TO: The Coastal Resources Commission
FROM: Christine A. Goebel, DEQ Assistant General Counsel
DATE: September 2, 2022 (for the September 15, 2022 CRC Meeting)
RE: Variance Request by Ronald P. Spogli Trust (CRC-VR-21-05)

Petitioner Ronald P. Spogli, Trustee of the Ronald P. Spogli Trust (“Petitioner”) own a lot at 706 Shoals Watch Way on Bald Head Island in Brunswick County. The property is located near the southern point of West Beach. In August of 2021, Petitioner applied for a CAMA Minor Permit to construct a 4,500 square foot home on the lot. The proposed house did not meet the 270’ setback measured landward from the vegetation line. On September 24, 2021, the CAMA LPO for the Village of Bald Head Island denied Petitioner’s application as the proposed house did not meet the applicable setback. Petitioner now seeks a variance to allow the proposed sandbags to be authorized as proposed.

The following additional information is attached to this memorandum:

Attachment A: Relevant Rules
Attachment B: Stipulated Facts
Attachment C: Petitioner’s Positions and Staff’s Responses to Variance Criteria
Attachment D: Petitioner’s Variance Request Materials (not included in the stipulated exhibits)
Attachment E: Stipulated Exhibits including powerpoint

cc(w/enc.): Charles S. Baldwin, IV, Esq., Petitioner’s counsel, electronically
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically
Stephen Boyette, VBHI CAMA LPO, electronically
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 .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.

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

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

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

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

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

(5) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback is established based on the following criteria:

(A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
1. Ronald P. Spogli, Trustee of the Ronald P. Spogli Trust ("Petitioner"), owns property at 706 Shoals Watch Way, Bald Head Island, North Carolina 28461 (the "Lot"), also known as Lot 3226 Single Family 16, Cape Fear Station, Bald Head Island, Stage Two, in the Village of Bald Head Island, Brunswick County, North Carolina (the "Village").

2. Petitioner is represented by Charles S. Baldwin, IV, Esq. of the Brooks Pierce Law Firm in Wilmington.

3. Petitioner purchased the Lot from Bald Head Island Limited, which is the original developer of the Island, pursuant to a deed dated August 8, 2003, and recorded on August 15, 2003, in the Brunswick County Registry at Book 1806, Page 1219, a copy of which is attached as a stipulated exhibit.

4. The Lot is shown on a 2003 map recorded in the Brunswick County Registry at Map Cabinet 27, Instrument 473, a copy of which is attached as a stipulated exhibit.

5. The Lot is bordered by the Atlantic Ocean to the south, Shoals Watch (a 30’ wide public right-of-way per the plat) to the north, 704 Shoals Watch to the west currently owned by James and Sherri Ruddy, and 710 Shoals Watch to the east currently owned by The David L. Peterson Living Trust.

6. The Lot is located within the Ocean Erodible and the State Ports Areas of Environmental Concern ("AEC").

7. The Lot is approximately 540 feet in length and 116 feet in width, comprising 1.36 acres based on its platted dimensions.

8. The Lot elevation in the vicinity of the proposed construction is approximately 20-29 feet, based on the topographic survey of Walter B. Cavedo Land Surveying, a copy of which is attached as a stipulated exhibit.

9. The proposed construction is located a distance of approximately 290 feet landward of the flood zone VE/zone X boundary and is located in lower risk flood zone X, as shown on the Site Plan Survey (dashed black lines).

10. The surveyed MHWL in November 2021 at the Lot was approximately 187 feet oceanward from the vegetation line and the oceanward point of the proposed building was approximately 408 from the MHWL.

11. At the Lot, the currently applicable long term average erosion rate is 9’ per year. The erosion rate for the Lot adopted in 1997 and applicable in 2003 (the year Petitioner purchased the Lot) was 11’ per year. The erosion rate for the Lot adopted in 2004 was 15’ per year. The erosion rate for the Lot adopted in 2013 was 10.5’ per year.
12. The erosion measured at the transects in the area of the Lot, which were included in the 2020 erosion rate study, is shown on an attached exhibit. It shows the measured erosion (vs. the rate used for the setback block) between 10.2’ and 9.7’ per year at the Lot.

13. The area of the Lot was not subject to a static vegetation line at the time of the permit decision, nor is it approved for a static line exception or a development line as those are/were defined in the Commission’s rules. At the time of the permit decision for this Lot, oceanfront erosion setbacks were measured landward from the vegetation line as defined in 15A NCAC 7H.0305(a)(5). Since the time of the permit decision, a static line has been established in the area of the Lot and a copy of the new static line is shown on an attached stipulated exhibit. The static line represents the location of the vegetation line prior to the 2021 large-scale nourishment project in the area of the Lot.

14. Major recent storm events, including Hurricane Matthew in 2016, Hurricane Florence in 2018, and Hurricane Isaias in 2020 have caused South Beach, including the eastern portion of the South Beach shoreline in the front of the Lot, to recede as the beach has eroded.

15. A stipulated exhibit is attached showing the shorelines in the area of the Lot over time, based on the wet/dry line on historic aerial images determined and digitized by DCM.

16. Pursuant to the 2000 Sand Management Plan between and among the U.S. Army Corps of Engineers, Bald Head Island, Oak Island, Caswell Beach and the State of North Carolina, sand from maintenance dredging of the Wilmington Harbor Shipping Channel is to be placed on the beaches of Bald Head Island two (2) out of three (3) dredging cycles with the third cycle going to Oak Island and Caswell Beach.

17. In 2009/2010 and 2018-19, which were the third-phases in the dredging cycle, the Village of Bald Head Island self-funded a sand placement project with a private contractor to maintain its beaches and its engineered beach template.

18. Since the 2000 Sand Management Plan was agreed to, sand has been placed on Bald Head Island in the following years: 2021, 2015, 2013, 2007, 2004-05, and 2000-01. None of these placements on South Beach directly placed sand as far east as the Lot, except the 2021 placement. DCM just recently (and after the permit decision) established a static line for the Lot based on the pre-project line for the 2021 sand placement.

19. In the past, the sand placed from maintenance dredging at Bald Head Island was placed on West and South Beaches. An example of such placement is the Corps of Engineers project concluded in 2021 which placed material on Petitioner’s Lot and caused Petitioner’s riparian Lot to avulse or move oceanward, approximately 140 feet, based on the survey data and aerial imagery of Olsen Associates, Inc. attached as stipulated exhibits.

20. According to Mr. Boyett, as stated in his affidavit, the Village is committed to maintaining an engineered beach with periodic sand placements at Bald Head Island pursuant to the 2000 Sand Management Plan with the US Army Corps of Engineers (USACE) and supplemental Village funded sand placements. Mr. Boyett states that the next USACE sand placement may occur in 2023 or 2024, depending on shipping channel shoaling, and
the next Village funded sand placement may occur in 2027 or 2028, and the Village is budgeting for the project.

21. On August 31, 2021, Petitioner, through its authorized agent Cothran Harris of Conthran Harris Architecture, submitted an application for a CAMA Minor Permit (Permit Application # 2021-07) for construction of a 4,500 square foot, single-family residence on the Lot, a copy of which is attached as a stipulated exhibit. The CAMA Minor Permit was submitted to Stephen Boyett, Bald Head Island Development Services Director and CAMA Local Permit Officer.

22. As part of the CAMA Minor permitting process, the Petitioner sent notice of the project to the two adjacent riparian owners through letters each dated August 31, 2021, copies of which are attached. Certified mail receipts also attached and tracked on usps.gov indicate delivery of the notice letter to Mr. Peterson on September 10, 2021 (pursuant to Tracking No. 7021 0350 0000 6962 5132). Delivery of the notice letter to the Ruddys was “Unclaimed/Returned to Sender” as of September 30, 2021.

23. In preparing this variance to be heard last fall, the failure to notify the Ruddys was discovered. Re-notice of the permit application materials was attempted on the Ruddys several times by certified mail-return receipt requested, including September 7, 2021 and November 10, 2021, and delivery by Federal Express Tracking No. 287647648415 (tracked but no signature) on December 17, 2021. A copy of the tracking information is attached. The LPO and DCM have not received any comments on the permit application from either adjacent riparian owner or anyone else to date. In addition to the delivery on December 17, 2021 to the Ruddys of the initial CAMA application, numerous other attempts at delivery were made, including by email on October 22, 2021 by attorney Sandra Darby’s office, on December 15, 2021 by attorney Christy Goebel and on December 15, 2021 by attorney Charles S. Baldwin, IV.

24. The applicable setback from the vegetation line for the proposed 4,500 square foot house with a 9’ per year erosion rate is 270’ (30 x 9’= 270’). The attached site plan shows the location of the FLSNV as established on 9-1-20 and reconfirmed by Mr. Boyett on 7-22-21. The approximate setback line is also shown on the attached site plan, and is located in a similar location as the 30’ Village street-side setback (shown in red). This places all of the proposed development within the setback area, waterward of the setback line. The waterward side of the house would be approximately 173’9” landward of the vegetation line and the rear of the house would be approximately 270’ landward of the vegetation line.

25. On September 24, 2021, Mr. Boyett denied the CAMA Minor Permit as inconsistent with 15A NCAC 7H .0306 (a)(5) and .0309 (a).

26. Petitioner stipulates that the permit application was properly denied based on 15A NCAC 7H .0306(a)(5) and .0309(a).

27. The location of the house to be constructed on the Lot relative to the houses on either side of the Lot is shown on the site plans, attached as a stipulated exhibit. The site plan also
indicates that the proposed house meets the private “Bald Head Sightline Setback” as required in the declarations, recorded at Book 263, Page 621, Brunswick County Registry.

28. The home at 704 Shoals Watch received a Certificate of Occupancy on September 13, 2006, a copy of which is attached. The CAMA Minor Permit for that home could not be located, but based on the CO, would likely have been issued in 2006. The 5,342 square foot home would have been subject to an erosion rate of 15’ per year and a setback factor of 30x (the prior Commission rule only required a setback factor of 30x for residential structures, regardless of size) for a setback from the vegetation line of 450’. Without a copy of the CAMA permit and site plan, it is not clear what setback distance was applied.

29. The home at 710 Shoals Watch received a Certificate of Occupancy on May 28, 2008, a copy of which is attached. The CAMA Minor Permit for that home was issued on September 14, 2004, a copy of which is attached. The 5514 square foot home would have been subject to an erosion rate of 11’ (2004 rates were effective 1/28/04) per year and a setback factor of 30x (the prior Commission rule only required a setback factor for 30x for all residential structures, regardless of size) for a setback from the vegetation line of 330’. The CAMA Permit, however, only required that a setback of 250’ be met by the proposed structure.

30. The owner of the home located at 704 Shoals Watch, which is next to and west of the Lot, has planted vegetation, including in front of the Lot, to help reestablish oceanward the first line of stable vegetation. The vegetation in the vicinity of the Lot is seen in site photos, attached as a stipulated exhibit.

31. As part of the variance process, Petitioner sent notice of the variance request to the adjacent riparian owners as required by 15A NCAC 7J.0701. Tracking information, attached, for the two notice letters dated September 24, 2021 indicate that the letter to Mr. Peterson was delivered on October 5, 2021, and to the Ruddys on October 4, 2021.

32. Petitioner is seeking a variance from the Commission from both the requirement to first seek a procedural variance from the Commission’s rule at 15A NCAC 7J.0701 to seek a variance from local street-side or side-yard setbacks from the Village where Petitioner wished to located his home as proposed, and a variance from the Commission’s oceanfront setback rules at 15A NCAC 7H.0306(a)(5) (setting forth the setback) and 7H.0309(a) (where the proposed development does not meet any of the erosion setback exceptions).

33. Without a variance, a CAMA permit could be issued for development within the setback area on the Lot for those structures listed in 15A NCAC 7H.0309, including campsites, driveways, parking areas, elevated decks up to a 500 square foot footprint, unenclosed uninhabitable gazebos not to exceed a footprint of 200 square feet, single-story sheds, sand-fencing, swimming pools and temporary amusement stands.

34. An affidavit of Mr. Boyett is attached as a stipulated exhibit, describing his opinions about issues related to this Variance.
LIST OF STIPULATED EXHIBITS

1. Deed of Purchase (Brunswick County Registry Book 1806, Page 1219)
2. Plat (Brunswick County Registry Map Cabinet 27, Instrument 473)
3. Topographic survey of the Lot of Walter B. Cavedo Land Surveying, including Flood Zones
4. Erosion Rate transect overlain on aerial
5. New 2021 Static Line Map
6. DCM historic shorelines overlain on aerial
7. Olsen diagram of 2021 before and after shorelines
8. MHWL Survey by McKim & Creed in May 2021 in vicinity of Station 206+00 (B-52)
9. Boyette Affidavit and exhibits
10. CAMA Minor Permit Application materials
11. Notice of permit application and tracking information
12. Re-notice information and tracking
13. September 24, 2021 CAMA Minor Permit denial letter
14. Sightline Setback drawing
15. 704’s Certificate of Occupancy
16. 710’s Certificate of Occupancy and CAMA permit
17. Notice of Variance Petition and tracking information
18. Olsen Associates, Inc. photo of Lot with MHWL overlay from November 2021 aerial and survey data
19. Cothran Harris Architecture Site Plan showing MHWL and vegetation line setback distances using November 2021 Aerial and Survey data
20. Photos of 706 Shoals Watch – July 16, 2021
21. Photo of Lot taken November 25, 2021
22. Powerpoint with ground and aerial photos of the Lot including historic shoreline imagery for 2010, 2012, 2016 and 2020 from DCM’s maps
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.

Strict application of the ocean hazard setback rules and standards prescribed by the Coastal Resources Commission (the “Commission”) at 15A N.C.A.C. 7H.0306 will cause Petitioner unnecessary hardship in that such application will effectively render Petitioner’s lot, Lot 706 Shoals Watch, Bald Head Island (the “Lot”), unbuildable for residential purposes.

