand on 52,800 linear feet of the Town's shoreline for a total bid of \$34,712,459.20. The Petitioners' property is included in the area to be nourished by this proposed project.

32. Without a variance from the Commission, the Petitioners could receive a CAMA permit to develop the area waterward of the 180-foot setback and behind the Static Vegetation Line for the uses listed in 15A NCAC 7H .0309(a), including campsites, an elevated deck up to 500 square feet, unenclosed, uninhabitable gazebos with a footprint up to 200 square feet, storage sheds up to 200 square feet, a swimming pool, or the other listed uses.

33. An October 17, 2018 affidavit of Kelly Wyatt, the Town's Deputy Planning Director, states that none of the uses listed in the Commission's rule at 15A NCAC 7H .0309(a) and referenced in Fact 32 above are allowed for the Site with the possible exception of sand fences, based on the Town's current zoning regulations, if no principal structure is also constructed. A copy of Ms. Wyatt's affidavit is attached. However, Petitioners could seek a variance from the Board of Adjustment asking the Town to vary their ordinances to allow one of the uses allowed by 15A NCAC 7H .0309(a), using the Town's variance process under Section 48-598 of the Nags Head Code of Ordinances, a copy of which is attached.

Stipulated Exhibits

1. Zito Deed recorded at Book 1777, Page 455
2. Town of Nags Head road closure resolution recorded at Book 2125, Page 243
3. December 13, 2017 Meekins Survey
4. CAMA Minor Permit Application Materials
5. Dare County Tax Card for the Lot
6. 2008 Appraisal
7. Google Earth Photo of burned house dated March 24, 2017
8. Emails from LPO noting incomplete application and hold
9. March 1, 2018 Improvement Permit No. 27602 for Septic and field
10. Notice of CAMA permit sent to adjacent neighbors, certified receipts and tracking, and Ms. Cornells' returned form
11. April 26, 2018 Denial Letter
12. Notices of Variance Request to neighbors
13. Affidavit of Kelly Wyatt dated October 17, 2018
14. Nags Head Variance Ordinance at 48-598
15. Powerpoint presentation of Site photos and 2008 Road Closure map

PETITIONERS' and STAFF'S POSITIONS**ATTACHMENT C**

As an initial matter, Petitioners seek a variance from the Commission's procedural requirement for variances at 15A NCAC 7J .0701, which requires that a Petitioner must first "seek relief from local requirements restricting use of the property." As stated in Fact 26, Petitioners do not wish to seek a variance from the Town's rear lot setback, as the existing septic system is located in this area, and because they wish to rebuild in the former home's footprint. Staff recommend that Petitioners not be required to first seek a local variance in this circumstance.

I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? If so, the petitioner must identify the hardships.

Petitioners' Position: Yes.

The Petitioners submit that the imposition of the rules, standards and orders will cause unnecessary hardship in the following respects:

1. The Petitioners are not seeking to expand their development of the property in any respect from the development that existed prior to the destruction of the home by fire in 2016. In that sense, this is not a new development or expansion of an existing structure that was located on the Petitioners' property. Petitioners are simply seeking to replace what was destroyed by fire.
2. The surrounding oceanfront properties in Goose Wing Subdivision also cannot comply with the only requirement that the Petitioners cannot meet, which is a 60-foot landward setback from the static vegetation line. Consequently, the Petitioners are not seeking to construct their dwelling in a better place than any other structures in the area or to have any advantage not applicable to other surrounding properties.
3. If the Petitioners are not granted this variance, the lot the Petitioners own becomes unbuildable.

Staff's Position: No.

Despite the phrasing by Petitioners in their argument above, the proposed 1,792 square foot house and associated development is considered to be new development as it is the replacement of 100% of the structure and does not meet the repair criteria described in 15A NCAC 7J .0210. As stated in 7J .0210, the

replacement of structures damaged or destroyed by natural elements, fire or normal deterioration is considered development and requires CAMA permits. Replacement of structures shall be permitted if the replacements is consistent with current CRC rules. Repair of structures damaged by natural elements, fire or normal deterioration is not considered development and shall not require CAMA permits.

This rule goes on to state that for non-water-dependent structures, the “proposed work is considered replacement if the cost to do the work exceeds 50 percent of the market value of an existing structure immediately prior to the time of damage or the time of request.”

In order to replace the structure that existed before the fire, Petitioners seek a variance from the Commission’s oceanfront setback rules, which prohibit development waterward of the applicable 180' setback (6'/year erosion rate x 30) from the static line (which is essentially in the same location as the current first line of stable and natural vegetation). However, the Commission’s rules regarding the Ocean Hazard AEC acknowledge that shoreline erosion is part of the oceanfront system, and the intent of the rules is “minimizing losses to life and property resulting from storms and long-term erosion, preventing encroachment of permanent structures on public beach areas, preserving the natural ecological conditions of the barrier dune and beach systems, and reducing the public costs of inappropriately sited development” (15A NCAC 07H .0303(b)).

Staff contend that while Petitioner faces a hardship by not being able to re-build a house similar to that destroyed in the fire, given the high average annual erosion rate at the Site (6'/year) and the long-term erosion which has impacted the Site, the strict application of the Commission’s oceanfront setback rules does not cause Petitioner an *unnecessary* hardship. While the erosion rate is based on the average rate of shoreline change in the past, a structure rebuilt in the same footprint as the prior house with the waterward piling 12' landward of the static line, could soon be threatened given the long-term history of erosion at this Site, demonstrated by the fact that a portion of Seagull Drive that was closed by the Town in front of the Site (Fact 36) and the presence of houses on the beach in the vicinity of the Site.

The Commission offers an exception to the oceanfront erosion setbacks in 7H .0309 (b) for lots platted "pre-CAMA" in 1979 (see the rules reprinted above). However, the proposed location of the new house cannot meet the minimum setback of 60' landward of the static line required of the provision as the two waterward pilings would be 12' and 20' landward of the static line.

For these reasons, Staff contends that allowing Petitioner to build a new structure waterward of both the 180' setback and of the minimum 60' setback of the oceanfront setback exception provision would constitute inappropriately sited development.

Staff note that while the proposed Site is located among other non-conforming properties which also cannot meet the 180' setback or the minimum 60' oceanfront setback exception provision of 7H .0309(b), this fact has no bearing on Petitioners' own ability to satisfy the variance criteria and should not be considered by the Commission in determining whether Petitioner suffers an unnecessary hardship based on a strict application of the Commission's oceanfront setback rules.

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

Petitioners' Position: Yes.

1. The hardship or condition is unique to the Petitioners' property in that the structure on the property was destroyed by fire.
2. The Petitioners' propose rebuilding is unique in the sense it will not require the installation of a new septic system and drain field. The existing system will continue to be used.

Staff's Position: No.

Staff contends that any hardship suffered by Petitioners is primarily due to the long-term significant erosion at this Site, with a high average erosion rate of 6' per year. This variance request is to waive oceanfront erosion setback on lot with a history of erosion in order to build not only seaward of the 180' setback, but also seaward of the required minimum 60' oceanfront setback exception provision in 7H .0309(b). Staff notes that the hardship of the shoreline erosion on the lot, and specifically that which has occurred since Petitioners' purchase of the lot in 2008, is not atypical for an ocean shoreline. In this area and in this region and along the state's oceanfront, there are other areas which experience high erosion rates which are contemplated in the Commission's rules for the Ocean Hazard AECs and in determining setbacks. Additionally, the Site was within the bounds of the Town's 2010 beach nourishment project, and while that project offered temporary relief at the Site, the current vegetation line has retreated landward and is located in the general area of the pre-nourishment static line. Staff identify no peculiar conditions on the property which cause Petitioners' hardship, and note that the fact that the septic system survived the fire is not a condition of the property, such as size, location or topography, as required by the statute.

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

Petitioners' Position: No.

1. The hardships result from the imposition of the CAMA setback rule.
2. Further, the hardships result from the fact that the structure located on the property was destroyed by fire and not the result of any action taken by the Petitioners.

Staff's Position: No.

Staff agree that Petitioners did not cause the hardships of the long-term erosion of the dune systems and resulting vegetation line and static line, or the house fire.

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.

Petitioners' Position: Yes.

1. The intent of the ordinance is not to make properties unbuildable but to limit development. If this variance is not granted, this lot will be unbuildable.
2. Granting this variance will preserve substantial justice in that the Petitioners will be allowed to reconstruct a home which was destroyed by fire through no fault of the Petitioners, and will not require the installation of a new septic system and drain field.
3. The rebuilding of the Petitioners' home lost by fire will not have a negative effect on the public on the public safety and welfare.
4. Substantial justice will also prevail in that other adjoining property owners of Goose Wing Subdivision continue to enjoy their homes even though they cannot comply with the 60-foot setback regulation that the Petitioners cannot meet and to allow the Petitioners and to rebuild will provide equal justice to all property owners in Goose Wing Subdivision.

Staff's Position: No.

Staff contends that granting a variance to the Petitioners in order to vary the Commission's oceanfront erosion setback rules to allow the Petitioners to build a structure waterward of both the 180' setback and waterward of the minimum 60' oceanfront setback exception is not consistent with the spirit, purpose, and intent of the Commission's rules. The Commission's rules have required oceanfront erosion setbacks since 1979 and all structures are required to meet an oceanfront setback (in this case, 180-feet) landward of the vegetation line, static line, or development line. The Commission has made limited exceptions for some types of development oceanward of the required setback, including the minimum 60' oceanfront setback exception provision in 7H .0309(b), and also authorizes limited development within the setback (See the nine types of development listed in 07H .0309). The purpose of the Commission's Ocean Hazard rules is stated at 15A NCAC 7H .0303(b), which notes that

The purpose of these Rules shall be to further the goals set out in G.S. 113A-102(b), with particular attention to minimizing losses to life and property resulting from storms and long-term erosion, preventing encroachment of permanent structures on public beach areas, preserving the natural ecological conditions of the barrier dune and beach systems, and reducing the public costs of inappropriately sited development. Furthermore, it is the objective of the Coastal Resources Commission to protect present common-law and statutory public rights of access to and use of the lands and waters of the coastal area.

While Staff are sympathetic to Petitioners' circumstances, Staff believes the Commission should strictly enforce the oceanfront erosion setback requirements in order to prevent the re-development of inappropriately-sited structures, in this case only 12' and 20' landward of the vegetation line (static and actual), regardless of the cause of loss of the original structure.

As reflected in the Stipulated Facts, another nourishment project is being pursued by the Town of Nags Head, and so there is a possibility that the first line of stable and natural vegetation could move further waterward. Under existing rules, the Town could then apply for a Static Line Exception or a Development Line to offer relief from the setback line in the future.

Staff contends that granting a variance will not secure public safety and welfare. Allowing a 1,792 square foot structure just 12' from the static line at a Site with a 6'/year average annual erosion rate in an area that has a history of structures on the ocean beach will not secure public safety and welfare since the variance would be authorizing inappropriately-sited development which can quickly interfere with the public trust beach, be at greater risk for loss of property, may become a cost to local government and the public (as has occurred in this area) should the structure need to be removed from the beachfront, and may become a cost to the public in the form of future post-storm debris removal.

Staff contends that granting a variance would not preserve substantial justice where the Commission's rules already provide exceptions to the oceanfront setbacks by allowing a minimum 60' setback instead of the standard 180' setback, and this variance would go further by allowing new development just 12' from the static line and existing vegetation line which is also the where the vegetation line was located before the 2010 nourishment project.

Petitioners argue that "the intent of the ordinance is not to make properties unbuildable but to limit development. If this variance is not granted, this lot will be unbuildable." Staff disagree, and contend that the intent of the Commission's rules is to prevent inappropriately sited development, like that proposed which also fails to meet the smaller minimum oceanfront setback exception provision, particularly in an area with a 6' per year average annual erosion rate. Staff also note, that based on the CAMA and the Commission's rules, without a variance, Petitioners could still receive a CAMA permit for those structures limited in size and found at 15A NCAC 7H .0309 (a). While Petitioners argue that these structures are not allowed by local ordinance, but Staff note that a local variance of the ordinances is possible, and is not relevant in considering the variance by this Commission of the CAMA and the Commission's rules.

**ATTACHMENT D:
PETITIONERS' VARIANCE REQUEST MATERIALS**

ATTACHMENT E:
STIPULATED EXHIBITS INCLUDING POWERPOINT

ALDRIDGE, SEAWELL & TWICHELL, PLLC

ATTORNEYS AT LAW

805 North U.S. Highway 64

Post Office Box 339

Manteo, NC 27954

Christopher L. Seawell
cseawell@manteolaw.com

Laura M. Twichell
ltwichell@manteolaw.com

July 31, 2018

G. Irvin Aldridge
Retired

ph: (252) 473-3484
fax: (252) 473-2046
www.manteolaw.com

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

North Carolina Attorney General's Office
Environmental Division
114 W. Edenton Street
Raleigh, NC 27603

Re: Variance Application - Michael A. Zito, Jr. and wife, Catherine M. Zito
Dare County, North Carolina

Dear Sir or Madam:

Enclosed please find the CAMA Variance Request Form on behalf of the above individuals with regard to property located in Nags Head, Dare County, North Carolina.

We are aware of the guidance of local variance prerequisites recited in a memo dated October 6, 2017 issued by Christine A. Goebel, Assistant Attorney General. We do not believe that applies in this situation. This application with regard to reconstruction of a house destroyed by fire, which we understand needs to be replaced in the exact same location if at all.

We look forward to hearing from you.

Yours sincerely,


Christopher L. Seawell

CLS/cah

Enclosures

Cc: Mr. and Mrs. Michael A. Zito, Jr.

CAMA VARIANCE REQUEST FORM

DCM FORM 11
DCM FILE No.: _____

PETITIONER'S NAME Michael A. Zito, Jr. and wife, Catherine M. Zito

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.

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:

By mail, express mail or hand delivery:

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

By Fax:

(252) 247-3330

By Email:

Check DCM website for the email
address of the current DCM Director

Contact Information for Attorney General's Office:

By mail:

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

By express mail:

Environmental Division
114 W. Edenton Street
Raleigh, NC 27603

By Fax:

(919) 716-6767

PROPOSED STIPULATED FACTS AND STIPULATED EXHIBITS

- 1. The Petitioners, Michael A. Zito, Jr. and wife, Catherine M. Zito, currently own a lot located at 10224 E. Sea Gull Drive, Nags Head, North Carolina, also known as Lot 48, Goose Wing Subdivision.**
- 2. At the time the Petitioners acquired Lot 48, Goose Wing Subdivision in August 2008, there was a single family dwelling located on said property. On the 10th day of October, 2016, a fire destroyed the dwelling. However, the septic system, including the septic tank and drain field used in connection with the prior improvements are still located on the property and has been approved, see Exhibit "D". Attached survey to Exhibit "D" incorrectly shows the location of decks and steps. The correct location is Exhibit "C". This does not affect the validity of the wastewater permit.**
- 3. The Petitioners' lot was accessed by a public street known as Sea Gull Drive.**
- 4. By resolution by the Town of Nags Head, recorded in the office of the Register of Deeds of Dare County on October 12, 2016, the Town of Nags Head abandoned Sea Gull Drive to the east of the Petitioners' property, and the resolution purported to extend the property line of the Petitioners' 30 feet eastward to the center line of former Sea Gull Drive. However, said resolution recited as to that additional parcel, it was subject to access easements and rights of all property owners within Goose Wing Subdivision. The resolution is part of attached Exhibit "B".**
- 5. The Petitioners are proposing to reconstruct a 32 foot by 28 foot single family dwelling with approximately 384 square feet of open wood slatted decking on the north and west side of the dwelling, which proposed construction is more particularly shown on attached Exhibit "C".**
- 6. The former dwelling which was located on the property is now proposed to be rebuilt, was originally constructed in the year 1982. The contemplated structure is to be in the exact location and has the exact dimensions as the destroyed structure. The proposed location is set forth on the attached plat entitled "Survey Site Plan for Michael Zito and Catherine M. Zito", dated July 16, 2018, prepared by Manson Ray Meekins, Registered Surveyor, which is attached hereto as Exhibit "C".**
- 7. Exhibit "C" also shows the following setbacks and information:**
 - a. The static vegetation line.**
 - b. The minimum building setback lines under the applicable Nags Head Zoning Ordinance. The Petitioners' proposed construction complies with said Nags Head Zoning**

Ordinance setback requirements.

c. The existing septic tank and drain field located on the Property.

8. On the 31st day of July, 2017, the Petitioner, through their authorized agent, applied for a CAMA minor permit to reconstruct the single family dwelling which had been located on the property prior to its destruction by fire.

9. The Commission's current published annual erosion rate for this property is two (2) feet per year.

10. The Petitioners' Lot 48, Goose Wing Subdivision, was platted prior to June 1, 1979, in the year 1977.

11. The Petitioners' application indicates that the development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area.

12. The Petitioners' proposed development is not located on or in front of a frontal dune, but is entirely behind the landward toe of the frontal dune.

13. The Petitioners' development incorporates the following design standards:

a. All pilings shall have a tip penetration that extends to at least four feet below mean sea level.

b. The footprint of the structure shall be no more than 1,000 square feet, and the total floor area of the structure shall be no more than 2,000 square feet.

c. Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases concrete, asphalt or turfstone may also be used.

d. No portion of a building's total floor area, including elevated portions that are cantilevered, knee braced or otherwise extended beyond the support pilings or footings will extend oceanward of the total floor area of the landward-most adjacent building.

14. The proposed development complies with all of the use standards for ocean hazard areas, as provided under Section 15A N.C.A.C. 07H.0309, with the exception of the requirement that the development is at least 60 feet landward of the static vegetation line.

15. The proposed development by the Petitioners meets all other applicable State and local regulations.

16. The development site is served by its onsite wastewater disposal system. A copy of the valid permit for such system was submitted as part of the CAMA permit application.

17. As reflected in Exhibit "C", the southeast corner of the proposed dwelling is approximately 12 feet landward of the static vegetation line and the northeast corner of the proposed dwelling is approximately 20 feet landward of the static vegetation line.

PETITIONER'S STATEMENT REGARDING VARIANCE CRITERIA

A. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the Petitioner unnecessary hardship? Explain the hardships standards would result in unnecessary hardship.

The Petitioners submit that the imposition of the rules, standards and order will cause unnecessary hardship in the following respects:

1. The Petitioners are not seeking to expand their development of the property in any respect from the development that existed prior to the destruction of the home by fire in 2016. In that sense, this is not a new development or expansion of an existing structure that was located on the Petitioners' property. Petitioners are simply seeking to replace what was destroyed by fire.

2. The surrounding oceanfront properties in Goose Wing Subdivision also cannot comply with the only requirement that the Petitioners cannot meet, which is a 60 foot landward setback from the static vegetation line. Consequently, the Petitioners are not seeking to construct their dwelling in a better place than any other structures in the area or to have any advantage not applicable to other surrounding properties.

3. If the Petitioners are not granted this variance, the lot the Petitioners own becomes unbuildable.

B. Do such hardships result from conditions peculiar to the Petitioner's property, such as its location, size or topography of the property? Explain.

1. The hardship or condition is unique to the Petitioners' property in that the structure on the property was destroyed by fire.

2. The Petitioners' proposed rebuilding is unique in the sense it will not require the installation of a new septic system and drain field. The existing system will continue to be used.

