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General Counsel



TO: The Coastal Resources Commission

FROM: Holly R. Ingram, DEQ Assistant General Counsel  
Christine A. Goebel, DEQ Assistant General Counsel

DATE: January 28, 2022 (for the February 10, 2022, CRC Meeting)

RE: **Variance Request by Petitioners Jean McGraw and Carolyn Arnold (CRC-VR-21-06)**

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Petitioners are Jean McGraw and Carolyn Arnold, owners of a single-family residence at 312 East Boardwalk Boulevard in Atlantic Beach. The residence is attached a septic system that Petitioners are seeking to replace. Petitioners are seeking to replace the septic system oceanward of the house, which is waterward of the oceanfront setback requirement as measured from the Static Vegetation Line. On November 2, 2021, the Town of Atlantic Beach's CAMA LPO denied Petitioners' minor development permit application due to its inconsistency with the Commission's rules, where Petitioners' proposed development did not meet the oceanfront setback per 7H .0306 and was not included in the setback exceptions in 7H .0309(a). Petitioners now seek a variance in order to replace the septic system oceanward of the house, as proposed in their permit application.

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.): Petitioners, Jean McGraw and Carolyn Arnold, electronically  
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically  
Michelle Eitner, Local Permitting Officer and Director of Planning and  
Development for the Town of Atlantic Beach, electronically



**RELEVANT STATUTES OR RULES****ATTACHMENT 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 the 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 90; 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 180 feet landward from the first line of stable and 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 “North Carolina 2019 Oceanfront Setback Factors & Long-Term Average Annual Erosion Rate Update Study” and approved by the Coastal Resources Commission on February 28, 2019 (except as such rates may be varied in individual contested cases or in 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>.

### **15A NCAC 07H .0305 GENERAL IDENTIFICATION AND DESCRIPTION OF LANDFORMS**

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

....

(5) Vegetation Line. The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. The Division of Coastal Management or Local Permit Officer shall determine the location of the stable and natural vegetation line based on visual observations of plant composition and density. If the vegetation has been planted, it may be considered stable when the majority of the plant stems are from continuous rhizomes rather than planted individual rooted sets. Planted vegetation may be considered natural when the majority of the plants are mature and additional species native to the region have been recruited, providing stem and rhizome densities that are similar to adjacent areas

that are naturally occurring. In areas where there is no stable and natural vegetation present, this line may be established by interpolation between the nearest adjacent stable natural vegetation by on-ground observations or by aerial photographic interpretation.

(6) **Static Vegetation Line.** In areas within the boundaries of a large-scale beach fill project, the vegetation line that existed within one year prior to the onset of project construction shall be defined as the “static vegetation line”. The “onset of project construction” shall be defined as the date sediment placement begins, with the exception of projects completed prior to the original effective date of this Rule, in which case the award of the contract date will be considered the onset of construction. A static vegetation line shall be established in coordination with the Division of Coastal Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo a large-scale beach fill project. Once a static vegetation line is established, and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line. In all locations where the vegetation line as defined in this Rule is landward of the static vegetation line, the vegetation line shall be used as the reference point for measuring oceanfront setbacks. A static vegetation line shall not be established where a static vegetation line is already in place, including those established by the Division of Coastal Management prior to the effective date of this Rule. A record of all static vegetation lines, including those established by the Division of Coastal Management prior to the effective date of this Rule, shall be maintained by the Division of Coastal Management for determining development standards as set forth in Rule .0306 of this Section.

#### **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 shall be set in accordance with Subparagraphs (a)(3) through (a)(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 on state owned land or oceanward of the mean high water line or perpetual property easement line, whichever is more restrictive.

(4) The ocean hazard setback 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 shall not be 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. 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 shall be 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;

....

(j) All relocation of structures shall require permit approval. Structures relocated with public funds shall comply with the applicable setback line and other applicable AEC rules. Structures, including septic tanks and other essential accessories, relocated entirely with non public funds shall be relocated the maximum feasible distance landward of the present location. Septic tanks shall not be located oceanward of the primary structure. All relocation of structures shall meet all other applicable local and state rules.

#### **15A NCAC 7H.0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS**

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

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand, or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet;
- (4) beach accessways consistent with Rule .0308(c) of this Section;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands consistent with Section .1900 of this Subchapter;
- (8) sand fences; and
- (9) swimming pools.

In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non setback requirements of this Subchapter.

**STIPULATED FACTS****ATTACHMENT B**

1. Petitioners Carolyn W. Arnold and Jean C. McGraw are owners of 312 East Boardwalk Boulevard, Atlantic Beach, North Carolina 28512, the “Property.”
2. Petitioners own legal title to the Property as demonstrated by the North Carolina Non-Warranty Deed, located in the Carteret County Register of Deeds Deed Book 1347 on page 161, and attached as a Stipulated Exhibit. Also reflecting Petitioners’ ownership and included as Stipulated Exhibits are the Carteret County Tax Parcel Card and NC Property Record Card for the Property.
3. Located on the Property is a 1,664 square foot house. The house has five-bedrooms, four-bathrooms, and was constructed in 1937. These details are included on the North Carolina Property Record Card attached as a Stipulated Exhibit.
4. To the south of Petitioners property is the Atlantic Ocean, and East Boardwalk Avenue is to the north. West of Petitioners property, at 310 E. Boardwalk Boulevard, is a parcel of land owned by Mr. Robert Spence, Jr. since 2005. To the east, at 314 E. Boardwalk Boulevard, is a parcel of land owned by Dune Deck AB 314 LLC, with Ms. Nicole A. Strobel as its registered agent, since 2020.
5. The house is connected to a septic system, which Petitioners contend is original to the construction.
6. Also, on the Property, landward of the house, is a grass yard. In the northwest corner of the yard there is a stormwater drain. Petitioners’ application, attached as a Stipulated Exhibit, includes a Photograph of the grass yard and a diagram displaying the stormwater drain in the northwest corner. Petitioners proposed site plan also denotes the location of the stormwater drain. The site plan is included as a Stipulated Exhibit.
7. Oceanward of the house, Petitioners have a yard that abuts the Atlantic Ocean. The yard has Bermuda grass and vegetation, as demonstrated in Photographs provided by Petitioners and included as Stipulated Exhibits.
8. Petitioners contend that they use the Property’s grass yard landward of the house for parking.
9. Petitioners allege that four car widths can be accommodated in the grass yard, which Petitioners contend accommodates their two families. Petitioners also represent that there is no street parking available in the neighborhood. The provided photographs, attached as Stipulated Exhibits, depict this usage. Petitioners email to DEQ Assistant General Counsel Holly Ingram further describes the Property’s parking situation and is included as a Stipulated Exhibit.
10. Petitioners also contend that after periods of heavy rain, the grass yard accumulates water. Petitioners have provided photographs of the grass yard with standing water, which are included as Stipulated Exhibits.

11. The Property is located within the Ocean Hazard Area of Environmental Concern (AEC) as defined by the Commission's rules, and so any proposed development requires a CAMA permit under N.C.G.S. §§ 113A-118.
12. The Property is adjacent to the Atlantic Ocean, the waters of which at this location are classified as SB waters by the Environmental Management Commission.
13. The applicable oceanfront setback for this Property in Atlantic Beach is measured 60' landward from the Static Vegetation Line ("SVL"), per 15A NCAC 7H .0306(a)(1) and 7H .0306(a)(5)(A).
14. The Property is subject to a SVL that was developed using aerial imagery from September 7, 1984 and represents the location of the first line of stable and natural vegetation at that time. The SVL for the Property is shown on images in the PowerPoint presentation overlain on DCM GIS imagery.
15. At its November 2020 virtual meeting, this Commission approved a Static Line Exception renewal for, among others, the town of Atlantic Beach, North Carolina. DCM Staff's recommendation to the Commission to approve Atlantic Beach's Static Line Exception renewal request is attached as a Stipulated Exhibit.
16. As shown on the attached Stipulated Exhibit of the DCM map viewer, based on the most recent shoreline study ([North Carolina 2019 Oceanfront Setback Factors & Long-Term Average Annual Erosion Rate Update Study](#)) effective 4/1/2020, the shoreline at the site was found to have a long-term average annual accretion rate of 1.1 feet per year. This is determined by calculating the shoreline's rate of movement over time between 4/7/1946 and 1/29/2016 shorelines. It is important to note that this long-term rate can be influenced by short-term changes caused by storms and beach nourishment.
17. While the vegetation line is not shown on the site plan, it appears that the proposed location of the septic system, oceanward of the house, would not meet the Static Line Exception requirements found at 15A NCAC 7H .0306(a)(12)(C), where the septic system's drain field would be oceanward of the landward most adjacent structure.
18. On July 23, 2018, Petitioners were granted Construction Authorization from the Carteret County Health Department for a 1,000-gallon septic tank replacement with a 330 square foot drain field. The Construction Authorization is attached as a Stipulated Exhibit.
19. The Construction Authorization allows for the replacement of the septic system landward of the house, in between the house and the East Boardwalk Boulevard.
20. Petitioners contend that replacing the septic system in accordance with the Construction Authorization—landward of the house—will reduce the available parking from four spaces to two spaces.

21. The Town of Atlantic Beach's Unified Development Ordinances provide, in Section 18.5.3.C, that single-family dwellings under 2000 square feet are required to maintain two off-street parking spaces. Section 18.5.3 of the UDO is included herein as a Stipulated Exhibit.
22. In accordance with N.C.G.S. § 113-118, on October 3, 2021, Petitioners applied for a CAMA Minor Development Permit. Petitioners Permit Application is attached as a Stipulated Exhibit.
23. In Petitioners Permit Application, Petitioners sought to replace the septic system and drain field on the oceanside of the house. Petitioners also requested a larger size drain field.
24. On October 10, 2021, and October 21, 2021, Petitioners provided notice to the adjacent riparian property owners of their CAMA minor permit application. Copies of Petitioners' hand-delivered notice is included as part of its Permit Application and is a Stipulated Exhibit.
25. On November 2, 2021, Local Permit Officer for the Town of Atlantic Beach denied the Town's application for the minor development permit. A copy of the denial letter is attached as a Stipulated Exhibit.
26. As set forth in said letter, the denial was based on a finding that the proposed development:
  - [V]iolates N.C.G.S. §113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines. You have applied to replace the septic system on the ocean-side of the house, which is inconsistent with 15 NCAC 7H .0309(a) . . . . The proposed development is seaward of the oceanfront setback requirement but is not listed in the above 9 exceptions.
27. 15A NCAC 07H. 0306 sets forth general use standards for Ocean Hazard Areas, including ocean erosion setbacks. 15A NCAC 7H .0306 (a) provides as follows:
  - (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 shall be measured in a landward direction from the vegetation line, the static vegetation line, or the measurement line, whichever is applicable.
    - . . . .
    - (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.

28. 15A NCAC 07H .0309 provides exceptions for certain development seaward of the oceanfront setback. It states:
- (a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:
    - (1) campsites;
    - (2) driveways and parking areas with clay, packed sand, or gravel;
    - (3) elevated decks not exceeding a footprint of 500 square feet;
    - (4) beach accessways consistent with Rule .0308(c) of this Section;
    - (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
    - (6) uninhabitable, single story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
    - (7) temporary amusement stands consistent with Section .1900 of this Subchapter;
    - (8) sand fences; and
    - (9) swimming pools.
29. As such, 15A NCAC 07H .0306(a) prohibits the proposed septic development oceanward of the ocean hazard setback, measured landward 60' from the SVL.
30. Although not included in the denial letter, Petitioners' permit would also be denied because it is inconsistent with 15A NCAC 7H .0306(j).
31. 15A NCAC 7H .03.06(j) provides "Septic tanks shall not be located oceanward of the primary structure."
32. Petitioners stipulate that the denial of the minor development permit was correct under 15A NCAC 7H .0309(a).
33. Petitioners did not seek a variance from the Town of Atlantic Beach because such a variance would not change where Petitioners propose to locate their septic system.
34. On November 30, 2021, Petitioners provided notice to the adjacent riparian property owners via certified mail, return receipt requested, that it submitted a variance petition with the CRC, as required by 15A NCAC 7J .0701(c)(7). During the comment period, DCM received no written comments. Copies of Petitioners' certified mail information and delivery confirmation are included as a Stipulated Exhibit.
35. Petitioners now seek a variance request from the Commission to replace the Property's septic system oceanward of the house as proposed in their Minor Development Permit Application.

**Stipulated Exhibits:**

1. Petitioners' CAMA Minor Permit Application
2. North Carolina Non-Warranty Deed
3. Carteret County Tax Parcel Information Card

4. North Carolina Property Record Card for 312 East Boardwalk Boulevard
5. Email from Petitioners to DEQ Assistant General Counsel Holly Ingram detailing parking
6. Carteret County Health Department Septic Tank Construction Authorization
7. Section 18.5.3 of the Town of Atlantic Beach's Unified Development Ordinances
8. Notice of Petitioners' Minor Permit Application to Adjacent Landowners
9. November 2, 2021, letter denying Petitioners' CAMA Minor Development Permit Application for the Property located at 312 East Boardwalk Boulevard, Atlantic Beach, North Carolina.
10. November 2020 Coastal Resource Commission Static Line Exception approval for the Town of Atlantic Beach
11. DCM Accretion Rate Shoreline Photo
12. Description and site plan for the proposed development on the Property
13. Photographs of the Property
14. DCM Map of the Property showing the Static Vegetation Line
15. Copies of certified mail receipts and delivery confirmation showing that notice of Petitioners' variance petition was provide to adjacent property owners
16. DCM PowerPoint presentation

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

- 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.**

Yes, strict application of the applicable development rules will cause unnecessary hardship on the Petitioner and potentially will also have an unintentional negative impact on the overall environment in the immediate area near the development including the dune area on the oceanside of the property.

