



Town of Holden Beach
Zoning Board of Adjustment
Regular Meeting
Monday, October 16, 2023

The Town of Holden Beach Board of Adjustment met for a postponed meeting on Monday, October 16, 2023, at 3:00 PM in the Holden Beach Town Hall Public Assembly. Present were Chairperson Anne Arnold, Regular Members Phil Caldwell, Mary Lou Lahren, and Jack Lohman. Alternate Members present were Aldo Rovito and Richard Roberts. Present town staff members were Tim Evans, Carey Redwine and Janna Piggott. Absent was Vice Chairperson Richard Griffin.

CALL TO ORDER

Chairperson Anne Arnold called the meeting to order.

ROLL CALL

Made corrections to the agenda.

The agenda now reads: a variance instead of compliance. Jack Lohman made a motion to change the agenda, second by Mary Lou Lahren.

APPROVAL OF MINUTES FROM SEPTEMBER 18, 2023

Anne Arnold made a motion to approve the minutes, second by Rick McInturf; minutes were approved.

CASE NO. 02-23: To request a variance from the Holden Beach Zoning Code of Ordinance Chapter 15, Section 157.060 (D)(4) to encroach into the side yard setback measured 5 feet from property line located at 167 Brunswick Avenue West, Holden Beach, North Carolina.

Evans: I don't know if we had a complaint or if we took notice of a cargo lift that was installed without a permit that was located inside setbacks at 160 Brunswick Avenue West. We talked to them and gave them a notice of violation and of course they followed procedures for asking for a variance.

Homeowner: I have 89y old parents and last summer I contacted a company called Sunset Lifts to put in an outdoor lift for them. It is an outdoor elevator to carry groceries. I called the contractor; the job took eight months to install the lift. I asked them several times, not just once, does this need a permit? He kept saying no. I said "okay, are you sure?" And again, he said "yep, you don't need one". My mom came down to pay her water bill and asked someone here if it needed a permit, I notified the town as soon as I heard.

Anne Arnold: Anybody have any questions?

Rick McInturf: I have a question, if I read all this right, were you first in contact with the home elevators and lifts or and did they refer you to this Sunset Lifts?

Almeida: I had seen their vans on the island. I did go online, and it looked like Home Elevator is a place out of Wilmington and were the closest ones to Holden Beach. I called Home Elevators and was informed that they only do indoors that the Sunset Lift does outdoor.

McInturf: Mr. Evans, do you know has Sunset Lift done work on the island before?

Evans: I am not aware if they have ever pulled a permit, that doesn't mean they have not done work.

McInturf: I understand.

Almeida: I contacted Home Elevators, and I was informed that the person who runs Sunset Lifts purchased the elevator from them but that was it. Apparently, he has a reputation for doing this. This is not the first time he has purchased their equipment and installed it without permits. I have not been able to contact him.

Evans: I spoke with him as well; they are a legitimate company. It appears to me that the property owners at 167 Brunswick Ave West were trying to do the right thing. It also seems, based on the information that we received from him that he has probably been doing this work without a license and without permits so this was a hit and miss. He got everything done and got out. We see it more than we should. In this case I don't think this is a nonconformance that was created by the property owner. I do believe based on the way it had to be installed that it could have a negative effect on the structure.

McInturf: Explain that a little bit more, how would it compromise the house?

Evans: They had to take down part of the rails and they had to change some of the structure on the side of the house. They also had to put a stable platform on the ground. We could approve it if it ever got permits but like I said, they would have to take down the structure relocate it somewhere else and dig up the slab and a bunch of other things. But that should not have any bearing on what you are saying. The truth of the matter is that this is not a no-conformance that they created in my opinion. Who owns the property next door?

Almeida: My sister.

Sister to Almeida: Yes, we own the property on the lift side.

Roberts: So, the setback encroachment is next to your property?

Sister to Almeida: Yes.

Arnold: How many people went by the house? Okay, we will show everyone who went by the house. And there is a fence around it.

McInturf: How did you originally contact Sunset Lifts?

Almeida: I called Home Elevators, and they told me they do not put outdoor elevators in and I need to contact this gentleman.

Roberts: Have you not talked to anybody from Sunset Lifts?

Almeida: No, I have not talked to the original man in months. He responded once to me: I told him I needed to know who the licensed electrician was for the paperwork. He did text me the name but is not returning phone calls.

Roberts: Have you contacted the legal counsel?

Almeida: I will be.

Lahren: Did you do any diligence and check on Sunset Lifts? Did you look at them from the Better Business Bureau?