C. The hardships did not result from actions taken by the Petitioner. Explain.

- 1. The hardships result from the imposition of the CAMA setback rule.**
- 2. Further, the hardships result from the fact that the structure located on the property was destroyed by fire and not the result of any action taken by the Petitioners.**
- 3. The hardship results from the erosion of the property by the Atlantic Ocean.**

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.

1. The intent of the ordinance is not to make properties unbuildable but to limit development. If this variance is not granted, this lot will be unbuildable.

2. Granting this variance will preserve substantial justice in that the Petitioners will be allowed to reconstruct a home which was destroyed by fire through no fault of the Petitioners, and will not require the installation of a new septic system and drain field.

3. The rebuilding of the Petitioners' home lost by fire will not have any negative effect on the public on the public safety and welfare.

4. Substantial justice will also prevail in that other adjoining property owners of Goose Wing Subdivision continue to enjoy their homes even though they cannot comply with the 60 foot setback regulation that the Petitioners cannot meet and to allow the Petitioners and to rebuild will provide equal justice to all property owners in Goose Wing Subdivision.

EXHIBIT "A"



Town of Nags Head

Planning and Development
Department

Post Office Box 99
Nags Head, North Carolina 27959
www.nagsheadnc.gov

Telephone 252-441-7016
FAX 252-441-4290

April 26, 2018

CERTIFIED MAIL – 7016 0910 0000 6155 7206
RETURN RECEIPT REQUESTED

Michael and Catherine Zito
11816 May's Chapel Road
Timonium, MD 21093

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
APPLICATION NUMBER- # 17-36
PROJECT ADDRESS- 10224 E. Seagull Drive

Dear Property Owners:

After reviewing your application in conjunction with the development standards required by the Coastal Area Management Act (CAMA) and our locally adopted 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 and Local Land Use Plans. You have applied to re-construct a single family dwelling following a loss of the existing structure by fire. Specifically, you are proposing to construct a 32 ft. x 28 ft. dwelling with approximately 384 sf. of detached open wood slatted decking on the north and west side of the dwelling. Code Section 15A NCAC 07H .0309, Use Standards for Ocean Hazard Areas: Exceptions provides a mechanism for permanent substantial structures to be constructed on lots existing as of June 1, 1979. The lot in question was platted in 1977 therefore making it a candidate for review under this code section.

Upon review, I have determined to the requested scope of work to be inconsistent with 15A NCAC 07H .0309(b), which states that: *Where application of the oceanfront setback requirements of Rule .0308(a) of this Subchapter would preclude placement of permanent substantial structures on lots existing as of June 1, 1979, buildings shall be permitted seaward of the applicable setback line in ocean erodible areas, but not inlet hazard areas or unvegetated beach areas, if each of the following conditions are met:*

- (1) *The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;*
- (2) *The development is at least 60 feet landward of the vegetation line or static vegetation line, whichever is applicable;*
- (3) *The development is not located on or in front of a frontal dune, but is entirely behind the landward toe of the frontal dune;*
- (4) *The development incorporates each of the following design standards, which are in addition to those requires by Rule .0308(d) of this Subchapter.*

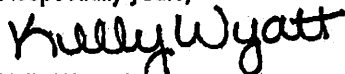
- (a) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;
 - (b) The footprint of the structure shall be no more than 1,000 square feet, and the total floor area of the structure shall be no more than 2,000 square feet. For the purpose of this Section, roof-covered decks and porches that are structurally attached shall be included in the calculation of footprint;
 - (c) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases concrete, asphalt or turfstone may also be used;
 - (d) No portion of a building's total floor area, including elevated portions that are cantilevered, knee braced or otherwise extended beyond the support pilings or footings may extend ocean ward of the total floor area of the landward-most adjacent building. When the geometry or orientation of a lot precludes the placement of a building in line with landward most adjacent structure of similar use, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.
- (5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.

The applicant has shown compliance with Subsections (1), (3), (4a), (4b), (4c), (4d) and (5) above. The applicant has not demonstrated compliance with Subsection (2), that the development is at least 60 feet landward of the of the static vegetation line. Based upon the most recent survey provided by Seaboard Surveying & Planning, Inc. dated 10/18/17 the home is setback approximately 12 ft. landward of the static vegetation line.

Should you wish to appeal my decision to the Coastal Resource Commission or request a variance from that group, please contact me so I can provide you with the proper forms and any other information you may require.

The Division of Coastal Management central office in Morehead City must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours;



Kelly Wyatt, L.P.C.
Town of Nags Head
P.O. Box 99
Nags Head, NC 27959

cc: Yvonne Carver, Field Representative, DCM
Chris Seawell, Attorney for Zito's

EXHIBIT “B”

B: 1777 P: 455
08/29/2008 04:22 PM
Doc Code: DEED
Barbara N. Gray, Register of Deeds

Doc Id: 6246261
Receipt #: 08-3925
NCExcise Tax pd: \$877.00
Dare CO, NC

6246261 B: 1777 P: 455 Page 1 of 2 8/29/08 4:22 PM

UNOFFICIAL
DARE COUNTY
3048-08



REAL ESTATE
TRANSFER TAX

\$4,385⁰⁰

Space Above This Line For Recording Data

DEED

This instrument prepared by Robert B. Hobbs, Jr., a licensed North Carolina Attorney

D3251-1RH

Return to M. Peebles Harrison, Rose, Harrison & Gilreath, PO Box 1087, Nags Head, NC 27959

Excise Tax: \$877.00
Transfer Tax: \$4,385.00

Tax Parcel: 007480000
LT Number 3048-08

North Carolina, Dare County

THIS GENERAL WARRANTY DEED made this 29th day of August, 2008, by and between KEN A. STARR and wife, TERRI L. STARR (hereinafter referred to as "Grantor"), and MICHAEL A. ZITO, JR. and wife, CATHERINE M. ZITO, whose mailing address is 11816 Mays Chapel Road, Timonium, MD 21093 (hereinafter referred to as "Grantee"):

WITNESSETH:

That the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has given, granted, bargained, sold, and conveyed, and by these presents does hereby give, grant, bargain, sell, and convey unto said Grantee, Grantee's heirs, successors, administrators and assigns, all of that certain piece, parcel, or tract of land situate, lying and being in the Town of Nags Head, Nags Head Township, Dare County, State of North Carolina, and being more particularly described as follows:

Lot No. 48 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.

The Grantees herein shall have the right of access to the Atlantic Ocean and State Road No. 1243 over and across the area designated "Access Areas", which said right is to be held in common with each owner in the subdivision.

Together with all of Grantors right, title and interest in and to that certain easement recorded in Book 1678, Page 228, and amended by instruments recorded in Book 1742, Page 149 and Book 1766, Page 110, of the Dare County Registry.



Being the same property conveyed to Grantor by Deed filed in Book 1742, Page 150, Dare County Registry.

TO HAVE AND TO HOLD the above described lands and premises, together with all appurtenances thereunto belonging, or in anywise appertaining, unto the Grantee, Grantee's heirs, successors, administrators, and assigns forever.

AND THE SAID GRANTOR COVENANTS to and with said Grantee, Grantee's heirs, successors, administrators, and assigns, that Grantor is lawfully seized in fee simple of said lands and premises, and have full right and power to convey the same to the Grantee in fee simple, and that said lands and premises are free from any and all encumbrances, except as set forth herein, and that the Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, with the exception of the following: Ad valorem taxes for the year 2009 and subsequent years, easements and restrictions of record, and any local, county, state, or federal laws, ordinances, or regulations relating to zoning, environment, subdivision, occupancy, use, construction, or development of the subject property.

IN WITNESS WHEREOF, the Grantor has duly executed and sealed this document, this the day and year first above written.

GRANTOR: Ken A. Starr (SEAL) Terri L. Starr (SEAL)

STATE OF Virginia
(COUNTY) (CITY) OF Chesterfield

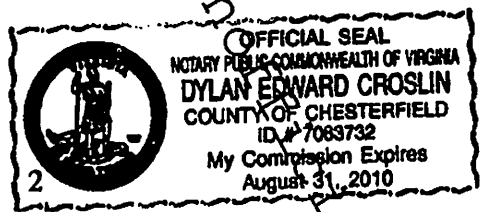
I, Dylan Edward Croslin, a Notary Public of the (County) (City) of Chesterfield, and State aforesaid, certify that Ken A. Starr and wife, Terri L. Starr personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and seal this 26 day of Aug, 2008.

(AFFIX NOTARY SEAL)

Dylan Edward Croslin
Notary Public
Notary's printed or typed name: Dylan Edward Croslin

My commission expires: 8/31/10



700031129

Recorded: 10/12/2016 04:15:49 PM
BY: Claudia Harrington
Vanzolka McMurrin, Register of Deeds
Dare County, NC

Fee Amt: \$28.00

NC Excise Tax: \$0.00

Please return to: Town of Nags Head, PO Box 99, Nags Head, NC 27959

**A RESOLUTION ORDERING THE CLOSING OF SEAGULL DRIVE IN SOUTH NAGS HEAD**
(Revised 10/5/2016)

WHEREAS, on the 6th day of April 2016 the Board of Commissioners of the Town of Nags Head directed the Town Clerk to publish the resolution of Intent of the Board of Commissioners of the Town of Nags Head to consider closing the north-south portion of Seagull Drive in the *Coastland Times* newspaper once each week for four consecutive weeks and posting said resolution in two locations along said street advising the public that a public hearing would be conducted in the Town Hall at 9:00 a.m. on the 1st day of June 2016; AND

WHEREAS, the Town's Board of Commissioners further directed the Town Clerk to notify by certified mail, all persons owning property abutting on that portion of Seagull Drive proposed to be closed enclosing with such notification a copy of the resolution of Intent; AND

WHEREAS, the Town Clerk has advised the Board of Commissioners that on the date directed she sent notice to each of said abutting property owners by certified mail return receipt requested advising them of the day, time and place of the meeting, enclosing a copy of the Board of Commissioner's resolution of Intent, and advising said abutting property owners that the question as to the closing to said portion of Seagull Drive would be acted upon; AND

WHEREAS, the Town Clerk has advised the Board of Commissioners that none of the notices sent to abutting property owners on Seagull Drive has been returned undelivered; AND

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of said street; AND

WHEREAS, the north-south portion of Seagull Dr. is constantly threatened and damaged by the relentless wave action of the Atlantic Ocean resulting in chronic, persistent and inevitable erosion of that portion of the road; AND

WHEREAS, the north-south portion of Seagull Dr. is located entirely within the Goose Wing subdivision, does not connect any other public streets, is not needed for the public access to any other streets, neighborhoods, developments or facilities, and receives little, if any, use by anyone other than the owners of approximately nine (9) properties located along the street and those who rent the cottages located on those properties; AND

WHEREAS, the cost to maintain and continually repair the north-south portion of Seagull Dr. due to frequent and inevitable erosion is not justified by the benefit provided to the public by keeping that portion of the street open as a public street; AND

WHEREAS, the Board of Commissioners hereby finds and determines that the closing of said street is not contrary to the public interest and that no individual owning property either abutting the street or in the vicinity of said street or in the subdivision in which said street is located will, as a result of the proposed closing of the north-south portion of Seagull Dr., be thereby deprived of a reasonable means of ingress or egress to his property; AND

WHEREAS, it appears to the satisfaction of the BOC that the closing of said street will be in the public interest.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Town of Nags Head, meeting in regular session, that the north-south portion of Seagull Drive located in South Nags Head, as more particularly described hereafter, is hereby ordered closed and all right, title and interest in those persons owning lots adjacent to the street; such title, for the width of the abutting land owned by them, to extend to the centerline of the herein closed street in accordance with the provision of GS 160A-299(c): All that north-south portion of Seagull Drive identified as extending from the property line between Lot 56 (10200 Seagull Drive-Dipaola) and Lot 55 (10204 Seagull Drive-Fohs) to the north - and running to the property line between Lot 21 (216 Seagull Drive) and Lot 22 (214 Seagull Drive) to the south - of the Goose Wing Subdivision.

UNOFFICIAL DOCUMENT

Provided, however, that this resolution shall not terminate or have any effect on the existing access easements and rights to all of Seagull Drive held by all property owners in Goose Wing Subdivision as shown on and created by the recorded plat of Goose Wing Subdivision, which access easements and rights are hereby acknowledged and reserved to all property owners in the Subdivision.

The Town Clerk is hereby ordered and directed to file in the office of the Register of Deeds of Dare County a certified copy of this resolution. Upon motion duly made by Comr. Demers and duly seconded by Mayor Pro Tem Walters, the above resolution was duly adopted by the Board of Commissioners at a regular meeting held on the 7th day of September 2016. Upon call for a vote all Commissioners voted in the affirmative.

This the 7th day of September 2016.

Robert C. Edwards
Robert C. Edwards, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris
Carolyn F. Morris, Town Clerk



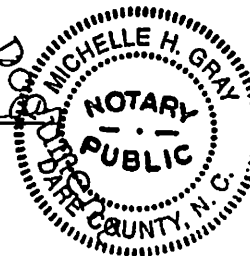
STATE OF NORTH CAROLINA
COUNTY OF DARE

I, Michelle H Gray, a Notary Public for said County and State, do hereby certify that Robert C. Edwards personally appeared before me this day and acknowledged the due execution for the foregoing instrument.

WITNESS my hand and notarial seal, this the 5th day of October, 2016

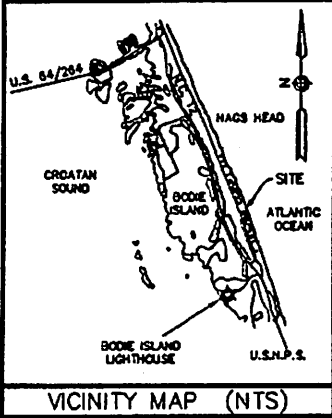
Michelle H Gray
Notary Public

Commission expires: 10/4/20



UNOFFICIAL DOCUMENT

EXHIBIT “C”



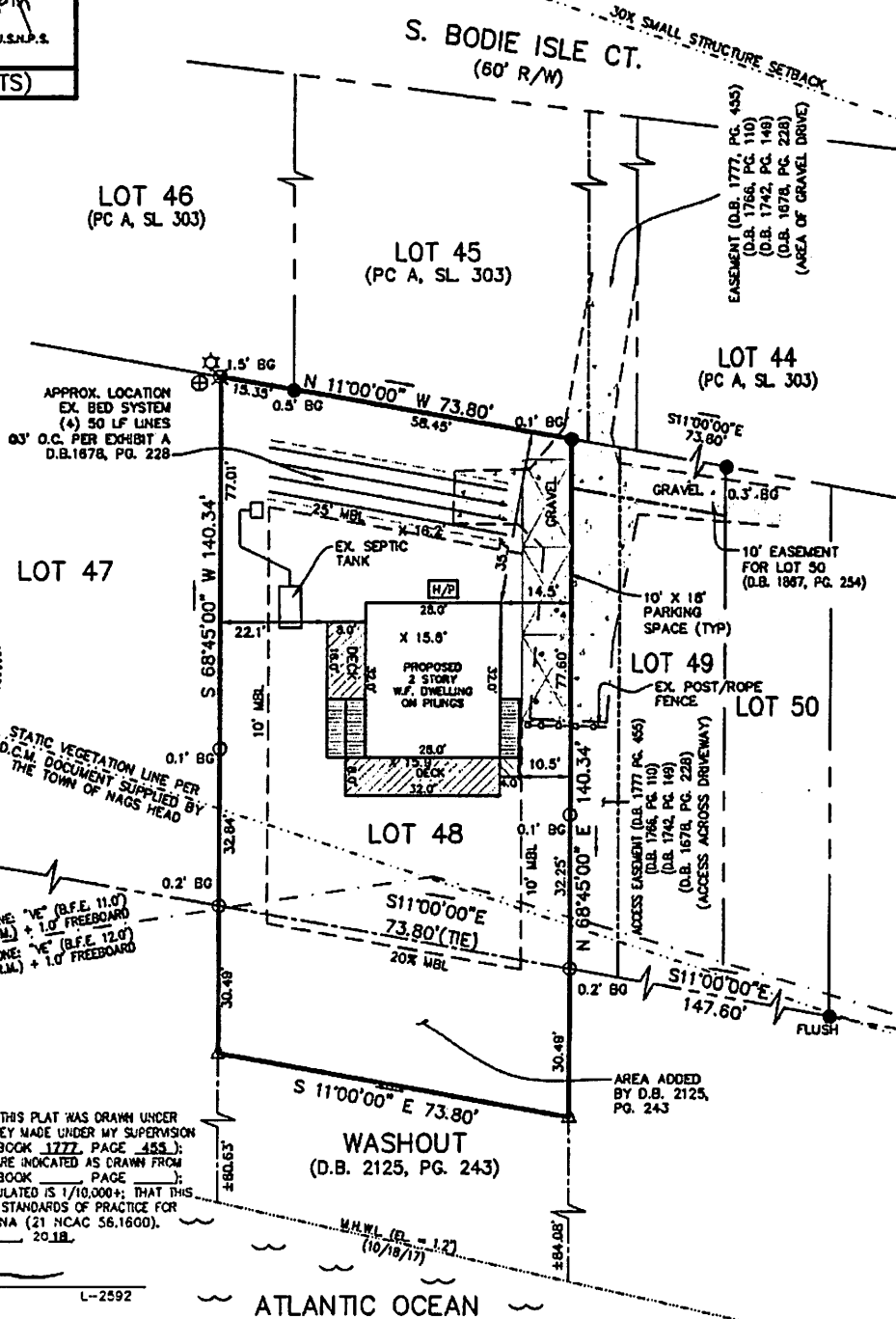
NOTES:

1. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
2. AREA BY COORDINATE COMPUTATION = 10,192 S.F. (8,909 SF. WEST OF STATIC VEG. LINE)
3. F.I.R.M. ZONE: AS SHOWN
4. PIN NO.: 14 071813 73 0373
5. RECORDED REFERENCE: M.B. 9, PG. 57; DB 1777, PG. 455
6. MINIMUM BUILDING LINES (MBL), IF SHOWN HEREON, ARE PER THE CURRENT LOCAL ZONING REGULATIONS. OTHER SETBACKS AND/OR RESTRICTIONS MAY APPLY AND MUST BE VERIFIED PRIOR TO CONSTRUCTION.
7. ELEVATIONS (NAVD 1988): AS SHOWN
8. PROPOSED LOT COVERAGE: 2,001 S.F. (29.0%)
9. SITE PLAN REQUIREMENTS PER TOWN OF NAGS HEAD ZONING ORD. ARTICLE IV-SEC 48-123 AND ARTICLE III SEC 48-84.
10. THIS PROPERTY LIES WITHIN THE 540 FT C.A.M.A. O.E.A./A.E.C. AND THE 180 FT. C.A.M.A. STRUCTURE SETBACK.