Petitioner purchased the Lot in 2003 from Bald Head Island Limited, the original developer of the Island. (See General Warranty Deed, Ex. 1 to Attach. G) At the time Petitioner purchased the Lot in 2003 it was a platted buildable lot.

Homes were constructed on the properties on each side of the Lot in 2006 and 2008. A CAMA Minor Permit was issued for each of those projects and no variance was necessary. The Lot was recently restored in Spring 2021 to approximately its original dimensions by a sand placement project. On August 31, 2021, Petitioner, via architect Cothran Harris, applied for a CAMA Minor Permit for construction of a 4,500 square foot single-family residence on the Lot. On September 24, 2021, Stephen Boyett, Bald Head Island Development Services Director and Local Permit Officer, denied the CAMA Minor Permit application as inconsistent with 15A N.C.A.C. 7H.0306. (See Permit Denial Letter, Attachment Ex. 6 to Attach. G) In doing so, Mr. Boyett noted that no such construction is permitted to take place within 270 feet from the first line of stable natural vegetation pursuant to 15A N.C.A.C. 7H.0306.

Applying a 270-foot setback to Petitioner’s Lot effectively renders it unbuildable, despite it being a long-standing, platted buildable lot and despite comparable single-family residences having been constructed on both of the immediately adjacent lots, in approximately the same location.

The Lot is both elevated and sizable, sitting at 20’ – 29’ above sea level in the vicinity of the project (see Boyett Affidavit, Ex. 7 to Attach. G) and being 1.36 acres. Further, the first stable natural line of vegetation should naturally move oceanward within the 140 feet of new restored dry beach. Nonetheless, a 270-foot setback from the formerly eroded condition of the first line of stable natural vegetation leaves Petitioner with effectively no room within which to build a single-family residence. Thus, strict application of the ocean hazard setback rules and standards effectively renders a once buildable lot now unbuildable, despite the Lot having accreted 140 feet oceanward to restore its condition to the robust condition of prior years. This is a significant and unnecessary hardship for Petitioner, who purchased the Lot in 2003 in expectation of one day building a home thereupon.
Staff’s Position: No.

Staff disagrees that a strict application of the applicable setback rules from which Petitioner seeks a variance causes Petitioner unnecessary hardships. Petitioner makes an argument that, because the Lot was “buildable” when purchased from the developer in 2003, it should be “buildable” now, nearly 20 years later. In 2003, the setback for a residential structure of any size at the Lot was 330’ (11’/year erosion rate x 30). It is not reasonable for Petitioner to have an expectation that a lot in an Ocean Hazard AEC, in an area with high erosion rates, would remain buildable over a 20-year period, where the Commission’s rules note in 7H .0301 that the Ocean Hazard AEC’s “special vulnerability to erosion or other adverse effects of sand, wind, and water, uncontrolled or incompatible development could unreasonably endanger life or property.” The Commission’s Rule at 7H .0302 further notes that

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.

In addition, Petitioner should not have assumed the Commission’s setback rules would remain unchanged for over 20 years, including updated erosion rates that are the basis for calculating construction setbacks. Since Petitioner’s purchase in 2003, the long-term erosion rate at the Site increased to 15’/year in 2004, decreased to 10.5’/year in 2013 and is now 9’/year with a corresponding development setback of 180’ for structures 5,000 square feet or less.

For these reasons, Staff contend that any hardship does not result from the strict application of the Commission’s setback rules; rather from the intervening 20 years of beach erosion in the highly dynamic Cape Fear system, including significant erosion in the past few years that has caused the vegetation line, and the resulting setback line, to move landward. Further, any hardship may be temporary given recent and repeated beach restoration (renourishment) projects by the U.S. Army Corps of Engineers and Village of Bald Head Island, and stabilization efforts by the Petitioner (planting of beach vegetation), which may result in future changes to the first line of stable and natural vegetation that could make the lot buildable in the future (as noted in Petitioner’s arguments under II, below, and mentioned in Stephen Boyette’s affidavit attached). Over time, if the Town and Petitioner are unable to stabilize and restore this shoreline through these efforts, then clearly it would be unwise to proceed with the proposed development on a site with such high oceanfront erosion rates, and where alternative types of development may still be allowed under the Commission’s exceptions in 15A NCAC 07H.0309.
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 hardship endured by the Petitioner results from conditions that are peculiar to the petitioner’s property, such as timing of the setback line determination, location, size, and topography.

Petitioner’s Lot is peculiar in its location, topography, and that it is the recipient of periodic sand placement projects. It is peculiar that the condition of the Lot was in its historically most-eroded condition at the time the first natural stable vegetation line was established and the Lot had subsequently accreted approximately 140 feet oceanward at the time of Petitioner’s CAMA Minor Permit Application. The Lot will, within the next few years, likely be in compliance with the 270-foot vegetation line setback requirement, given the Lot’s newly restored approximately 540 feet dry length. The Lot was peculiarly impacted by a condition created by major storm events, beginning with Hurricane Matthew in 2016 through Hurricane Isaias in the Fall of 2020, prior to the Corps of Engineers 2021 sand placement project. The owner of the home located at 704 Shoals Watch, Bald Head Island, which is next to the Lot, has planted vegetation, including in front of the Lot, to help reestablish oceanward the first line of stable vegetation. The sand placement project conducted by the Corps of Engineers was recent enough that the first line of established vegetation on the Lot has not yet returned to where it generally has been naturally and in recent history. (See Historical Comparison of Imagery, Ex. 10 to Attach. G).

The ocean hazard setback rules and standards promulgated by the Commission set the erosion setback line at a distance of either 60 feet or 30 times the long-term annual erosion rate, whichever is greater, from the first line of stable natural vegetation. See 15A N.C.A.C. 7H.0306(a)(1), (5)(A). The specific location of the Lot on Bald Head Island renders the applicable ocean hazard setback particularly high, relative to many other lots on the Island. The long-term annual erosion rate, or setback factor, at the Lot is currently 9 feet/year; whereas, the factors assigned to the other lots on South Beach range from 2 feet/year to 7 feet/year. See N.C. Div. of Coastal Mgmt., Interactive Map Viewer, N.C. Div. of Env’t Res., https://www.ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=f5e463a929ed430095e0a17ff803e156. The setback formula does not consider or make allowance for elevation of the structure. Here, the home would be located in a peculiarly protected and safe location on top of an ancient sand dune at 20-29 foot elevation. (See Boyett Affidavit, Attachment Ex. 7 to Attach. G) The peculiar topography of the Lot demonstrates that it is substantially better protected than most other oceanfront lots.

**Staff’s Position**: No.

Staff disagrees that Petitioner’s alleged hardship results from the Lot’s location, elevation, and recent beach nourishment project. Petitioner argues that one peculiarity of the property is that the vegetation line used for permitting was determined by the LPO when the vegetation line was at its most landward location. However, this hardship is due to the Petitioner’s timing in seeking a development permit, which requires a setback determination based on the structure size and
corresponding erosion rate in that location at the time of permit application. Oceanfront setback determinations for development permits are conditioned to be valid for 60 days, after which time, if development has not begun, a new setback determination is required per 7J.0403(d). This addresses possible changes in the vegetation line that can occur over short time periods due to the dynamic nature of the oceanfront shoreline. Petitioner also states that the 2021 nourishment project has caused the Lot to accrete “approximately 140 feet oceanward.” While the sand placement may have increased the oceanward end of the lot through the addition of sand, the Commission’s rules require establishing and using a pre-project or “Static Vegetation Line” for setback determinations unless the Commission has granted an exception to that process under 15A NCAC 07J.1200 (which is not the case at this location at the time of the permit application). 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 is established as the reference point for measuring oceanfront setbacks in all locations where it is landward of the post-project vegetation line, because the vegetation line may move (artificially) seaward after the beach nourishment project and therefore may not be a good indicator or reference feature for construction setbacks unless a community presents a plan to the Commission for maintaining the new beach profile over time. Regardless, at the time of the application, the proposed building would not meet the oceanfront construction setback from the vegetation line or the Static Line in this case.

Staff also acknowledges that the setback formula “does not consider or make allowance for elevation of the structure” or of the lot elevation. Staff acknowledge that this Lot is peculiar in having 20’-29’ of elevation where the house is proposed, providing it more protection from flooding than other lots in the area. However, the elevation of the relic dune where the Site is located will not fully protect the location from continued beach erosion.

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

Petitioners’ Position: No.

The hardships endured do not result from any actions taken by the Petitioner. Petitioner has not caused the historically eroded condition of the Lot at the time the vegetation setback line was established. Major storm events, beginning with Hurricane Matthew in 2016 through Hurricane Isaias in the fall of 2020 caused South Beach, including the eastern portion of the South Beach shoreline in the front of the Lot, to recede. One effect of this hurricane-induced erosion was to push the natural stable vegetation line in the area of Petitioner’s Lot landward.

The owners of the homes neighboring Petitioner, at 704 Shoals Watch and at 710 Shoals Watch, received their Certificates of Occupancy on September 13, 2006 and May 28, 2008, respectively. Variances were not required for these two owners to build their homes upon their lots, despite the fact that the rules and standards promulgated by the Commission then provided that the erosion setback line must be set at a distance of 30 times the long-term annual erosion rate from the first line of stable natural vegetation. See 15A N.C.A.C. 7H.0306(a)(1) (effective 11/01/2004). That the
long-term annual erosion rate applicable at the time that the two adjacent property owners built on
their lots enabled them to build without first seeking a variance demonstrates that the hardship
endured by Petitioner is a result of hurricane and storm impacts rather than actions taken by
Petitioner.

**Staff’s Position:** No.

Any hardships alleged by Petitioner are the result of the nearly 20-year delay in building
on the Lot. While Petitioner did not cause the erosion on the Lot, Petitioner should not have
reasonably expected that the oceanfront erosion setback on the Lot would remain unchanged over
that period, especially in such a dynamic ocean hazard area as a cape shoal system with high
erosion rates.

Petitioner also notes the homes on the adjacent lots which were built in 2006 and 2008 did
not require variances. While that is the case, the stipulated facts, including certificates of
occupancy and a CAMA permit for 710 Shoals Watch, appear to show that a lesser than required
setback was utilized by the Village Local Permitting Officer in authorizing the house at 710 Shoals
Watch. In addition, the home at 704 Shoals Watch was constructed around 2006 and should have
been subject to a 450’ setback. While a permit log notes that a CAMA minor permit was issued
March 8, 2004 to the owners at that time, no CAMA permit could be located, and therefore it is
unclear what setback was used at the time. Petitioner’s assumption that the neighboring lots were
built without the need for a variance and therefore must have met the correct setback in place at
the time may be an incorrect assumption and not a basis for a Variance at the property in question.

Finally, Petitioners have not attempted to minimize the encroachment of their proposed site
plan and house through reduction of square footage or redesign. For example, Petitioner does not
appear to have designed and placed the home as far landward on the lot as possible. Petitioner also
did not seek a local variance asking for some relief from the street-side setback.

**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.

The variance requested by Petitioner is consistent with the spirit, purpose, and intent of the
ocean hazard setback rules and standards prescribed by the Commission at 15A N.C.A.C. 7H.0306,
secures the public safety and welfare, and preserves substantial justice. The house Petitioner
intends to construct is in keeping with the structures in the area, and will be built in line with (i.e.,
not oceanward of) the immediately adjacent houses on each side of the Lot. No prior construction
has taken place on the Lot since Petitioner purchased the Lot in 2003.

The proposed development is the new construction of a single-family residence (~4,500 sq. ft.).
The residence will be constructed at 20’-29’ elevation (see Boyett Affidavit, Ex. 7 to Attach. G),
landward of the local (Bald Head Island) “sightline” setback in relation to homes on immediately adjacent lots on each side (see Site Plan, Ex. 8 to Attach. G), more than 170 feet landward from current first line of stable natural vegetation, and 290 feet from the flood zone VE boundary. Such project is both safe and consistent with development in the area.

The applicable setback currently prohibits construction on Petitioner’s property within 270 feet from the first line of stable natural vegetation, effectively rendering the lot unbuildable despite it being a long-standing platted buildable lot. Beach nourishment in 2021 caused the lot to accrete oceanward by approximately 140 feet. Therefore, Petitioner seeks a variance allowing construction on Petitioner’s property to occur not less than 170 feet from the first line of stable, naturally occurring vegetation as identified by the local permit officer.

The Management Objective of Ocean Hazard Areas provides that the spirit, purpose, and intent of the rules and standards set forth in 15A N.C.A.C. 7H are to “minimize losses to life and property resulting from storms and long-term erosion, prevent encroachment of permanent structures on public beach areas, preserve the natural ecological conditions of the barrier dune and beach systems, and reduce the public costs of development within ocean hazard areas, and protect common-law and statutory public rights of access to and use of the lands and waters of the coastal area.” 15A N.C.A.C. 7H.0303(b).

The elevated lot, and the position of the structure on it is protected and safe. The Lot is approximately 540 feet in length. The structure will not encroach on the dry sand beach. Construction of a house would further use of the beach and public trust resources. The owners of the homes constructed on each of the two adjacent lots have never had to install sandbags to protect the sand dunes or their homes, despite the many powerful storms that have impacted Bald Head Island over the past two decades.

Further, the Lot will continue to benefit from sand placement projects. Pursuant to the 2000 Sand Management Plan between and among the U.S. Army Corps of Engineers, Bald Head Island, Oak Island, Caswell Beach and the State of North Carolina, sand from maintenance dredging of the Wilmington Harbor Shipping Channel is placed on two (2) out of three (3) cycles on the beaches of Bald Head Island, with the third cycle going to Oak Island and Caswell Beach. In the third dredging cycle where sand is placed on Oak Island and Caswell Beach, the Village of Bald Head Island has self-funded a sand placement project with a private contractor to maintain its beaches and its engineered beach profile.

Finally, the variance preserves substantial justice. The Lot was platted and sold by the original developers of Bald Head Island as a buildable lot. Petitioner does not seek to create a buildable lot where there was none, or to build a structure unlike those found on Petitioner’s neighbors’ lots. Alternatively, without the variance, Petitioner would have little to no use of the Lot, given that Petitioner would be rendered unable to build any sort of residence thereupon. There is clearly a large, 1.36 acres, elevated, buildable lot with the misfortune of the first natural stable vegetation line being set between sand placement projects and following several years of bad hurricanes.
**Staff’s Position:** No.