The Petitioner seeks a variance from the applicable rule regarding placement of a septic system on the oceanside of the property at 312 East Boardwalk within 60 feet of the static vegetation line on the property at 312 East Boardwalk Boulevard in Atlantic Beach. This property is a beach cottage that has been used by our family since it was first built as one of the original houses on Atlantic Beach in 1937. The current septic system, which is the original system from when the house was first built, has begun to fail causing sewage to back up into the basement following periods of heavy rain. The Petitioner has received a permit from the Carteret County Board of Health to replace the existing system on the north side (streetside) of the property. However, there are issues with the permit as approved by the County (Attachment H) which will cause unnecessary hardships on the petitioner and are significant.

The hardship is a result of the size and location of the drainfield in the approved permit. In order to accommodate required setbacks, the options for locating the drainfield on the streetside of the property are severely limited and dictate a drainfield size (330 square feet) that is smaller than would be specified for a four-bedroom home. The petitioner has been advised that the approved system is not designed to allow parking of cars on the drainfield. The practical effect of the approved system and drainfield location is to reduce the space for parking by more than half the currently available space. There are two families which jointly own this property and the parking area outside the drainfield with the currently approved location is limited at best.

In addition to the hardship on the petitioner, the approved permit will have unintentional negative impact on the environment in immediate area. This is a result of the fact that this section of East Boardwalk is in a low-lying area which collects runoff from neighboring homes and streets and is prone to frequent flooding after heavy rains. A stormwater drain was placed several years ago by the town of Atlantic Beach on the northwest corner of the property with a system which pumps the stormwater through a pipe out into the dunes on the oceanfront. This system is regularly overwhelmed by heavy rain causing significant flooding on the property where the approved drainfield will be located. A photo showing flooding from a recent rain in the general area of the drainfield and stormwater drain is provided below.

Photo: Streetside of property where currently approved septic system would be located is prone to flooding

It would seem preferable from an environmental standpoint to locate the system and drainfield further away from the stormwater drain so the reduce the likelihood of potential overflow from the system after heavy rain being pumped out through the drain and into the dunes.

**Staff's Position: Yes.**

Staff agrees that a strict application of the applicable setback rules from which Petitioners seek a variance causes Petitioners unnecessary hardships. The current system, which Petitioners believe is original to the 1937 house, is failing. It is believed that the current system is located on the landward side of the house and likely includes areas where Petitioners currently park up to four cars. In order to replace the existing system and not lose the current parking area, Petitioners propose locating the new septic system oceanward of the house. Although the proposed location on the oceanward side of the house does not meet 1) the required 60' setback from the static vegetation line (and is not one of the listed exceptions to the setback found in 7H .0309), and 2) the provision in 7H .0306 (j) which provides that "Septic tanks shall not be located oceanward of the primary structure," the landward, approved location of the drain field is periodically inundated due to flooding associated with heavy rains, raising the risk of contamination of stormwater that will be then pumped into the dune system. In addition, this location in Atlantic Beach is within the bounds of the regular Corps disposal of dredged materials from Beaufort Inlet, and the distance from the vegetation line to the proposed location of the septic tank is over 100' based on Google Earth imagery.

Staff contend that the strict application of the Commission's oceanfront setback rules does not necessarily cause Petitioners an unnecessary hardship where two parking spaces should accommodate the eight occupants of the 2018 septic permit design; however, the location of a drain field in a low-lying area subject to occasional flooding could lead to future septic treatment failure, impacts to water quality, odors, or other undesirable impacts.

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

**Petitioner's Position: Yes.**

The size of the Petitioner's property only provides very limited options as far as potential locations for a septic system and drainfield. As previously noted, the approved location on the streetside of the property is undersized for a four-bedroom home and is subject to frequent flooding. In addition to reducing the usable parking area considerably, this flooding could compromise the effective capacity of the drainfield which will already be undersized as approved. The hardship on the Petitioner would be eliminated by allowing the replacement system to be located on the oceanside of the property.

**Staff's Position: Yes.**

Staff agrees that Petitioners' alleged hardship results from the size and elevation of Petitioners' property. As seen in the attached aerial photographs, while Petitioners' lot is similar in size to the surrounding 40-foot wide lots, it is orientated such that there is a wide dune system over 100' between the vegetation line and the location of the proposed system on the waterward side of the house. It also has a narrow front yard, which has limited space for a landward location of the tank and drain field at a low point next to the town stormwater system. Staff agrees that the potential for stormwater flooding of the front yard due to the relative elevation of the property and its location next to the town stormwater system could compromise the effective capacity of the 2018 permitted system.

**III. Do the hardships result from the actions taken by the Petitioner? Explain.****Petitioners' Position: No.**

The hardships are not the result of any action taken by the Petitioner.

**Staff's Position: No.**

Staff agree that any hardships are not the result of any action taken by the Petitioner and are instead a result of the lots' elevation and stormwater flooding concerns.

**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.**

Yes, the variance requested meets the criteria outlined above. The currently approved permit will deprive the owners of substantial use of the property as the available parking on the property will be inadequate for two families. The petitioner is requesting a variance in order to locate the system and drainfield on the oceanside of the property with less than a 60-foot setback from the static vegetation line. Ideally, the setback would be approximately 10 feet back from the static vegetation line in order to accommodate a drainfield that is properly sized for a four-bedroom house, but the petitioner can be flexible on this based on input from the Commission.

The Petitioner submits that the oceanside location will have very limited short-term impact on the "natural" vegetation. The septic system and drainfield will be located entirely underneath the Bermuda grass lawn area shown in the photo below.

The Bermuda grass will heal quickly after the system is installed and the natural vegetation will not be disturbed. Another factor to consider is that a substantial concrete seawall is located below ground level on the oceanside property line (approximate location is where blue bucket is

shown in photo). This seawall will act as an additional barrier to separate the drainfield from the dune vegetation and the ocean.

The Petitioner will make every effort to ensure that a new system on the oceanside of the Property is designed and constructed in an environmentally responsible manner and is consistent with the spirit, purpose and intent of the Commission.

The Petitioner's family has enjoyed the use of the beach cottage for over eighty years and looks forward to continuing our tradition of family gatherings in the future. Time has come to replace the septic system and we believe the variance requested will best serve our family as well as the overall environment in the area.

**Staff's Position: Yes.**

Staff agrees that the variance, as requested by Petitioners, is consistent with the spirit, purpose, and intent of the rules, standards, or orders issued by the Commission, specifically the Commission's setback rules in 7H.0306 where the proposed septic system would not meet the 60' setback measured landward of the static vegetation line (and where a septic system is not a use allowed in the setback area per 7H .0309), and the prohibition of septic system being located oceanward of the house in 7H .0306(j). These are the rules from which Petitioners seek a variance from the Commission.

Petitioners' reason for relocating the septic system waterward of the house is to preserve a parking area for four cars as they currently use it, though if the variance is denied and the 2018 septic plan is installed, the necessary two parking spaces would remain. While Staff are sympathetic to Petitioners' parking concerns, Staff do not believe that granting a variance to relocate a new septic system to the oceanward side of the home in order to have four parking spaces would be within the spirit, purpose and intent of the Commission's Ocean erosion setback rules.

However, due to the flooding concerns on this particular property and the location of the town's stormwater system, Staff agree that it would be reasonable to allow an exception to 7H.0306(j) in this case, especially where the Town of Atlantic Beach and the Corps of Engineers have a long history of beach nourishment in this area and a strong beach management plan in place, and where at least 100 feet of vegetated dunes would be seaward of the proposed location of the new drain field.

Staff also contends that Petitioners requested variance would secure the public safety and welfare and preserve substantial justice. Petitioners raise considerations regarding the proximity of septic system as permitted with the stormwater drain, which must also be balanced with ocean hazard issues that result from siting the septic system oceanward of the house.

Ultimately, Staff recommends granting Petitioners' variance request. Staff also notes that in the event this Commission agrees, Petitioners must obtain a new septic permit from the Department of Health reflecting the updated location of the septic system and drain field.

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

**CAMA VARIANCE REQUEST FORM****DCM FORM 11****DCM FILE No.:** \_\_\_\_\_

PETITIONER'S NAME Carolyn W. Arnold / Ted W. McGraw

COUNTY WHERE THE DEVELOPMENT IS PROPOSED Carteret

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.

*Please make your written arguments that Petitioner meets these criteria on a separate piece of paper.*

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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:**

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

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

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

*Carolyn W Arnold*  
*Jean W McGraw*

*11/18/21*  
*11/18/21*

Signature of Petitioner or Attorney  
*CAROLYN W. ARNOLD*  
*JEAN W. MCGRAW*  
Printed Name of Petitioner or Attorney

Date  
*cwarnold312@gmail.com*  
*jeanwmcgraw@gmail.com*  
Email address of Petitioner or Attorney

*312 East Boardwalk Boulevard*  
Mailing Address

*804 314 2024*  
*(804) 833-9804*  
Telephone Number of Petitioner or Attorney

*Atlantic Beach NC 28512*  
City State Zip

( )  
Fax Number of Petitioner or Attorney

**DELIVERY OF THIS HEARING REQUEST**

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

Contact Information for DCM:

Contact Information for Attorney General's Office:

**By mail, express mail or hand delivery:**

**By mail:**

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

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

**By Fax:**  
(252) 247-3330

**By express mail:**  
Environmental Division  
114 W. Edenton Street  
Raleigh, NC 27603

**By Email:**  
Check DCM website for the email address of the current DCM Director  
**www.nccoastalmanagement.net**

**By Fax:**  
(919) 716-6767

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## CAMA Variance Request

313 East Boardwalk Boulevard, Atlantic Beach NC 28512

Name and Location of the Development

Septic System Replacement

312 East Boardwalk Boulevard

Atlantic Beach, NC 28512

Copy of the Permit Decision for the Development

Attachment A

Copy of the Deed to the Property

Attachment B

Complete Description of the Proposed Development Including a Site Plan

Proposed development is replacement of septic system with drainfield on oceanside of the property. The approximate size and location of the system and drainfield is shown in the diagram in Attachment C. The petitioner requests approval for a drainfield of 600 square feet but the petitioner can be flexible on exact dimensions based on input from the Commission.

Stipulation that the Proposed Development is Inconsistent with the Rule at Issue

Petitioner stipulates that proposed development is inconsistent with the rule at issue.

Proof that Notice was Sent to Adjacent Owners and Objectors

Attachments D and E

Proof That Variance Was Sought from Local Government

Not applicable as Town of Atlantic Beach defers to county health department and their regulations do not disallow development.

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Petitioners Written Reasons And Arguments About Why Petitioner Meets the Four Variance Criteria

Attachment F

Draft Set of Proposed Stipulated Facts

Attachment G

Draft Set of Proposed Stipulated Exhibits

Attachment H

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**ATTACHMENT E:  
STIPULATED EXHIBITS**

**Stipulated Exhibits:**

1. Petitioners' CAMA Minor Permit Application
2. North Carolina Non-Warranty Deed
3. Carteret County Tax Parcel Information Card
4. North Carolina Property Record Card for 312 East Boardwalk Boulevard
5. Email from Petitioners to DEQ Assistant General Counsel Holly Ingram detailing parking on the Property
6. Carteret County Health Department Septic Tank Construction Authorization
7. Section 18.5.3 of the Town of Atlantic Beach's Unified Development Ordinances
8. Notice of Petitioners' Minor Permit Application to Adjacent Landowners
9. November 2, 2021, letter denying Petitioners' CAMA Minor Development Permit Application for the Property located at 312 East Boardwalk Boulevard, Atlantic Beach, North Carolina.
10. November 2020 DCM Memo to the Coastal Resource Commission Recommending Renewal of Atlantic Beach's Static Line Exception
11. Description and site plan for the proposed development on the Property
12. Photographs of the Property
13. DCM Map of the Property showing the Static Vegetation Line
14. Copies of certified mail receipts and delivery confirmation showing that notice of Petitioners' variance petition was provide to adjacent property owners
15. DCM PowerPoint presentation

Locality \_\_\_\_\_ Permit Number \_\_\_\_\_

Ocean Hazard \_\_\_\_\_ Estuarine Shoreline \_\_\_\_\_ ORW Shoreline \_\_\_\_\_ Public Trust Shoreline \_\_\_\_\_ Other \_\_\_\_\_

(For official use only)

**GENERAL INFORMATION**

**LAND OWNER - MAILING ADDRESS**

Name Carolyn W. Arnold / B Jean W. McGraw

Address 312 East Boardwalk Blvd

City Atlantic Beach State NC Zip 28512 Phone #804 314 2024

Email cw Arnold 312@gmail.com

**AUTHORIZED AGENT**

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

Email \_\_\_\_\_

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

312 East Boardwalk Blvd

Atlantic Beach, N.C. 28512

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

existing septic system in new location

**SIZE OF LOT/PARCEL:** 6,000 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:** \_\_\_\_\_ 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 \_\_\_\_\_

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

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

**STATEMENT OF OWNERSHIP:**

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

an owner or record title, Title is vested in name of Carolyn Wearne Arnold, Jean Wearne McGraw see Deed Book 1347 page 161 in the Carteret 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>Robert A. Spence</u>	<u>316 East Boulevard Blvd Atlantic Beach, NC 28512</u>
(2) <u>Nicole A. Strabel</u>	<u>314 East Boulevard Blvd Atlantic Beach, NC 28512</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.