VICINITY MAP (NTS)

LEGEND

- - EX. PIPE
- - EX. 3/4" REBAR
- - 1/2" REBAR SET
- - EX. CONC. MON.
- - CONC. MON. SET
- △ - EX. MAG NAIL & WASHER
- △ - CALCULATED POINT
- - EX. 1" OPEN PIPE
- ⊗ - WATER METER
- ⊕ - PHONE PEDESTAL
- ⊖ - C.A.T.V.
- ⊙ - UTILITY POLE
- ⊗ - GUY WIRE
- ⊕ - FIRE HYDRANT
- ⊖ - ELECT. TRANS.
- AG - ABOVE GRADE
- BG - BELOW GRADE



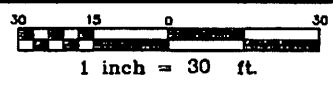
N.F.I.P. ZONE: "VE" (B.F.E. 11.0') (PER F.I.R.M.) + 1.0' FREEBOARD
 N.F.I.P. ZONE: "VE" (B.F.E. 12.0') (PER F.I.R.M.) + 1.0' FREEBOARD

I, MANSON RAY MEEKINS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 1777, PAGE 455); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM (DEED DESCRIPTION RECORDED IN BOOK _____ PAGE _____); THAT THE RATIO OF PRECISION AS CALCULATED IS 1/10,000+; THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600), THIS 18TH DAY OF _____ 2018.

Manson Ray Meekins
 SURVEYOR L-2592

REV. 07/13/18: SITE PLAN

SURVEY/ SITE PLAN FOR
MICHAEL A. ZITO, JR. & CATHERINE M. ZITO
 LOT 48 & ADJACENT PARCEL - GOOSEWING - NAGS HEAD
 NAGS HEAD TOWNSHIP - DARE COUNTY - NORTH CAROLINA



SEABOARD SURVEYING & PLANNING, INC. C-1536
 103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959
 OFFICE: (252) 480-9998 FAX: (252) 480-0571

EXHIBIT “D”

Improvement Permit
County of Dare
PO Box Drawer 1000
Manteo NC 27954



27602

Phone: (252) 475-5080

DARE COUNTY DEPARTMENT OF PUBLIC HEALTH

An Improvement Permit (IP) issued pursuant to this application is not affected by change in ownership provided the site and wastewater characteristics remain unchanged. An IP issued with a plat is valid without expiration. An IP issued with a site plan is valid for 60 months from the date of issuance.

PIN: 071815730373

Parcel: 007480000

Permit#: 27602

Owner Name: ZITO, MICHAEL A JR
Owner Address: 11816 MAYS CHAPEL RD
Owner Address: --
TIMONIUM, MD21093

Permit Date: 3/1/2018
Permit Type: Residential
Owner Phone: (000)000-0000

DBA --

Location: 10224 E SEA GULL DR NAGS HEAD, NC
Subdivision: GOOSE WING LOT: 48 BLK: SEC:

Category of System:	S-25	Size of Tank (gallons):	0
Type of Tank:	S-25	Width of Ditch:	0
Type of System:	S-25	Rock Above (inches):	0
Amount of Tile (feet):	0	Gallons per Day:	0
Rock Under (inches):	0	Previous Permit Number:	
Number of Bedrooms:	4	Feet from Body of Water:	0
Sleeping Capacity (persons):	8	Feet from Building:	0
Type of Water:	S-25		
Feet from Water Supply:	0		
Feet from Property Line:	0		

Comments:

REBUILD HOUSE THAT BURNED DOWN AND CONNECT TO EXISTING SEPTIC TANK

Note: This Permit is issued subject to all provisions of the 15A NCAC .1900 rules governing the installation of septic systems. The person making the installation must notify the Health Department when the septic tank system is ready for inspection. If any septic tank system or part thereof is covered before being inspected and approved, it shall be uncovered at the direction of the Health Officer at the expense of the one responsible for making the installation.

Issued 3/1/2018 By:

Rob Crawford
Environmental Health Specialist

Sewer Permit Fee: 0

Applicant Signature George Wood

County of Dare
PO Box Drawer 1000
Manteo NC 27954



27602
Phone: (252) 475-5080

DARE COUNTY DEPARTMENT OF PUBLIC HEALTH
Authorization for Wastewater System Construction

PIN: 071815730373 Parcel: 007480000 Permit#: 27602
Owner Name: ZITO, MICHAEL A JR Permit Date: 3/1/2018
Owner Address: 11816 MAYS CHAPEL RD
-- Owner Phone: (000)000-0000
TIMONIUM, MD21093

Location: 10224 E SEA GULL DR NAGS HEAD, NC
Subdivision: GOOSE WING LOT: 48 BLK: SEC:

1. Original Improvement Permit No. --
2. Wastewater inspected by Rob Crawford *RC*
3. Any alteration in soil conditions (including location of structures and appurtenances) or modification in use, design wastewater flow or wastewater characteristics as specified in the associated improvement permit and application, may subject this authorization and associated permit(s) to revocation.

Other Conditions:

PERMIT TO REBUILD HOUSE AND CONNECT TO EXISTING SEPTIC SYSTEM.

This CA is valid for 60 months from the date of issuance.

Disclaimer: This permit does not relieve you of the responsibility to obtain any other necessary Federal, State or Local permit(s).

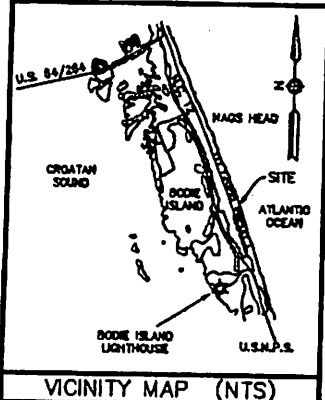
Owner Certification

V
Applicant or Owner Signature
Applicant: GEORGE WOOD

Date

Authorized by County of Dare

7.7c
16-062



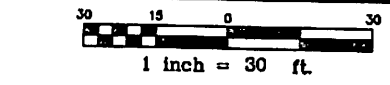
- NOTES:**
1. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
 2. AREA BY COORDINATE COMPUTATION = 10,192 S.F. (8,908 SF WEST OF STATIC VEG. LINE)
 3. F.L.R.M. ZONE: AS SHOWN
 4. PIN NO.: 14 071815 73 0373
 5. RECORDED REFERENCE: M.B. 9, PG. 57; DB 1777, PG. 458
 6. MINIMUM BUILDING LINES (M.B.L.) IF SHOWN HEREON, ARE PER THE CURRENT LOCAL ZONING REGULATIONS. OTHER SETBACKS AND/OR RESTRICTIONS MAY APPLY AND MUST BE VERIFIED PRIOR TO CONSTRUCTION.
 7. ELEVATIONS (NAVD 1988): AS SHOWN
 8. PROPOSED LOT COVERAGE 2,001 S.F. (29.0%)
 9. SITE PLAN REQUIREMENTS PER TOWN OF NAGS HEAD ZONING ORD. ARTICLE IV-SEC 48-123 AND ARTICLE III SEC 48-84.
 10. THIS PROPERTY LIES WITHIN THE 540 FT C.A.M.A. O.E.A./A.E.C. AND THE 100 FT. C.A.M.A. STRUCTURE SETBACK.

- LEGEND**
- - EX. PIPE
 - - EX. 3/4" REBAR
 - - 1/2" REBAR SET
 - - EX. CONC. MON.
 - - CONC. MON. SET
 - ▲ - EX. MAG NAIL & WASHER
 - △ - CALCULATED POINT
 - - EX. 1" OPEN PIPE
 - - WATER METER
 - - PHONE PEDESTAL
 - - C.A.T.V.
 - - UTILITY POLE
 - - GUY WIRE
 - - FIRE HYDRANT
 - - ELECT. TRANS.
 - AD - ABOVE GRADE
 - BO - BELOW GRADE



Septic Layout Approved
by DCDHHS, DPH, EH Unit
On LOT 46 3-1-17
By *[Signature]*

**PRELIMINARY PLAN
NOT FOR RECORDATION
CONVEYANCES OR SALES**



SEABOARD SURVEYING & PLANNING, INC. C-1536
103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959
OFFICE: (252) 480-9998 FAX: (252) 480-0571

**SURVEY/ SITE PLAN FOR
MICHAEL A. ZITO, JR. & CATHERINE M. ZITO
LOT 48 & ADJACENT PARCEL - GOOSEWING - NAGS HEAD
NAGS HEAD TOWNSHIP - DARE COUNTY - NORTH CAROLINA**

FILE: 1707822 SURVEYED: 10/18/17 CE PLATTED: 10/30/17 MJ

EXHIBIT 'E'

CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

July 31, 2017

Date

Jarrod Mandozzi & wife, Maria Mandozzi

Name of Adjacent Riparian Property Owner
168 Venetian Drive

Address
Islamorada, FL 33036

City, State Zip

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I am applying for a CAMA Minor permit to construction of a residence.

on my property at 10224 E Sea Gull Drive, Nags Head, North Carolina
in Dare County, which is adjacent to your property. A copy of the application and project drawing is attached/enclosed for your review.

If you have no objections to the proposed activity, please mark the appropriate statement below and return to me as soon as possible. If no comments are received within 10 days of receipt of this notice, it will be considered that you have no comments or objections regarding this project.

If you have objections or comments, please mark the appropriate statement below and send your correspondence to:
Kelly Wyatt, Town of Nags Head, P. O. Box 99, Nags Head, NC 27959

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact Kelly Wyatt, phone - 252-441-7016 or e-mail at kelly.wyatt@nagsheadnc.gov.

Sincerely,


Property Owner's Name

Michael A. Zito, Jr./Catherine M. Zito

410-274-7448

Telephone Number

Address

City

State

Zip

I have no objection to the project described in this correspondence.

I have objection(s) to the project described in this correspondence.

Adjacent Riparian Signature

Date

Print or Type Name

Telephone Number

Address

City

State

Zip

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**

Domestic Mail Only

For delivery information, visit our website at www.usps.com

ISLAMORADA FL 33036

0954

Postmark Here

07/31/2017

Postage

\$3.35

\$2.75

\$0.00

\$0.00

\$0.00

\$0.00

\$6.80

Total Postage & Fees

\$0.70

Restricted Delivery Fee (Endorsement Required)

\$0.00

Return Receipt Fee (Endorsement Required)

\$0.00

Certified Fee

\$0.00

Sent to Jarrod Mandozzi

Street & Apt. No.

168 Venetian Drive

or PO Box No.

City, State, ZIP+4

Islamorada, FL 33036

PS Form 3800, July 2014 See Reverse for Instructions

7015 0920 0002 3872 3678

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3.

Print your name and address on the reverse so that we can return the card to you.

Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jarrod Mandozzi
Maria Mandozzi
168 Venetian Drive
Islamorada, FL 33036

2. Article Number (Transfer from service label)
7015 0920 0002 3872 3678



9590 9403 0238 5146 8788 01

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Agent

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes No

3. Service Type
 Priority Mail Express®
 Registered Mail™
 Adult Signature Restricted Delivery
 Certified Mail®
 Return Receipt for Merchandise
 Collect on Delivery
 Collect on Delivery Restricted Delivery
 Signature Confirmation™
 Insured Mail (over \$500)
 Insured Mail Restricted Delivery (over \$500)

Domestic Return Receipt

CERTIFIED MAIL RETURN RECEIPT REQUESTED or HAND DELIVERED

July 31, 2017

Date

Elizabeth Ann Connell
Name of Adjacent Riparian Property Owner
19518 N 73rd Avenue
Address
Glendale, AZ 85308
City, State Zip

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I am applying for a CAMA Minor permit to
construction of a residence

on my property at 10224 E Sea Gull Drive, Nags Head, North Carolina
in Dare County, which is adjacent to your property. A copy of the application and project
drawing is attached/enclosed for your review.

If you have no objections to the proposed activity, please mark the appropriate statement below and return to me as soon
as possible. If no comments are received within 10 days of receipt of this notice, it will be considered that you have no
comments or objections regarding this project.

If you have objections or comments, please mark the appropriate statement below and send your correspondence to:
Kelly Wyatt, Town of Nags Head, P. O. Box 99, Nags Head, NC 27959

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or
Kelly Wyatt, phone - 252-441-7016, or e-mail -at kelly.wyatt@nagsheadnc.gov.

Sincerely,

Michael A. Zito, Jr./Catherine M. Zito
Property Owner's Name
Michael A. Zito, Jr./Catherine M. Zito

410-274-7448
Telephone Number

Address City State Zip

I have no objection to the project described in this correspondence.
 I have objection(s) to the project described in this correspondence.

Adjacent Riparian Signature

Date

Print or Type Name

Telephone Number

Address City State Zip

7015 0920 0002 3872 3661

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE
GLENDAL, AZ 85308

Postage	\$3.35
Certified Fee	\$2.75
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$6.80

0954
01
Postmark
Here
07/31/2017

Sent To
Elizabeth Ann Connell
 Street & Apt. No.,
 or PO Box No. **19518 N 73rd Avenue**
 City, State, ZIP+4
Glendale, AZ 85308

PS Form 3800, July 2014 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Elizabeth Ann Connell
19518 N 73rd Avenue
Glendale, AZ 85308



9590 9403 0238 5146 8787 71

2. Article Number (Transfer from service label)
015 0920 0002 3872 3661

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Agent
 Addressee
[Handwritten Signature]

B. Received by (Printed Name)
[Handwritten Name]

C. Date of Delivery
8/3/17

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below No

GLENDAL, AZ 85308
AUG 3 2017

3. Service Type
- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input checked="" type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input checked="" type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

PS Form 3811, April 2015 PSN 7530-02-000-9053

Domestic Return Receipt

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July 31, 2017

Date

Elizabeth Ann Connell
Name of Adjacent Riparian Property Owner
19518 N 73rd Avenue
Address
Glendale, AZ 85308
City, State Zip

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construction of a residence

on my property at 10224 E Sea Gull Drive, Nags Head, North Carolina
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Sincerely,

Michael A. Zito, Jr./Catherine M. Zito
Property Owner's Name
Michael A. Zito, Jr./Catherine M. Zito

410-274-7448
Telephone Number

Address City State Zip

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 I have objection(s) to the project described in this correspondence.

Elizabeth Ann Connell
Adjacent Riparian Signature
Elizabeth Ann Connell
Print or Type Name

8/3/2017
Date
720-341-5175
Telephone Number

Address City State Zip
19518 N. 73rd Ave. Glendale AZ 85308

B: 1777 P: 455
08/29/2008 04:22 PM
Doc Code: DEED
Barbara M. Gray, Register of Deeds Dare CO, NC

Doc Id: 6246261
Receipt #: 08-3926
NCExcise Tax pd: \$877.00

6246261 B: 1777 P: 455 Page 1 of 2 8/29/08 4:22 PM



UNOFFICIAL DOCUMENT
DARE COUNTY
LT 3048-08



REAL ESTATE
TRANSFER TAX

\$4,385⁰⁰

Space Above This Line For Recording Data

DEED

This instrument prepared by Robert B. Hobbs, Jr., a licensed North Carolina Attorney

D3251-1RH

Return to M. Peebles Harrison, Rose, Harrison & Gilreath, PO Box 1087, Nags Head, NC 27959

Excise Tax: \$877.00
Transfer Tax: \$4,385.00

Tax Parcel: 007480000
LT Number 3048-08

North Carolina, Dare County

THIS GENERAL WARRANTY DEED made this 29th day of August, 2008, by and between KEN A. STARR and wife, TERRI L. STARR (hereinafter referred to as "Grantor"), and MICHAEL A. ZITO, JR. and wife, CATHERINE M. ZITO, whose mailing address is 11816 Mays Chapel Road, Timonium, MD 21093 (hereinafter referred to as "Grantee"):

WITNESSETH:

That the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has given, granted, bargained, sold, and conveyed, and by these presents does hereby give, grant, bargain, sell, and convey unto said Grantee, Grantee's heirs, successors, administrators and assigns, all of that certain piece, parcel, or tract of land situate, lying and being in the Town of Nags Head, Nags Head Township, Dare County, State of North Carolina, and being more particularly described as follows:

Lot No. 48 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.

The Grantees herein shall have the right of access to the Atlantic Ocean and State Road No. 1243 over and across the area designated "Access Areas", which said right is to be held in common with each owner in the subdivision.

Together with all of Grantors right, title and interest in and to that certain easement recorded in Book 1678, Page 228, and amended by instruments recorded in Book 1742, Page 149 and Book 1766, Page 110, of the Dare County Registry.

RECEIVED

AUG 01 2018

DCM-MHD CITY
Book 1777 Page 455-0001



UNOFFICIAL INSTRUMENT

Being the same property conveyed to Grantor by Deed filed in Book 1742, Page 150, Dare County Registry.

TO HAVE AND TO HOLD the above described lands and premises, together with all appurtenances thereunto belonging, or in anywise appertaining, unto the Grantee, Grantee's heirs, successors, administrators, and assigns forever.

AND THE SAID GRANTOR COVENANTS to and with said Grantee, Grantee's heirs, successors, administrators, and assigns, that Grantor is lawfully seized in fee simple of said lands and premises, and have full right and power to convey the same to the Grantee in fee simple, and that said lands and premises are free from any and all encumbrances, except as set forth herein, and that the Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, with the exception of the following: Ad valorem taxes for the year 2009 and subsequent years, easements and restrictions of record, and any local, county, state, or federal laws, ordinances, or regulations relating to zoning, environment, subdivision, occupancy, use, construction, or development of the subject property.

IN WITNESS WHEREOF, the Grantor has duly executed and sealed this document, this the day and year first above written.

GRANTOR: [Signature] (SEAL)
Ken A. Starr

[Signature] (SEAL)
Terri L. Starr

STATE OF Virginia
(COUNTY) (CITY) OF Chesterfield

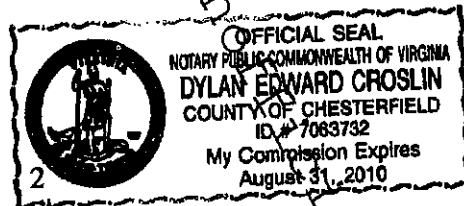
I, Dylan Edward Croslin a Notary Public of the (County) (City) of Chesterfield, and State aforesaid, certify that Ken A. Starr and wife, Terri L. Starr personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and seal this 26 day of August, 2008.