Staff disagrees that the variance, as requested by Petitioner, 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 house would not meet the applicable 180’ setback (30x 9’/year) measured landward of the vegetation line (and where the proposed development is not a use allowed in the setback area per 7H .0309). These are the rules from which Petitioners seek a variance from the Commission.

The Lot was platted after 1979, and so the developer would have been aware of the Commission’s oceanfront setback requirements and designed the platted lots with those setbacks in mind. While it appears that the Lot and the location of the vegetation line would have supported a house meeting the setback in 2003 (30x 11’ = 330’), Petitioner chose not to build at that time. Since then, the vegetation line has been eroding landward in response to hurricanes, storms, and the dynamic cape system. While Petitioner notes that the proposed house is designed similarly to other houses in the area, is in-line with them, and meets the private “sight line setback”, Petitioner is largely silent about the applicable setback, which is dependent on the erosion rate and location of the vegetation line. While the setback may seem large, that is due to the correspondingly high long-term erosion rates in this area.

While the Lot has benefited from beach renourishment through the 2021 project, may have also benefited from past beach nourishment projects located to the west of the property, and may continue to benefit from beach nourishment and shoreline stabilization projects in the future, there is no guarantee that the dune system will remain or grow as storms and erosion may continue to impact the Lot. There is no certainty that future beach nourishment projects will be constructed by the Corps of Engineers or Village in this location, or that the projects will stabilize and afford long-term protection to this property.

Most importantly, the Petitioner has claimed that the proposed location of the house is likely to be permittable “within the next few years” due to continuing renourishment and stabilization efforts. Vegetation lines are generally good indicators of beach stability because plants cannot establish where sand is subject to occasional flooding, erosion, overwash, and disturbance. Until stable, natural vegetation is re-established in the area, Staff contend that it would be inconsistent with the spirit, purpose, and intent of the Commission’s rules to allow construction where it does not meet the applicable setback from this reference feature. It would not secure public safety and welfare where the proposed development would be allowed in a highly erosive ocean hazard area and therefore create threats to life and property. It would also not preserve substantial justice because other property owners along the coast of North Carolina are subject to the same restrictions in similar circumstances.
Attachment D:

Petitioner’s Variance Request Materials
September 29, 2021

**VIA U.S. MAIL**

Mr. Braxton C. Davis, Director  
Division of Coastal Management  
400 Commerce Avenue  
Morehead City, North Carolina 28557

**VIA EMAIL**

Braxton.Davis@ncdenr.gov

Re: Variance Petition  
Ronald P. Spogli, Trustee of The Ronald P. Spogli Trust  
Brunswick County, North Carolina  
Our File No. 112388.1

Dear Mr. Davis:

Enclosed is a CAMA Variance Request Form regarding the above-referenced project. Please schedule the variance for the November 9-10, 2021 meeting of the Coastal Resources Commission.

Thank you for your attention to this matter.

Sincerely yours,

Charles S. Baldwin, IV

CSBIV/gw  
Enclosures

pc: Christine A. Goebel, Esquire  
(with enclosures, via United States Mail and email)
CAMA VARIANCE REQUEST FORM

DCM FORM 11
DCM FILE No.:__________

PETITIONER’S NAME  Ronald P. Spogli, Trustee of The Ronald P. Spogli Trust
COUNTY WHERE THE DEVELOPMENT IS PROPOSED  Brunswick County

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.

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:

X The name and location of the development as identified on the permit application;
X A copy of the permit decision for the development in question;
X A copy of the deed to the property on which the proposed development would be located;
X A complete description of the proposed development including a site plan;
X A stipulation that the proposed development is inconsistent with the rule at issue;
X Proof that notice was sent to adjacent owners and objectors*, as required by 15A N.C.A.C. 07J .0701(c)(7);
n/a Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
X Petitioner’s written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
X 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.
X 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.

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

Signature of Petitioner or Attorney

Charles S. Baldwin, IV, Attorney for Petitioner
Printed Name of Petitioner or Attorney

115 N. 3rd Street, Suite 301
Mailing Address

Wilmington NC 28401
City State Zip

Date

9-29-21

Email address of Petitioner or Attorney

cbaldwin@brookspierce.com

Telephone Number of Petitioner or Attorney

(910) 444-2000

Fax Number of Petitioner or Attorney

(910) 444-2001
DELIVERY OF THIS HEARING REQUEST

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

Contact Information for DCM:

**By mail, express mail or hand delivery:**
Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

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

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

Contact Information for Attorney General’s Office:

**By mail:**
Environmental Division
9001 Mail Service Center
Raleigh, NC 27699-9001

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

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

Revised: July 2014
ATTACHMENTS TO
CAMA VARIANCE REQUEST FORM

Petitioner: Ronald P. Spogli, Trustee of The Ronald P. Spogli Trust

- The name and location of the development as identified on the permit application:
  
  *706 Shoals Watch, Bald Head Island, North Carolina 28461.*

- A copy of the permit decision for the development in question:
  
  See Attachment A.

- A copy of the deed to the property on which the proposed development would be located:
  
  See Attachment B.

- A complete description of the proposed development including site plan:
  
  *The proposed development is the new construction of a single-family residence (~4,500 sq. ft.). The residence will be constructed landward of the local (Bald Head Island) “sightline” setback in relation to homes on immediately adjacent lots on each side, and more than 170 feet landward from current first line of vegetation. The applicable CAMA setback currently prohibits construction Petitioner’s property within 270 feet from the first line of vegetation, which effectively renders the lot unbuildable; therefore Petitioner seeks a variance allowing construction on Petitioner’s property to occur not less than 170 feet from the first line of vegetation.*

  CAMA permit application dated August 31, 2021, and related materials (including a site plan) are enclosed as Attachment C.

- A stipulation that the proposed development is inconsistent with the rule at issue:
  
  See Attachment D.

- Proof that notice was sent to adjacent owners and objectors:
  
  See Attachment E.

- Petitioner’s written reasons and arguments about why the Petitioner meets the four variance criteria:
  
  See Attachment F.

- A draft set of proposed stipulated facts and stipulated exhibits:
  
  See Attachment G.
ATTACHMENT A
TO
CAMA VARIANCE PETITION
RONALD P. SPOGLI, TRUSTEE OF THE RONALD P. SPOGLI TRUST

PERMIT DECISION FOR THE DEVELOPMENT IN QUESTION
The Village of Bald Head Island

September 24, 2021

CERTIFIED MAIL- 7020 1290 0000 6600 0847
RETURN RECEIPT REQUESTED

Ronald Spogli
C/O Cothran Harris Architecture
5725 Oleander Drive Suite E-1
Wilmington NC 28403

RE: DENIAL OF CAMA MINOR DEVELOPMENT
PERMIT APPLICATION NUMBER 2021-07
PROJECT ADDRESS-706 Shoals Watch Way, Bald Head Island NC 28461

Dear Mr. Harris,

After reviewing the application submitted on behalf of Mr. Ronald Spogli 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 NCGS113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines. Specifically, the development for which you applied consisted of the construction of a new single-family residence that cannot meet the required development setback (30 times the shoreline erosion rate of 9 feet/year from the First Line of Stable Natural Vegetation (FLSNV)).

Your proposal is inconsistent with 15A NCAC 7H .0306 (a)(5) and .0309 (a), which state the following:

15A NCAC 07H.0306 (a)(5)- “With the exception of those types of development defined in 15A NCAC 07H.0309, no development, including and 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 setbacks shall be established based on the following criteria:...”

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

P.O. Box 3009 • BALD HEAD ISLAND, NC 28461
(910) 457-9700 • FAX (910) 457-6206 • WEBSITE: http://www.villagebhi.org
City must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours,

Stephen Boyett
Bald Head Island Development Services Director and Local Permit Officer

CC:  Ronald Spogli, 11100 Santa Monica Blvd, Los Angeles CA 90025
     Tara McPherson, Wilmington Region District Manager

Attachments:
Photos of First Line of Natural Stable Vegetation taken on July 22, 2021
Aerial Image of 706 Shoals Watch from Village GIS
ATTACHMENT B

TO

CAMA VARIANCE PETITION

RONALD P. SPOGLI, TRUSTEE OF THE RONALD P. SPOGLI TRUST

DEED TO THE PROPERTY ON WHICH THE PROPOSED DEVELOPMENT WOULD BE LOCATED
NORTH CAROLINA GENERAL WARRANTY DEED

Tax Lot No. Parcel Identifier No. 2650006213

Mail after recording to Spogli Trust, P.O. Box 8920, Rancho Santa Fe, CA 92067

This instrument was prepared by Judith A. Ward, J.D., P. O. Box 3069, Bald Head Island, NC 28465

Brief description for the Index

Lot 3226 Single Family 16, Cape Fear Station, Bald Head Island, Stage II

THIS DEED made this 8th day of August, 2003, by and between

GRANTOR

BALD HEAD ISLAND LIMITED,
a Texas Limited Partnership
P. O. Box 3069
Bald Head Island, North Carolina 28461

GRANTEE

RONALD P. SPOGLI, TRUSTEE OF
THE RONALD P. SPOGLI TRUST
P.O. Box 8920
Rancho Santa Fe, CA 92067

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

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

BEING all of Lot 3226 Single Family 16, Cape Fear Station, Bald Head Island Stage Two, as the same is shown on a map thereof duly recorded in Map Cabinet 27, Instrument 473, of the Brunswick County Registry, and as described in Amendment and Annexation to Protective Covenants by Bald Head Island Limited filed in the aforesaid Registry in Book 1733 at Page 763, as amended. It is the intent of the Grantor to convey title to the high water mark of the Atlantic Ocean, such that the southern property line of the land herein conveyed shall be co-existent with said high water mark as of the date of this conveyance.

This conveyance is made SUBJECT to the reservations, conditions and restrictions contained in Protective Covenants, Bald Head Island Stage Two, filed in the Office of the Register of Deeds for Brunswick County, North Carolina, at Book 1045, Page 0676, et seq., and to the covenants, conditions and restrictions as set forth in the aforesaid Amendment and Annexation to Protective Covenants, and to any and all addenda and amendments thereto. The Grantee, by acceptance of this Deed, agrees to abide by the covenants, conditions and restrictions set forth in said Protective Covenants, including the payment of assessments as provided for therein.
The North Carolina Public Utilities Commission has authorized Bald Head Island Utilities, Inc. to collect from each consenting owner of an unimproved lot on Bald Head Island an availability fee, which fee is as approved by the Public Utilities Commission from time to time. Grantee herein, by acceptance of this deed, for himself, his heirs, successors and assigns, agrees to make payment of such fee as may be allowed by the Public Utilities Commission of the State of North Carolina from time to time, until such time as a residence has been constructed on the lot purchased herein. Grantee herein, for himself and his heirs, successors and assigns, further agrees and acknowledges that, upon construction of such a residence, Grantee shall connect to the water and sewer utilities provided by Bald Head Island Utilities, Inc., and shall pay the connection, tap-on and utilization fees as may be approved from time to time by the North Carolina Public Utilities Commission.

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

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

Title to the property hereinabove described is subject to the following exceptions:

1. Ad valorem real property taxes for 2003 and subsequent years.
2. Assessments by the Bald Head Island Stage Two Association, Inc. for 2003 and subsequent years.
3. Protective Covenants, Bald Head Island Stage Two, filed in the Office of the Register of Deeds for Brunswick County, North Carolina, at Book 1045, Page 0676, et seq., and Amendment and Annexation filed in said Registry in Book 1733, Page 763, and all addenda and amendments thereto.
4. Easements, restrictions or rights of way shown on plat of survey filed in the Brunswick County Registry in Map Cabinet 27, Instrument 473, and any revisions thereof.
5. Any and all easements, restrictions or rights of way of record affecting said property.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be signed in its name by its duly authorized agent and representative, the day and year first above written.

Bald Head Island Limited

(seal)

Texas Limited Partnership

By: Stephen O. Robertson

(seal)

Attorney in Fact

Peggy Williams

Notary Public

My commission expires: 3/10/07

STATE OF NORTH CAROLINA
BRUNSWICK COUNTY

I, Peggy Williams, a Notary Public for said County and State, do hereby certify that Stephen O. Robertson, attorney in fact for Bald Head Island Limited, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and on behalf of the said Bald Head Island Limited, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of the Register of Deeds in the County of Brunswick, State of North Carolina, in Deed Book 1602 at Page 408, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney. I do further certify that the said Stephen O. Robertson acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and on behalf of the said Bald Head Island Limited.

WITNESS my hand and official seal, this the 15th day of August, 2003.

[Seal-stamp]

[Notary Public, North Carolina]

Notary Public

My commission expires: 3/10/07

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

The Forgoing (or annexed) Certificate(s) of

Peggy Williams

Notary(ies) Public is (are) Certified to be Correct.

This Instrument was filed for Registration on this 15th Day of August 2003 in the Book and page shown on the First Page hereof.

Robert Robinson, Register of Deeds
ATTACHMENT C
TO
CAMA VARIANCE PETITION
RONALD P. SPOGLI, TRUSTEE OF THE RONALD P. SPOGLI TRUST
CAMA PERMIT APPLICATION DATED AUGUST 31, 2021
AND RELATED MATERIALS
AEC HAZARD NOTICE

Project Is In An:  Ocean Erodeble Area  High Hazard Flood Area  Inlet Hazard Area

Property Owner:  Ron and Georgia Spogli

Property Address:  706 Shoals Watch

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.