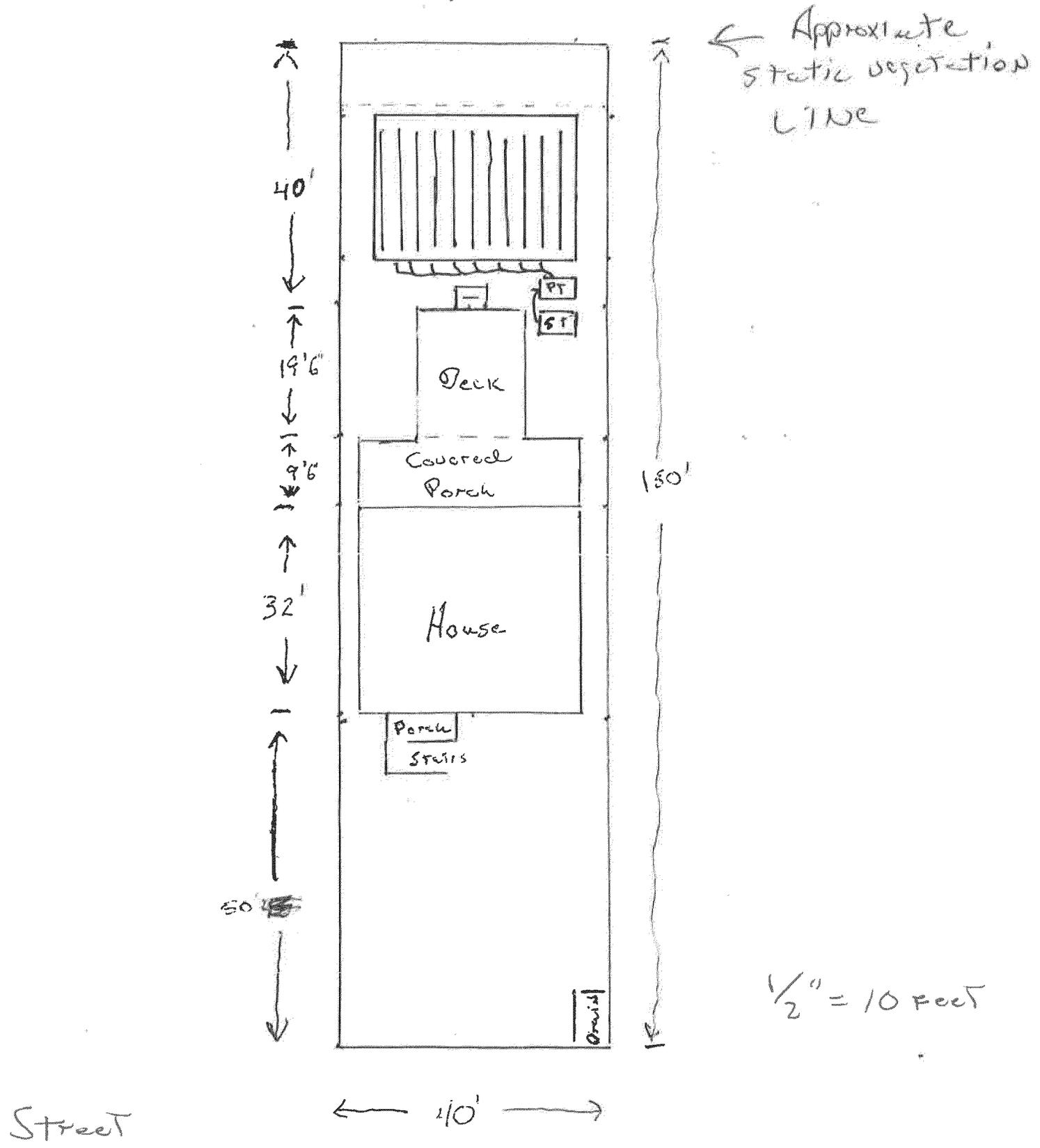
I furthermore certify that I am authorized to grant, and do in fact grant, permission to Division of Coastal Management staff, the Local Permit Officer and their agents to enter on the aforementioned lands in connection with evaluating information related to this permit application.

This the 3rd day of October 2021  
Carolyn W Arnold Jean W McGraw  
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.*

Ocean

# Proposed Location and Approximate Size of Oceanfront System



### OCEAN HAZARD AEC NOTICE

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

Property Owner: Carolyn W. Arnold Jean W. McGraw

Property Address: 312 East Boardwalk Blvd Atlantic Beach, N.C. 28512

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 \_\_\_\_\_ 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 \_\_\_\_\_ feet landward in a major storm.

The flood waters in a major storm are predicted to be about \_\_\_\_\_ 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.

Carolyn W Arnold 10-19-2021  
Property Owner's Signature Date  
Jean W McGraw 10/19/2021

**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 re-measured. Also, the occurrence of a major shoreline change as the result of a storm within the 60-day period will necessitate re-measurement 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:*

\_\_\_\_\_  
*Local Permit Officer*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*Locality*

\_\_\_\_\_  
*Phone Number*

*Karen S. Hardesty*

**NORTH CAROLINA NON-WARRANTY DEED**

Excise Tax: \$0.00

Parcel Identifier No. 638513121602000\_Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
By: \_\_\_\_\_

Mail/Box to: Costner Law Office, PLLC, 10125 Berkeley Place Dr., Charlotte, NC 28262

This instrument was prepared by: Costner Law Office, PLLC, 10125 Berkeley Place Drive, Charlotte, NC 28262

Brief description for the Index: Lot 7, Block G, Atlantic Beach and associated Tract 2 metes and bounds  
\*\*\*No title search or title examination was performed by the drafting attorney\*\*\*

THIS DEED made this 14 day of JANUARY, 2021, by and between

GRANTOR	GRANTEE
Ann Welfare Bemis, unmarried	Jean Welfare McGraw, married Carolyn Welfare Arnold, married
	<i>Property Address:</i> 312 E. Boardwalk Boulevard Atlantic Beach, NC 28512
	<i>Mailing Address:</i> 4401 Knob Rd., Richmond, VA 23235

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

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has remised and released and by these presents does remise, release, and forever quitclaim unto the Grantee and his heirs and assigns all right, title, claim, and interest of the said Grantors in and to a certain tract or parcel of land situated in the City of Atlantic Beach, Carteret County, North Carolina and more particularly described as follows:

See attached Exhibit A

NOTE: This deed is being recorded to divest all title interest by the grantor solely to remaining titleholders

The property hereinabove described was acquired by Grantor by instrument recorded in Book 1347, Page 161.

All or a portion of the property herein conveyed \_\_\_includes or X does not include the primary residence of a Grantor. A map showing the above described property is recorded in Plat Book 320 at Page 23.

submitted electronically by "Costner Law Office, PLLC"  
in compliance with North Carolina statutes governing recordable documents  
and the terms of the submitter agreement with the Carteret County Register of Deeds.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee and his heirs and assigns free and discharges from all right, title, claim or interest of the said grantor or anyone claiming by, and through or under them. Title to the property hereinabove described is subject to the following exceptions if any:

There is excepted from these warranties all easements, conditions, rights of way and restrictions as may appear on public record; and the lien of ad valorem taxes for the current year.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

By: Ann Welfare Bemis  
Ann Welfare Bemis

State of MS - County of Rankin

I do hereby certify that Ann Welfare Bemis personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 14 day of January 2021

My Commission Expires: 5-19-21

Carol Kent  
Notary Public:



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029  
EXHIBIT A

Exhibit 2

TRACT #1: BEING known and designated as Lot (7), Block "G", Atlantic Beach, according to the official map and plan of said Atlantic Beach on file in the Office of the Register of Deeds of Carteret County, North Carolina; and being the same property conveyed to Grantor herein by deed dated June 22, 1970, and recorded June 26, 1970, in Book 320, Page 23, Carteret County Registry.

TRACT #2: In the Town of Atlantic Beach, North Carolina, and beginning at the southwest corner of Lot (7), in Block "G", as shown and designated on the official map of said Town, which said map is duly recorded in the Office of the Register of Deeds of Carteret County, and running thence along the western line of Lot Number (7) extended, a southerly direction 26.6 feet, more or less to the northern edge of the sea wall an easterly direction 40 feet; thence a northerly direction 26.6 feet, more or less, to the southeast corner of Lot Number (7), Block "G"; thence along the south line of Lot Number (7), a westerly direction 40 feet to the point or place of beginning. Being a strip of land 40 feet by approximately 26.6 feet lying due south of Lot Number (7), Block "G", of Atlantic Beach, North Carolina; and being the same property conveyed to Grantor herein by deed dated June 22, 1970, and recorded on June 26, 1970, in Book 320, Page 23, Carteret County Registry.

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**Tax Parcel Information:**

**Owner:** MCGRAW,JEAN W ETAL ARNOLD

**Current PIN:** 638513121602000

**Site Address:**

312 E E BOARDWALK BLVD  
ATLANTIC BEACH

**Mailing Address:**

4401 KNOBB RD  
RICHMOND VA 23235

**Legal Description:**

L7 BG ATLANTIC BEACH

**Prior PIN:** 13040E1212

**City Limits:** ATLANTIC BEACH

**Rescue District:**

**Fire District:**

**Tax District:** 1352

**Township:** MOREHEAD

**Use:** RESIDENTIAL

**Land Value:** \$525,000

**Bldg Value:** \$233,013

**Other Value:** \$0

**Total Value:** \$758,013

**Sale Price:** \$0

**Deeded Acres:** 0.137

**Plat Ref:** /

**Deed Ref:** 1704 / 322

**Bedrooms:** 5

**NBHD:** 520011

**Bldg Htd Sq Ft:** 2784

**Bldg Tot Sq Ft:** 1,664

**Year Built:** 1937

**Noise Level:**

**AICUZ Zone:**

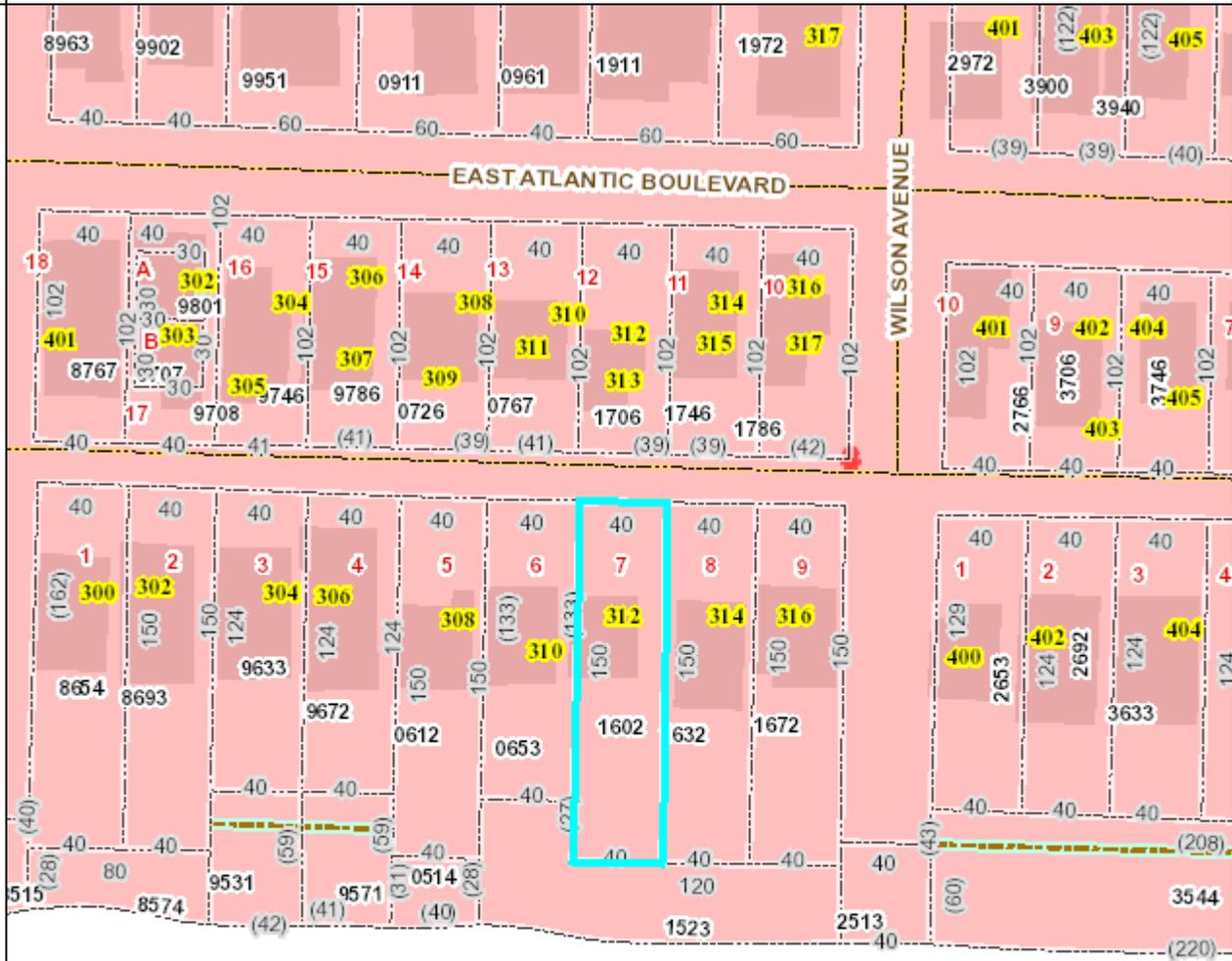
**GIS Acres:** 0.143

**Roll Type:** R

**Deed Date:** 20210119

**Bathrooms:** 4

**Carteret County, N.C.**



1 in = 83 ft

Printed January 19, 2022

The information displayed by this website is prepared for the inventory of real property found within this jurisdiction and is compiled from recorded deeds, plats, and other public records and data. Users of this information are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this site. Carteret County assumes no legal responsibility for the information contained on this site. Carteret County does not guarantee that the data and map services will be available to users without interruption or error. Furthermore, Carteret County may modify or remove map services and access methods at will.