(AFFIX NOTARY SEAL)

[Signature]
Notary Public
Notary's printed or typed name: Dylan Edward Croslin

My commission expires: 8/31/10



RECEIVED

AUG 01 2018

DCM-MHD CITY

Book 1777 Page 455-0002

UNOFFICIAL INSTRUMENT

700031129



Unofficial Document

Recorded: 10/12/2016 04:15:49 PM
BY: Claudia Harrington
Vanzolia McMurrin, Register of Deeds
Dare County, NC

Fee Amt \$26.00

NC Excise Tax: \$0.00

Please return to: Town of Nags Head, PO Box 99, Nags Head, NC 27959



A RESOLUTION ORDERING THE CLOSING OF SEAGULL DRIVE IN SOUTH NAGS HEAD
(Revised 10/5/2016)

WHEREAS, on the 6th day of April 2016 the Board of Commissioners of the Town of Nags Head directed the Town Clerk to publish the resolution of intent of the Board of Commissioners of the Town of Nags Head to consider closing the north-south portion of Seagull Drive in the *Coastland Times* newspaper once each week for four consecutive weeks and posting said resolution in two locations along said street advising the public that a public hearing would be conducted in the Town Hall at 9:00 a.m. on the 1st day of June 2016; AND

WHEREAS, the Town's Board of Commissioners further directed the Town Clerk to notify by certified mail, all persons owning property abutting on that portion of Seagull Drive proposed to be closed enclosing with such notification a copy of the resolution of intent; AND

WHEREAS, the Town Clerk has advised the Board of Commissioners that on the date directed she sent notice to each of said abutting property owners by certified mail return receipt requested advising them of the day, time and place of the meeting, enclosing a copy of the Board of Commissioners' resolution of intent, and advising said abutting property owners that the question as to the closing to said portion of Seagull Drive would be acted upon; AND

WHEREAS, the Town Clerk has advised the Board of Commissioners that none of the notices sent to abutting property owners on Seagull Drive has been returned undelivered; AND

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of said street; AND

WHEREAS, the north-south portion of Seagull Dr. is constantly threatened and damaged by the relentless wave action of the Atlantic Ocean resulting in chronic, persistent and inevitable erosion of that portion of the road; AND

WHEREAS, the north-south portion of Seagull Dr. is located entirely within the Goose Wing subdivision, does not connect any other public streets, is not needed for the public access to any other streets, neighborhoods, developments or facilities, and receives little, if any, use by anyone other than the owners of approximately nine (9) properties located along the street and those who rent the cottages located on those properties; AND

WHEREAS, the cost to maintain and continually repair the north-south portion of Seagull Dr. due to frequent and inevitable erosion is not justified by the benefit provided to the public by keeping that portion of the street open as a public street; AND

WHEREAS, the Board of Commissioners hereby finds and determines that the closing of said street is not contrary to the public interest and that no individual owning property either abutting the street or in the vicinity of said street or in the subdivision in which said street is located will, as a result of the proposed closing of the north-south portion of Seagull Dr., be thereby deprived of a reasonable means of ingress or egress to his property; AND

WHEREAS, it appears to the satisfaction of the BOC that the closing of said street will be in the public interest.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Town of Nags Head, meeting in regular session, that the north-south portion of Seagull Drive located in South Nags Head, as more particularly described hereafter, is hereby ordered closed and all right, title and interest in those persons owning lots adjacent to the street; such title, for the width of the abutting land owned by them, to extend to the centerline of the herein closed street in accordance with the provision of GS 160A-299(c): All that north-south portion of Seagull Drive identified as extending from the property line between Lot 56 (10200 Seagull Drive-Dipaola) and Lot 55 (10204 Seagull Drive-Fohs) to the north - and running to the property line between Lot 21 (216 Seagull Drive) and Lot 22 (214 Seagull Drive) to the south - of the Goose Wing Subdivision.

RECEIVED

AUG 01 2018

DCM-MHD CITY

UNOFFICIAL DOCUMENT

Provided, however, that this resolution shall not terminate or have any effect on the existing access easements and rights to all of Seagull Drive held by all property owners in Goose Wing Subdivision as shown on and created by the recorded plat of Goose Wing Subdivision, which access easements and rights are hereby acknowledged and reserved to all property owners in the Subdivision.

The Town Clerk is hereby ordered and directed to file in the office of the Register of Deeds of Dare County a certified copy of this resolution. Upon motion duly made by Comr. Demers and duly seconded by Mayor Pro Tem Walters, the above resolution was duly adopted by the Board of Commissioners at a regular meeting held on the 7th day of September 2016. Upon call for a vote all Commissioners voted in the affirmative.

This the 7th day of September 2016.

Robert C. Edwards
Robert C. Edwards, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris
Carolyn F. Morris, Town Clerk



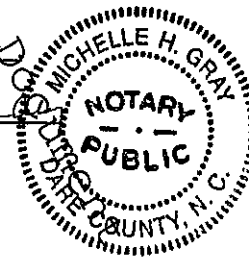
STATE OF NORTH CAROLINA
COUNTY OF DARE

I, Michelle H Gray, a Notary Public for said County and State, do hereby certify that Robert C. Edwards personally appeared before me this day and acknowledged the due execution for the foregoing instrument.

WITNESS my hand and notarial seal, this the 5th day of October, 2016

Michelle H Gray
Notary Public

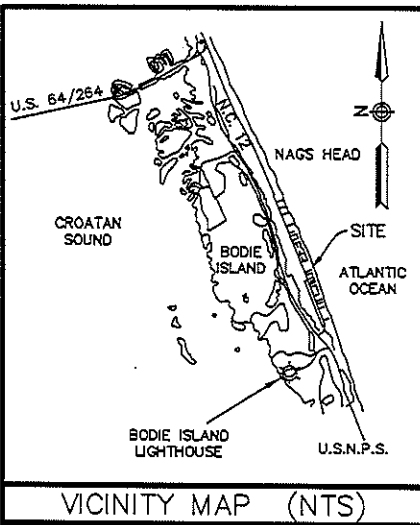
Commission expires: 10/4/20



RECEIVED

AUG 01 2018

DCM-MHD CITY

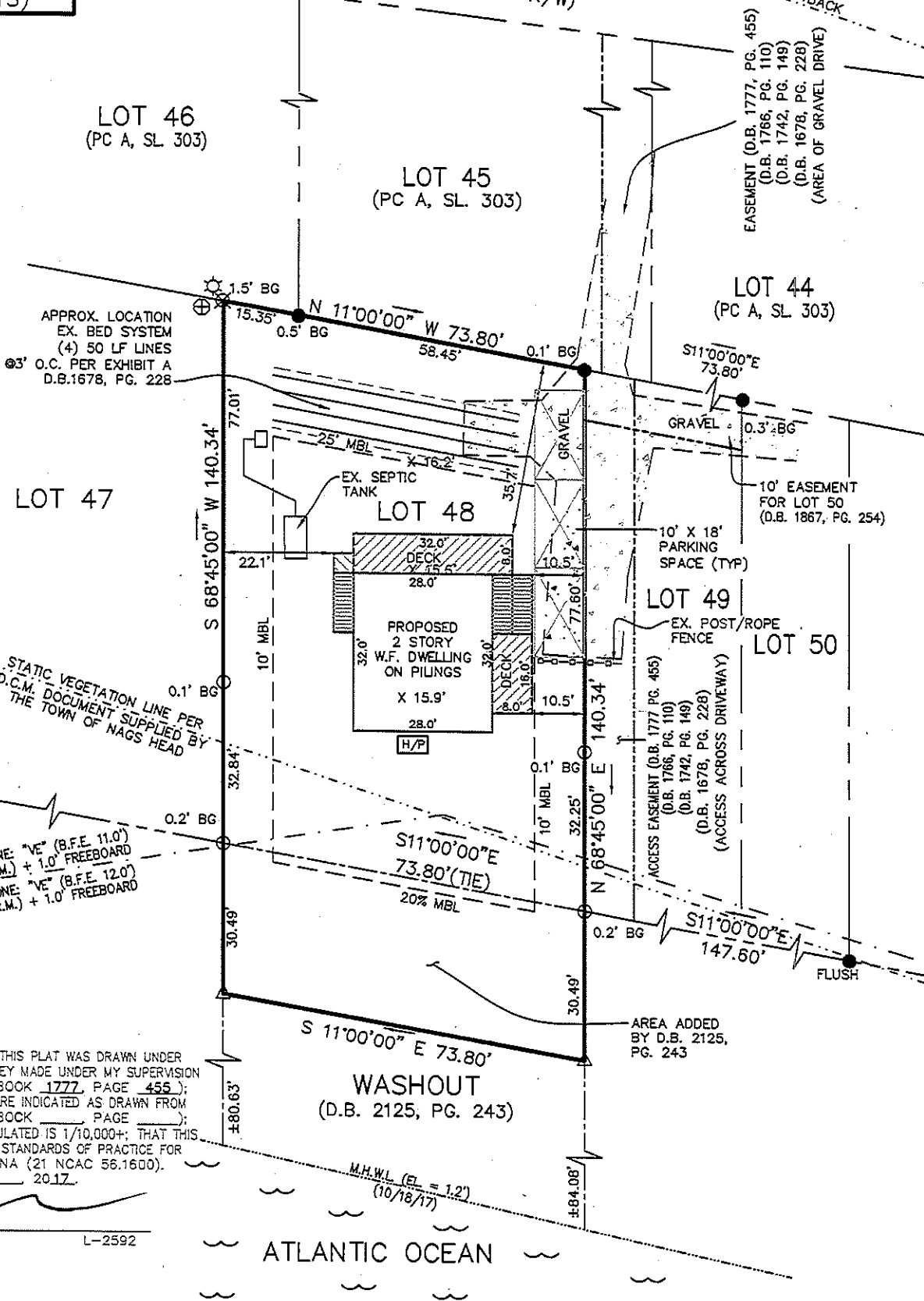


NOTES:

1. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
2. AREA BY COORDINATE COMPUTATION = 10,192 S.F. (6,909 SF. WEST OF STATIC VEG. LINE)
3. F.I.R.M. ZONE: AS SHOWN
4. PIN NO.: 14 071815 73 0373
5. RECORDED REFERENCE: M.B. 9, PG. 57; DB 1777, PG. 455
6. MINIMUM BUILDING LINES (MBL), IF SHOWN HEREON, ARE PER THE CURRENT LOCAL ZONING REGULATIONS. OTHER SETBACKS AND/OR RESTRICTIONS MAY APPLY AND MUST BE VERIFIED PRIOR TO CONSTRUCTION.
7. ELEVATIONS (NAVD 1988): AS SHOWN
8. PROPOSED LOT COVERAGE: 2,001 S.F. (29.0%)
9. SITE PLAN REQUIREMENTS PER TOWN OF NAGS HEAD ZONING ORD. ARTICLE IV-SEC 48-123 AND ARTICLE III SEC 48-84.
10. THIS PROPERTY LIES WITHIN THE 540 FT C.A.M.A. O.E.A./A.E.C. AND THE 180 FT. C.A.M.A. STRUCTURE SETBACK.

VICINITY MAP (NTS)

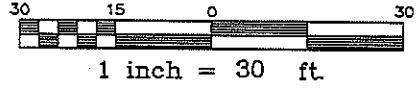
- LEGEND**
- - EX. PIPE
 - - EX. 3/4" REBAR
 - - 1/2" REBAR SET
 - - EX. CONC. MON.
 - - CONC. MON. SET
 - ▲ - EX. MAG NAIL & WASHER
 - △ - CALCULATED POINT
 - ⊗ - EX. 1" OPEN PIPE
 - ⊕ - WATER METER
 - ⊙ - PHONE PEDESTAL
 - ⊖ - C.A.T.V.
 - ⊕ - UTILITY POLE
 - ⊖ - GUY WIRE
 - ⊕ - FIRE HYDRANT
 - ⊖ - ELECT. TRANS.
 - AG - ABOVE GRADE
 - BG - BELOW GRADE



I, MANSON RAY MEEKINS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 1777, PAGE 455); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM (DEED DESCRIPTION RECORDED IN BOOK _____, PAGE _____); THAT THE RATIO OF PRECISION AS CALCULATED IS 1/10,000+; THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). THIS 13TH DAY OF DECEMBER 2017.

[Signature]
 SURVEYOR L-2592

SURVEY/ SITE PLAN FOR
MICHAEL A. ZITO, JR. & CATHERINE M. ZITO
 LOT 48 & ADJACENT PARCEL - GOOSEWING - NAGS HEAD
 NAGS HEAD TOWNSHIP - DARE COUNTY - NORTH CAROLINA



SEABOARD SURVEYING & PLANNING, INC. C-1536
 103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959
 OFFICE: (252) 480-9998 FAX: (252) 480-0571

Locality Nags Head Permit Number 17-036

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

(For official use only)

Received

AUG 04 2017

GENERAL INFORMATION

LAND OWNER - MAILING ADDRESS

Name Michael A. Zito, Jr. and wife, Catherine M. Zito

DCM-EC

Address 11816 Mays Chapel Road

City Timonium State MD Zip 21093 Phone 410-274-7448

Email czito@lighthouseha.com mazito@kpmg.com

AUTHORIZED AGENT

Name Christopher L. Seawell

Address P. O. Box 339

City Manteo State NC Zip 27954 Phone 252-473-3484

Email cseawell@manteolaw.com

LOCATION OF PROJECT: (Address, street name and/or directions to site; name of the adjacent waterbody.)

10224 E Sea Gull Drive, Nags Head, NC 27959 Gausewing S/D

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

Construction of residence.

SIZE OF LOT/PARCEL: 10,192 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):

(1) OCEAN HAZARD AECs: TOTAL FLOOR AREA OF PROPOSED STRUCTURE: 2048 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)

(2) COASTAL SHORELINE AECs: SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT UPON SURFACES: _____ square feet (includes the area of the foundation 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 Energy, Mineral and Land Resources (DEMLR)?
YES _____ NO X

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 ABC 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)

X an owner or record title, Title is vested in name of Michael A. Zito, Jr. and wife, Catherine M. Zito,
see Deed Book 1777 page 455 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 RIPARIAN 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.

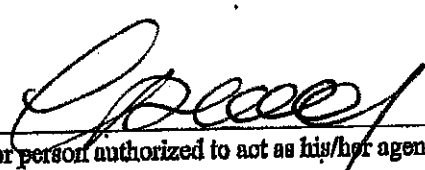
- | (Name) | (Address) |
|---|---|
| (1) <u>Elizabeth Ann Connell</u> | <u>19518 N 73rd Avenue, Glendale, AZ, 85308</u> |
| (2) <u>Jarrod Mandozzi & wife, Maria Mandozzi</u> | <u>168 Venetian Drive, Islamorada, FL 33036</u> |
| (3) _____ | _____ |
| (4) _____ | _____ |

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 hazard 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 31st day of July, 2017



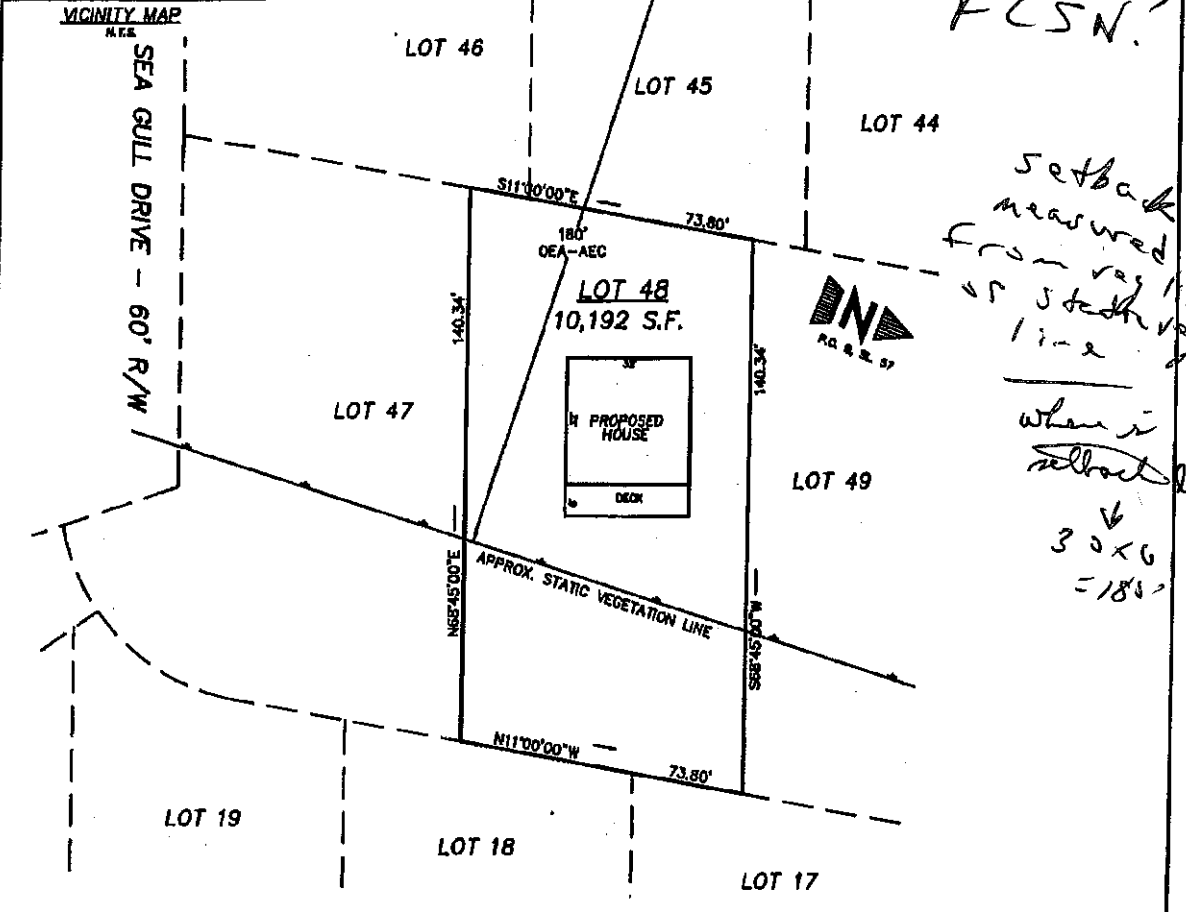
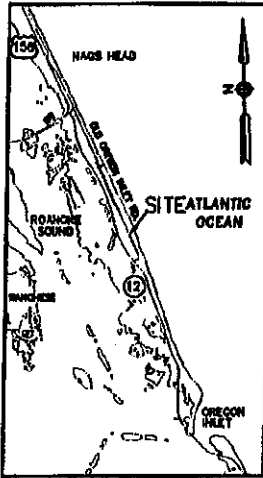
Landowner or person authorized to act as his/her agent for purpose of filing a CAMA permit application

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.

Received

AUG 04 2017

DCM-EC



FCSN?

Setback measured from vegetation static veg line

when is setback line?

30x6 = 180'



SITE PLAN FOR

MICHAEL A. JR. & CATHERINE ZITO
10224 E. SEA GULL DRIVE
LOT 48, GOOSE WING
TOWN OF NAGS HEAD, DARE COUNTY, N.C.

SCALE 1"=30'	DATE 8/29/17	DRAWN K.O.	PROJECT NO. 10082	SHEET 1 of 1
-----------------	-----------------	---------------	----------------------	-----------------

ENVIRONMENTAL PROFESSIONALS, INC.
Planning for a Better Environment
1404 S. Virginia Dare Trail
P.O. BOX 3368 - KILL DEVIL HILLS, NC 27848
PHONE (252) 441-0820 FAX (252) 441-0721

AGENT AUTHORIZATION FOR CAMA PERMIT APPLICATION

Name of Property Owner Requesting Permit: Michael A. Zito, Jr. and wife, Catherine M. Zito

Mailing Address: 11816 Mays Chapel Road
Timonium, MD 21093

Phone Number: 410-274-7448

Email Address: mazito@kpmg.com

I certify that I have authorized Christopher L. Seawell
Agent / Contractor

to act on my behalf, for the purpose of applying for and obtaining all CAMA permits
necessary for the following proposed development: Construction of a residence.

at my property located at 10224 E Sea Gull Drive, Nags Head, North Carolina,
in Dare County.

*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.*

Property Owner Information:


Signature

Michael A. Zito, Jr./Catherine M. Zito
Print or Type Name

Title

7 / 24 / 17
Date

This certification is valid through ____/____/____

OCEAN HAZARD AEC NOTICE

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

Property Owner: Zito

Property Address: 10224 E. Sea Gull Dr.