For more information, contact:

Stephen Boyett  
Local Permit Officer  
PO Box 3009

Address  
Village of Bald Head Island

Locality  
910-457-9700

Phone Number  

Applicant Signature  09/15/2021

Date  

Revised 2/07
GENERAL INFORMATION

LAND OWNER

Name: Ronald Spogli
Address: 11100 Santa Monica Blvd
City: Los Angeles  State: CA  Zip: 90025  Phone: ____
Email: ____

AUTHORIZED AGENT

Name: Cothran Harris Architecture
Address: 5725 Oleander Drive  Suite E-1
City: Wilmington  State: NC  Zip: 28403  Phone: 910.793.3433
Email: office @cothranharris.com

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 706 Shoals Watch

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) Construct a new home

SIZE OF LOT/PARCEL: 59,116 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: 4500 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 roof/drip line of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC. Attach your calculations with the project drawing.)

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality?  YES ☐  NO ☐

If yes, list the total built upon area/impervious surface allowed for your lot or parcel. _____ square feet.
OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit. As a service we have compiled a list of the kinds of permits that might be required. We suggest you check over the list with your LPO to determine if any of these apply to your project: Zoning, 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.

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 Ronald Spogli, see Deed Book 1806 page 1219 in the Brunswick 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 and attach to this application.

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

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

(Name) (Address)
(1) James and Sherri Ruddy 2737 Founders Bridge Rd Midlothian, VA 23113
(2) David Peterson 2520 Terra Crossing Blvd Louisville, KY 40245
(3) 
(4) 

FOR DEVELOPERS IN OCEAN HAZARD AND ESTUARINE HAZARD AREAS:

I 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.

PERMISSION TO ENTER ON LAND:

I furthermore certify that I am authorized to grant, and do in fact grant, permission to the 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 application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the AEC hazard 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.

This the 31st day of August, 2021

[Signature]

Landowner or person authorized to act as his agent for purpose of filing a CAMA permit application.
Please make sure your site drawing includes the following information required for a CAMA minor development permit. The drawing may be simple and not necessarily to scale. The Local Permit Officer will help you, if requested.

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

**PHYSICAL CHARACTERISTICS**
- Draw and label mean high water mark
- Draw location of on-site wastewater system

If you will be working in the ocean hazard area:
- Draw and label dune ridges (include spot elevations)
- Draw and label toe of dune
- Identify and locate first line of stable vegetation
- Draw and label erosion setback line
- Draw and label topographical features (optional)

If you will be working in a coastal shoreline area:
- Show the roof overhand as a dotted line around the structure
- Draw and label landward limit of AEC
- Draw and label all wetland lines
- Draw and label 30-foot buffer line

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

**NOTE TO APPLICANT**
Have you:
- completed all blanks and / or indicated if not applicable?
- notified and listed adjacent property owners?
- included your site drawing?
- signed both application and statement of ownership?
- enclosed the $100.00 fee?
- completed an AEC Hazard Notice, if necessary?

---

**FOR STAFF USE**

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<tr>
<th>Site Notice Posted</th>
<th>Final Inspection</th>
<th>Fee Received</th>
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Date of Action: Issued _____ Exempted _____ Denied ____ Appeal Deadline (20 days) _______
AGENT AUTHORIZATION FOR CAMA PERMIT APPLICATION

Name of Property Owner Requesting Permit:  Ron or Georgia Spogli

Mailing Address 11100 Santa Monica Blvd. Suite 1900
Los Angeles, California 90025

Phone Number:  910-793-3433

Email Address:  charris@cothranharris.com

I certify that I have authorized Cothran Harris/ Cothran Harris Architecture
Agent / Contractor
to act on my behalf, for the purpose of applying for and obtaining all CAMA permits
necessary for the following proposed development:  A new residence

at my property located at  706 Shoals Watch
Bald Head Island, NC
In Brunswick County.

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

Property Owner Information:

____________________________________
Signature

Ron or Georgia Spogli
Print or Type Name

Property Owner
Title

Jan./  27  /  2021
Date

This certification is valid through  December 31, 2021
August 31, 2021

James and Sherri Ruddy
2737 Founders Bridge Rd
Midlothian, VA 23113

Dear Mr. and Mrs. Ruddy:

This letter is to notify you that I have applied for a CAMA permit on behalf of our client, Mr. Ronald Spogli, to construct a single family residence on his Bald Head Island property at 706 Shoals Watch, in Brunswick County, North Carolina. I have enclosed a copy of the site plan and application for the proposed project.

If you have any questions or comments, please contact the Coastal Representative listed below. If you have any objections to the proposed project, you must respond within ten days of the receipt of this certified letter. A lack of response will be considered an endorsement and the equivalent of no objection to the project.

Stephen Boyett, Local CAMA Permit Officer
Village of Bald Head Island
Bald Head Island NC 28461
910-457-9700

Sincerely,

Cameron Pease
Cothran Harris Architecture

[ ] I have no objections to the project as presently proposed.

[ ] I have objections to the project as presently proposed and have enclosed comments.

__________________________  __________________
signature                  date
August 31, 2021

David Peterson
2520 Terra Crossing Blvd
Louisville, KY 40245

Dear Mr. Peterson:

This letter is to notify you that I have applied for a CAMA permit on behalf of our client, Mr. Ronald Spogli, to construct a single family residence on his Bald Head Island property at 706 Shoals Watch, in Brunswick County, North Carolina. I have enclosed a copy of the site plan and application for the proposed project.

If you have any questions or comments, please contact the Coastal Representative listed below. If you have any objections to the proposed project, you must respond within ten days of the receipt of this certified letter. A lack of response will be considered an endorsement and the equivalent of no objection to the project.

Stephen Boyett, Local CAMA Permit Officer
Village of Bald Head Island
Bald Head Island NC 28461
910-457-9700

Sincerely,

Cameron Pease

Cameron Pease
Cothran Harris Architecture

__________ I have no objections to the project as presently proposed.

__________ I have objections to the project as presently proposed and have enclosed comments.

_________________________ signature ___________________________ date
Figure 5: Cape Fear shoreline conditions (2008-2020)
ATTACHMENT D
TO
CAMA VARIANCE PETITION
RONALD P. SPOGLI, TRUSTEE OF THE RONALD P. SPOGLI TRUST

STIPULATION

Petitioner, Ronald P. Spogli, Trustee of The Ronald P. Spogli Trust, through his attorney, Charles S. Baldwin, IV, stipulates that the proposed development that is the subject of the variance petition is inconsistent with Coastal Resources Commission Rules 15A NCAC 7H.0208(b)(6)(G)(iii) and 15 NCAC 7H.0208(b)(6)(H).
ATTACHMENT E
TO
CAMA VARIANCE PETITION
RONALD P. SPOGLI, TRUSTEE OF THE RONALD P. SPOGLI TRUST
NOTICE TO ADJACENT OWNERS AND OBJECTORS

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

OFFICIAL USE

Certified Mail Fee $3.75
Extra Services & Fees (check box, add fees as appropriate)
Return Receipt (hardcopy) $3.05
Return Receipt (electronic) $3.05
Certified Mail Restricted Delivery $3.05
Adult Signature Required $3.05
Adult Signature Restricted Delivery $3.05
Postage .53
Total Postage and Fees $7.33

Mr. David Peterson
2520 Terra Crossing Blvd.
Louisville, Kentucky 40245

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

OFFICIAL USE

Certified Mail Fee $3.75
Extra Services & Fees (check box, add fees as appropriate)
Return Receipt (hardcopy) $3.05
Return Receipt (electronic) $3.05
Certified Mail Restricted Delivery $3.05
Adult Signature Required $3.05
Adult Signature Restricted Delivery $3.05
Postage .53
Total Postage and Fees $7.33

James and Sherri Ruddy
2737 Founders Bridge Rd
Midlothian, Virginia 23113
ATTACHMENT F
TO
CAMA VARIANCE PETITION
RONALD P. SPOGLI, TRUSTEE OF THE RONALD P. SPOGLI TRUST

RESPONSE TO FOUR STATUTORY VARIANCE CRITERIA

Applicant: Ronald P. Spogli, Trustee of The Ronald P. Spogli Trust (Brunswick County, NC)  
706 Shoals Watch  
Bald Head Island, North Carolina 28461

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.

RESPONSE: Strict application of the ocean hazard setback rules and standards prescribed by the Coastal Resources Commission (the “Commission”) at 15A N.C.A.C. 7H.0306 will cause Petitioner unnecessary hardship in that such application will effectively render Petitioner’s lot, Lot 706 Shoals Watch, Bald Head Island (the “Lot”), unbuildable for residential purposes.

Petitioner purchased the Lot in 2003 from Bald Head Island Limited, the original developer of the Island. *(See General Warranty Deed, Ex. 1 to Attach. G)* At the time Petitioner purchased the Lot in 2003 it was a platted buildable lot.

Homes were constructed on the properties on each side of the Lot in 2006 and 2008. A CAMA Minor Permit was issued for each of those projects and no variance was necessary. The Lot was recently restored in Spring 2021 to approximately its original dimensions by a sand placement project. On August 31, 2021, Petitioner, via architect Cothran Harris, applied for a CAMA Minor Permit for construction of a 4,500 square foot single-family residence on the Lot. On September 24, 2021, Stephen Boyett, Bald Head Island Development Services Director and Local Permit Officer, denied the CAMA Minor Permit application as inconsistent with 15A N.C.A.C. 7H.0306. *(See Permit Denial Letter, Attachment Ex. 6 to Attach. G)* In doing so, Mr. Boyett noted that no such construction is permitted to take place within 270 feet from the first line of stable natural vegetation pursuant to 15A N.C.A.C. 7H.0306.
Applying a 270-foot setback to Petitioner’s Lot effectively renders it unbuildable, despite it being a long-standing, platted buildable lot and despite comparable single-family residences having been constructed on both of the immediately adjacent lots, in approximately the same location.

The Lot is both elevated and sizable, sitting at 20’ – 29’ above sea level in the vicinity of the project (see Boyett Affidavit, Ex. 7 to Attach. G) and being 1.36 acres. Further, the first stable natural line of vegetation should naturally move oceanward within the 140 feet of new restored dry beach. Nonetheless, a 270-foot setback from the formerly eroded condition of the first line of stable natural vegetation leaves Petitioner with effectively no room within which to build a single-family residence. Thus, strict application of the ocean hazard setback rules and standards effectively renders a once buildable lot now unbuildable, despite the Lot having accreted 140 feet oceanward to restore its condition to the robust condition of prior years. This is a significant and unnecessary hardship for Petitioner, who purchased the Lot in 2003 in expectation of one day building a home thereupon.

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

RESPONSE: The hardship endured by the Petitioner results from conditions that are peculiar to the petitioner’s property, such as timing of the setback line determination, location, size, and topography.

Petitioner’s Lot is peculiar in its location, topography, and that it is the recipient of periodic sand placement projects. It is peculiar that the condition of the Lot was in its historically most-eroded condition at the time the first natural stable vegetation line was established and the Lot had subsequently accreted approximately 140 feet oceanward at the time of Petitioner’s CAMA Minor Permit Application. The Lot will, within the next few years, likely be in compliance with the 270 foot vegetation line setback requirement, given the Lot’s newly restored approximately 540 feet dry length. The Lot was peculiarly impacted by a condition created by major storm events, beginning with Hurricane Matthew in 2016 through Hurricane Isaias in the Fall of 2020, prior to the Corps of Engineers 2021 sand placement project. The owner of the home located at 704 Shoals Watch, Bald Head Island, which is next to the Lot, has planted vegetation, including in front of the Lot, to help reestablish oceanward the first line of stable vegetation. The sand placement project conducted by the Corps of Engineers was recent enough that the first line of established vegetation on the Lot has not yet returned to where it generally has been naturally and in recent history. (See Historical Comparison of Imagery, Ex. 10 to Attach. G).

The ocean hazard setback rules and standards promulgated by the Commission set the erosion setback line at a distance of either 60 feet or 30 times the long-term annual erosion rate, whichever is greater, from the first line of stable natural vegetation. See 15A N.C.A.C.
The specific location of the Lot on Bald Head Island renders the applicable ocean hazard setback particularly high, relative to many other lots on the Island. The long-term annual erosion rate, or setback factor, at the Lot is currently 9 feet/year; whereas, the factors assigned to the other lots on South Beach range from 2 feet/year to 7 feet/year. See N.C. Div. of Coastal Mgmt., Interactive Map Viewer, N.C. Div. of Env’t Res., https://www.ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=f5e463a929ed430095e0a17ff803e156. The setback formula does not consider or make allowance for elevation of the structure. Here, the home would be located in a peculiarly protected and safe location on top of an ancient sand dune at 20-29 foot elevation. (See Boyett Affidavit, Attachment Ex. 7 to Attach. G) The peculiar topography of the Lot demonstrates that it is substantially better protected than most other oceanfront lots.

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

RESPONSE: The hardships endured do not result from any actions taken by the Petitioner. Petitioner has not caused the historically eroded condition of the Lot at the time the vegetation setback line was established. Major storm events, beginning with Hurricane Matthew in 2016 through Hurricane Isaias in the fall of 2020 caused South Beach, including the eastern portion of the South Beach shoreline in the front of the Lot, to recede. One effect of this hurricane-induced erosion was to push the natural stable vegetation line in the area of Petitioner’s Lot landward.

The owners of the homes neighboring Petitioner, at 704 Shoals Watch and at 710 Shoals Watch, received their Certificates of Occupancy on September 13, 2006 and May 28, 2008, respectively. Variances were not required for these two owners to build their homes upon their lots, despite the fact that the rules and standards promulgated by the Commission then provided that the erosion setback line must be set at a distance of 30 times the long-term annual erosion rate from the first line of stable natural vegetation. See 15A N.C.A.C. 7H.0306(a)(1) (effective 11/01/2004). That the long-term annual erosion rate applicable at the time that the two adjacent property owners built on their lots enabled them to build without first seeking a variance demonstrates that the hardship endured by Petitioner is a result of hurricane and storm impacts rather than actions taken by Petitioner.