# Carteret County

## Property Data

Parcel Number: 638513121602000

Inquiry Date: 12/20/2021

DISCLAIMER: For confirmation of the number of buildings on each parcel, please contact the Carteret County Tax Office.

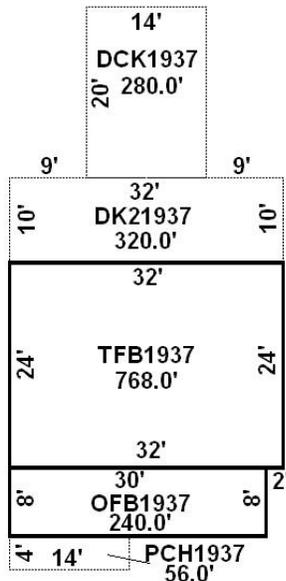
### Property Info

**PARCEL NUMBER:** 638513121602000  
**OWNER:** MCGRAW,JEAN W ETAL ARNOLD  
**PHYSICAL ADDRESS** 312 E E BOARDWALK BLVD  
 ATLANTIC BEACH  
**MAILING ADDRESS:** 4401 KNOBB RD  
 RICHMOND VA 23235  
**LEGAL DESCRIPTION:** L7 BG ATLANTIC BEACH  
**DEED REF:** 1704-322  
**PLAT REFERENCE:** -  
**NEIGHBORHOOD:** 520011  
  
**SALE DATE:** 01/19/2021  
**SALE PRICE:** \$0  
**ACREAGE:** 0.137  
**LAND VALUE:** \$525,000  
**EXTRA FEATURE VALUE:** \$0

### Building Info

**BATHS:** 4  
**BEDROOMS:** 5  
**CONDITION:** N/A  
  
**EXTERIOR WALLS:** 14 WOOD SHING  
 15 BLOCK  
**FLOOR FINISH:** 09 SOFTWOOD  
 08 VINYL  
**FOUNDATION:** 02 CONC BLOCK  
**HEAT:** 10 HEATPUMP  
**ROOF COVER:** 03 COMP SHNGL  
 N/A  
  
**ROOF STRUCTURE:** 03 GABLE  
**SQUARE FOOTAGE:** 1664  
**YEAR BUILT:** 1937  
**BUILDING VALUE:** \$233,013  
**PARCEL VALUE:** \$758,013

### Sketches



Sketch by Apex IV™

**Photos**



**From:** [Robert Arnold](#)  
**To:** [Ingram, Holly R](#)  
**Cc:** [Carolyn Arnold](#); [Jean McGraw](#); [Goebel, Christine A](#)  
**Subject:** [External] Re: Atlantic Beach Variance Petitioner - Draft facts  
**Date:** Sunday, January 23, 2022 5:41:07 PM  
**Attachments:** [IMG\\_8351.HEIC](#)  
[IMG\\_8411.MOV](#)

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

Holly

Below is a bit more information about the parking situation on our property-

The parking area on the streetside of the house will effectively be cut in half if the currently proposed replacement system is installed on that side of the property. We have been advised by the county health department and potential contractors that parking on the replacement drainfield is not recommended which will make that area unusable for parking purposes. The drainfield would be 15 feet wide on a 40 foot wide lot, leaving 10 feet on one side and 15 feet on the other, although the usable space is less than 15 feet on that side of the property due to the encroachment of the stormwater drain. The net effect of the proposed system will be space for one car width on both sides of the drainfield, or two total spaces wide. Currently, four car widths can be accommodated.

As we have indicated, this house is shared by two families and there is no on-street parking available in the neighborhood. In addition, when heavy rain occurs, the flooding on the street frequently becomes severe so that water comes up on well onto our property, further reducing available parking area. We are able to accommodate our family in the space currently available although it is typically a tight squeeze on summer weekends and we are often forced to step into flood water when getting in or out of our cars after a rain.

We are requesting a variance to allow the replacement system to be installed on the oceanside of the property which will maintain the currently available parking space and potentially allow for a larger drainfield in the new system. Locating the system on the oceanside would also avoid any potential issues with flooding on the street causing seepage from the drainfield into the stormwater drain which is then pumped into the sand dunes.

I have also attached some additional photos of flooding. One (actually a video) is looking toward the northwest corner of the lot where the stormwater drain is located. The video shows a town worker pumping the water out to the dunes as the stormwater drain was overwhelmed. The other photo is looking toward the northeast corner of our property and you can see how the water has risen on the property next door as it does on ours.

Let me know if you need anything further. Thank you.

On Wed, Jan 19, 2022 at 3:56 PM Ingram, Holly R <[holly.ingram@ncdenr.gov](mailto:holly.ingram@ncdenr.gov)> wrote:

Good afternoon,

Attached for your review is a first round of edits to the proposed facts for your February Variance Petition. I believe I left one comment requesting more information regarding the parking situation. We are also working simultaneously with DCM staff to get more information, as you will see from additional comments. We will further revise the facts after we receive their input.

The February Coastal Resources Commission meeting is currently scheduled for February 10, 2022, beginning around 9 a.m. A decision on whether it will be virtual or in person has not been made yet; however, if it is in person, it will be at the Beaufort Hotel. We will keep you informed of its status.

Please let me or Christy know if you have any questions, thanks!

Best,

Holly

**Holly Ingram**

*she/her/hers*

Assistant General Counsel

N.C. Department of Environmental Quality

919.707.8644

[holly.ingram@ncdenr.gov](mailto:holly.ingram@ncdenr.gov)

1601 Mail Service Center

Raleigh NC 27699-1601

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



# Construction Authorization <sup>036</sup>

Carteret County Health Department  
Environmental Health Division  
3820 Bridges St. Suite A  
Morehead City, NC 28557  
Phone: 252-728-8499 Fax: 252-222-7753

For Office Use Only **Exhibit 6**

\*CDP File Number: 266020 - 1  
County ID Number: 638513121602000  
Evaluated For: REPAIR

PERMIT VALID UNTIL 07/23/2023

Open Pump System Sheet

Applicant: Carolyn Arnold  
 Address: 312 E. Boardwalk Blvd  
 City: Atlantic Beach  
 State/Zip: NC 28512  
 Phone #: cell :(804) 314-2024

Property Owner: Carolyn Arnold  
 Address: 312 E. Boardwalk Blvd  
 City: Atlantic Beach  
 State/Zip: NC. 28512  
 Phone #: cell .(804) 314-2024

### Property Location & Site Information

Address/Road #: 312 E. Boardwalk Blvd Atlantic Beach, NC 28512 Subdivision: \_\_\_\_\_ Phase: NEW Lot: \_\_\_\_\_  
 Structure: SINGLE FAMILY **Directions:** \_\_\_\_\_  
 # of Bedrooms: 4  
 # of People: 8  
 \*Water Supply: COMMUNITY

### System Specifications

\*Site Classification: \_\_\_\_\_ Minimum Trench Depth: 12 Inches  
 Design Flow: 480 Maximum Trench Depth: 12 Inches  
 Soil Application Rate: \_\_\_\_\_ Minimum Soil Cover: 6 Inches  
 \*System Classification/Description: TYRE II C. CONV. SYSTEM WITH SHALLOW PLACEMENT Maximum Soil Cover: 6 Inches  
 \*Proposed System: CONVENTIONAL \*Distribution Type: PRESSURE MANIFOLD  
 Nitrification Field: 330 Sq. ft. Septic Tank: 1,000 Gallons  
 No. Drain Lines: 5 15' x 22" Bed Pump Required:  Yes  No  May Be Required  
 Total Trench Length: 22 ft.  Inches O.C. Pump Tank: 1,000 Gallons  
 Trench Spacing: 3 - \_\_\_\_\_  Feet O.C. Grease Trap: \_\_\_\_\_ Gallons  
 Trench Width: 15 - \_\_\_\_\_  Inches  
 Aggregate Depth: 12 inches Septic Tank Installer Grade Level Required:  I  II  III  IV

The issuance of this permit by the Health Department in no way guarantees the issuance of other permits. The permit holder is responsible for checking with appropriate governing bodies in meeting their requirements.

### \*Permit Conditions:

The Authorization for Wastewater System Construction shall be valid for a period equal to the period of validity of the Improvement Permit and may be issued at the same time the Improvement Permit issued (NCGS 130A-336(b)). If the installation has not been completed during the period of validity of the Construction Permit, the information submitted in the application for a permit or Construction Authorization shall become invalid, and may be suspended or revoked (1937(g)). The person owning or controlling the system shall be responsible for assuring compliance with the laws, rules, and permit conditions regarding system location, installation, operation, maintenance, monitoring, reporting

Authorized State Agent: Guthrie, Amy [Signature] Date of Issue: 07/23/2018

\*\*Site Plan/Drawing attached.\*\*

Total Time : (HH:MM) \_\_\_\_\_

Hand Drawing  Import Drawing

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NOV 19 2021

DCM-MHD CITY

# Construction Authorization

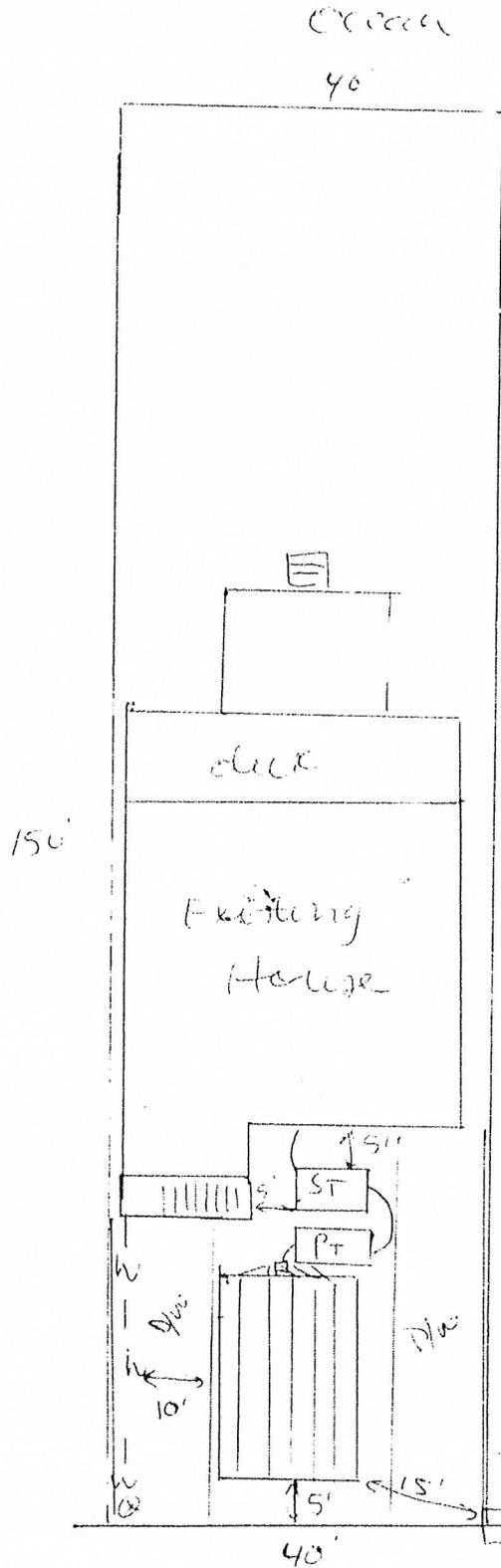
Exhibit 6

CDP File Number: 200000

County File Number: 6395 13 12 1000

Date: 07/23/2018

312 E Broadway Blvd,  
AZ



\* Preconstruction conference required

\* Waterline must be located prior to installation

Relocation may be necessary if to maintain 10' setback

\* If plumbing cannot be accessed high enough to achieve gravity feed a pump system & pressure

manifold will be required.

\* Property owner retains the existing septic tank

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**ARTICLE 18-5. DEVELOPMENT STANDARDS****Section 18.5.3. Off-Street Parking and Loading**

## Subsection C. Off-Street Parking Requirements for Vehicles

**18.5.3. OFF-STREET PARKING AND LOADING****A. PURPOSE AND INTENT**

The purpose and intent of this section is to ensure the provision of safe off-street parking and loading facilities for development allowed by this Ordinance. The standards in this section are intended to avoid requiring an over-supply of parking that pose economic and environmental impacts while ensuring off-street parking is provided to mitigate impacts to streets and neighborhoods.

**B. APPLICABILITY****1. General**

The standards in this section shall apply to all development in the Town.

**2. Additions and Expansions**

Whenever a building or open air use of land is constructed, enlarged, or increased in capacity, the development shall meet the requirements of this section unless the total number of off-street parking spaces required after the addition or expansion is less than four.

**3. Changes in Use**

If the principal use changes, then the new principal use shall meet the requirements of this section, except that if the use change results in an increase of less than five percent in the required number of parking spaces, or less than four additional parking spaces, no additional parking spaces are required.

**4. CIR District**

Development located in the CIR district shall comply with the applicable parking standards in Section 18.3.5.B, District-Specific Standards, in addition to these standards. In cases where the standards conflict, the CIR district standards shall control.

**C. OFF-STREET PARKING REQUIREMENTS FOR VEHICLES****1. Parking Plan Required**

Every application for a site plan, building permit, or zoning permit, shall ensure that adequate off-street parking is provided for the uses or buildings contained in the application. Off-street parking must be provided to meet the parking demand without use of public streets, except as specifically allowed by this section.