Date Lot Was Platted: _____

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 0 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 11 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:

Kelly Wyatt

Local Permit Officer

PO Box 99 Nags Head, NC

Address

Town of Nags Head

Locality

252-441-7016

Phone Number

6x90 = 540 AEC

[Signature] 7-24-17
Property Owner Signature Date

County of Dare, North Carolina

*Owner and Parcel information is based on current data on file and was last updated on August 03 2018

Primary (100%) Owner Information:

ZITO, MICHAEL A JR EUX
 ZITO, CATHERINE M EUX
 11816 MAYS CHAPEL RD
 TIMONIUM MD 21093

Parcel Information:

Parcel: 007480000 PIN: 071815730373
 District: 14- NAGS HEAD
 Subdivision: GOOSE WING
 LotBlkSect: LOT: 48 BLK: SEC:
 Multiple Lots: -
 PlatCabSlide: PL: 9 SL: 57 Units: 0

Deed Date: 10/12/2016

BkPg: 2125/0243 - RESOLUTION - CLOSING
 SEAGULL DRIVE

Parcel Status: ACTIVE

Deed 8/29/2008 - BkPg: 1777/455

Property Use: VACANT LAND (PRIVATE)



10224 E SEA GULL DR

BUILDING USE & FEATURES	Tax Year Bldg Value: \$0	Next Year Bldg Value: \$0
Building Use:		
Exterior Walls:		Actual Year Built:
Full Baths:	Half Baths:	
Bedrooms:		
Heat-Fuel:		
Heat-Type:		Finished sqft for building 1:
Air Conditioning:		Total Finished SqFt for all bldgs: 0

Disclaimer: In instances where a dwelling contains unfinished living area, the square footage of that area is included in the total finished sqft on this record. However, the assessed value for finish has been removed.

MISCELLANEOUS USE	Tax Year Misc Value: \$0	Next Year Misc Value: \$0
-------------------	--------------------------	---------------------------

LAND USE	Tax Year Land Value: \$78,900	Next Year Land Value: \$78,900
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Land Description : 14-Ocean front

TOTAL LAND AREA: 6000 square feet

	Tax Year Total Value: \$78,900	Next Year Total Value: \$78,900
--	--------------------------------	---------------------------------

*Values shown are on file as of August 03 2018

Uniform Residential Appraisal Report

File No. 53062255

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

Property Address 10224 E SEA GULL DRIVE City NAGS HEAD State NC Zip Code 27959-8973

Owner MICHAEL AND CATHERINE ZITO Owner of Public Record KEN AND TERRI STARR County DARE

Legal Description LOT 48, GOOSE WING, PLAT CABINET 9, SLIDE 57, DCR

Assessor's Parcel # 007480000 Tax Year 2008 R.E. Taxes \$ 1,071.85

Neighborhood Name SOUTH NAGS HEAD AREA Map Reference 071815639295 Census Tract

Occupant [X] Owner [] Tenant [] Vacant [] Special Assessments \$ NONE KNOWN [] PUD HOA \$ [] per year [] per month

Property Rights Appraised [X] Fee Simple [] Leasehold [] Other (describe)

Assignment Type [X] Purchase Transaction [] Refinance Transaction [] Other (describe)

Lender/Client WELLS FARGO BANK, N.A. - 038499 Address 115 FULFORD AVENUE, #102, BEL AIR, MD 21014

Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? [X] Yes [] No

Report data source(s) used, offering price(s), and date(s). MLS#56312 - CURRENTLY OFFERED AT \$440,000 - UNDER CONTRACT FOR \$438,500 - DAYS ON MARKET: 48

I [X] did [] did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed. THE SALES CONTRACT APPEARS AS NORMAL AND APPEARS TO BE AN ARMS-LENGTH TRANSACTION.

Contract Price \$ 438,500 Date of Contract 07/17/2008 Is the property seller the owner of public record? [X] Yes [] No Data Source(s) TAX OFFICE

Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? [X] Yes [] No

If Yes, report the total dollar amount and describe the items to be paid. \$ 4,500 CLOSING COSTS

Race [] racial [] of the [] are not [] sal factors.

Location [] Urban [X] Suburban [] Rural Property Values [] Increasing [X] Stable [] Declining PRICE AGF One Unit 65 %

Built-Up [] Over 75% [X] 25-75% [] Under 25% Demand/Supply [] Shortage [X] In Balance [] Over Supply \$(000) (yrs) 2-4 Unit %

Growth [] Rapid [X] Stable [] Slow Marketing Time [] Under 3 mths [X] 3-6 mths [] Over 6 mths 225 Low NEW Multi-Family %

Neighborhood Boundaries OREGON INLET TO THE SOUTH, KILL DEVIL HILLS TO THE NORTH, 1000+ High 65+ Commercial 10 %

ATLANTIC OCEAN TO THE EAST, MANTEO TO THE WEST. 500 Pred. 25-30 Other 25 %

Neighborhood Description THE SUBJECT REPRESENTS THE OVERALL MARKETING AREA OF NAGS HEAD - OCEANFRONT - LOCATED ON THE

OUTER BANKS OF NORTH CAROLINA WHERE LAND TO VALUE RATIOS TYPICALLY EXCEED THE NORM. ALL SERVICES OF THE AREA ARE

CONSIDERED TO BE WITHIN A SHORT COMMUTE. NO ADVERSE INFLUENCES ARE EVIDENT

Market Conditions (including support for the above conclusions) SALES WITHIN THE AREA TEND TO BE SEASONAL WITH HIGHER SALES VOLUME IN THE

LATE WINTER/EARLY SPRING BEFORE THE "HIGH SEASON" BEGINS. SALES ARE TYPICALLY CONVENTIONAL IN NATURE WITH SALES

CONCESSIONS UNCOMMON

REFER TO RECORDED PLAT Area .18 ACRE Shape MOSTLY RECTANGULAR View OCEAN VIEW

Specific Zoning Classification RESIDENTIAL Zoning Description SINGLE FAMILY

Zoning Compliance [X] Legal [] Legal Nonconforming (Grandfathered Use) [] No Zoning [] Illegal (describe)

Is the highest and best use of the subject property as improved (or as proposed per plans and specifications) the present use? [X] Yes [] No If No, describe.

Utilities Public [X] Other (describe) [] Public [X] Other (describe) [] Off-site Improvements—Type Public [X] Private []

Electricity [X] Water [X] Street ASPHALT PVMNT [X] Gas [] Sanitary Sewer [X] PRIVATE SEPTIC [] Alley []

FEMA Special Flood Hazard Area [X] Yes [] No FEMA Flood Zone VE FEMA Map # 375358 0718J FEMA Map Date 09/20/2008

Are the utilities and off-site improvements typical for the market area? [X] Yes [] No If No, describe.

Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? [] Yes [X] No If Yes, describe. THE SUBJECT

REPRESENTS A TYPICAL BUILDING LOT FOR THE AREA, WITH TYPICAL UTILITY EASEMENTS TO ACCOMMODATE SERVICES. THE SUBJECT

PROPERTY HAS A PRIVATE SEPTIC TANK WHICH IS VERY COMMON FOR THE AREA AND HAS NO ADVERSE EFFECT ON THE PROPERTY

VALUE.

GENERAL DESCRIPTION FOUNDATION EXTERIOR SCOPE INTERIOR

Units [X] One [] One with Accessory Unit [X] Concrete Slab [] Craw Space Foundation Walls PILINGS/AVE Floors VYL/W LAM/CPT/A

of Stories 2 Full Basement [] Partial Basement Exterior Walls FIBER CMNT/AVE Walls PANELLING/AVE

Type [X] Det. [] Att. [] S. Det./End Unit Basement Area sq. ft. Roof Surface ASPHLT SHNGLES/A Trim/Finish PTD/STD WOOD/A

[X] Existing [] Proposed [] Under Const. Basement Finish % Gutters & Downspouts NONE/N/A Bath Floor VINYL/AVE

Design (Style) 2-STORY FBR CMNT [] Outside Entry/Exit [] Sump Pump Window Type VINYL/AVE Bath Waincot FIBERGLASS/AVE

Year Built 1982 Evidence of [] Infestation Storm Sash/Insulated INSULATED/AVE Car Storage [] None

Effective Age (Yrs) 13 [] Dampness [] Settlement Screens YES/AVE [X] Driveway # of Cars 2 Driveway Surface GRAVEL/DIRT

Attic [] None Heating [X] FWA [] HWBB [] Radiant Amenities [] Wood Stove(s) # [] Garage # of Cars

[] Drop Slat [] Stairs [] Other [] Fuel ELECTRIC [] Fireplace(s) # [] Fence [] Carport # of Cars

[] Floor [X] Scudde Cooling [X] Central Air Conditioning [X] Patio/Deck [X] Porch [] Carport # of Cars

[] Finished [] Heated [] Individual [] Other [] Pool [] Other [] Att. [] Det. [] Built-in

Appliances [P] Refrigerator [X] Range/Oven [X] Dishwasher [] Disposal [] Microwave [P] Washer/Dryer [] Other (describe)

Finished area above grade contains: 7 Rooms 4 Bedrooms 3 Bath(s) 1,833 Square Feet of Gross Living Area Above Grade

Additional features (special energy efficient items, etc.) PORCH AND DECK OCEANSIDE WITH OCEAN VIEWS, VALUED BY BEING ON TOP FLOOR WITH

FOUR SKYLIGHTS AND CEILING FAN; UPDATED WINDOWS AND SIDING.

Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.). UPON INSPECTION, THE SUBJECT APPEARS IN AVERAGE

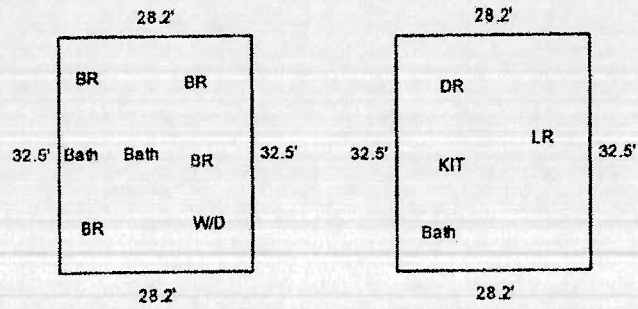
CONDITION, CONSISTENT WITH ITS AGE AND MARKETING AREA.

Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? [] Yes [X] No If Yes, describe.

Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? [X] Yes [] No If No, describe.

FLOORPLAN

Borrower: MICHAEL AND CATHERINE ZITO	File No.: 53062255
Property Address: 10224 E SEA GULL DRIVE	Case No.: 0099950778
City: NAGS HEAD	State: NC
Lender: WELLS FARGO BANK, N.A. - 038499	Zip: 27959-8973



SKETCH CALCULATIONS		Perimeter	Area
<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto; display: flex; align-items: center; justify-content: center;">A1</div>	$A1 : 28.2 \times 32.5 =$ First Floor	916.5	916.5
<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto; display: flex; align-items: center; justify-content: center;">A2</div>	$A2 : 28.2 \times 32.5 =$ Second Floor	916.5	916.5
Total Living Area			1833.0



Bodie Island Ct

© 2018 Google

Google Earth

1993

Imagery Date: 3/24/2017 35°51'14.28" N 75°34'01.15" W elev 12 ft eye alt 483 ft

From: [Carver, Yvonne](#)
To: [Goebel, Christine A](#)
Subject: FW: [External] RE: Zito property
Date: Wednesday, August 8, 2018 5:15:21 PM

Yvonne B. Carver
Field Representative & District LPO Coordinator
Division of Coastal Management
NC Department of Environmental Quality

252-264-3901, ext. 232
252-331-2951 (fax)
yvonne.carver@ncdenr.gov
401 S. Griffin St., Ste 300
Elizabeth City, NC 27909

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

<https://deq.nc.gov/about/divisions/coastal-management/>

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

From: Kelly Wyatt [<mailto:kelly.wyatt@nagsheadnc.gov>]
Sent: Tuesday, October 17, 2017 1:25 PM
To: George Wood <obxwood@yahoo.com>
Cc: Chris Seawell <CSeawell@manteolaw.com>; Carver, Yvonne <yvonne.carver@ncdenr.gov>; Margaux Kerr <margaux.kerr@nagsheadnc.gov>
Subject: [External] RE: Zito property

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you verify that the attachment and content are safe. Send all suspicious email as an attachment to report.spam@nc.gov.

Thank you for such a quick update - we will be on the lookout!

Kelly Wyatt, CZO, NCLID
Deputy Planning Director & Zoning Administrator Town of Nags Head Department Phone: 252-441-7016 Direct
Phone: 252-449-6042
Fax: 252-441-4290
Email: Kelly.wyatt@nagsheadnc.gov
Website: www.nagsheadnc.gov

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

From: George Wood
Sent: Tuesday, October 17, 2017 1:17 PM
To: Kelly Wyatt
Cc: Chris Seawell; Yvonne Carver; Margaux Kerr
Subject: Re: Zito property

The applicant has engaged a surveyor to prepare the plat in accordance with the Town's requirement. Certainly we had hoped to avoid this additional expense but recognize the necessity of the Town to have a plan that meets the submittal criteria.

> On Oct 17, 2017, at 1:02 PM, Kelly Wyatt <kelly.wyatt@nagsheadnc.gov> wrote:

>

> Good Afternoon Gentlemen-

>

> I am just following up on the CAMA Minor Permit submission for the Zito property located at 10224 E. Seagull Drive. This application was submitted on August 4, 2017 and since then there has been a couple of exchanges regarding the completeness of the application, the most recent on August 29th (see below). I have not heard a response to date - please let me know how you would like to proceed.

>

> Thank you,

> Kelly Wyatt

>

> Kelly Wyatt, CZO, NCLID

> Deputy Planning Director & Zoning Administrator Town of Nags Head

> Department Phone: 252-441-7016 Direct Phone: 252-449-6042

> Fax: 252-441-4290

> Email: Kelly.wyatt@nagsheadnc.gov

> Website: www.nagsheadnc.gov

>

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

> From: Kelly Wyatt

> Sent: Tuesday, August 29, 2017 8:44 AM

> To: George Wood

> Cc: Margaux Kerr; Chris Seawell; Andy Garman

> Subject: RE: Zito property

>

> Good Morning Mr. Wood-

> Thank you for your response. Unfortunately we cannot vary the requirements for the CAMA Minor Permit submittal. We need to be consistent with all submittals and believe it is even more so important to have a proper and accurate record of document submittals, etc. if the property owner proceeds to the CRC. I am sorry we cannot relief but again, we need to be consistent.

> Thank you,

> Kelly

>

> Kelly Wyatt, CZO, NCLID

> Deputy Planning Director & Zoning Administrator Town of Nags Head

> Department Phone: 252-441-7016 Direct Phone: 252-449-6042

> Fax: 252-441-4290

> Email: Kelly.wyatt@nagsheadnc.gov

> Website: www.nagsheadnc.gov

>

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

> From: George Wood

> Sent: Thursday, August 24, 2017 11:13 AM

> To: Kelly Wyatt

> Cc: Margaux Kerr; Chris Seawell

> Subject: Re: Zito property

>

> I talked with Mr. Seawell last night regarding this matter. We had hoped to minimize the cost to Ms. Zito so we could proceed to the CRC for the hearing. Is or can there be any relief from these requirements?

>> On Aug 24, 2017, at 10:42 AM, Kelly Wyatt <kelly.wyatt@nagsheadnc.gov> wrote:

>>

>> Good Morning George-

>> I just want to confirm that you are in receipt of the email below - again, the Zito CAMA application will remain on hold until this information is provided.

>> Thank you,

>> Kelly Wyatt

>>

>> Kelly Wyatt, CZO, NCLID

>> Deputy Planning Director & Zoning Administrator Town of Nags Head

>> Department Phone: 252-441-7016 Direct Phone: 252-449-6042

>> Fax: 252-441-4290

>> Email: Kelly.wyatt@nagsheadnc.gov

>> Website: www.nagsheadnc.gov

>>

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

>> From: Kelly Wyatt

>> Sent: Tuesday, August 15, 2017 4:29 PM

>> To: George Wood

>> Cc: Margaux Kerr

>> Subject: RE: Zito property

>>

>> Good Afternoon George-

>> Hope you are doing well. I am reviewing the CAMA Application for Zito at 10224 Seagull. I realize that Mr. Seawell is the "applicant" but wanted to touch base with you on the site plan. A few things I noticed, which would render the application incomplete and place it "on-hold", concerns follow:

>>

>> - The site plan is not drawn to scale - it seems it likely was at some point but what was provided to us was a 8.5 x 11 so, 1" = 30' is not accurate.

>> - Is this a survey prepared by a licensed surveyor? New construction, should be prepared by a surveyor if it is not.

>> - The property is located in an area with an Erosion Rate of 6 ft. per year resulting in an 180 foot setback and the OEA at 540 feet. The setback line and OEA need to be on the survey.

>> - Local setback lines are not shown.

>> - Driveway, access should be shown.

>> - Septic location, repair area should be shown.

>> - Any dune disturbances must be shown.

>>

>> Please get back with me on these items as soon as possible.

>>

>> Thank you,

>> Kelly Wyatt

>>

>>

>>

>> Kelly Wyatt, CZO, NCLID

>> Deputy Planning Director & Zoning Administrator Town of Nags Head

>> Department Phone: 252-441-7016 Direct Phone: 252-449-6042

>> Fax: 252-441-4290

>> Email: Kelly.wyatt@nagsheadnc.gov

>> Website: www.nagsheadnc.gov

>>

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

>> From: Kelly Wyatt

>> Sent: Wednesday, January 18, 2017 2:22 PM

>> To: George Wood

>> Subject: RE: Zito property

>>

>> Thanks George - if you can keep us in the loop that would be great.

>>

>> Kelly Wyatt, CZO, NCLID
>> Deputy Planning Director & Zoning Administrator Town of Nags Head
>> Department Phone: 252-441-7016 Direct Phone: 252-449-6042
>> Fax: 252-441-4290
>> Email: Kelly.wyatt@nagsheadnc.gov
>> Website: www.nagsheadnc.gov

>>
>> -----Original Message-----
>> From: George Wood
>> Sent: Wednesday, January 11, 2017 4:13 PM
>> To: Kelly Wyatt
>> Subject: Re: Zito property

>>
>> Yep got it. Talked with Chris Seawell today and he is going to advise
>> her on which option to pursue, permits to rebuild or pursue payment
>> from the insurance company. I will try to get a schedule

>>
>> George Wood
>> PO Box 3368
>> Kill Devil Hills, NC 27948
>> 252-423-1234
>> www.woodywrites.com

>>
>>> On Jan 11, 2017, at 3:57 PM, Kelly Wyatt <kelly.wyatt@nagsheadnc.gov> wrote:

>>>
>>> Hi George,
>>> Just wondering if you received my voice message regarding the zito property?
>>> Thanks, Kelly

>>>
>>>
>>> Sent from my iPhone

>>>
>>>> On Dec 20, 2016, at 5:01 PM, George Wood <obxwood@yahoo.com> wrote:

>>>>
>>>> Thx. Just want to make sure I do not get her into trouble

>>>>
>>>> George Wood
>>>> PO Box 3368
>>>> Kill Devil Hills, NC 27948
>>>> 252-423-1234
>>>> www.woodywrites.com

>>>> Try
>>>>> On Dec 20, 2016, at 4:19 PM, Kelly Wyatt <kelly.wyatt@nagsheadnc.gov> wrote:

>>>>>
>>>>> Good Afternoon George-
>>>>> Just following up on our conversation from earlier today - I have mentioned bonding of the septic removal to
Andy Garman and he feels like we will need our Town Attorney to weigh in on this one. As soon as we hear from
the attorney I will let you know.
>>>>> Thanks so much - talk soon,
>>>>> Kelly

>>>>>
>>>>> Kelly Wyatt, CZO, NCLID
>>>>> Deputy Planning Director & Zoning Administrator Town of Nags Head
>>>>> Department Phone: 252-441-7016 Direct Phone: 252-449-6042
>>>>> Fax: 252-441-4290
>>>>> Email:

>>>>> Kelly.wyatt@nagsheadnc.gov<<mailto:Kelly.wyatt@nagsheadnc.gov>>
>>>>> Website: www.nagsheadnc.gov<<http://www.nagsheadnc.gov/>>
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>>>>> <winmail.dat>
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> <winmail.dat>

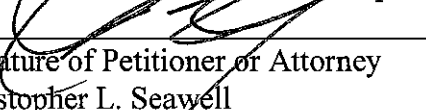
Please make your written arguments that Petitioner meets these criteria on a separate piece of paper. The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as a variance hearing before the Commission. 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:

1. The name and location of the development as identified on the permit application is:

Michael A. Zito, Jr. and wife, Catherine M. Zito
Application Number – 17-36
10224 E. Sea Gull Drive, Nags Head, North Carolina
2. A copy of the permit decision for the development in question is attached as Exhibit “A”.
3. A copy of the deed to the property on which the proposed development would be located is attached as Exhibit “B”;
4. A description of the proposed project and plat is attached as Exhibit “C”.
5. Approved wastewater permit is attached as Exhibit “D”.
5. It is stipulated the proposed development is inconsistent with the rule at issue.
6. Proof that notice was sent to adjacent owners and objectors*, as required by 15A N.C.A.C. 07L.0701(c)(7); See attached Exhibit “E”.