(d) Will the variance requested by the petition:

(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

(3) Preserve substantial justice
RESPONSE: The variance requested by Petitioner is consistent with the spirit, purpose, and intent of the ocean hazard setback rules and standards prescribed by the Commission at 15A N.C.A.C. 7H.0306, secures the public safety and welfare, and preserves substantial justice. The house Petitioner intends to construct is in keeping with the structures in the area, and will be built in line with (i.e., not oceanward of) the immediately adjacent houses on each side of the Lot. No prior construction has taken place on the Lot since Petitioner purchased the Lot in 2003.

The proposed development is the new construction of a single-family residence (~4,500 sq. ft.). The residence will be constructed at 20’-29’ elevation (see Boyett Affidavit, Ex. 7 to Attach. G), landward of the local (Bald Head Island) “sightline” setback in relation to homes on immediately adjacent lots on each side (see Site Plan, Ex. 8 to Attach. G), more than 170 feet landward from current first line of stable natural vegetation, and 290 feet from the flood zone VE boundary. Such project is both safe and consistent with development in the area.

The applicable setback currently prohibits construction on Petitioner’s property within 270 feet from the first line of stable natural vegetation, effectively rendering the lot unbuildable despite it being a long-standing platted buildable lot. Beach nourishment in 2021 caused the lot to accrete oceanward by approximately 140 feet. Therefore, Petitioner seeks a variance allowing construction on Petitioner’s property to occur not less than 170 feet from the first line of stable, naturally occurring vegetation as identified by the local permit officer.

The Management Objective of Ocean Hazard Areas provides that the spirit, purpose, and intent of the rules and standards set forth in 15A N.C.A.C. 7H are to “minimize losses to life and property resulting from storms and long-term erosion, prevent encroachment of permanent structures on public beach areas, preserve the natural ecological conditions of the barrier dune and beach systems, and reduce the public costs of development within ocean hazard areas, and protect common-law and statutory public rights of access to and use of the lands and waters of the coastal area.” 15A N.C.A.C. 7H.0303(b).

The elevated lot, and the position of the structure on it is protected and safe. The Lot is approximately 540 feet in length. The structure will not encroach on the dry sand beach. Construction of a house would further use of the beach and public trust resources. The owners of the homes constructed on each of the two adjacent lots have never had to install sandbags to protect the sand dunes or their homes, despite the many powerful storms that have impacted Bald Head Island over the past two decades.

Further, the Lot will continue to benefit from sand placement projects. Pursuant to the 2000 Sand Management Plan between and among the U.S. Army Corps of Engineers, Bald Head Island, Oak Island, Caswell Beach and the State of North Carolina, sand from maintenance dredging of the Wilmington Harbor Shipping Channel is placed on two (2)
out of three (3) cycles on the beaches of Bald Head Island, with the third cycle going to Oak Island and Caswell Beach. In the third dredging cycle where sand is placed on Oak Island and Caswell Beach, the Village of Bald Head Island has self-funded a sand placement project with a private contractor to maintain its beaches and its engineered beach profile.

Finally, the variance preserves substantial justice. The Lot was platted and sold by the original developers of Bald Head Island as a buildable lot. Petitioner does not seek to create a buildable lot where there was none, or to build a structure unlike those found on Petitioner’s neighbors’ lots. Alternatively, without the variance, Petitioner would have little to no use of the Lot, given that Petitioner would be rendered unable to build any sort of residence thereupon. There is clearly a large, 1.36 acres, elevated, buildable lot with the misfortune of the first natural stable vegetation line being set between sand placement projects and following several years of bad hurricanes.
STIPULATED EXHIBITS

1. Deed of Purchase (Brunswick County Registry Book 1806, Page 1219)
2. Plat (Brunswick County Registry Map Cabinet 27, Instrument 473)
3. Topographic survey of the Lot of Walter B. Cavedo Land Surveying, including Flood Zones
4. Erosion Rate transect overlain on aerial
5. New 2021 Static Line Map
6. DCM historic shorelines overlain on aerial
7. Olsen diagram of 2021 before and after shorelines
8. MHWL Survey by McKim & Creed in May 2021 in vicinity of Station 206+00 (B-52)
9. Boyette Affidavit and exhibits
10. CAMA Minor Permit Application materials
11. Notice of permit application and tracking information
12. Re-notice information and tracking
13. September 24, 2021 CAMA Minor Permit denial letter
14. Sightline Setback drawing
15. 704’s Certificate of Occupancy
16. 710’s Certificate of Occupancy and CAMA permit
17. Notice of Variance Petition and tracking information
18. Olsen Associates, Inc. photo of Lot with MHWL overlay from November 2021 aerial and survey data
19. Cothran Harris Architecture Site Plan showing MHWL and vegetation line setback distances using November 2021 Aerial and Survey data
20. Photos of 706 Shoals Watch – July 16, 2021
21. Photo of Lot taken November 25, 2021
22. Powerpoint with ground and aerial photos of the Lot including historic shoreline imagery for 2010, 2012, 2016 and 2020 from DCM’s maps
NORTH CAROLINA GENERAL WARRANTY DEED

Tax Lot No. ____________________________ Parcel Identifier No. 2650006213

Mail after recording to: Spogli Trust, P.O. Box 8920, Rancho Santa Fe, CA 92067

This instrument was prepared by Judith A. Ward, J.D., P. O. Box 3069, Bald Head Island, NC 28461

Brief description for the Index:
Lot 3226 Single Family 16, Cape Fear Station, Bald Head Island, Stage II

THIS DEED made this 8th day of August, 2003, by and between

GRANTOR

Bald Head Island Limited,
A Texas Limited Partnership
P. O. Box 3069
Bald Head Island, North Carolina 28461

GRANTEE

Ronald P. Spogli, Trustee of
The Ronald P. Spogli Trust
P. O. Box 8920
Rancho Santa Fe, CA 92067

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

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

BEING all of Lot 3226 Single Family 16, Cape Fear Station, Bald Head Island Stage Two, as the same is shown on a map thereof duly recorded in Map Cabinet 27, Instrument 473, of the Brunswick County Registry, and as described and included in Amendment and Annexation to Protective Covenants by Bald Head Island Limited filed in the aforesaid Registry in Book 1733 at Page 763, as amended. It is the intent of the Grantor to convey title to the high water mark of the Atlantic Ocean, such that the southern property line of the land herein conveyed shall be coexistent with said high water mark as of the date of this conveyance.

This conveyance is made SUBJECT to the reservations, conditions and restrictions contained in Protective Covenants, Bald Head Island Stage Two, filed in the Office of the Register of Deeds for Brunswick County, North Carolina, at Book 1045, Page 0676, et seq., and to the covenants, conditions and restrictions as set forth in the aforesaid Amendment and Annexation to Protective Covenants, and to any and all addenda and amendments thereto. The Grantee, by acceptance of this Deed, agrees to abide by the covenants, conditions and restrictions set forth in said Protective Covenants, including the payment of assessments as provided for therein.
The North Carolina Public Utilities Commission has authorized Bald Head Island Utilities, Inc. to collect from each consenting owner of an unimproved lot on Bald Head Island an availability fee, which fee is as approved by the Public Utilities Commission from time to time. Grantor herein, by acceptance of this deed, for himself, his heirs, successors and assigns, agrees to make payment of such fee as may be allowed by the Public Utilities Commission of the State of North Carolina from time to time, until such time as a residence has been constructed on the lot purchased herein. Grantor herein, for himself and his heirs, successors and assigns, further agrees and acknowledges that, upon construction of such a residence, Grantor shall connect to the water and sewer utilities provided by Bald Head Island Utilities, Inc., and shall pay the connection, tap-on and utilization fees as may be approved from time to time by the North Carolina Public Utilities Commission.

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

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

Title to the property hereinabove described is subject to the following exceptions:

1. Ad valorem real property taxes for 2003 and subsequent years.
2. Assessments by the Bald Head Island Stage Two Association, Inc. for 2003 and subsequent years.
3. Protective Covenants, Bald Head Island Stage Two, filed in the Office of the Register of Deeds for Brunswick County, North Carolina, at Book 1045, Page 0676, et seq., and Amendment and Annexation filed in said Registry in Book 1733, Page 763, and all addenda and amendments thereto.
4. Easements, restrictions or rights of way shown on plat of survey filed in the Brunswick County Registry in Map Cabinet 27, Instrument 473, and any revisions thereof.
5. Any and all easements, restrictions or rights of way of record affecting said property.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be signed in its name by its duly authorized agent and representative, the day and year first above written.

BALD HEAD ISLAND LIMITED
a Texas Limited Partnership

By: ____________________________ (SEAL)

Stephen O. Robertson
Attorney in Fact

STATE OF NORTH CAROLINA
BRUNSWICK COUNTY

I, Peggy Williams, a Notary Public for said County and State, do hereby certify that Stephen O. Robertson, attorney in fact for Bald Head Island Limited, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and on behalf of the said Bald Head Island Limited, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of the Register of Deeds in the County of Brunswick, State of North Carolina, in Deed Book 1602 at Page 408, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney. I do further certify that the said Stephen O. Robertson acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and on behalf of the said Bald Head Island Limited.

WITNESS my hand and official seal, this the _8_ day of August, 2003.

[SEAL-STAMP]

Notary Public
My commission expires: 3/10/07

Peggy Williams

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

The Forgoing (or annexed) Certificate(s) of

Notary(ies) Public is (are) Certified to be Correct.
This Instrument was filed for Registration on this
in the Book and page shown on the First Page hereof.

Robert J. Robinson, Register of Deeds
Note: This map illustrates parcel boundaries at Bald Head Island and historic ocean shoreline positions between 1942 to 2020. During this period, shorelines have moved in a "landward" (NE) direction resulting in an erosional trend relative to existing structures.
STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

AFFIDAVIT OF STEPHEN BOYETT

Comes now the Affiant, and being duly sworn, states as follows:

1. I am the Development Services Director of the Village of Bald Head Island ("Village"). I have been employed in this position since July 2005, and prior to that, as the assistant to the Building Inspector, since in or about July 2004.

2. I serve as the CAMA Local Permit Officer for Bald Head Island.

3. I am familiar with CAMA and building requirements on Bald Head Island.

4. I am personally familiar with and have visited Lot 706 Shoals Watch, Bald Head Island (the "Lot").

5. In my role as CAMA Local Permit Officer, on September 24, 2021, I denied the application for a single-family residence to be constructed on the Lot due to the current inability to meet the CAMA setback requirements of 15A NCAC 7H .0306.

6. I have reviewed the site plan submitted for a house to be constructed on the Lot, attached hereto as Exhibit A.

7. The location of the house to be constructed on the Lot is in line with and not oceanward of the neighboring houses on each side of the Lot shown on Exhibit A.

8. As a result of the sand placement project, the mean high water line at the Lot has accreted approximately 140 feet as shown on the schematic prepared by Olsen Associates, Inc. attached hereto as Exhibit B, which depicts the May 2021 condition of the beach.

9. The Village is committed to maintaining an engineered beach with periodic sand placements at Bald Head Island pursuant to the 2000 Sand Management Plan with the US Army Corps of Engineers (USACE) and supplemental Village funded sand placements. The next USACE sand placement may occur in 2023 or 2024, depending on shipping channel shoaling. The next Village funded sand placement may occur in 2027 or 2028 and the Village is budgeting for the project.

10. I am aware that the owner of the home located at 704 Shoals Watch, Bald Head Island, which is next to the Lot, has planted vegetation, including in front of the Lot, to help reestablish oceanward the first line of stable vegetation.

11. The Lot elevation in the vicinity of the proposed construction is approximately 20-29 feet as shown on the topographic survey of Walter B. Cavedo Land Surveying, Exhibit C hereto.
12. The proposed construction is located a substantial distance from the flood zone boundary, as also depicted on Exhibit C hereto.

Further Affiant sayeth not.

This the 6th day of April, 2022.

[Signature]

Stephen Boyett

State of North Carolina
County of Brunswick

Sworn to and subscribed before me on this 8th day of April 2022.

Regina M. Hinson
Notary Public

(Typed/Printed Name of Notary Public)

My Commission Expires: 10/31/2022

(NOTARIAL SEAL/STAMP)

REGINA M HINSON
BRUNSWICK COUNTY, NC
GENERAL INFORMATION

LAND OWNER

Name: Ronald Spogli

Address: 11100 Santa Monica Blvd

City: Los Angeles State: CA Zip: 90025 Phone: ____

Email: ____

AUTHORIZED AGENT

Name: Cothran Harris Architecture

Address: 5725 Oleander Drive, Suite E-1

City: Wilmington State: NC Zip: 28403 Phone: 910.793.3433

Email: office@cothranharris.com

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 706 Shoals Watch

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) Construct a new home

SIZE OF LOT/PARCEL: 59,116 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: 4500 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 roof/drip line of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC. Attach your calculations with the project drawing.)

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality? YES ☐ NO ☐

If yes, list the total built upon area/impervious surface allowed for your lot or parcel. ____ square feet.
OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit. As a service we have compiled a listing of the kinds of permits that might be required. We suggest you check over the list with your LPO to determine if any of these apply to your project. Zoning, 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.

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 Ronald Spogli, see Deed Book 1806 page 1219 in the Brunswick 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 and attach to this application.

____

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

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

(Name) (Address)

(1) James and Sherri Ruddy 2737 Founders Bridge Rd Midlothian, VA 23113
(2) David Peterson 2520 Terra Crossing Blvd Louisville, KY 40245
(3) 
(4) 

FOR DEVELOPERS IN OCEAN HAZARD AND ESTUARINE HAZARD AREAS:

I 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.

PERMISSION TO ENTER ON LAND:

I furthermore certify that I am authorized to grant, and do in fact grant, permission to the 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 application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the AEC hazard 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.

This the 31st day of August, 2021

[Signature]

Landowner or person authorized to act as his agent for purposes of filing a CAMA permit application
SITE DRAWING/APPLICATION CHECKLIST

Please make sure your site drawing includes the following information required for a CAMA minor development permit. The drawing may be simple and not necessarily to scale. The Local Permit Officer will help you, if requested.