**2. Minimum Off-Street Parking Spaces Required**

The minimum number of off-street parking spaces required for development shall be in accordance with Table 18.5.3.C.2, Minimum Off-Street Parking Spaces Required. Nothing shall prohibit the provision of off-street parking spaces in amounts exceeding the minimum requirements.

**TABLE 18.5.3.C.2: MINIMUM OFF-STREET PARKING SPACES REQUIRED**

USE CLASS	USE CATEGORY	PRINCIPAL USE TYPE	REQUIRED NUMBER OF OFF-STREET PARKING SPACES [1]
RESIDENTIAL	Household Living [2]	Single-family detached dwelling	2 per dwelling
		Duplex	2 per dwelling
		Triplex	5 + 1 guest space
		Quadplex	7 + 2 guest spaces
		Townhouse	2 per dwelling + 1 guest space for every four units
		Multi-family	1.5 per dwelling
		Upper-story residential	1 per dwelling
		Manufactured home	2 per dwelling
		Manufactured home park	2 per dwelling + 1 guest space for every four units

039  
N.C. DIVISION OF COASTAL MANAGEMENT  
ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT)  
CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

Exhibit 8

10-10-21  
Date

Robert A Spence Jr  
Name of Adjacent Riparian Property Owner  
310 East Boardwalk  
Address  
Atlantic Beach NC  
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  
Locate septic system in the front (oceanside)  
on my property at 312 East Boardwalk Blvd Atlantic Beach in Carteret 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:  
(Michelle Eitner, Town of Atlantic Beach, PO Box 10 Atlantic Beach, NC 28512, or scan and email to  
[planner2@atlanticbeach-nc.com](mailto:planner2@atlanticbeach-nc.com).)

If you have any questions about the project, please do not hesitate to contact me at my number listed below, or contact  
Michelle Eitner at 252-726-4456 or by email at [planner2@atlanticbeach-nc.com](mailto:planner2@atlanticbeach-nc.com).

Sincerely,

Lindsay W. Arnold  
Jean W. McGraw  
Property Owner's Name

804-314-2024  
Telephone Number

RECEIVED  
NOV 19 2021  
DCM MHD CITY

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

No objection  
RA SJ

[Signature]  
Adjacent Riparian Signature

10-10-21  
Date

Robert Spence Jr  
Print or Type Name

919 422 6295  
Telephone Number

310 East Boardwalk Atlantic Beach NC 28512  
Address City State Zip

N.C. DIVISION OF COASTAL MANAGEMENT  
ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION (MINOR PERMIT)  
CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

10/26/21  
Date

Nicole Ament Strehel Nicole Ament Strehel  
Name of Adjacent Riparian Property Owner  
314 East Boardwalk Blvd  
Address  
Atlantic Beach, N.C. 28512  
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  
locate septic system in the front (oceanside)

on my property at 312 East Boardwalk Blvd Atlantic Beach in Carteret 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:  
(Michelle Eitner, Town of Atlantic Beach, PO Box 10 Atlantic Beach, NC 28512, or scan and email to  
[planner2@atlanticbeach-nc.com](mailto:planner2@atlanticbeach-nc.com).)

If you have any questions about the project, please do not hesitate to contact me at my number listed below, or contact  
Michelle Eitner at 252-726-4456 or by email at [planner2@atlanticbeach-nc.com](mailto:planner2@atlanticbeach-nc.com).

Sincerely,

Carolyn W. Arnold  
Jean W. McGraw  
Property Owner's Name

804 314 2024  
Telephone Number

RECEIVED

NOV 19 2021

DCM-MHD CITY

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

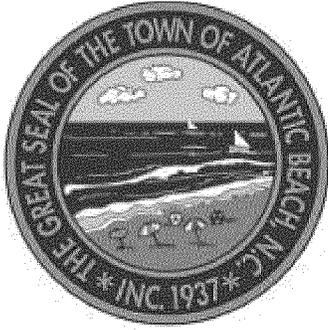
Nicole A. Strehel  
Adjacent Riparian Signature

10/26/21  
Date

Nicole Ament Strehel  
Print or Type Name

919 357-5120  
Telephone Number

314 East Boardwalk Blvd Atlantic Beach N.C. 28512  
Address City State Zip

**PLANNING & INSPECTIONS DEPARTMENT**

Post Office Box 10, Atlantic Beach, NC 28512

(252) 726-4456

Fax (252) 726-7043

Michelle Shreve Eitner

planner2@atlanticbeach-nc.com

November 2, 2021

**CERTIFIED MAIL – 7019 0160 0000 7793 8457****RETURN RECEIPT REQUESTED**

Carolyn Welfare Arnold  
4401 Knob Rd.  
Richmond, VA 23235

**RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT  
APPLICATION NUMBER- 21-33  
PROJECT ADDRESS- 312 East Boardwalk Boulevard**

Dear Carolyn:

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. You have applied to replace the septic system on the ocean-side of the house, which is inconsistent with 15 NCAC 7H .0309(a), which states that: "The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met: (1) campsites; (2) driveways and parking areas with clay, packed sand, or gravel; (3) beach accessways consistent with Rule .0308(c) of this Section; (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less; (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less; (7) temporary amusement stands consistent with Section .1900 of this Subchapter; (8) sand fences; and (9) swimming pools." The proposed development is seaward of the oceanfront setback requirement but is not listed in the above 9 exceptions.

Should you wish to appeal my decision to the Coastal Resources 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 Morehead City Headquarters Office must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours,

Michelle Shreve Eitner, LPO  
Town of Atlantic Beach  
PO Box 10  
Atlantic Beach, NC 28512

cc: Heather Styron, DCM Field Rep  
Robb Mairs, DCM LPO Coordinator



NORTH CAROLINA  
Environmental Quality

ROY COOPER  
Governor

MICHAEL S. REGAN  
Secretary

BRAXTON C. DAVIS  
Director

CRC-20-25

November 2, 2020

**MEMORANDUM**

**TO:** Coastal Resources Commission

**FROM:** Ken Richardson

**SUBJECT:** Static Line Exception Reauthorization for Towns of Emerald Isle, Indian Beach, Salter Path, Pine Knoll Shores and Atlantic Beach (Bogue Banks)

On the behalf of the Towns of Emerald Isle, Indian Beach, Salter Path, Pine Knoll Shores and Atlantic Beach on Bogue Banks, the Carteret County Shore Protection Office has submitted Static Vegetation Line Exception (SVLE) reauthorization reports to the Division of Coastal Management (DCM) for the Coastal Resources Commission (CRC) to review and consider for each Town in accordance with 15A NCAC 07J .1200.

Rule 15A NCAC 07J.1204(b) requires that the Commission “shall review a static line exception authorized under 15A NCAC 07J.1203 at intervals no greater than every five years from the initial authorization in order to renew its findings for the conditions defined in 15A NCAC 07J.1201(d)(1) through (d)(4).” Specifically, these four criteria require:

- 1) A summary of all beach fill projects in the area proposed for the exception;
- 2) Plans and related materials showing the design of the initial fill projects, and any past or planned maintenance work (project performance);
- 3) Documentation showing the location and volume of compatible sediment necessary to construct and maintain the project over its design life; and
- 4) Identification of the financial resources or funding sources necessary to fund the project over its design life.

15A NCAC 07J.1204(b) also states that the Commission shall consider design changes to the initial large-scale beach fill project, as well as changes to the location and volume of compatible sediment, and the financial resources or funding sources necessary to fund the large-scale beach fill project.



## SVLE Reauthorization Criteria 1: Summary of Beach Fill Projects

### Emerald Isle:

Petitioner, the Town of Emerald Isle (“Town”) is requesting that its static line exception be reauthorized by the Coastal Resources Commission, based on the information found within the attached 5-year progress report (see Attachment A). The granting of such a request by the Commission would result in the continued application of 15A NCAC 07H.0306(a)(12) to proposed development projects along the affected area of the town, instead of the static (pre-project) vegetation line as defined in 07H.0305(a)(6).

The Town initially applied for and received an exception from the static line, which covers Eastern Emerald Isle (site of the 2003 Bogue Banks Restoration Project Phase II), in accordance with procedures outlined in 15A NCAC 07J.1200 on March 24, 2010. The exception was reauthorized five years later April 29, 2015.

A static vegetation line was established along the eastern 5.9 miles of the Town’s approximate 11 mile oceanfront shoreline because in conjunction with a large scale beach nourishment project constructed in 2003. Since then, the Phase II portion of this has received four subsequent maintenance projects (2004, 2007, 2013 and 2019). In February through April 2020, a portion of the Post-*Florence* Renourishment Project – Phase II (Reach 2) was constructed in Western Emerald Isle, triggering a new static line section approximately 1.76 miles in length – bringing the total length of Emerald Isle’s static line to approximately 7.7 miles (see Attachment A, Section 1, page 1 & Section 2.1.4, page 15).

### Salter Path & Indian Beach:

Petitioner, The Town of Indian Beach (Town) and the unincorporated area known as Salter Path (which is under the jurisdiction of Carteret County) is requesting that its static line exception be reauthorized by the Coastal Resources Commission, based on the information found within the attached 5-year progress report (see Attachment B). The granting of such a request by the Commission would result in the continued application of 15A NCAC 07H.0306(a)(12) to proposed development projects along the affected area of the Town, instead of the static (pre-project) vegetation line as defined in 07H.0305(a)(6).

The Town of Indian Beach and the unincorporated area known as Salter Path initially applied for and received an exception from the static line in accordance with procedures outlined in 15A NCAC 07J.1201 on March 24, 2010. The exception was reauthorized five years later April 29, 2015.

A static vegetation line was established along 2.4 miles of shoreline fronting the Town of Indian Beach and Village of Salter Path in conjunction with a large scale beach nourishment project constructed in 2001-2002 as part of Phase I of the island-wide project. Since the initial construction, the Indian Beach/Salter Path portion of the Phase I Bogue Banks Restoration Project has been renourished on four occasions. These included Phase I of the USACE Section 933 project (2004), the post *Ophelia* restoration (2007), and Phases I and II of the Post-*Florence* restoration project (2019 & 2020) (see Attachment B, Section 1, page 1 & Section 2.2, page 9).

### Pine Knoll Shores:

Petitioner, The Town of Pine Knoll Shores (Town) requests that its static line exception be reauthorized by the Coastal Resources Commission, based on the information found within the attached 5-year progress report (Attachment C). The granting of such a request by the Commission would result in the continued application of 15A NCAC 07H.0306(a)(12) to proposed development projects along the affected area of the Town, instead of the static (pre-project) vegetation line as defined in 07H.0305(a)(6).

The Town of Pine Knoll Shores initially applied for and received an exception from the static line in accordance with procedures outlined in 15A NCAC 07J.1201 on March 24, 2010. The exception was reauthorized five years later April 29, 2015. A static vegetation line was established along 4.5 miles of shoreline fronting the Town of Pine Knoll Shores in conjunction with a large scale beach nourishment project constructed in 2001-2002 as part of Phase I of the Bogue Banks Restoration Project.

The Pine Knoll Shores portion of the Phase I Bogue Banks Restoration Project has been renourished on five occasions since initial construction. The first renourishment was a small portion of the USACE Section 933 Phase I project in 2004, of which most of the nourishment was in Indian Beach/Salter Path. The second and third renourishments occurred concurrently as part of the USACE Section 933 Phase II project and the FEMA post- Hurricane *Ophelia* project in 2007. The fourth project occurred in 2013 as part of the post- Hurricane *Irene* Restoration project. The fifth project was recently completed in 2020 as part of the post-Hurricane *Florence* Renourishment Project – Phase II (see Attachment C, Section 1, page 1 & Section 2.2, page 13).

### Atlantic Beach:

Petitioner, The Town of Atlantic Beach (Town) requests that its static line exception be reauthorized by the Coastal Resources Commission, based on the information found within the attached 5-year progress report (see Attachment D). The granting of such a request by the Commission would result in the continued application of 15A NCAC 07H.0306(a)(12) to proposed development projects along the affected area of the Town, instead of the static (pre-project) vegetation line as defined in 07H.0305(a)(6).

The Town of Atlantic Beach initially applied for and received an exception from the static line in accordance with procedures outlined in 15A NCAC 07J.1201 on March 24, 2010. The exception was reauthorized five years later April 29, 2015.

A static vegetation line was established along most of the ocean shoreline of Atlantic Beach in conjunction with two beach disposal operations associated with the maintenance of the Morehead City Harbor federal navigation project (MCH). The first disposal operation occurred in 1986 and covered approximately the eastern half of the town's 4.5-mile shoreline extending west from the Atlantic Beach/Fort Macon State Park boundary (AB/FM). The second disposal operation occurred in 1994 and covered most of the remaining portion of the town's shoreline, ending approximately 2,500 feet east of the town's west boundary with Pine Knoll Shores (AB/PKS).

From February through April 2020, a portion of the Post-*Florence* Renourishment Project – Phase II (Reach 10) was constructed in Atlantic Beach, covering the entire western half of the shoreline from the AB/PKS town boundary to just east of The Circle. Therefore, the 2,500 ft of shoreline

located in the westernmost portion of Atlantic Beach was not originally included in the static line exception process, since it had not been previously nourished. The Post-*Florence* Renourishment Project – Phase II (Reach 10) has now triggered the current static line criteria with a project over 300,000 cy (see Attachment D, Section 1, page 1, Section 2, page 1 & Section 2.2.2, page 16).