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

	July 31, 2018
_____ Signature of Petitioner or Attorney	_____ Date
Christopher L. Seawell _____ Printed Name of Petitioner or Attorney	cseawell@manteolaw.com _____ Email address of Petitioner or Attorney
P. O. Box 339 _____ Mailing Address	(252) 473-3484 _____ Telephone Number of Petitioner or Attorney
Manteo, NC 27954 _____ City State Zip	(252) 473-2046 _____ Fax Number of Petitioner or Attorney

RECEIVED

AUG 01 2018

DCM-MHD CITY

Improvement Permit
County of Dare
PO Box Drawer 1000
Manteo NC 27954



27602

Phone: (252) 475-5080

DARE COUNTY DEPARTMENT OF PUBLIC HEALTH

An Improvement Permit (IP) issued pursuant to this application is not affected by change in ownership provided the site and wastewater characteristics remain unchanged. An IP issued with a plat is valid without expiration. An IP issued with a site plan is valid for 60 months from the date of issuance.

PIN: 071815730373

Parcel: 007480000

Permit#: 27602

Owner Name: ZITO, MICHAEL A JR
Owner Address: 11816 MAYS CHAPEL RD
Owner Address: --
TIMONIUM, MD21093

Permit Date: 3/1/2018
Permit Type: Residential
Owner Phone: (000)000-0000

DBA --

Location: 10224 E SEA GULL DR NAGS HEAD, NC
Subdivision: GOOSE WING LOT: 48 BLK: SEC:

Category of System:	S-25	Size of Tank (gallons):	0
Type of Tank:	S-25	Width of Ditch:	0
Type of System:	S-25	Rock Above (inches):	0
Amount of Tile (feet):	0	Number of Bedrooms	4
Rock Under (inches):	0	Sleeping Capacity (persons):	8
Number of Bedrooms	4	Type of Water:	S-25
Sleeping Capacity (persons):	8	Feet from Water Supply:	0
Type of Water:	S-25	Feet from Property Line:	0
Feet from Water Supply:	0	Gallons per Day:	0
Feet from Property Line:	0	Previous Permit Number:	
		Feet from Body of Water:	0
		Feet from Building:	0

Comments:

REBUILD HOUSE THAT BURNED DOWN AND CONNECT TO EXISTING SEPTIC TANK

Note: This Permit is issued subject to all provisions of the 15A NCAC .1900 rules governing the installation of septic systems. The person making the installation must notify the Health Department when the septic tank system is ready for inspection. If any septic tank system or part thereof is covered before being inspected and approved, it shall be uncovered at the direction of the Health Officer at the expense of the one responsible for making the installation.

Issued 3/1/2018 By:

Sewer Permit Fee: 0

Rob Crawford
Environmental Health Specialist

Rmc 3/1/18

George Wood
Applicant Signature George Wood

RECEIVED

AUG 01 2018

DCM-MHD CITY

County of Dare
PO Box Drawer 1000
Manteo NC 27954



27602
Phone: (252) 475-5080

DARE COUNTY DEPARTMENT OF PUBLIC HEALTH
Authorization for Wastewater System Construction

PIN: 071815730373

Parcel: 007480000

Permit#: 27602

Owner Name: ZITO, MICHAEL A JR
Owner Address: 11816 MAYS CHAPEL RD
--
TIMONIUM, MD21093

Permit Date: 3/1/2018

Owner Phone: (000)000-0000

Location: 10224 E SEA GULL DR NAGS HEAD, NC
Subdivision: GOOSE WING LOT: 48 BLK: SEC:

1. Original Improvement Permit No. --
2. Wastewater inspected by Rob Crawford *RC*
3. Any alteration in soil conditions (including location of structures and appurtenances) or modification in use, design wastewater flow or wastewater characteristics as specified in the associated improvement permit and application, may subject this authorization and associated permit(s) to revocation.

Other Conditions:

PERMIT TO REBUILD HOUSE AND CONNECT TO EXISTING SEPTIC SYSTEM.

This CA is valid for 60 months from the date of issuance.

Disclaimer: This permit does not relieve you of the responsibility to obtain any other necessary Federal, State or Local permit(s).

Owner Certification

V
Applicant or Owner Signature
Applicant: GEORGE WOOD

Date

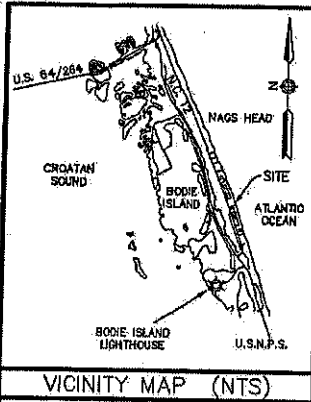
Authorized by County of Dare

RECEIVED

AUG 01 2018

DCM-MHD CITY

7.1c
16-062



VICINITY MAP (NTS)

- NOTES:**
1. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
 2. AREA BY COORDINATE COMPUTATION = 10,182 S.F. (6,809 SF WEST OF STATIC VEG. LINE)
 3. F.I.R.M. ZONE: AS SHOWN
 4. PIN NO.: 14 071815 73 0373
 5. RECORDED REFERENCE: M.B. 9, PG. 57; DB 1777, PG. 455
 6. MINIMUM BUILDING LINES (MBL), IF SHOWN HEREON, ARE PER THE CURRENT LOCAL ZONING REGULATIONS. OTHER SETBACKS AND/OR RESTRICTIONS MAY APPLY AND MUST BE VERIFIED PRIOR TO CONSTRUCTION.
 7. ELEVATIONS (NAVD 1988): AS SHOWN
 8. PROPOSED LOT COVERAGE: 2,001 S.F. (28.0%)
 9. SITE PLAN REQUIREMENTS PER TOWN OF NAGS HEAD ZONING ORD. ARTICLE IV-SEC 48-123 AND ARTICLE III SEC 48-84.
 10. THIS PROPERTY LIES WITHIN THE 540 FT. C.A.M.A. O.E.A./A.E.C. AND THE 180 FT. C.A.M.A. STRUCTURE SETBACK.

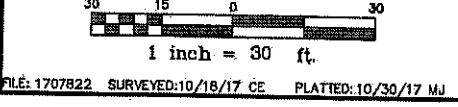
- LEGEND**
- EX. PIPE
 - EX. 3/4" REBAR
 - 1/2" REBAR SET
 - EX. CONC. MON.
 - ▣ CONC. MON. SET
 - ▲ EX. MAG. HALL & WASHER
 - △ CALCULATED POINT
 - EX. 1" OPEN PIPE
 - WATER METER
 - PHONE PEDESTAL
 - C.A.T.V.
 - UTILITY POLE
 - GUY WIRE
 - FIRE HYDRANT
 - ELECT. TRANS.
 - AG — ABOVE GRADE
 - BG — BELOW GRADE



Septic Layout Approved
by DCDHHS, DPH, EH Unit
On LOT 46 3-1-17
By *[Signature]*

**PRELIMINARY PLAN
(NOT FOR RECORDATION
CONVEYANCES OR SALES)**

SURVEY/ SITE PLAN FOR
MICHAEL A. ZITO, JR. & CATHERINE M. ZITO
LOT 48 & ADJACENT PARCEL - GOOSEWING - NAGS HEAD
NAGS HEAD TOWNSHIP - DARE COUNTY - NORTH CAROLINA



SEABOARD SURVEYING & PLANNING, INC. C-1536
103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959
OFFICE: (252) 480-9998 FAX: (252) 480-0571

RECEIVED

AUG 01 2018

DCM-MHD CITY

CERTIFIED MAIL RETURN RECEIPT REQUESTED or HAND DELIVERED

July 31, 2017

Date

Jarrold Mandozzi & wife, Maria Mandozzi

Name of Adjacent Riparian Property Owner
168 Venetian Drive

Address
Islamorada, FL 33036

City, State Zip

DCM-EC

AUG 4 2017

Received

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I am applying for a CAMA Minor permit to construction of a residence.

on my property at 10224 E Sea Gull Drive, Nags Head, North Carolina
in Dare County, which is adjacent to your property. A copy of the application and project drawing is attached/enclosed for your review.

If you have no objections to the proposed activity, please mark the appropriate statement below and return to me as soon as possible. If no comments are received within 10 days of receipt of this notice, it will be considered that you have no comments or objections regarding this project.

If you have objections or comments, please mark the appropriate statement below and send your correspondence to: Kelly Wyatt, Town of Nags Head, P. O. Box 99, Nags Head, NC 27959

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact Kelly Wyatt, phone - 252-441-7016 or e-mail at kelly.wyatt@nagsheadnc.gov.

Sincerely,



Property Owner's Name

Michael A. Zito, Jr./Catherine M. Zito

410-274-7448

Telephone Number

Address

City

State

Zip

I have no objection to the project described in this correspondence.

I have objection(s) to the project described in this correspondence.

Adjacent Riparian Signature

Date

Print or Type Name

Telephone Number

Address

City

State

Zip

CERTIFIED MAIL RETURN RECEIPT REQUESTED or HAND DELIVERED

July 31, 2017

Date

Elizabeth Ann Connell

Name of Adjacent Riparian Property Owner

19518 N 73rd Avenue

Address

Glendale, AZ 85308

City, State Zip

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I am applying for a CAMA Minor permit to construction of a residence

on my property at 10224 E Sea Gull Drive, Nags Head, North Carolina

in Dare County, which is adjacent to your property. A copy of the application and project drawing is attached/enclosed for your review.

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If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or Kelly Wyatt, phone - 252-441-7016, or e-mail at kelly.wyatt@nagsheadnc.gov.

Sincerely,



Property Owner's Name

Michael A. Zito, Jr./Catherine M. Zito

410-274-7448

Telephone Number

Address

City

State

Zip

I have no objection to the project described in this correspondence.

I have objection(s) to the project described in this correspondence.

Adjacent Riparian Signature

Date

Print or Type Name

Telephone Number

Address

City

State

Zip

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

ISLAMORADA, FL 33036
OFFICIAL USE

Postage	\$3.75
Certified Fee	\$2.75
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
	\$0.70
Total Postage & Fees	\$6.80

0954
01

Postmark
Here

07/31/2017

Sent To **Jarrold Mandozzi**
Maria Mandozzi

Street & Apt. No.,
or PO Box No. **168 Venetian Drive**

City, State, ZIP+4
Islamorada, FL 33036

PS Form 3800, July 2014 See Reverse for Instructions

7015 0920 0002 3872 367A

Received

AUG 04 2017

DCM-EC

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

GLENDALE, AZ 85308
OFFICIAL USE

Postage	\$3.75
Certified Fee	\$2.75
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
	\$0.70
Total Postage & Fees	\$6.80

0954
01

Postmark
Here

07/31/2017

Sent To **Elizabeth Ann Connell**

Street & Apt. No.,
or PO Box No. **19518 N 73rd Avenue**

City, State, ZIP+4
Glendale, AZ 85308

PS Form 3800, July 2014 See Reverse for Instructions

7015 0920 0002 3872 3661



Town of Nags Head

Planning and Development
Department

Post Office Box 99
Nags Head, North Carolina 27959
www.nagsheadnc.gov

Telephone 252-441-7016
FAX 252-441-4290

April 26, 2018

CERTIFIED MAIL – 7016 0910 0000 6155 7206
RETURN RECEIPT REQUESTED

Michael and Catherine Zito
11816 May's Chapel Road
Timonium, MD 21093

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
APPLICATION NUMBER- # 17-36
PROJECT ADDRESS- 10224 E. Seagull Drive

Dear Property Owners:

After reviewing your application in conjunction with the development standards required by the Coastal Area Management Act (CAMA) and our locally adopted 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 and Local Land Use Plans. You have applied to re-construct a single family dwelling following a loss of the existing structure by fire. Specifically, you are proposing to construct a 32 ft. x 28 ft. dwelling with approximately 384 sf. of detached open wood slatted decking on the north and west side of the dwelling. Code Section 15A NCAC 07H .0309, Use Standards for Ocean Hazard Areas: Exceptions provides a mechanism for permanent substantial structures to be constructed on lots existing as of June 1, 1979. The lot in question was platted in 1977 therefore making it a candidate for review under this code section.

Upon review, I have determined to the requested scope of work to be inconsistent with 15A NCAC 07H .0309(b), which states that: *Where application of the oceanfront setback requirements of Rule .0306(a) of this Subchapter would preclude placement of permanent substantial structures on lots existing as of June 1, 1979, buildings shall be permitted seaward of the applicable setback line in ocean erodible areas, but not inlet hazard areas or unvegetated beach areas, if each of the following conditions are met:*

- (1) *The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;*
- (2) *The development is at least 60 feet landward of the vegetation line or static vegetation line, whichever is applicable;*
- (3) *The development is not located on or in front of a frontal dune, but is entirely behind the landward toe of the frontal dune;*
- (4) *The development incorporates each of the following design standards, which are in addition to those requires by Rule .0308(d) of this Subchapter.*

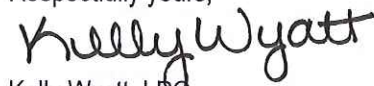
- (a) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;
 - (b) The footprint of the structure shall be no more than 1,000 square feet, and the total floor area of the structure shall be no more than 2,000 square feet. For the purpose of this Section, roof-covered decks and porches that are structurally attached shall be included in the calculation of footprint;
 - (c) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases concrete, asphalt or turfstone may also be used;
 - (d) No portion of a building's total floor area, including elevated portions that are cantilevered, knee braced or otherwise extended beyond the support pilings or footings may extend ocean ward of the total floor area of the landward-most adjacent building. When the geometry or orientation of a lot precludes the placement of a building in line with landward most adjacent structure of similar use, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.
- (5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.

The applicant has shown compliance with Subsections (1), (3), (4a), (4b), (4c), (4d) and (5) above. The applicant has not demonstrated compliance with Subsection (2), that the development is at least 60 feet landward of the of the static vegetation line. Based upon the most recent survey provided by Seaboard Surveying & Planning, Inc. dated 10/18/17 the home is setback approximately 12 ft. landward of the static vegetation line.

Should you wish to appeal my decision to the Coastal Resource Commission or request a variance from that group, please contact me so I can provide you with the proper forms and any other information you may require.

The Division of Coastal Management central office in Morehead City must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours,


Kelly Wyatt, LPO
Town of Nags Head
P.O. Box 99
Nags Head, NC 27959

cc: Yvonne Carver, Field Representative, DCM
Chris Seawell, Attorney for Zito's

ALDRIDGE, SEAWELL & TWICHELL, PLLC

ATTORNEYS AT LAW

**805 North U.S. Highway 64
Post Office Box 339
Manteo, NC 27954**

**Christopher L. Seawell
cseawell@manteolaw.com**

August 16, 2018

**Laura M. Twichell
ltwichell@manteolaw.com**

**G. Irvin Aldridge
Retired**

**ph: (252) 473-3484
fax: (252) 473-2046
www.manteolaw.com**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Elizabeth Ann Connell
19518 N 73rd Avenue
Glendale, AZ 85308

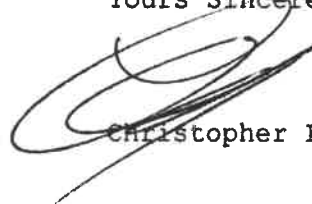
Re: CAMA Variance Request by Michael A. Zito, Jr. and wife,
Catherine M. Zito, Nags Head, Dare County, North Carolina

Dear Ms. Connell:

This is to notify you that Michael A. Zito, Jr. and wife, Catherine M. Zito, are applying for a variance from the North Carolina Coastal Resources Commission. The purpose of this variance request is to allow for the reconstruction of their home, which was located at 10224 E. Sea Gull Drive, Nags Head, North Carolina, also known as Lot 48, Goose Wing Subdivision, which was destroyed by fire.

We had previously sent you a copy of the CAMA Variance Request Form on July 31, 2017 by certified mail, return receipt requested. The variance is projected to be heard at the September 19-20, 2018 meeting of the Coastal Resources Commission in Morehead City, North Carolina. If you wish to receive further information concerning the variance, you may contact me. If you wish to make comments on the variance, you may direct your comments to the North Carolina Division of Coastal Management headquarters at 401 South Griffin Street, Suite 300, Elizabeth City, North Carolina 27909. You may also contact the Division of Coastal Management at 252-264-3723.

Yours Sincerely,



Christopher L. Seawell

CLS/cah

ALDRIDGE, SEAWELL & TWICHELL, PLLC
ATTORNEYS AT LAW
805 North U.S. Highway 64
Post Office Box 339
Manteo, NC 27954

Christopher L. Seawell
cseawell@manteolaw.com

Laura M. Twichell
ltwichell@manteolaw.com

August 16, 2018

G. Irvin Aldridge
Retired

ph: (252) 473-3484
fax: (252) 473-2046
www.manteolaw.com

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Jarrod Mandozzi
Ms. Maria Mandozzi
168 Venetian Drive
Islamorada, FL 33036

Re: CAMA Variance Request by Michael A. Zito, Jr. and wife,
Catherine M. Zito, Nags Head, Dare County, North Carolina

Dear Mr. and Mrs. Mandozzi:

This is to notify you that Michael A. Zito, Jr. and wife, Catherine M. Zito, are applying for a variance from the North Carolina Coastal Resources Commission. The purpose of this variance request is to allow for the reconstruction of their home, which was located at 10224 E. Sea Gull Drive, Nags Head, North Carolina, also known as Lot 48, Goose Wing Subdivision, which was destroyed by fire.

We had previously sent you a copy of the CAMA Variance Request Form on July 31, 2017 by certified mail, return receipt requested. The variance is projected to be heard at the September 19-20, 2018 meeting of the Coastal Resources Commission in Morehead City, North Carolina. If you wish to receive further information concerning the variance, you may contact me. If you wish to make comments on the variance, you may direct your comments to the North Carolina Division of Coastal Management headquarters at 401 South Griffin Street, Suite 300, Elizabeth City, North Carolina 27909. You may also contact the Division of Coastal Management at 252-264-3723.