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

PHYSICAL CHARACTERISTICS
- Draw and label mean high water mark
- Draw location of on-site wastewater system

If you will be working in the ocean hazard area:
- Draw and label dune ridges (include spot elevations)
- Draw and label toe of dune
- Identify and locate first line of stable vegetation
- Draw and label erosion setback line
- Draw and label topographical features (optional)

If you will be working in a coastal shoreline area:
- Show the roof overhand as a dotted line around the structure
- Draw and label landward limit of AEC
- Draw and label all wetland lines
- Draw and label 30-foot buffer line

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

NOTE TO APPLICANT

Have you:
- completed all blanks and / or indicated if not applicable?
- notified and listed adjacent property owners?
- included your site drawing?
- signed both application and statement of ownership?
- enclosed the $100.00 fee?
- completed an AEC Hazard Notice, if necessary?

FOR STAFF USE

Site Notice Posted ______ Final Inspection ______ Fee Received ______

Site Inspections
__________________________
__________________________
__________________________

Date of Action: Issued ______ Exempted ______ Denied ______ Appeal Deadline (20 days) ______
AGENT AUTHORIZATION FOR CAMA PERMIT APPLICATION

Name of Property Owner Requesting Permit: Ron or Georgia Spogli

Mailing Address: 11100 Santa Monica Blvd. Suite 1900
Los Angeles, California 90025

Phone Number: 910-793-3433

Email Address: charris@cothranharris.com

I certify that I have authorized Cothran Harris/ Cothran Harris Architecture
Agent / Contractor

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

at my property located at 706 Shoals Watch
Bald Head Island, NC

In Brunswick County.

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

Property Owner Information:

[Signature]

Ron or Georgia Spogli
Print or Type Name

Property Owner
Title

Jan. / 27 / 2021
Date

This certification is valid through December 31, 2021
AEC HAZARD NOTICE

Project Is In An: X Ocean Erodible Area  High Hazard Flood Area  Inlet Hazard Area

Property Owner: Ron and Georgia Spogli

Property Address: 706 Shoals Watch

Date Lot Was Platted: 4/17/2003

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 9 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 600 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 91 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.

For more information, contact:

Stephen Boyett
Local Permit Officer
PO Box 3009
Address
Village of Bald Head Island
Locality
910-457-9700
Phone Number

09/15/2021
Applicant Signature

Revised 2/07
August 31, 2021

David Peterson  
2520 Terra Crossing Blvd  
Louisville, KY 40245

Dear Mr. Peterson:

This letter is to notify you that I have applied for a CAMA permit on behalf of our client, Mr. Ronald Spogli, to construct a single family residence on his Bald Head Island property at 706 Shoals Watch, in Brunswick County, North Carolina. I have enclosed a copy of the site plan and application for the proposed project.

If you have any questions or comments, please contact the Coastal Representative listed below. If you have any objections to the proposed project, you must respond within ten days of the receipt of this certified letter. A lack of response will be considered an endorsement and the equivalent of no objection to the project.

Stephen Boyett, Local CAMA Permit Officer  
Village of Bald Head Island  
Bald Head Island NC 28461  
910-457-9700

Sincerely,

Cameron Pease  
Cothran Harris Architecture

[signature]  
[signature]

__________ I have no objections to the project as presently proposed.

__________ I have objections to the project as presently proposed and have enclosed comments.

_____________________________     ___________________  
signature  date
August 31, 2021

James and Sherri Ruddy
2737 Founders Bridge Rd
Midlothian, VA 23113

Dear Mr. and Mrs. Ruddy:

This letter is to notify you that I have applied for a CAMA permit on behalf of our client, Mr. Ronald Spogli, to construct a single family residence on his Bald Head Island property at 706 Shoals Watch, in Brunswick County, North Carolina. I have enclosed a copy of the site plan and application for the proposed project.

If you have any questions or comments, please contact the Coastal Representative listed below. If you have any objections to the proposed project, you must respond within ten days of the receipt of this certified letter. A lack of response will be considered an endorsement and the equivalent of no objection to the project.

Stephen Boyett, Local CAMA Permit Officer
Village of Bald Head Island
Bald Head Island NC 28461
910-457-9700

Sincerely,

Cameron Pease
Cothran Harris Architecture

_______ I have no objections to the project as presently proposed.

_______ I have objections to the project as presently proposed and have enclosed comments.

________________________ ____________________
signature date
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**Sent To:**

- **David Peterson**
  - 1300 Terra Crossing Blvd
  - Louisville, KY 40295

**Sent To:**

- **James & Sherri Buddy**
  - 2737 Founders Bridge Rd.
  - Midlothian, VA 23113
Delivered
Friday, 12/17/2021 at 11:06 am

FROM
Wilmington, NC US

TO
Midlothian, VA US

Travel History

Friday, December 17, 2021

11:06 AM
Midlothian, VA
Delivered
Package delivered to recipient address - release authorized

9:39 AM
MECHANICSVILLE, VA
On FedEx vehicle for delivery

8:43 AM
MECHANICSVILLE, VA
At local FedEx facility

Thursday, December 16, 2021

8:37 PM
RICHMOND, VA
At destination sort facility

6:06 PM
MEMPHIS, TN
Departed FedEx hub

9:45 AM
MEMPHIS, TN
Arrived at FedEx hub

Wednesday, December 15, 2021

1/2
1/4/22, 9:04 AM  
8:08 PM  
WILMINGTON, NC  
At FedEx origin facility

5:51 PM  
WILMINGTON, NC  
Picked up

3:53 PM  
WILMINGTON, NC  
Shipment information sent to FedEx

4:53 PM  
WILMINGTON, NC  
Picked up  
Tendered at FedEx Office

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The Village of Bald Head Island

September 24, 2021

CERTIFIED MAIL- 7020 1290 0000 6600 0847
RETURN RECEIPT REQUESTED

Ronald Spogli
C/O Cothran Harris Architecture
5725 Oleander Drive Suite E-1
Wilmington NC 28403

RE: DENIAL OF CAMA MINOR DEVELOPMENT
PERMIT APPLICATION NUMBER 2021-07
PROJECT ADDRESS-706 Shoals Watch Way, Bald Head Island NC 28461

Dear Mr. Harris,

After reviewing the application submitted on behalf of Mr. Ronald Spogli in conjunction with the development standards required by the Coastal Area Management Act (CAMA) and out 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 NCGS113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines. Specifically, the development for which you applied consisted of the construction of a new single-family residence that cannot meet the required development setback (30 times the shoreline erosion rate of 9 feet/year from the First Line of Stable Natural Vegetation (FLSNV)).

Your proposal is inconsistent with 15A NCAC 7H .0306 (a)(5) and .0309 (a), which state the following:

15A NCAC 07H.0306 (a)(5)- “With the exception of those types of development defined in 15A NCAC 07H.0309, no development, including and 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 setbacks shall be established based on the following criteria:....”

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

P.O. Box 3009 • BALD HEAD ISLAND, NC 28461
(910) 457-9700 • FAX (910) 457-6206 • WEBSITE: http://www.villagebhi.org
Ronald Spogli  
C/O Cothran Harris Architecture  
2021-07  
September 24, 2021  
Page two

City must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours,

[Signature]

Stephen Boyett  
Bald Head Island Development Services Director and Local Permit Officer

CC: Ronald Spogli, 11100 Santa Monica Blvd, Los Angeles CA 90025  
    Tara McPherson, Wilmington Region District Manager

Attachments:  
Photos of First Line of Natural Stable Vegetation taken on July 22, 2021  
Aerial Image of 706 Shoals Watch from Village GIS
First line of established vegetation flagged by CAMA officer, Stephen Boyett, on 09-01-2020.

First line verified again on 07-22-21 by Stephen Boyett.
The Village of Bald Head Island
Building Inspections Department

INSPECTION SERVICES
CERTIFICATE OF OCCUPANCY

BUILDING PERMIT NO.: 040045 Date: 09-13-2006

ADDRESS: 704 Shoals Watch
Parcel # 2650006214
Lot# 3228

OWNER: Michael and Laura Brader-Araje

CONTRACTOR: Dudley Builders

THIS IS TO CERTIFY THAT THE WORK AUTHORIZED BY BUILDING PERMIT # 040045 HAS BEEN COMPLETED IN SUBSTANTIAL COMPLIANCE WITH THE STATE BUILDING CODE AND IN THE OPINION OF THE INSPECTION DEPARTMENT COMPLIES WITH APPLICABLE STATE AND LOCAL LAWS, AND LOCAL ORDINANCES AND REGULATIONS. THIS CERTIFICATION RESULTS FROM HAVING MADE AT LEAST THE MINIMUM INSPECTIONS MANDATED BY SECTION 306 OF VOLUME 1A OF THE BUILDING CODE. IT SHALL BE RECOGNIZED THAT THE INSPECTION DEPARTMENT DID NOT HAVE A CONSTANT PRESENCE ON THE SITE AND THE INSPECTION PROCESS CAN NOT BE A SUBSTITUTE FOR CONTRACTOR RESPONSIBILITY.

PERMISSION TO OCCUPY THE STRUCTURE IS GRANTED.

STEPHEN BOYETT
BUILDING INSPECTOR

P.O. BOX 3009 • BALD HEAD ISLAND, NC 28461 • (910) 457-6255 • FAX (910) 457-6206
E-MAIL: sboyett@villagebhi.org • WEBSITE: http://www.villagebhi.org
The Village of Bald Head Island

INSPECTIONS DEPARTMENT

BUILDING PERMIT

Type: (X) New Construction  ( ) Alterations  ( ) Repairs  ( ) Other

Owner / Contractor: Michael S. Broek-Ray / Watch

Address: 204 Sneads Watch

Location: Lot # 2228, Parcel # 34560060314

Attached to and forming a part of this application are the following:

(X) Topographic Survey of lot or building area showing elevation contours and one set of plans.

(X) Approved CAMA Minor Development Permit (if applicable).

(X) Site Plan showing set backs and location of the structure, driveways, dunes, shrubs, water source, sewage disposal plan and etc.

Description of Work: 2 story single family home with attached 2 story car garage/croft

Residential

Heated area 2,142 sq. ft. @ $155/sq. ft.  $28,010.00

Covered area 1,008 sq. ft. @ $75/sq. ft.  $75,600.00

Uncovered area 2,800 sq. ft. @ $55/sq. ft.  $154,000.00

Commercial

Bedrooms 7

Bathrooms 1

LOCATION

Lot #: 2228

FEE STRUCTURE

(1) Building Permit Fees: Based on valuation:

$0 - 5,000  =  $60

$5,000 - 15,000  =  $100

$15,000 - 25,000  =  $150

$25,000 - 30,000  =  $225

Valuation in excess of $30,000  =  $325

(2) A non-interest bearing clean-up deposit of $500.00 per living unit shall be required to insure that the construction area is kept clean. Upon completion of the project, if the area is sufficiently free of debris, the remaining uninsured deposit will be returned to the owner or contractor who made the deposit.

$500

(3) A fee of $35.00 will be charged for a Certificate of Occupancy and Compliance which will be issued when the work has been satisfactorily completed and inspected by the Building Inspector and applicable utility tap fees have been paid. List of subcontractors with license numbers required.

$35

(4) Homeowner’s Recovery Fund (see attached)

$10

(5) Total permit fee payable to The Village of Bald Head Island

#7488 11-8-04 90

Flood Zone Information: Structure located in X Flood Zone. (see FEMA regulations)

Elevation Certificate IS @ IS NOT Required

CERTIFICATION

I (we) agree to conform to the building restrictions of The Village of Bald Head Island Planning Board and the North Carolina Building Code including the wind resistance requirements therein.

I (we) agree that the ground floor of area under the base flood elevation is to be used for storage purposes only and that no habitable areas will be allowed. No bathrooms, electrical outlets, washing machines, dryers, water heaters, refrigerators, freezers, recreation rooms or similar use will be permitted. Enclosure will be approved with breakaway walls only.

I (we) agree to take full responsibility for all sub-contractors on this job. Unnecessary noise from radios, violations of conduct rules such as speeding, reckless driving or littering will result in a “stop-work” order until the condition is corrected by the contractor.

I (we) have read and agree to the stated conditions that are outlined in the granting of this building permit by The Village of Bald Head Island.

DATE 11/8/04 SIGNED BY: (Owner)

DATE 11/8/04 SIGNED BY: (Contractor)

N.C. LICENSE # ADDRESS / PHONE:

IMPORTANT NOTICE: Compliance with The Village Building Permit does not necessarily assure compliance with the private restrictive covenants applicable to each lot. The owner should take extra precaution to make sure that he has complied with all private restrictive covenants applicable to the property prior to undertaking construction.

Building Inspector: Build Bureau

Date: 11-8-04

* SEE SPECIAL CONDITIONAL PERMIT APPLICATION FOR EARLY OCCUPANCY *
FEDERAL EMERGENCY MANAGEMENT AGENCY
NATIONAL FLOOD INSURANCE PROGRAM

ELEVATION CERTIFICATE

Important: Read the instructions on pages 1 - 7.

SECTION A - PROPERTY OWNER INFORMATION

For Insurance Company Use:
Policy Number
Company NAIC Number

BUILDING OWNER'S NAME:
Michael A. Brader-Araje and Laura A. Brader Araje

BUILDING STREET ADDRESS (Including Apt., Unit, Suite, and/or Bldg. No.) OR P.O. ROUTE AND BOX NO.
704 Shoals Watch

CITY
Bald Head Island

STATE
NC

ZIP CODE
28461

PROPERTY DESCRIPTION (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.)
Lot 3228 - Single Family Lot 16 - Cape Fear Station; Map Cabinet 27 page 473; Deed Book 1752 page 657

BUILDING USE (e.g., Residential, Non-residential, Addition, Accessory, etc. Use a Comments area, if necessary.)
Residential

LATITUDE/LONGITUDE (OPTIONAL) HORIZONTAL DATUM:
 SOURCE: NAD 1927
 NAD 1983
 USGS Quad Map
 Other: ______

SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1. NFIP COMMUNITY NAME & COMMUNITY NUMBER
Village of Bald Head Island 37044

B2. COUNTY NAME
Brunswick

B3. STATE
NC

B4. MAP AND PANEL NUMBER
370442 0005

B5. SUFFIX
F

B6. FIRM INDEX DATE
08/1992

B7. FIRM PANEL EFFECTIVE/REVISED DATE
05/03/03

B8. FLOOD ZONE(S)
X

B9. BASE FLOOD ELEVATION(S)
(Zone AO, use depth of flooding)

B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in B9.