## **SVLE Reauthorization Criteria 2: Project Plans & Performance – Summary of Initial Project and Subsequent Maintenance**

### Emerald Isle:

The Bogue Banks Restoration Phase II (Eastern Emerald Isle) Project was divided into an Eastern, Middle, and Western Zone with different design volumes in each zone based on the volume from the toe of the dune out to -12 ft NAVD88 needed to reach the design volume of 175 cy/ft and an advanced nourishment volume equal to expected volume losses in that zone over the next 10 years. The design profile volume for the Bogue Banks Restoration Project was subsequently increased to 225 cy/ft to account for the volume of material from the landward toe of the dune up to the peak of the dune. The Phase II (Eastern Emerald Isle) portion of the project included a dune with a 10-foot-wide crest at elevation +14 feet NAVD along the easternmost 2.2 miles of Emerald Isle within the eastern zone. The new dune was only constructed in areas where the existing dune was deemed inadequate to provide the desired level of protection (see Attachment A, Section 2.0, starting on page 2).

The Post-*Florence* Renourishment Project – Phase II was divided into four reaches of which Reach 2 was in Western Emerald Isle. The project was designed to replace material that was lost during hurricane *Florence*, restoring the beach back to pre-*Florence* conditions which had been established in Phase III of the Bogue Banks Restoration Project in 2005 and maintained with post-storm restoration in 2007 (*Ophelia*) and 2013 (*Irene*).

The Bogue Banks Beach and Nearshore Mapping Program, established in 2004, monitors the entire island on an annual basis. Each year, profiles are analyzed to determine gains and losses in material to the system as well as assessment of current beach conditions as compared to nourishment triggers. With the recent development of the Bogue Banks Master Beach Nourishment Plan, of which the engineering analysis was completed in 2014 and the permit obtained in fall 2018, nourishment triggers have been revised and nourishment operations and timing reformulated from the original methodology which included nourishment triggers of 50% of the initial fill volume and 225 cy/ft above -12 ft NAVD88. The Town of Emerald Isle will initiate nourishment actions in the Phase II Project area (and Eastern Emerald Isle static line exception extents) and newly added area in Western Emerald Isle (spanning a portion of the Bogue Inlet and Emerald Isle - West monitoring reaches), as the following triggers are approached (see Attachment A, Section 2.1.3, starting on page 15):

Reach (Transects)	Above -12 ft Trigger
Bogue Inlet (1-11)	235
Emerald Isle – West (12-25)	266
Emerald Isle – Central (26-36)	211
Emerald Isle – East (37-48)	221

Following completion of the engineering report in 2014, which was developed to provide insight into the future sand needs and availability for the programmatic EIS upon which the USACE 50-yr permit was based, the Bogue Banks Beach and Nearshore Mapping Program shifted to the new methodology for tracking project performance. In 2015, beach conditions will solely use 25-year Level of Protection nourishment triggers (as noted in the Master Beach Nourishment Plan) to determine the need for nourishment. The average profile volume calculated above -12 ft NAVD88 for the Emerald Isle - Central and Emerald Isle – East monitoring reaches during each year of monitoring from 2015 – 2020, show profile volumes have been maintained above the Master Beach Nourishment Plan triggers of 211 cy/ft for Emerald isle – Central and 221 cy/ft for Emerald Isle – East. The 2020 annual survey, performed after the Post- *Florence* Phase II nourishment was completed, currently indicates that the average profile volume above -12 ft NAVD88 is 347 cy/ft in the Bogue Inlet monitoring reach and 288 cy/ft in the Emerald Isle - West monitoring reach. This is well above the Master Beach Nourishment Plan Triggers of 235 cy/ft in Bogue Inlet and 266 cy/ft in Emerald Isle – West.

It should also be noted that since 2004, North Carolina’s erosion rate calculations (2004, 2013, 2020) have resulted in a long-term average annual rate of 2 feet per year, or less in the area adjacent to the static vegetation line.

#### Salter Path & Indian Beach:

Material to construct Phase I of the Bogue Banks Restoration Project was obtained primarily from the offshore borrow areas designated as B1 and B2. Construction of Phase I of the Bogue Banks Restoration Project was halted prior to the April 30 permit deadline due to turtle takes, resulting in a reduction in the volume of material placed along both Indian Beach/Salter Path and Pine Knoll Shores. Based on after construction profile surveys, the amount surveyed in place along the Indian Beach/Salter Path shorelines totaled 456,994 cubic yards or about 41% less than the contract amount. The Town of Pine Knoll Shores received 1,276,586 cubic yards or about 9% less than the original contract amount. The work stoppage resulted in two areas or “gaps” along the Indian Beach/Salter Path shoreline that did not receive any substantial fill volume. One gap was located approximately between County Transects 48 and 50 on the west end of Indian Beach and the other approximately between County Transects 51 and 53 in Salter Path. Part of the gap located between County Transects 51 and 53 lies within the Roosevelt State Park. Even though fill material was not placed directly in these areas, the two gaps soon equilibrated with material moving into the gaps from the adjacent beach fill areas.

The Bogue Banks Beach and Nearshore Mapping Program, established in 2004, monitors the entire island on an annual basis. Each year, profiles are analyzed to determine gains and losses in material to the system as well as assessment of current beach conditions as compared to nourishment triggers. With the recent development of the Bogue Banks Master Beach Nourishment Plan, of which the engineering analysis was completed in 2014 and the permit obtained in fall 2018,

nourishment triggers have been revised and nourishment operations and timing reformulated from the original methodology which included nourishment triggers of 50% of the initial fill volume and 225 cy/ft above -12 ft NAVD88. The profile volume trigger for the Indian Beach/Salter Path portion of the original Bogue Banks Restoration Project Phase I project area (and static line exception extents) was determined to be 224 cy/ft (see Attachment B, Section 2.3, page 15).

The new triggers developed for the Master Beach Nourishment Plan have replaced the previous methods of determining the need for nourishment. Therefore, the Indian Beach/Salter Path section of the Bogue Banks shoreline will initiate nourishment actions in the Phase I Project area (and static line exception extents) as this trigger is approached.

It should also be noted that since 2004, North Carolina's erosion rate calculations (2004, 2013, 2020) have resulted in a long-term average annual rate of 2 feet per year, or less in the area adjacent to the static vegetation line.

#### Pine Knoll Shores:

Phase I of the Bogue Banks Restoration Project was constructed between 2001 and 2002 and covered the 2.4 miles of ocean shoreline fronting the Town of Indian Beach and the Village of Salter Path and 4.5 miles along the shoreline segment that includes the Town of Pine Knoll Shores. This stretch of beach encompasses County monitoring transects 49 through 76 of the Bogue Banks Beach and Nearshore Mapping Program (BBBNMP) which essentially cover the Indian Beach/Salter Path and Pine Knoll Shores monitoring reaches. Material to construct Phase I was obtained primarily from the offshore borrow areas designated as B1 and B2. Construction of Phase I was halted prior to the April 30 permit deadline due to turtle takes, resulting in a reduction in the volume of material placed along both Indian Beach/Salter Path and Pine Knoll Shores. Based on after construction profile surveys, the amount surveyed in place along the Indian Beach/Salter Path shorelines totaled 456,994 cubic yards or about 41% less than the contract amount. The Town of Pine Knoll Shores received 1,276,586 cubic yards or about 9% less than the original contract amount.

The Bogue Banks Beach and Nearshore Mapping Program, established in 2004, monitors the entire island on an annual basis. Each year, profiles are analyzed to determine gains and losses in material to the system as well as assessment of current beach conditions as compared to nourishment triggers. With the recent development of the Bogue Banks Master Beach Nourishment Plan, of which the engineering analysis was completed in 2014 and the permit obtained in fall 2018, nourishment triggers have been revised and nourishment operations and timing reformulated from the original methodology which included nourishment triggers of 50% of the initial fill volume and 225 cy/ft above -12 ft NAVD88. The profile volume trigger for the Pine Knoll Shores portion of the original Bogue Banks Restoration Project Phase I project area (and static line exception extents) was determined to be 211 cy/ft (see Attachment C, Section, 2.3, page 20).

The new triggers developed for the Master Beach Nourishment Plan have replaced the previous methods of determining the need for nourishment. Therefore, the Town of Pine Knoll Shores will initiate nourishment actions in the Phase I Project area (and static line exception extents) as this trigger is approached.

It is worth adding that since 2004, North Carolina's erosion rate calculations (2004, 2013, 2020) have resulted in a long-term average annual rate of 2 feet per year, or less in the area adjacent to the static vegetation line.

#### Atlantic Beach:

Up until 2020, beach fill projects for the Town of Atlantic Beach were totally dependent on material deposited along its shoreline during construction and maintenance of the MCH federal navigation project (1978-2017). The USACE is congressionally mandated to maintain the Nation's navigational thoroughfares and conduct disposal practices "... in the least costly manner, at the least costly and most practicable location, and consistent with engineering and environmental requirements.", as specified in 33 C.F.R. § 335.4. This is often referred to as the "least-cost option" or the "Federal Standard", and has resulted in the partitioning of the MCH project into several reaches - Range A, the Cutoff, Range B, Range C, and the Turning Basin. Historically, the Cutoff and Range A (collectively known as the Outer Harbor) has been maintained by hopper dredging that collects sediment from the base of the channel and travels to one of two disposal areas located 1 to approximately 6.0 miles offshore to dispose the dredged material. More recently, the material has been placed onto Atlantic Beach and Fort Macon in some instances. Maintenance and construction of Range B, C and the Turning Basin (known as the Inner Harbor) has been conducted utilizing a pipeline dredge that carries sediment from these areas to the confined upland disposal site of Brandt Island, located north of Ft. Macon State Park. This material has also historically been pumped onto Atlantic Beach from Brandt Island in some instances.

Due to Federal funding limits and historical patterns of placement being limited to the eastern half of the shoreline in Atlantic Beach, the Town has elected to develop an engineered beach along the western portion of the shoreline, and therefore, partially participate in the Bogue Banks Master Beach Nourishment Plan with the neighboring towns of Emerald Isle, Indian Beach/Salter Path and Pine Knoll Shores. The Bogue Banks Master Beach Nourishment Plan was developed to provide long-term shoreline stabilization and equivalent level of protection along Bogue Banks 25-mile oceanfront. Development of a 50-year programmatic EIS was completed and a 50-year USACE permit was issued on November 8, 2018, which covers Phases I, II, and III of the Post-*Florence* Renourishment Project and will apply to nourishment operations through 2068 (50 years). As part of the EIS, an engineering report was completed in 2014 to provide insight into the future sand needs and availability. The profile volume trigger for the Atlantic Beach project area was determined to be 254 cy/ft. Therefore, the Town of Atlantic Beach will initiate nourishment actions along the western portion of shoreline, which is currently participating in the Master Beach Nourishment Plan once this trigger is met (see Attachment D, Section 2.4.2, page 19).

It should also be noted that since 2004, North Carolina's erosion rate calculations (2004, 2013, 2020) have resulted in a long-term average annual rate of 2 feet per year, or less in the area adjacent to the static vegetation line.

### SVLE Reauthorization Criteria 3: Identification of Sand Resources

The Bogue Banks Master Beach Nourishment Plan (includes all Towns) was developed to provide long-term shoreline stabilization and equivalent level of protection along Bogue Banks 25-mile oceanfront. Development of a 50-year programmatic EIS was completed and a 50-year USACE permit was issued on November 8, 2018, which covers Phases I, II, and III of the Post-*Florence* Renourishment Project and will apply to nourishment operations through 2068 (50 years). As part of the EIS, an engineering report was completed in 2014 to provide insight into the future sand needs and availability. A combination of analytical analysis and cross-shore and longshore modeling was used to determine historical loss rates (both background erosion and storm erosion), volumetric requirements to provide equal protection to all portions of the island, and future nourishment quantities and timing cycles.

Since erosion rates (in terms of sand volume) across the island differ drastically, an analytical analysis was performed to determine the expected quantity and timing of future nourishments to maintain the 25-year level of protection in each reach for the next 50 years. Based on the analytical analysis of historical profile volume change, it was determined that the overall annual loss along Bogue Banks was roughly 450,000 cy with a 50-year nourishment need of 22.6 Mcy just to keep up with historical erosion patterns. A separate analysis of individual storm impacts was performed to gage the amount of erosion that could occur from storm activity in addition to the historical background losses. Based on the results, it is expected that the losses for a given storm may range between 1.4 – 1.7 Mcy. Given that storms have occurred once every three years or so, the storm need over 50 years may range between 22.4 – 27.2 Mcy. Therefore, the overall background and storm sediment need over the 50-year planning horizon based on the analytical/empirical analysis is between 45.0 and 49.8 Mcy. Considering possible sea level change, SBEACH was used to determine the impact on beach profiles based on a rise in water level. The intermediate rate of sea level change determined by the USACE indicates a rise of 1.01 ft over the next 50 years. Based on this, SBEACH results showed an additional 1.8 Mcy of loss could be expected due to sea level rise. This brings the overall total 50 year need to 46.8 – 51.6 Mcy.

The material from borrow areas B2 and A used for initial construction of the Bogue Banks Restoration Project had a composite mean grain size of 0.44 mm which was much coarser than the native sand mean grain size of 0.30 mm. In that regard, the borrow material seemed ideal for beach nourishment purposes as material coarser than the native is known to provide a more stable beach fill. However, the coarseness of the material in these two borrow areas was primarily due to relatively high shell or CaCO<sub>3</sub> content which averaged 44% based on post-placement samples of the material. To avoid placing additional large amounts of shell or CaCO<sub>3</sub> along the town's shoreline, the Town of Emerald Isle opted to use the ODMDS for the subsequent FEMA nourishment events. The ODMDS is expected to have compatible material as most of the sediment in the disposal site was derived from maintenance of the Beaufort Inlet ocean bar channel; particularly the landward portions of the channel which is known to accumulate littoral material directly off the adjacent shorelines of Bogue and Shackleford Banks. Limited sampling was performed in accordance with post-*Isabel* and post-*Ophelia* restoration projects confirming the quality of the material, with an average grain size of approximately 0.31 mm.