Yours Sincerely,


Christopher L. Seawell

CLS/cah

Kelly Wyatt, first being duly sworn, deposes and says:

1. That she is Deputy Planning Director and Zoning Administrator for the Town of Nags Head and has personal knowledge of the information contained in this affidavit.

2. That she is familiar with the CAMA Variance Request that has been submitted to the Coastal Resources Commission for a variance in connection with the replacement of a home which was destroyed by fire on property owned by Michael A. Zito, Jr. and wife, Catherine M. Zito, located at 10224 Sea Gull Drive, South Nags Head, Dare County, North Carolina.

3. That she is aware that 15A NCAC 07H .0309 permits on property seaward of oceanfront setback requirements only nine enumerated types of development.

4. That in the event the home is not permitted to be rebuilt on the above described property, none of the nine enumerated uses of the property in 15A NCAC 07H. 0309 are permissible under the applicable governmental rules, regulations and ordinances, with the possible exception of sand fences. More specifically as to each one, please note the following:

a. Campsites - Chapter 48, Zoning would not permit a public campground/campsite in this district.

b. Driveways and parking areas with clay, packed sand or gravel - a driveway would be associated with access to a principal structure, if no such structure exists a stand-alone driveway or parking area would not be permitted.

c. Elevated Decks not exceeding 500 sf - A deck would be considered an accessory structure/use and could only be permitted in conjunction with a principal structure/use. A stand-alone deck could not be permitted.

d. Beach Accessway - A beach accessway is considered an accessory structure/use and could only be permitted in conjunction with a principal structure/use. There is no mechanism to permit a stand-alone beach accessway.

e. Unenclosed, uninhabitable gazebos - same as above, this would be considered an accessory structure/use and could not be permitted without a principal structure/use on the property.

f. Storage Sheds - storage sheds are considered accessory structures/uses and could not be permitted upon a property if not in conjunction with a principal structure/use.

g. Temporary Amusement Stand - not a permitted use within the Town.

h. Sand Fences - while the ordinance is silent I believe if sand fencing were necessary on this parcel for stabilization, management, etc. it would be allowed.

i. Swimming Pool - pools are considered accessory structures/uses and could not be permitted on a property that did not have a principal structure/use - a stand alone pool would not be permissible within the Town.

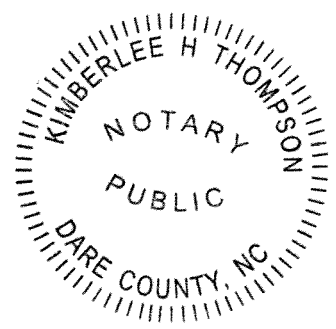
This the 17th day of October, 2018.

Kelly Wyatt (SEAL)
Kelly Wyatt

Sworn to and subscribed before me this the 17th day of October, 2018.

Kimberlee H. Thompson
Notary Public

My commission expires:
12/20/2021



Sec. 48-598. - Variances.

- (a) *Standards for granting a variance.* When unnecessary hardships would result from carrying out the strict letter of this chapter, the board shall vary any of the provisions of the ordinance upon a showing of all of the following:
- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
 - (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- (b) Under no circumstances shall the board of adjustment grant a variance to allow a use either expressly or by implication not permissible under the terms of this chapter in the district involved.
- (c) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Violation of such conditions shall be deemed a violation of this chapter and punishable under article XV of this chapter.
- (d) Any other ordinance that regulates land use or development may specifically provide for variances consistent with the provisions of this subsection.
- (e) A variance that is granted shall be the minimum variance that will resolve the unnecessary hardship resulting from the strict application of the this chapter to the land, building or structure.
- (f)

No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

(g) *Application requirements.* Each application for a variance must be in writing, accompanied by any associated administrative fee and shall include all of the following information:

- (1) A listing of the specific section(s) and subsection(s) of this chapter that the applicant is seeking to vary.
- (2) For each provision the applicant is requesting to vary, a listing of how the provision applies to the property without the requested variance and how the applicant proposes the provision should be varied.
- (3) A description of how the property can be used without the requested variance compared with how it could be used with the requested variance.
- (4) A description of the unnecessary hardship which results from the strict application of this chapter.
- (5) A description of the conditions that are peculiar to the property, such as location, size, or topography which cause the unnecessary hardship.
- (6) A certification that the hardship did not result from actions taken by the applicant or the property owner other than the act of purchasing property with knowledge that circumstances exist requiring a variance.
- (7) A narrative explaining how the requested variance is consistent with the spirit, purpose, and intent of this chapter, such that public safety is secured, and substantial justice is achieved.
- (8) A certification that the requested variance, if granted, will not allow an increase or extension of an existing nonconforming structure or use of land.
- (9) A certification that the requested variance, if granted, will not allow a use of the land otherwise prohibited in the applicable zoning district to occur on the property.
- (10) A listing of the names and addresses of all of the persons listed in section 48-593(b) who are entitled to receive notice. The list shall be supplied by the applicant and shall be current according to the most recent tax listing abstract as filed in the office of the Dare County tax supervisor.

(h)

In addition to the foregoing requirements, when considering a variance from article II, chapter 22 of this Code, flood damage prevention, the board shall follow the additional provisions of such article.

- (i) *Amendments.* The owner of land which has been granted a variance may apply for an amendment to the previously granted variance. All of the standards for granting a variance shall apply to the consideration of an amendment to an existing variance. An amendment may only be granted if:
- (1) The circumstances on the property have substantially changed since the time of the granting of the prior variance in such a way that the use of the property in accordance with prior variance is itself an unnecessary hardship;
or
 - (2) The amendment requested will be equal to or less of a variance than the previously granted variance.

(Ord. No. 13-11-035, Pt. I, 11-6-2013)



Division of Coastal Management

**NC COASTAL RESOURCES
COMMISSION MEETING**

November 27, 2018

**MICHAEL & CATHERINE ZITO (CRC-VR-18-04)
NAGS HEAD, OCEANFRONT SETBACK**

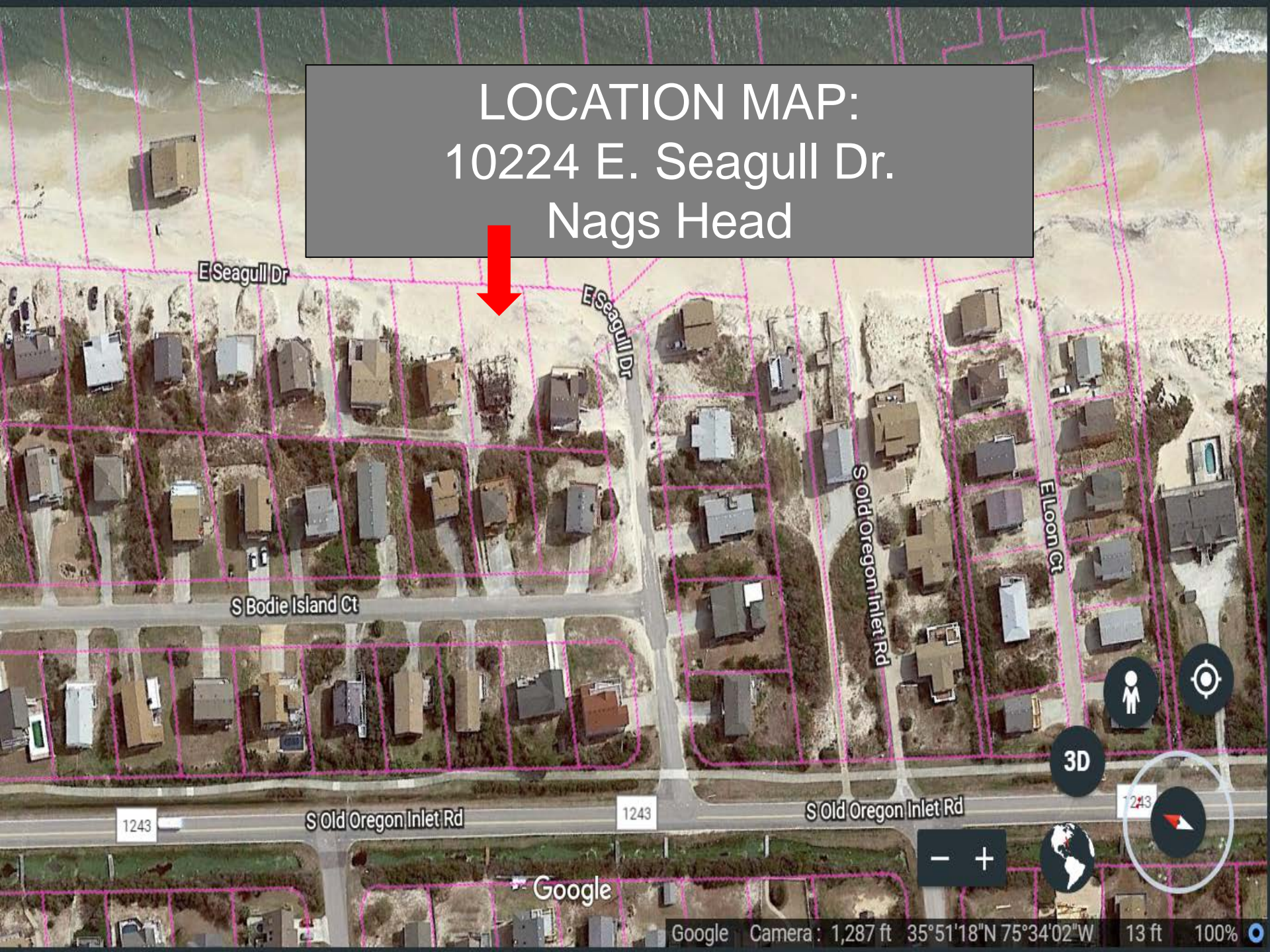
Frank Jennings, District Manager
Yvonne Carver, Field Representative
Northeastern District Office
Elizabeth City, NC



Nothing Compares
NORTH CAROLINA

Department of Environmental Quality

LOCATION MAP:
10224 E. Seagull Dr.
Nags Head



1243

S Old Oregon Inlet Rd

1243

S Old Oregon Inlet Rd

1243

Google



10224 E. Seagull Drive, r X



1998 Imagery

SBF = 6



35.853893 -75.567261 Degrees

State of North Carolina DOT, Esri, HERE, Garmin, INCRE...



10224 E. Seagull Drive, r X



2016 Imagery

SBF = 6

100m
300ft

35.853910 -75.567261 Degrees State of North Carolina DOT, Esri, HERE, Garmin

Photo taken by rental agent
09/16/16 (3 weeks before fire)

☰ 007480000

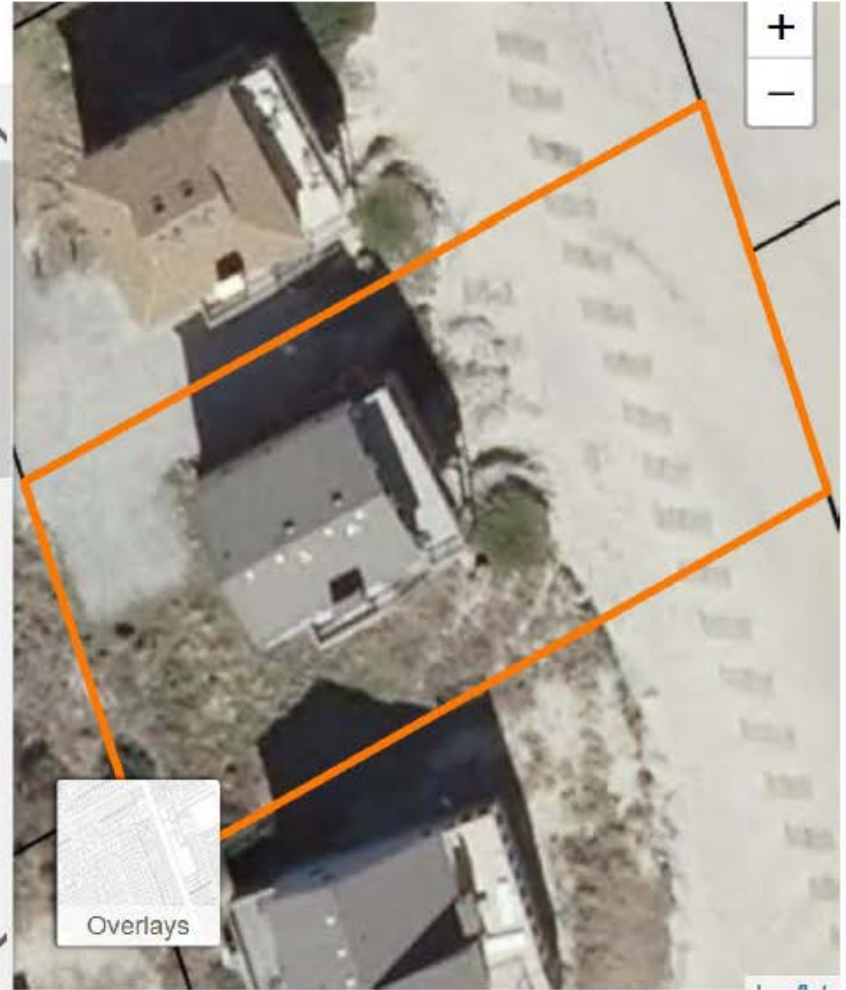


10224 E Sea Gull Dr

Nags Head, NC 27959



Photo from Dare County Online GIS/Tax Record
of Zito cottage before destroyed by fire.





Bodie Island Ct

© 2018 Google

1993

Imagery Date: 3/24/2017 35°51'14.28" N 75°34'01.15"

Photo taken by
DCM Staff
08/07/18





**Photo taken by
DCM Staff
08/07/18**

**Photo taken by
DCM Staff
08/07/18**



**Photo taken by
DCM Staff
08/07/18**



**Photo taken by
DCM Staff
08/07/18**





**Photo taken by
DCM Staff
08/07/18**

**Photo taken by
DCM Staff
08/07/18**





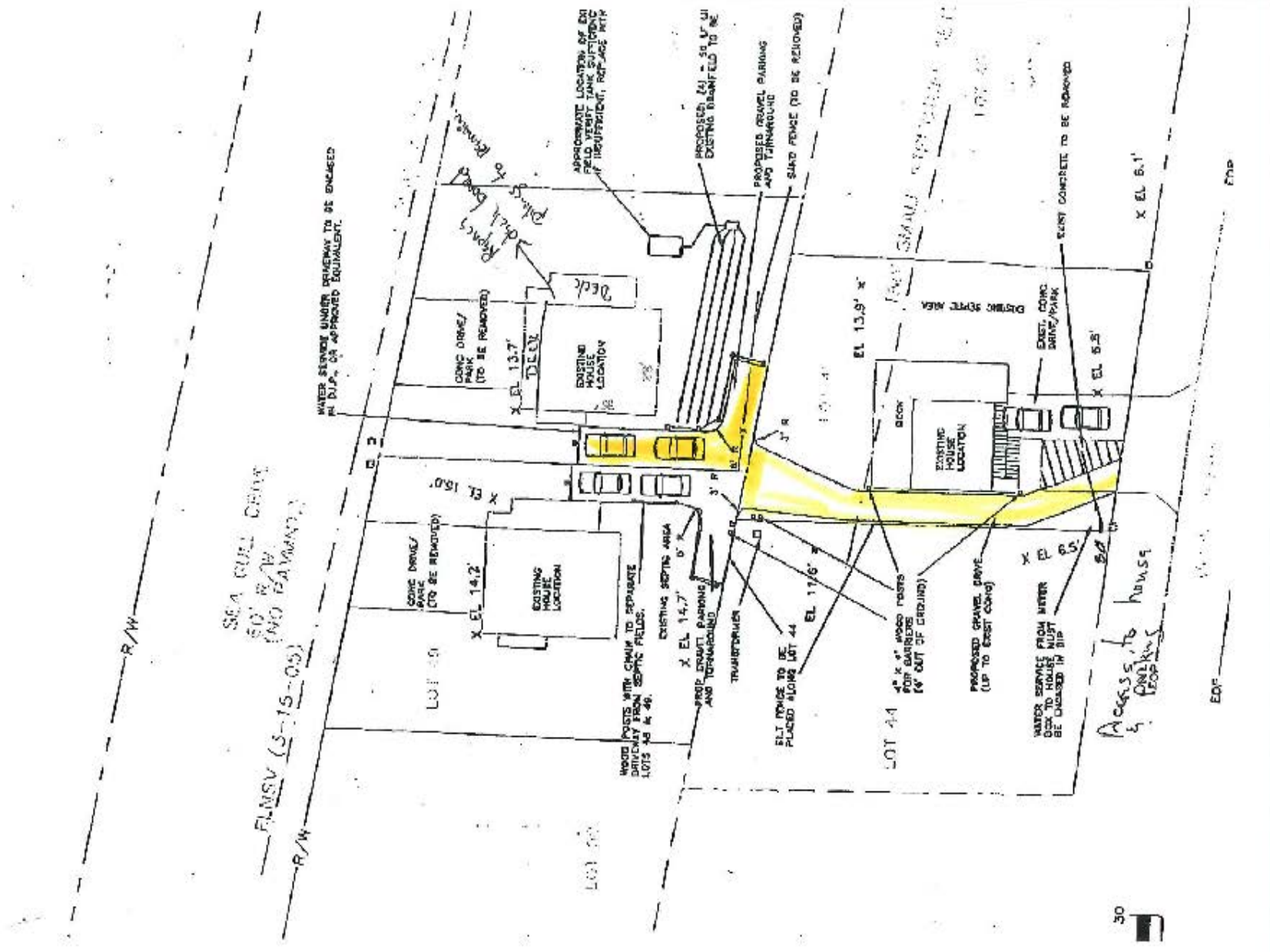
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DCM Staff
08/07/18**