□ FIS Profile
 □ FIRM
 □ Community Determined
 □ Other (Describe):____

B11. Indicate the elevation datum used for the BFE in B9: NGVD 1929
 NAVD 1988
 Other (Describe):____

B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)?

□ Yes □ No Designation Date____

SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

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

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

C2. Building Diagram Number
(Select the building diagram most similar to the building for which this certificate is being completed - see pages 6 and 7. If no diagram accurately represents the building, provide a sketch or photograph.)


Complete Items C3.a-i below according to the building diagram specified in Item C2. State the datum used. If the datum is different from the datum used for the BFE in Section B, convert the datum to that used for the BFE. Show field measurements and datum conversion calculation. Use the space provided or the Comments area of Section D or Section G, as appropriate, to document the datum conversion.

Datum ______ Conversion/Comments ______

Elevation reference mark used BH-3 Does the elevation reference mark used appear on the FIRM? □ Yes □ No

o a) Top of bottom floor (including basement or enclosure) 23. 12 ft. (m)
 o b) Top of next higher floor 28. 79 ft. (m)
 o c) Bottom of lowest horizontal structural member (V zones only) na... ft. (m)
 o d) Attached garage (top of slab) na... ft. (m)
 o e) Lowest elevation of machinery and/or equipment servicing the building (Describe in a Comments area) 27. 65 ft. (m)
 o f) Lowest adjacent (finished) grade (LAG) 16. 8 ft. (m)
 o g) Highest adjacent (finished) grade (HAG) 29. 4 ft. (m)
 o h) No. of permanent openings (flood vents) within 1 ft. above adjacent grade na
 o i) Total area of all permanent openings (flood vents) in C3.h na sq. in. (sq. cm)

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.

I certify that the information in Sections A, B, and C on this certificate represents my best efforts to interpret the data available.

I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

CERTIFIER'S NAME Walter B. Cavedo
LICENSE NUMBER L-4098

ADDRESS 101 N. 23rd Street

CITY Wilmington
STATE NC
ZIP CODE 28405

DATE 05/11/06
TELEPHONE 910-763-1015
SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION (CONTINUED)

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

COMMENTS

Building is newly constructed two story frame residence on pilings with ground level partially enclosed. Elevation in sec. C3a is to slab in that small enclosure. The elevation in C3b is to small lower split level first floor. Most of first floor is at 31.00'. There is an unattached mother-in-law suite. The equipment in sec. C3e is to bottom of air handling unit hanging above slab in the small enclosure. There is an unattached mother-in-law suite next to house.

SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)

For Zone AO and Zone A (without BFE), complete Items E1 through E4. If the Elevation Certificate is intended for use as supporting information for a LOMA or LOMR-F, Section C must be completed.

E1. Building Diagram Number (Select the building diagram most similar to the building for which this certificate is being completed – see pages 6 and 7. If no diagram accurately represents the building, provide a sketch or photograph.)

E2. The top of the bottom floor (including basement or enclosure) of the building is _ ft.(m) _ in.(cm) above or _ below (check one) the highest adjacent grade. (Use natural grade, if available).

E3. For Building Diagrams 6-8 with openings (see page 7), the next higher floor or elevated floor (elevation b) of the building is _ ft.(m) _ in.(cm) above the highest adjacent grade. Complete items C3.h and C3.i on front of form.

E4. The top of the platform of machinery and/or equipment servicing the building is _ ft.(m) _ in.(cm) above or _ below (check one) the highest adjacent grade. (Use natural grade, if available).

E5. For Zone AO only: Is the top of the bottom floor elevated in accordance with the community’s floodplain management ordinance?  Yes  No  Unknown. The local official must certify this information in Section G.

SECTION F - PROPERTY OWNER (OR OWNER’S REPRESENTATIVE) CERTIFICATION

The property owner or owner’s authorized representative who completes Sections A, B, C (Items C3.h and C3.i only), and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. The statements in Sections A, B, C, and E are correct to the best of my knowledge.

PROPERTY OWNER’S OR OWNER’S AUTHORIZED REPRESENTATIVE’S NAME

ADDRESS  CITY  STATE  ZIP CODE

SIGNATURE  DATE  TELEPHONE

COMMENTS

SECTION G - COMMUNITY INFORMATION (OPTIONAL)

The local official who is authorized by law or ordinance to administer the community’s floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below.

G1. The information in Section C was taken from other documentation that has been signed and embossed by a licensed surveyor, engineer, or architect who is authorized by state or local law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)

G2. A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. The statements in Sections A, B, C, and E are correct to the best of my knowledge.

G3. The following information (Items G4-G9) is provided for community floodplain management purposes.

G4. PERMIT NUMBER  G5. DATE PERMIT ISSUED  G6. DATE CERTIFICATE OF COMPLIANCE/OCCUPANCY ISSUED

G7. This permit has been issued for:  New Construction  Substantial Improvement

G8. Elevation of as-built lowest floor (including basement) of the building is:  _ _ _ ft.(m)  Datum:___

G9. BFE or (in Zone AO) depth of flooding at the building site is:  _ _ _ ft.(m)  Datum:___

LOCAL OFFICIAL’S NAME  TITLE

COMMUNITY NAME  TELEPHONE

SIGNATURE  DATE

COMMENTS

☐ Check here if attachments
FEDERAL EMERGENCY MANAGEMENT AGENCY
NATIONAL FLOOD INSURANCE PROGRAM
ELEVATION CERTIFICATE

Important: Read the instructions on pages 1 - 7.

SECTION A - PROPERTY OWNER INFORMATION

BUILDING OWNER'S NAME:
Michael A. Brader-Araje and Laura A. Brader Araje

BUILDING STREET ADDRESS (Including Apt, Unit, Suite, and/or Bldg. No.) OR P.O. ROUTE AND BOX NO.
704 Shoals Watch - Unattached Building Near Main Residence

CITY
Bald Head Island

PROPERTY DESCRIPTION (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.)
Lot 3228 - Single Family 16 - Cape Fear Station; Map Cabinet 27 page 473; Deed Book 1752 page 657

BUILDING USE (e.g., Residential, Non-residential, Addition, Accessory, etc. Use a Comments area, if necessary.)
Accessory

SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1. NFIP COMMUNITY NAME & COMMUNITY NUMBER
Village of Bald Head Island 370442

B2. COUNTY NAME
Brunswick

B3. STATE
NC

B4. MAP AND PANEL NUMBER
370442 0005

B5. SUFFIX
F

B6. FIRM INDEX DATE
08/1992

B7. FIRM PANEL EFFECTIVE/REVISED DATE
05/03/93

B8. FLOOD ZONE(S) (Zone AO, VE, V1-V30, V (with BFE), AR, ARI, ARIA, AR1-A10, AR1AH, AR1AO)

B9. BASE FLOOD ELEVATION(S) (Zone AO, use depth of flooding) na

B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in B9.

B11. Indicate the elevation datum used for the BFE in B9: NGVD 1929 Other (Describe): __

B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? Yes No Designation Date ________________

SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

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

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

C2. Building Diagram Number (Select the building diagram most similar to the building for which this certificate is being completed - see pages 6 and 7. If no diagram accurately represents the building, provide a sketch or photograph.)


Complete Items C3.-a-i below according to the building diagram specified in Item C2. State the datum used. If the datum is different from the datum used for the BFE in Section B, convert the datum to that used for the BFE. Show field measurements and datum conversion calculation. Use the space provided or the Comments area of Section D or Section G, as appropriate, to document the datum conversion.

Datum Conversion/Comments _______ Elevation reference mark used in B4-3 Does the elevation reference mark used appear on the FIRM? Yes No

o a) Top of bottom floor (including basement or enclosure) 29. 21 ft. (m)
o b) Top of next higher floor 39. 55 ft. (m)
o c) Bottom of lowest horizontal structural member (V zones only) na . . ft. (m)
o d) Attached garage (top of slab) na . . ft. (m)
o e) Lowest elevation of machinery and/or equipment servicing the building (Describe in a Comments area) 29. 43 ft. (m)
o f) Lowest adjacent (finished) grade (LAG) 27. 8 ft. (m)
o g) Highest adjacent (finished) grade (HAG) 29. 4 ft. (m)
o h) No. of permanent openings (flood vents) within 1 ft. above adjacent grade na

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.

I certify that the information in Sections A, B, and C on this certificate represents my best efforts to interpret the data available.

I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

CERTIFIER'S NAME Walter B. Cavedo
LICENSE NUMBER L-4098

ADDRESS 101 N. 23rd Street

CITY Wilmington

DATE 05/11/06

TELEPHONE 910-763-1015

SIGNATURE _______
**SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION (CONTINUED)**

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

**COMMENTS**

Building is newly constructed two story frame cottage (golf cart garage with living area above on second floor.)

Equipment in section C3e is a wooden AC platform. There is a concrete slab at this same elevation (29.43) for large emergency electric generator. There is concrete slab for garage floor. Buildings is on pilings. See separate certificate for main residence.

---

**SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)**

For Zone AO and Zone A (without BFE), complete Items E1 through E4. If the Elevation Certificate is intended for use as supporting information for a LOMA or LOMR-F, Section C must be completed.

**E1. Building Diagram Number:** (Select the building diagram most similar to the building for which this certificate is being completed – see pages 6 and 7. If no diagram accurately represents the building, provide a sketch or photograph.)

**E2. The top of the bottom floor (including basement or enclosure) of the building is **__**ft. (m) __**in. (cm) above or **__**below (check one) the highest adjacent grade. (Use natural grade, if available).**

**E3. For Building Diagrams 6-8 with openings (see page 7), the next higher floor or elevated floor (elevation b) of the building is **__**ft. (m) __**in. (cm) above the highest adjacent grade. Complete items C3.h and C3.i on front of form.**

**E4. The top of the platform of machinery and/or equipment servicing the building is **__**ft. (m) __**in. (cm) above or **__**below (check one) the highest adjacent grade. (Use natural grade, if available).**

**E5. For Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance?**

- [ ] Yes
- [ ] No
- [ ] Unknown. The local official must certify this information in Section G.

---

**SECTION F - PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION**

The property owner or owner's authorized representative who completes Sections A, B, C (Items C3.h and C3.i only), and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here.

**PROPERTY OWNER'S OR OWNER'S AUTHORIZED REPRESENTATIVE'S NAME**

**ADDRESS**

**CITY**

**STATE**

**ZIP CODE**

**SIGNATURE**

**DATE**

**TELEPHONE**

**COMMENTS**

---

**SECTION G - COMMUNITY INFORMATION (OPTIONAL)**

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below.

**G1.** [ ] The information in Section C was taken from other documentation that has been signed and embossed by a licensed surveyor, engineer, or architect who is authorized by state or local law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)

**G2.** [ ] A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.

**G3.** [ ] The following information (Items G4-G9) is provided for community floodplain management purposes.

**G4. PERMIT NUMBER**

**G5. DATE PERMIT ISSUED**

**G6. DATE CERTIFICATE OF COMPLIANCE/OCCUPANCY ISSUED**

**G7. This permit has been issued for:**

- [ ] New Construction
- [ ] Substantial Improvement

**G8. Elevation of as-built lowest floor (including basement) of the building is:**

- [ ] ft. (m) Datum:

**G9. BFE or (in Zone AO) depth of flooding at the building site is:**

- [ ] ft. (m) Datum:

**LOCAL OFFICIAL'S NAME**

**TITLE**

**COMMUNITY NAME**

**TELEPHONE**

**SIGNATURE**

**DATE**

**COMMENTS**

---

[ ] Check here if attachments
The Village of Bald Head Island
Building Inspections Department

INSPECTION SERVICES
CERTIFICATE OF OCCUPANCY

BUILDING PERMIT NO.: 040086 Date: 5/28/08

ADDRESS: 710 Shoals Watch
 Parcel # 2650006211

OWNER: Dudley Coy

CONTRACTOR: Lokey Builders

THIS IS TO CERTIFY THAT THE WORK AUTHORIZED BY BUILDING
PERMIT # 040086 HAS BEEN COMPLETED IN SUBSTANTIAL
COMPLIANCE WITH THE STATE BUILDING CODE AND IN THE OPINION
OF THE INSPECTION DEPARTMENT COMPLIES WITH APPLICABLE
STATE AND LOCAL LAWS, AND LOCAL ORDINANCES AND
REGULATIONS. THIS CERTIFICATION RESULTS FROM HAVING MADE
AT LEAST THE MINIMUM INSPECTIONS MANDATED BY SECTION 306
OF VOLUME 1A OF THE BUILDING CODE. IT SHALL BE RECOGNIZED
THAT THE INSPECTION DEPARTMENT DID NOT HAVE A CONSTANT
PRESENCE ON THE SITE AND THE INSPECTION PROCESS CAN NOT BE
A SUBSTITUTE FOR CONTRACTOR RESPONSIBILITY.

PERMISSION TO OCCUPY THE STRUCTURE IS GRANTED.

STEPHEN BOYETT
BUILDING INSPECTOR

P.O. BOX 3009 • BALD HEAD ISLAND, NC 28461 • (910) 457-6255 • FAX (910) 457-6206
E-MAIL: sboyett@villagebhi.org • WEBSITE: http://www.villagebhi.org
The Village of Bald Head Island
INSPECTIONS DEPARTMENT
BUILDING PERMIT

Type: (X) New Construction ( ) Repairs ( ) Alterations ( ) Other

Owner / Contractor: Dudley Coy / Joyce Building
Address: 710 Santee Watch

Lot #: 3329
Parcel #: 2166066-211

Location: 4 Bedrooms 5/16 Bathrooms

Attached to and forming a part of this application are the following:

- Topographic Survey of lot or building area showing elevation contours and one set of plans.
- Approved CAMA Minor Development Permit (if applicable).
- Site Plan showing setbacks and location of the structure, driveways, dunes, shrubs, water source, sewage disposal plan and etc.