As part of the Bogue Banks Master Beach Nourishment Plan, an extensive sediment sampling program was implemented in 2012, just prior to the 2013 post-*Irene* project, to verify the

compatibility and quantity of existing sediment sources in the ODMDS, which had been used previously during the post-*Isabel* and post-*Ophelia* restoration projects, as well as possibly locate some new sources for use in the 50 year plan. This was part of the permitting requirements to show the quantity and quality of potential sediment sources for the next 50 years. The 2014 engineering report identified and quantified the amount of material in upland sources (sand mines), AIWW disposal areas, offshore sources (ODMDS and Area Y), and inlets (Beaufort and Bogue). The findings indicate that possible upland sources exist in the amount of 1.4 Mcy while AIWW disposal areas possibly contain up to 1.3 Mcy. Offshore sources consist of the new and old ODMDS as well as some small pockets of material off Emerald Isle, known as Area Y. Together, they contain approximately 22.4Mcy of compatible material. In addition, both Beaufort Inlet and Bogue Inlet could provide a steady supply of nourishment material from dredging operations over the next fifty years. The periodic dredging of Morehead City Harbor by the USACE could provide approximately 20 Mcy over the next 50 years. The dredging/relocation of Bogue Inlet (approximately every 10 years) and dredging of the AIWW crossing could provide approximately 5.1 Mcy over the next 50 yrs. Therefore, approximately 50.2 Mcy of material has been identified which is considered enough material to meet the 50 year need of 46.8-51.6 Mcy determined in the Bogue Banks Master Beach Nourishment Plan. Figure 4-1 shows a summary of the potential sediment sources identified for use over the next 50 years.

(see Attachment A, Section 4.0, page 41; Attachment B, Section 4.0, page 23; Attachment C, Section 4.0, page 30, & Attachment D, Section 4.0, page 28)

#### **SVLE Reauthorization Criteria 4: Identification of Financial Resources**

Cost to construct and maintain beach nourishment projects for the Towns on Bogue Banks is generally funded by one or a combination of two sources: 1) Carteret County occupancy tax as it relates to the Bogue Banks municipalities, and 2) Local municipal taxes.

##### County Occupancy Tax:

The Shore Protection Office is funded 100% by the portion of the County's occupancy tax legislatively mandated for beach nourishment, which was instituted in 2001 via SL 2001-381 and after several changes related to a proposed convention center (SL 2005-120, SL 2007-112), is now codified as SL 2013-223. The remaining fund balance at the conclusion of each fiscal year is permitted to accrue in a reserve account, commonly referred as the "Beach Fund" to finance some of the large-scale shore protection projects and efforts. The County's occupancy tax rate was established at 5% overall rate via the enacting legislation (SL 2001-381) and the revenues were previously split 50-50 between beach nourishment and the Tourism Development Authority (TDA), representing a 2.5% overall collection rate for both the TDA and beach nourishment. Beginning in FY 2010-11 as stipulated in SL 2007-112, the TDA began receiving 3% of the 5% collection and the beach nourishment fund received 2%, which effectively changed the cost share from 50%-50% to 60%-40%. Several years later, new changes in the occupancy tax law were codified in SL 2013-223, which amended SL 2007-112 to allow the collection of an additional 1% (6% total) with the total proceeds being split 50-50 again between the TDA and beach nourishment (or 3% a piece). This law also raised the cap of the beach nourishment fund from \$15 M to \$30M. The effective date of this change was January 1, 2014.

The occupancy tax collection is reported in two predominant categories - hotel/motel stays and condo/cottage rentals. Condo/cottage rentals dominate the market on Bogue Banks, currently

generating almost \$5.0 million per year while the hotel/motel sector generates, on average, \$1.75 million per year.

Local Municipal Taxes for Beach Nourishment Projects:

While the Shore Protection Office generates 100% of its funds for beach nourishment from the County Occupancy Tax (“County”), the local municipalities generate revenue from which they contribute to beach nourishment through their local property taxes (“Local”). Property taxes are divided into two sectors; oceanfront and non-oceanfront properties with the non-oceanfront properties paying less tax. The table below illustrates estimated revenue for FY 2020-2021.

FY 2020-21				
Municipality	Oceanfront rate (per \$100 valuation)	Non-oceanfront rate (per \$100 valuation)	Transfers from General Fund/Other	Estimated total revenue
Atlantic Beach	\$0.0000	\$0.0000	\$0	\$0
Pine Knoll Shores	\$0.0550	\$0.0150	\$93,000	\$465,000
Indian Beach	\$0.0300	\$0.0100	\$0	\$87,870
Salter Path (county)	\$0.0550	NA	\$0	\$4,907
<u>Emerald Isle</u>	<u>\$0.0400</u>	<u>\$0.0000</u>	<u>\$400,000</u>	<u>\$674,922</u>
<i>Average or Total</i>	\$0.04	\$0.01	\$493,000	\$1,232,699

Utilizing the annualized volume needs estimated as part of the preferred option from the Master Beach Nourishment Plan and unit rates, an annualized estimate of funding need was developed. Two scenarios were analyzed for the Town/County cost share: 1) 25% Town and 75% County and 2) 33% Town and 67% County. Table 5-3 presents the results for both funding scenarios. Given the current annually generated local taxes for beach nourishment are equivalent to \$1,232,699 and the estimate annual County tax generated is \$3,750,000 (50% of total occupancy tax collections, see Figure 5-5), it seems as though the 25% Town and 75% County cost share would be most reasonable at this point in time to ensure the ability of Town contributions to remain sustainable long-term. It should be noted that the County currently has \$27M in reserve, putting them ahead of “schedule” in terms of revenue. It should also be noted that Atlantic Beach does not currently have a dedicated funding source. However, at this time, the eastern portion of Atlantic Beach will continue to be served by the USACE DMMP, leaving only the western portion (from The Circle to the AB/PKS town boundary) as a new addition to the engineered beach courtesy of the Post-Florence Phase II project (spring 2020). A dedicated funding source from Atlantic Beach would increase the total available annual revenue from the Towns. The interlocal agreement signed by all the Towns and County also requires them to meet the funding needs even if new taxes or one-time loans are required.

The above analyses do not include any State or Federal funding above that which is expected for the Morehead City Harbor Project. Any additional funds from these sources would extend the long-term sustainability of the project.

As mentioned, Atlantic Beach does not currently have a dedicated funding source. Up until Phase II of the Post-Florence Renourishment project, disposal of the Morehead City Harbor maintenance and construction material on the east end of Bogue Banks was accomplished at 100% federal cost,

i.e., local cost sharing for the disposal operation was not required. As a result, the Town of Atlantic Beach was totally dependent on federal funding for the MCH navigation project to maintain the beach and has not needed a separate funding source in the past. However, planning efforts were made to ensure that funding is available if cost sharing or “delta projects” become a possibility under the UASCE DMMP to place material west of The Circle.

The total contribution needed from the Town of Atlantic Beach to assure dredged material could be distributed along the entire length of its shoreline is estimated to be \$217,727 per year, equal to 33% of the total project cost to cover areas west of the Circle. This estimate does not include the Town and County likely being able to participate in “delta” projects where they would pay the delta costs to place sand west of the Circle in years 2 or 3 of the DMMP. Given that the DMMP is expected to cover areas up to the Circle, the “delta” projects would at worst need to cover 40% of the total Atlantic Beach need which would equal 65,978 cy/yr. Given this small volume, it is expected that a “delta” project may be required every 9 years. Assuming an additional mobilization cost of \$500,000 to cover an additional booster pump and additional \$2 per cy for lost production, the total delta cost per project is expected to be approximately \$1.7 million. Assuming a 33%/67% split between the Town and County, the Town cost would be approximately \$62,500 per year. If cost sharing or “delta projects” under the USACE DMMP are not a possibility to place material west of The Circle, western Atlantic Beach will be in a position to maintain an engineered beach which would be eligible for FEMA reimbursement for declared disaster events. The interlocal agreement signed by all the Towns and County would require them to meet the funding needs even if new taxes or one-time loans are required.

(see Attachment A, Section 5.0, page 57; Attachment B, Section 5.0, page 39; Attachment C, Section 5.0, page 46, & Attachment D, Section 5.0, page 44)

#### **DCM Staff Recommendations:**

Based on the 5-year progress reports from each Town, and additional exhibits attached, Staff recommends that the conditions in 15A NCAC 07J.1201(d)(1) through (d)(4) have been met, and there have been no changes in the last five years that would result in the static line exception being revoked. Staff recommends that the Commission renew the static line exception for another five years for the Towns of Emerald Isle, Indian Beach, Salter Path, Pine Knoll Shores and Atlantic Beach.

#### **ATTACHMENT A: Town of Emerald Isle, NC Static Line Exception 5 Year Review / Reauthorization Report**

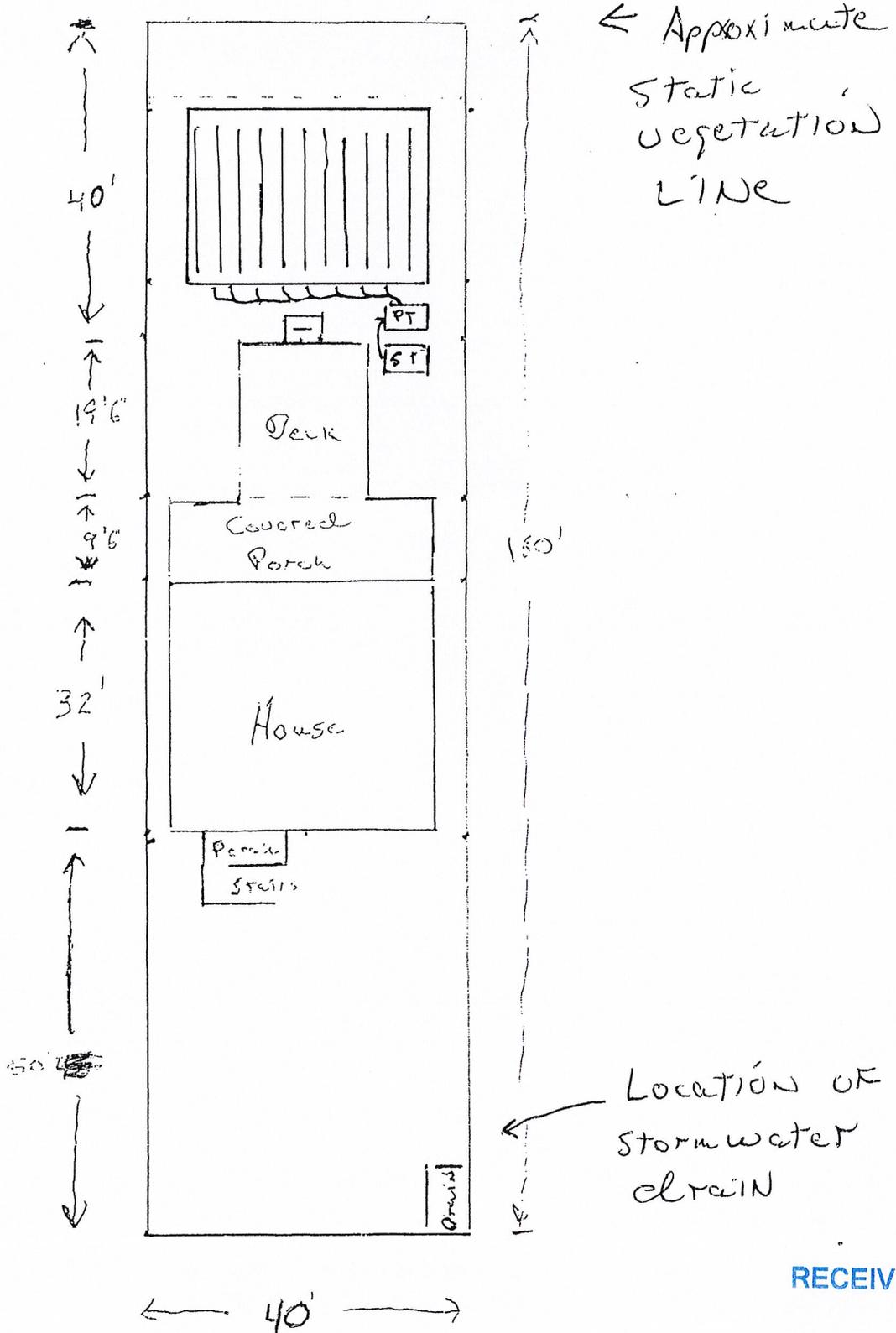
#### **ATTACHMENT B: Town of Indian Beach/Salter Path, NC Static Line Exception 5 Year Review / Reauthorization Report**