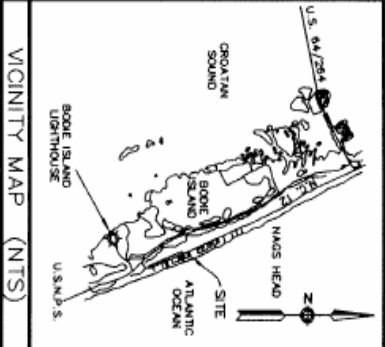


**Photo taken by
DCM Staff
08/07/18**

2007 Plat of Zito cottage

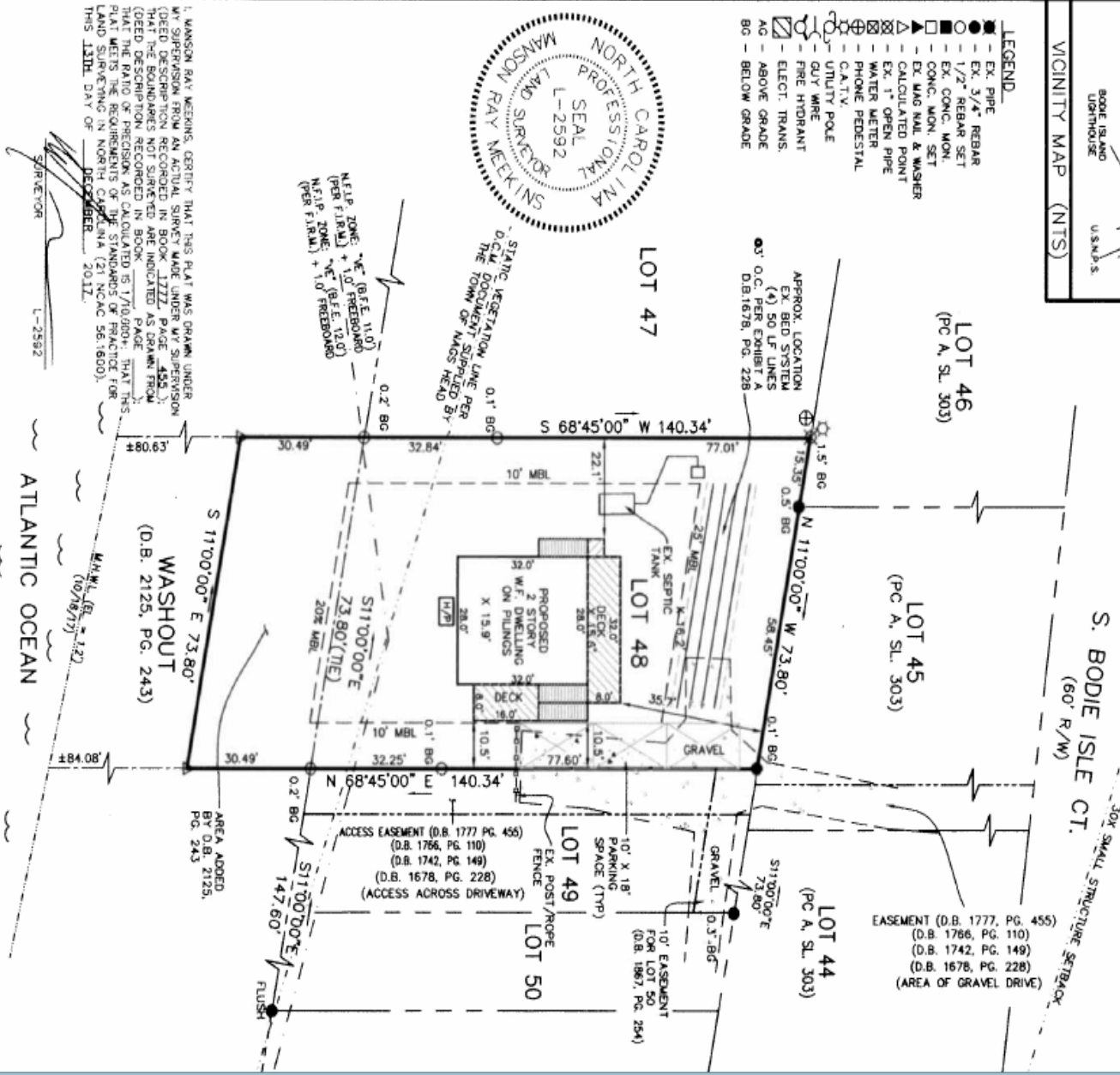
FROM SHARP, MICHAEL, CUTTEN & GRAHAM 2522811188 (TUE) JUL 24 2007 10:53/ST. 10:52/No. 7500000200 P 2 PAGE 02/03



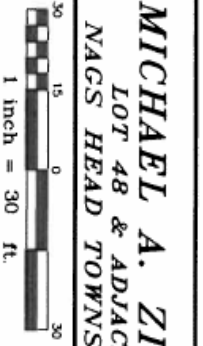


- NOTES:**
1. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
 2. AREA BY COORDINATE COMPUTATION = 10,192 S.F. (6,908 S.F. WEST OF STATIC VEG. LINE)
 3. F.I.R.M. ZONE: AS SHOWN
 4. PIN NO.: 14 071815 73 0373
 5. RECORDED REFERENCE: M.B. 9, PG. 57; DB 1777, PG. 455
 6. MINIMUM BUILDING LINES (M.B.L.) IF SHOWN HEREON ARE PER THE CURRENT LOCAL ZONING REGULATIONS. OTHER SETBACKS AND/OR RESTRICTIONS MAY APPLY AND MUST BE VERIFIED PRIOR TO CONSTRUCTION.
 7. ELEVATIONS (NAD 83): AS SHOWN (29.0X)
 8. PROPOSED LOT COVERAGES PER TOWN OF NAGS HEAD ZONING ORD. ARTICLE IV-SEC. 48-123 AND ARTICLE III SEC. 48-94
 9. THIS PROPERTY LIES WITHIN THE 540 FT. C.A.M.A. O.E.A./A.E.C. AND THE 180 FT. C.A.M.A. STRUCTURE SETBACK.

- LEGEND:**
- - EX. PIPE
 - - EX. 3/4" REBAR
 - - 1/2" REBAR SET
 - - EX. CONC. MON.
 - - CONC. MON. SET
 - ▲ - EX. MAG NAIL & WASHER
 - △ - CALCULATED POINT
 - ⊗ - EX. 1" OPEN PIPE
 - ⊕ - WATER METER
 - ⊖ - CATV.
 - ⊙ - UTILITY POLE
 - ⊖ - GUY WIRE
 - ⊖ - FIRE HYDRANT
 - ⊖ - ELECT. TRANS.
 - ⊖ - AG - ABOVE GRADE
 - ⊖ - BG - BELOW GRADE



I, MANSION RAY MEEKINS, CERTIFY THAT THIS PLAN WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 1777, PAGE 455) THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM (DEED DESCRIPTION RECORDED IN BOOK _____ PAGE _____) THAT THE RATIO OF PRECISION AS CALCULATED IS 1/10,000+. THAT THIS PLAN MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 N.C.A.C. 56.1800). THIS DATE: _____, 2017.



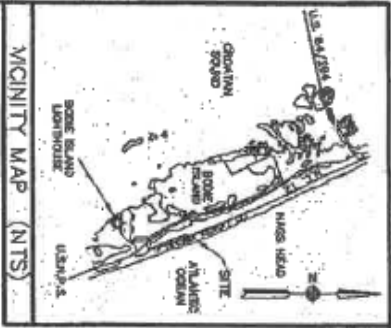
FILE: 1707822 SURVEYED: 10/18/17 CE PLATTED: 10/20/17 MA



SURVEY/ SITE PLAN FOR
MICHAEL A. ZITO, JR. & CATHERINE M. ZITO
 LOT 48 & ADJACENT PARCEL - GOOSEWING - NAGS HEAD
 NAGS HEAD TOWNSHIP - DARE COUNTY - NORTH CAROLINA

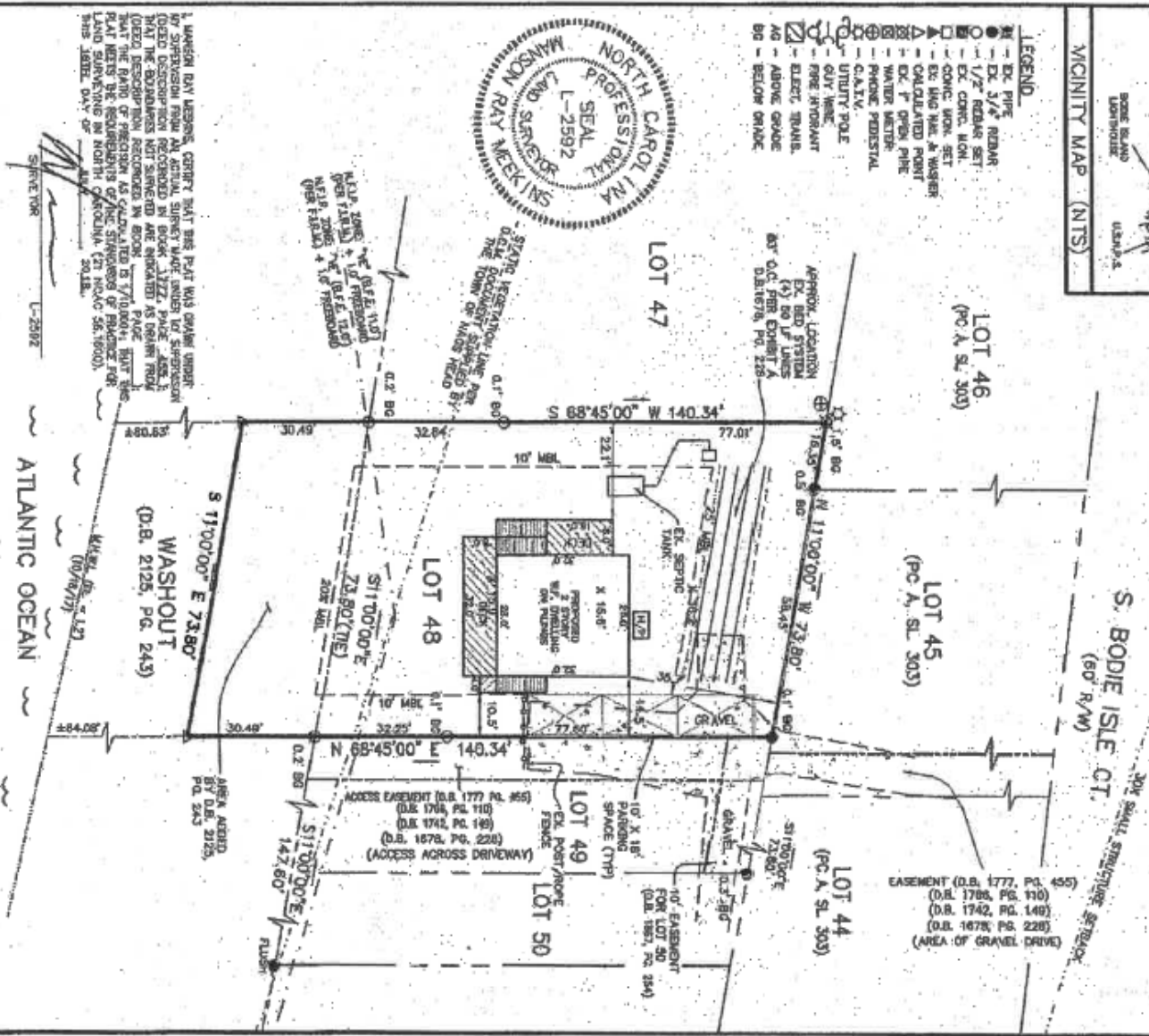
SEABOARD SURVEYING & PLANNING, INC. C-1536
 103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959
 OFFICE: (252) 480-9998 FAX: (252) 480-0571

2017 Site Plan of Zito cottage; Reviewed by LPO



- NOTES**
1. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
 2. AREA BY COORDINATE COMPUTATION = 10,182 S.F. (35,998 SQ. FEET OF STAKE WORK LINES)
 3. PLAT NO. 2386, 48-173 AND 1917.
 4. RECORDED RESOLUTIONS N.B. 8, PG. 57, 58, 1777, PG. 493 AND N.B. 9, PG. 57, 58, 1777, PG. 493.
 5. HORIZONTAL BOUNDARY LINES (H.B.L.) FROM HEREON, ARE FOR THE CURRENT LOCAL ZONING REGULATIONS. OTHER SETBACKS, ANY/OR RESTRICTIONS MAY APPLY, AND MUST BE VERIFIED PRIOR TO CONSTRUCTION.
 6. ELEVATIONS (NAVD 1988) AS SHOWN.
 7. PROPOSED LOT COVERAGES 2,001 S.F. (29.0%).
 8. SITE PLAN REQUIREMENTS PER TOWN OF NAGS HEAD ZONING ORD. ARTICLE IV-SEC 48-123 AND ARTICLE B, SEC 48-84.
 9. THIS PROPERTY LIES WITHIN THE 940 FT CALVA, OCEAN/AEC AND THE 190 FT CALVA, STRUCTURE SETBACK.

- LEGEND**
- - EX. PIPE
 - - EX. 3/4" DIAM. 1/2" DEPTH SET
 - - EX. CORR. MON.
 - - CONC. WORK SET
 - △ - EX. HUB VAL. & WASHER
 - △ - EX. OPEN PIPE
 - - WATER METER
 - - PHONE PEDISTAL
 - - C.A.T.V.
 - - UTILITY POLE
 - - GUY WIRE
 - - FIRE HYDRANT
 - - ELECT. TRANS.
 - - ABOVE GRADE
 - - BELOW GRADE



REV. 07/13/16, SITE PLAN

MICHAEL A. ZITO, JR. & CATHERINE M. ZITO
 LOT 48 & ADJACENT PARCEL - GOOSEWING - NAGS HEAD
 NAGS HEAD TOWNSHIP - DARE COUNTY - NORTH CAROLINA



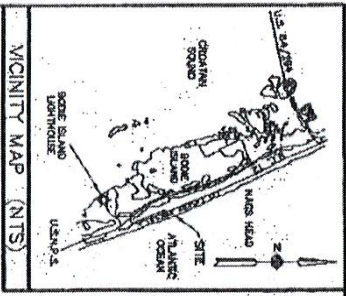
SEABOARD SURVEYING & PLANNING, INC. C-1536
 103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959
 OFFICE: (252) 450-9888 FAX: (252) 450-0571

New Site Plan of Zito cottage received

RECEIVED

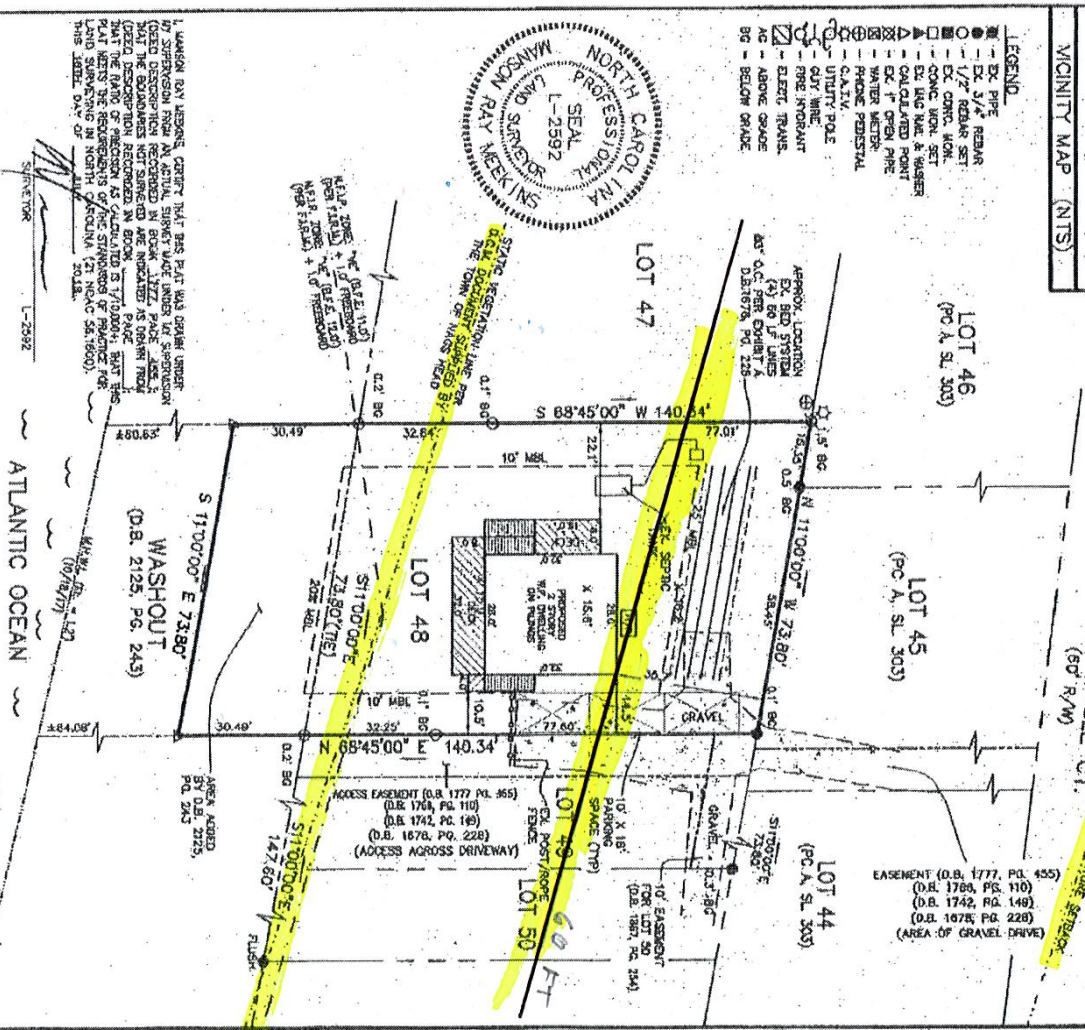
AUG 01 2018

DCM-MHD CITY



- LEGEND.**
- DC PIPE
 - DC 3/4" REBAR
 - 1/2" REBAR SET
 - CONC. CONC. MON.
 - CONC. MON. SET
 - △ CONC. HAIR & WAGER
 - ▲ CALCULATED POINT
 - CK 1" OPEN PIPE
 - WATER METER
 - PROBE PENETRATION
 - CALIV.
 - UTILITY POLE
 - GUY WIRE
 - POLE MOUNT
 - ERECT FRAMES
 - ABOVE GRADE
 - BELOW GRADE

- NOTES.**
1. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCOVERED BY A FULL AND ACCURATE TITLE SEARCH.
 2. ALL MEASUREMENTS MADE BY THIS SURVEYOR ARE PER THE FIELD BOOKS AS SHOWN.
 3. F.M. NO. 14 07/16/15 75 4274
 4. RECORDED REFERENCE: M.L.S. & P.L. 37, 29 1/777, PG. 455
 5. RECORDED REFERENCE: M.L.S. & P.L. 37, 29 1/777, PG. 455
 6. RECORDED REFERENCE: M.L.S. & P.L. 37, 29 1/777, PG. 455
 7. RECORDED REFERENCE: M.L.S. & P.L. 37, 29 1/777, PG. 455
 8. ELEVATIONS (JULY 1988) AS SHOWN
 9. PROPOSED LOT COVERAGE 2,000 S.F. (23.0M)
 10. SITE PLAN REQUIREMENTS PER TOWN OF NAOS HEAD
 11. SEE ARTICLES IV-SEC 48-123 AND ARTICLE B
 12. THIS PROPERTY LIES WITHIN THE 340 FT CALVA O.E.A./A.E.C.
 13. AND THE 190 FT CALVA STRUCTURE SETBACK



MICHAEL A. ZITO, JR. & CATHERINE M. ZITO
 LOT 48 & ADJACENT PARCEL - GOOSEWING - NAOS HEAD
 NAOS HEAD TOWNSHIP - DARE COUNTY - NORTH CAROLINA



SEABOARD SURVEYING & PLANNING, INC. C-1536
 103F W. WOOD HILL DR., P.O. BOX 58, NAOS HEAD, NC 27959
 OFFICE: (252) 480-9988 FAX: (252) 480-0571

RECEIVED
 AUG 01 2018
 DCM-MHD CITY

SETBACK FOR
 GRAND FATHANED
 LOT

New Site Plan of Zito cottage received; 60-ft Setback Line & Static Vegetation Line highlighted

15A NCAC 07J .0703 PROCEDURES FOR DECIDING VARIANCE PETITIONS

(f) To grant a variance, the Commission must affirmatively find each of the four factors listed in G.S. 113A-120.1(a).

- (1) that unnecessary hardships would result from strict application of the development rules, standards, or orders issued by the Commission;
- (2) that such hardships result from conditions peculiar to the petitioner's property such as location, size, or topography;
- (3) that such hardships did not result from actions taken by the petitioner; and
- (4) that the requested variance is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will preserve substantial justice.