Description of Work: 2 story single family home w/ detached 2 car garage/porch

<table>
<thead>
<tr>
<th>Structural Information</th>
<th>Heated Area</th>
<th>Covered Area</th>
<th>Uncovered Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>5514 sq. ft.</td>
<td>2608 sq. ft.</td>
<td>200 sq. ft.</td>
</tr>
<tr>
<td>Commercial</td>
<td>8546 sq. ft.</td>
<td>3001 sq. ft.</td>
<td>1100 sq. ft.</td>
</tr>
</tbody>
</table>

FEE STRUCTURE

1. Building Permit Fees - Based on valuation:

<table>
<thead>
<tr>
<th>Valuation</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - 5000</td>
<td>$60</td>
</tr>
<tr>
<td>5001 - 15000</td>
<td>$100</td>
</tr>
<tr>
<td>15001 - 25000</td>
<td>$150</td>
</tr>
<tr>
<td>25001 - 30000</td>
<td>$225</td>
</tr>
<tr>
<td>over 30000</td>
<td>$225 + $7.00 per 1,000 of fraction thereof</td>
</tr>
</tbody>
</table>

2. A non-interest bearing clean-up deposit of $500.00 per living unit shall be required to insure that the construction area is kept clean. Upon completion of the project, if the area is sufficiently free of debris, the remaining uninsured deposit will be returned to the owner or contractor who made the deposit.

3. A fee of $35.00 will be charged for a Certificate of Occupancy and Compliance which will be issued when the work has been satisfactorily completed and inspected by the Building Inspector and applicable utility tap fees have been paid. List of subcontractors with license numbers required.

4. Homeowner's Recovery Fund (see attached)

5. Total permit fee payable to The Village of Bald Head Island

Flood Zone Information: Structure located in X Flood Zone. (see FEMA regulations)

Certification

I (we) agree to conform to the building restrictions of The Village of Bald Head Island Planning Board and the North Carolina Building Code including the wind resistance requirements therein.

I (we) agree that the ground floor of area under the base flood elevation is to be used for storage purposes only and that no habitable areas will be allowed. No bathrooms, electrical outlets, washing machines, dryers, water heaters, refrigerators, freezers, recreation rooms or similar use will be permitted. Enclosure will be approved with breakaway walls only.

I (we) agree to take full responsibility for all sub-contractors on this job. Unnecessary noise from radios, violations of conduct rules such as speeding, reckless driving or littering will result in a "stop-work" order until the condition is corrected by the contractor.

I (we) have read and agree to the stated conditions that are outlined in the granting of this building permit by The Village of Bald Head Island.

Important Notice: Compliance with The Village Building Permit does not necessarily assure compliance with the private restrictive covenants applicable to each lot. The owner should take extra precaution to make sure that he has complied with all private restrictive covenants applicable to the property prior to undertaking construction.

Signatures:

(Owner) 

(Contractor)

Date: 11-29-04

* See Special Conditional Permit Application for Early Occupancy *
Issued to Dudley and Adelaide Coy, authorizing development in Ocean Hazard AEC at 710 Frying Pan Shoals Way as requested in the permittee's application, dated August 11, 2004. This permit, issued on September 14, 2004 is subject to compliance with the application and site drawing (where consistent with the permit), all applicable regulations and special conditions and notes set forth below. Any violation of these terms may subject permittee to a fine, imprisonment or civil action, or may cause the permit to be null and void.

This permit authorizes the construction of a single-family residence in the Ocean Hazard AEC in accordance with the conditions following on this page.

(1) All proposed development and associated construction must be done in accordance with the permitted work plat drawings(s) dated received August 11, 2004.

(2) All construction must conform to the N.C. Building Code requirements and all other local, State and Federal regulations, applicable local ordinances and FEMA Flood Regulations.

(3) Any change or changes in the plans for development, construction, or land use activities will require a re-evaluation and modification of this permit.

Conditions continued on second page

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. From the date of an appeal, any work conducted under this permit must cease until the appeal is resolved. This permit must be on the project site and accessible to the permit officer when the project is inspected for compliance. Any maintenance work or project modification not covered under this permit, require further written permit approval. All work must cease when this permit expires on December 31, 2007.

In issuing this permit it is agreed that this project is consistent with the local Land Use Plan and all applicable ordinances. This permit may not be transferred to another party without the written approval of the Division of Coastal Management.
(4) The structure shall comply with the North Carolina Building Code, including the Coastal and Flood Plain Construction Standards, Chapter 37, Volume 1 or Chapter 41, Volume 7, and the Local Flood Damage Prevention Ordinance as required by the National Flood Insurance Program. If any provisions of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards the more restrictive shall control.

(5) The structure must set back a minimum of Two Hundred and Fifty (250') feet from the first line of stable vegetation as marked by the CAMA officer.

(6) The structure must be located entirely off of the frontal dune, and if a primary dune is present, behind the crest of the primary dune.

(7) Dune disturbance will be allowed only to the extent necessary for development and if the dunes protective value is not weakened or reduced. DISTURBED AREAS WILL BE IMMEDIATELY STABILIZED.

(8) Sand held in storage in any dune, other than frontal or primary dunes, may be moved laterally in order to strengthen existing primary or frontal dunes if the work would enhance the protection to the proposed development activity and the sand is stabilized.

(9) All disturbed areas shall be vegetatively planted and mulched within 30 days of construction completion.

(10) Any structure authorized by this permit shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration. The structure(s) shall be relocated or dismantled within (2) years of the time when it becomes imminently threatened, and in any case, upon its collapse or subsidence. However, if natural shoreline recovery or beach re-nourishment takes place within (2) years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall affect the permit holder’s right to seek authorization of temporary protective measures under CRC Rules.

(11) The permittee is required to contact the Local Permit Officer (457-9700) shortly before he plans to begin construction to arrange a setback measurement which will be effective for sixty (60) days, barring a major shoreline change. Construction must begin within sixty (60) days of the determination or the measure is void and must be redone.

UPON COMPLETION OF THE ENTIRE PROJECT, YOU MUST CALL 457-9700 TO NOTIFY THE CAMA OFFICER YOU ARE READY FOR A FINAL INSPECTION.

APPLICANT'S SIGNATURE: [Signature]
ATTACHMENT E
TO
CAMI VARIANCE PETITION
RONALD P. SPOGLI, TRUSTEE OF THE RONALD P. SPOGLI TRUST
NOTICE TO ADJACENT OWNERS AND OBJECTORS

---

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

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

OFFICIAL USE

Certified Mail Fee
$3.75

Extra Services & Fees (check box, add fees accordingly)
Return Receipt (hardcopy) $3.05
Postmark Here

Total Postage and Fees
$7.33

Mr. David Peterson
2520 Terra Crossing Blvd.
Louisville, Kentucky 40245

---

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CERTIFIED MAIL® RECEIPT
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Extra Services & Fees (check box, add fees accordingly)
Return Receipt (hardcopy) $3.05
Postmark Here

Total Postage and Fees
$7.33

James and Sherri Ruddy
2737 Founders Bridge Rd
Midlothian, Virginia 23113
September 29, 2021

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. David Peterson
2520 Terra Crossing Blvd.
Louisville, Kentucky 40245

Re: Variance Petition
Ronald P. Spogli, Trustee of The Ronald P. Spogli Trust
Brunswick County, North Carolina
Our File No. 112388.1

Dear Mr. Peterson:

This is to notify you that Ronald P. Spogli, Trustee of The Ronald P. Spogli Trust, is applying for a variance from the North Carolina Coastal Resources Commission to construct a single family residence on his Bald Head Island property at 706 Shoals Watch, Brunswick County, North Carolina. Copies of the site plan and CAMA permit application (narrative, application forms and figures) for the project were previously transmitted to you by correspondence from Cothran Harris Architecture dated August 31, 2021. The variance is projected to be heard at the November 9-10, 2021 meeting of the Coastal Resources Commission.

If you wish to receive further information regarding the variance, you may contact me. If you wish to make comments on the variance, you may direct your comments to the North Carolina Division of Coastal Management, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405. You may also contact CAMA Field Representative Robb Mairs directly at (910) 796-4215.

Sincerely yours,

[Signature]

Charles S. Baldwin, IV

CSBIV/gw
September 29, 2021

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

Certified Mail Fee: $3.75
Extra Services & Fees (check box, add fee as appropriate)
- Return Receipt (hardcopy) $1.25
- Certified Mail Restricted Delivery $0
- Adult Signature Required $0
- Adult Signature Restricted Delivery $0
Postage: $.53
Total Postage and Fees: $7.33

Mr. David Peterson
2520 Terra Crossing Blvd.
Louisville, Kentucky 40245

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CERTIFIED MAIL® RECEIPT
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Total Postage and Fees: $7.33

James and Sherri Ruddy
2737 Founders Bridge Rd
Midlothian, Virginia 23113
Track Another Package +

Tracking Number: 70183090000161515827

Your item was delivered to the front desk, reception area, or mail room at 4:37 pm on October 5, 2021 in LOUISVILLE, KY 40245.

✔ Delivered, Front Desk/Reception-Mail Room

October 5, 2021 at 4:37 pm
LOUISVILLE, KY 40245

Get Updates ✅

Text & Email Updates

Tracking History

October 5, 2021, 4:37 pm
Delivered, Front Desk/Reception/Mail Room
LOUISVILLE, KY 40245
Your item was delivered to the front desk, reception area, or mail room at 4:37 pm on October 5, 2021 in LOUISVILLE, KY 40245.

October 4, 2021
In Transit to Next Facility

October 2, 2021, 4:16 am
Departed USPS Regional Facility
LOUISVILLE KY DISTRIBUTION CENTER

October 1, 2021, 12:58 pm
Arrived at USPS Regional Facility
LOUISVILLE KY DISTRIBUTION CENTER

September 30, 2021, 12:01 am
Departed USPS Regional Facility
CHARLOTTE NC DISTRIBUTION CENTER

September 29, 2021, 10:58 pm
Arrived at USPS Regional Facility
CHARLOTTE NC DISTRIBUTION CENTER

Can't find what you're looking for?

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

FAQs
September 29, 2021

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

James and Sherri Ruddy
2737 Founders Bridge Rd
Midlothian, Virginia 23113

Re: Variance Petition
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Sincerely yours,

Charles S. Baldwin, IV

CSBIV/gw
Tracking Number: 70183090000161515810

Your item was delivered to an individual at the address at 3:30 pm on October 4, 2021 in MIDLOTHIAN, VA 23113.

☑ Delivered, Left with Individual
October 4, 2021 at 3:30 pm
MIDLOTHIAN, VA 23113

Get Updates ↯

See Less ↗

Can't find what you're looking for?
Go to our FAQs section to find answers to your tracking questions.
September 29, 2021

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Midlothian, Virginia 23113

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Sincerely yours,

Charles S. Baldwin, IV

CSBIV/gw


First line of vegetation flagged by Stephen Boyett on 9/01/2020.

Map Cabinet 24 Page 473
Deed Book 1752 Page 657
Michael L Brader-Araje
LOT 3228

BENCHMARK
MAG NAIL
ELEV 33.72'

ERB
53.51'
S 87°53'36" E
52.65'
S70°05'19"E

32.93'
N27°48'43"E
32.93'
N27°41'04"E

Edge of Asphalt

ERB
CP
WIDTH VARIES
SHOALS WATCH
YAUPON CLUSTER
JUNIPER CLUSTER
YAUPON CLUSTER
JUNIPER CLUSTER

Paver Drive
PORCH
SCREENED
DECK
W/D stack
DW
RAD = 123.80'

270 Ft. from the first line of substantial vegetation.

Bald Head Private "Sightline" Setback

First line of vegetation flagged by Stephen Boyett on 9/01/2020.

Map Cabinet 24 Page 473
Deed Book 1752 Page 657
Michael L Brader-Araje
LOT 3228

BENCHMARK
MAG NAIL
ELEV 33.72'

ERB
53.51'
S 87°53'36" E
52.65'
S70°05'19"E

32.93'
N27°48'43"E
32.93'
N27°41'04"E

Edge of Asphalt

ERB
CP
WIDTH VARIES
SHOALS WATCH
YAUPON CLUSTER
JUNIPER CLUSTER
YAUPON CLUSTER
JUNIPER CLUSTER

Paver Drive
PORCH
SCREENED
DECK
W/D stack
DW
RAD = 123.80'

270 Ft. from the first line of substantial vegetation.
NC COASTAL RESOURCES COMMISSION MEETING
September 15, 2022
RONALD P. SPOGLI TRUST (CRC-VR-21-05)
BALD HEAD ISLAND, OCEANFRONT SETBACK
General Vicinity Map of 706 Shoals Watch Way, Bald Head Island—Ronald Spogli

Image courtesy of Google Earth
Ronald Spogli Property – 706 Shoals Watch Way
BHI, NC

Over head image of property
courtesy of Google Earth – 2020
Overhead view of property showing approximate property lines (highlighted in Pink).

Image courtesy of Google Earth – 2021
View of 706 Shoals Watch Way, Bald Head Island, NC, looking north from southern (oceanward) side of property. Photo taken by LPO on July 23, 2021
View of 706 Shoals Watch Way, Bald Head Island, NC, looking south. Photo taken by LPO on October 15, 2021
Views of 706 Shoals Watch Way, Bald Head Island, NC, looking east. Photos taken by LPO on October 15, 2021
Views of 706 Shoals Watch Way, Bald Head Island, NC, looking west. Photos taken by LPO on October 15, 2021
Ronald Spogli property – 706 Shoals Watch Way, Bald Head Island, NC.
Image of Erosion Rates and Setback Factors
Source: DCM Map Viewer
Site plan for Ronald Spogli property – 706 Shoals Watch Way, Bald Head Island, NC.

The site plan was submitted with CAMA minor permit application BH 2021-07.
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.