#### **ATTACHMENT C: Town of Pine Knoll Shores, NC Static Line Exception 5 Year Review / Reauthorization Report**

#### **ATTACHMENT D: Town of Atlantic Beach, NC Static Line Exception 5 Year Review / Reauthorization Report**

# Approximate Size and Location OF Proposed Oceanfront Septic System + Drainfield

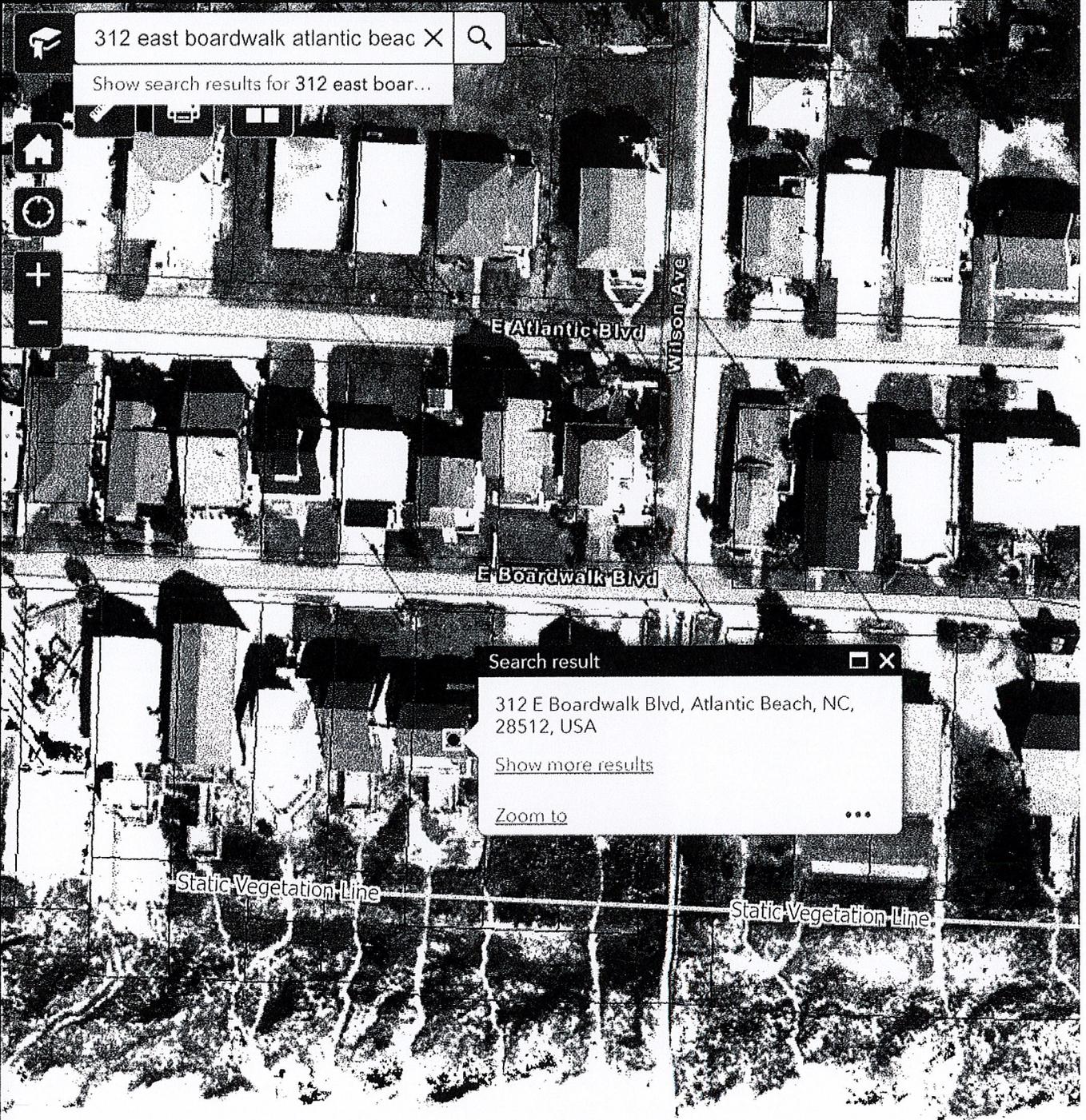
↑  
Ocean



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NOV 19 2021

DCM-MHD CITY



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Show search results for 312 east boar...

Search result  
312 E Boardwalk Blvd, Atlantic Beach, NC,  
28512, USA  
[Show more results](#)  
[Zoom to](#)

Static Vegetation Line

Static Vegetation Line

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NOV 19 2021

DCM-MHD CITY

Source: Esri, DigitalGlobe, GeoEye, Earthsta

30m  
-76.734 34.698 Degrees

Petitioners Photos:

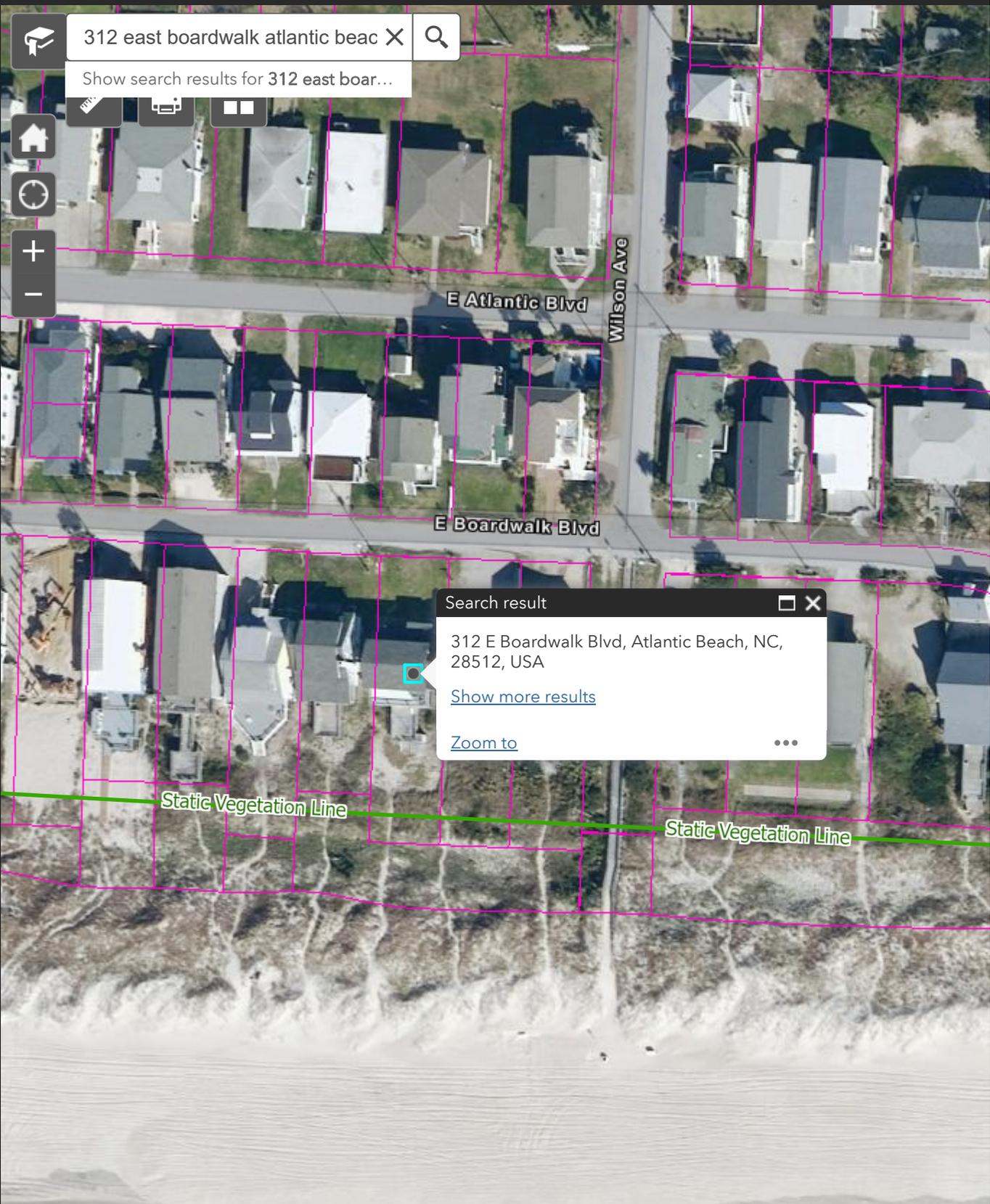






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Search result

312 E Boardwalk Blvd, Atlantic Beach, NC, 28512, USA

[Show more results](#)

[Zoom to](#) ...

Static Vegetation Line

Static Vegetation Line

Source: Esri, DigitalGlobe, GeoEye, Earthsta

30m

-76.734 34.698 Degrees

Robert Spence, Jr.  
 Spence and Berkau, P.A.  
 P.O. Box 1335  
 Smithfield, NC 27577

To Whom It May Concern,

This letter is to inform you that Carolyn Arnold and Jean McGraw are applying for a variance to the Coastal Resources Commission (CRC) from 15 NCAC 7H .0309(a) in order to install a replacement septic system on the oceanside of their property at 312 East Boardwalk Boulevard in Atlantic Beach, NC. A rough diagram of the proposed location is attached. The current septic system on the property has begun to fail and the location approved by the County Health Department would reduce the available parking on the property substantially. An oceanside location for the replacement system would eliminate the parking reduction issue and also potentially avoid issues related to seepage from the drainfield into the stormwater drain located on the northwest corner of the property. If approved, the septic system would be located adjacent to your property at 310 East Boardwalk Boulevard.

Should you have any questions or comments regarding the proposed project, I can be reached at 804-314-2024 or [cwarnold312@gmail.com](mailto:cwarnold312@gmail.com). If you wish to file written comments either in support or objecting to the proposed project, you may send them to:

Division of Coastal Management  
 Attn: Braxton Davis, Director  
 400 Commerce Drive  
 Morehead City, NC 28557  
 252-808-2808  
[Braxton.Davis@ncdenr.gov](mailto:Braxton.Davis@ncdenr.gov)

If you wish to respond, please do so promptly so we can continue the process for official hearing of the variance request. Thank you.

Sincerely,

  
 Carolyn Arnold

7021 2720 0003 1738 8757

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<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.58
<b>Total Postage and Fees</b>	<b>\$4.33</b>

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### **Delivered, Individual Picked Up at Post Office**

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SMITHFIELD, NC 27577

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70212720000317388757

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robarn1@gmail.com

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SMITHFIELD, NC 27577

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**December 2, 2021, 8:54 am**

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**December 1, 2021**

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CARY, NC 27511

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**November 30, 2021, 11:49 am**

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**Product Information**



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Go to our FAQs section to find answers to your tracking questions.

**FAQs**

Paul and Niki Strebel  
913 Pinehurst Drive  
Chapel Hill, NC 27517

To Whom It May Concern,

This letter is to inform you that Carolyn Arnold and Jean McGraw are applying for a variance to the Coastal Resources Commission (CRC) from 15 NCAC 7H .0309(a) in order to install a replacement septic system on the oceanside of their property at 312 East Boardwalk Boulevard in Atlantic Beach, NC. A rough diagram of the proposed location is attached. The current septic system on the property has begun to fail and the location approved by the County Health Department would reduce the available parking on the property substantially. An oceanside location for the replacement system would eliminate the parking reduction issue and also potentially avoid issues related to seepage from the drainfield into the stormwater drain located on the northwest corner of the property. If approved, the septic system would be located adjacent to your property at 314 East Boardwalk Boulevard.

Should you have any questions or comments regarding the proposed project, I can be reached at 804-314-2024 or [cwarnold312@gmail.com](mailto:cwarnold312@gmail.com). If you wish to file written comments either in support or objecting to the proposed project, you may send them to:

Division of Coastal Management  
Attn: Braxton Davis, Director  
400 Commerce Drive  
Morehead City, NC 28557  
252-808-2808  
[Braxton.Davis@ncdenr.gov](mailto:Braxton.Davis@ncdenr.gov)

If you wish to respond, please do so promptly so we can continue the process for official hearing of the variance request. Thank you.

Sincerely,

  
Carolyn Arnold

7021 2720 0003 1738 8740

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Postage	\$0.58
<b>Total Postage and Fees</b>	<b>\$4.33</b>
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
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11/30/2021

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### **Delivered, Left with Individual**

December 3, 2021 at 10:52 am  
CHAPEL HILL, NC 27517

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**Get Updates** v

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**Text & Email Updates**



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## FAQs

Feedback



# NC Coastal Resources Commission Meeting

February 10, 2022

Arnold / McGraw Variance Request  
CRC-VR-21-06

Heather Styron, Field Representative  
DCM Morehead City District Office



# 312 East Boardwalk Blvd, Atlantic Beach, Carteret County Vicinity Map

Exhibit 15

2020 Google  
Earth Imagery



## 312 East Boardwalk Blvd

- Town of Atlantic Beach  
Carteret County
- The proposed project is  
East of the “Circle”
- West of the Oceanna  
Fishing Pier
- adjacent to the Atlantic  
Ocean





Aerial view of 312 East Boardwalk Blvd

312 E Boardwalk

SVL 60' setback

Static Vegetation Line (SVL)

First Line of Stable Natural Vegetation (FLSNV)





Zoomed in aerial view of  
312 East Boardwalk Blvd  
from the previous image

Note the secondary dune  
system before the lawn

Green Line is the Static  
Vegetation Line (SVL)





068

North Carolina

Exit Street View

Exhibit 15

312 East Boardwalk Blvd

Looking West on East Boardwalk Blvd

\*Image taken from Google Earth Street View



01/13/2022 photo taken on the North side of the property.

View is looking toward the southeast. Photo taken by Town of Atlantic Beach LPO Eitner on 01/13/2022

Note the stormwater drain on the NW corner of the property.





View is looking  
Southwest toward the  
ocean.

Photo taken on the  
east side of the house

Photo taken by LPO  
Eitner on 01/13/2022.

312 East Boardwalk Blvd



South side of the house

View is looking toward the Northeast

Construction project is the adjacent property at 314 E. Boardwalk

Photo taken by LPO Eitner on 01/13/2022.



072

Ocean side of the house facing south  
Exhibit 15

Primary Dune

Green line is the approximate SVL

Secondary Dune System

Photo taken by Petitioner on 10/07/2021.

<sup>073</sup>  
**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.