Almeida: No, I was referred to by Home Elevators, so I did not think I needed to check because unfortunately, I assumed they were all associated.

Arnold: I understand another fact is it would be very costly to move it. Are there any other questions or comments?

McInturf: I have an initial inclination which doesn't necessarily say the way I'm going to vote on this, we have an ordinance that says five feet, this seems like a legal issue in my book. I think there's some liability for Sunset Lifts, however you look at this, they did this. It's very unfortunate for the families involved because you were trying to do the right thing.

Arnold: Our opinions do not come into facts, and we have to deal with the facts.

McInturf: We have an ordinance.

Arnold: We do. And we also have hardships which is our purpose in being here. Any other questions?

Chairperson Anne Arnold stated that case 02-23 was unanimously voted for the variance.

CASE NO. 03-23: To request compliance of the Town of Holden Beach Code of Ordinances, Chapter 157.085 (D)-Relocation of Buildings. The request is to relocate 485 Ocean Boulevard West to 946 Ocean Boulevard West.

Arnold: Has everyone been to this house? Are we in compliance with the zoning Mr. Evans?

Evans: You need to have everyone swear in.

Arnold: Are we in compliance with the zoning?

Pigott: There was a zoning application submitted and that has been approved but as far as zoning for relocation I have not seen anything.

Arnold: Alright. If the zoning is compliant then I don't know where to go from there.

Evans: I think you are mixing the responsibilities of the Planning Department and the Board of Adjustments. We have to approve it and you have to approve it but it is not the same. It will come to us and then we approve it and they will receive a building permit. But they apparently chose to bring it to the board before bringing it to us first. This means this doesn't negate their right to be heard by you under the ordinance for your approval.

Arnold: Okay, let's hear from you Mr. Norton.

Norton: Well, I understood and obviously maybe incorrectly that I had to be here first before I applied for a building permit. It's pretty simple overall, except for all the complications in it. They want to relocate an ocean front house to second row lot which is on the corner of Sailfish and Ocean Boulevard West. I provided elevations so you can see what the final product would look like.

The site plan provided shows that all existing and proposed building and decks would be within the

town setbacks. In addition to relocating the home there would be some renovations to the interior of the existing home. Adding 654 square feet of heated space, adding 954 square feet of open decking, and putting new decking under and existing roof. This is the same family we did the same thing for several years ago.

Arnold: Mr. Evans does your team have any comments?

Evans: No.

McInturf: There is some fine print here that talks about the owners within 200 feet of the new location being notified, do we have any evidence?

Norton: Yes, I have email evidence that I have communicated with the person next door.

McInturf: Is there a form for that Tim?

Hegadore: I sent out a letter.

McInturf: Okay.

Arnold: It is up to the Permitting Department to make sure you meet all the federal, state, and local regulations such as building permits and those kinds of things. Are we ready to vote?

Chairperson Anne Arnold stated that case 03-23 was unanimously voted for the relocation.

CASE NO. 04-23: To request compliance of the Town of Holden Beach Code of Ordinances, Chapter 157.102 (A)-Cannot add to a non-conforming use. This request is for 127 Conch Street, Holden Beach, NC 28462.

Arnold: Mr. Evans, I will let you go first.

Evans: Go first as far as what?

Arnold: We are looking for facts to help them get the variance they are asking for.

Paethorpe: I am representing Scott Barr, he is out of the country. They want to enhance their porch from the standpoint that some of the pylon down at the bottom needs replacing and some of the boards on the front porch. When the house was built back in 1971, the owner, Mr. Robinson asked

permission from the county and the town to set the house to the left of the lot and the reason for that was he had a lot of nieces and nephews that came to visit. Scott Barr is the third owner of the house, and they would like to replace the siding on the house. As a matter of fact, I've picked up the siding after the last two hurricanes. Some of the windows also look a little rough. I think that these homeowners want to comply with whatever the ordinance is but we're dealing with a cottage that is 40 years old.

Arnold: Thank you. Any questions?

Lohman: This says it is nonconforming and he writes in here that it is two feet too close to the property line. Does that mean the whole building is two feet too close?

Evans: One side of the structure is sitting in the setback. Before you come apply for the variance you have to make an application for construction, in other words you are being denied your due process if we don't turn you down and send you here. They were turned down because it was a nonconforming structure which means in these terms that it is that at some point in time possibly prior to the ordinance or by some other mechanism the house got built inside the setback. Now I don't remember what the age is, but it is our impression that we've seen these before and most of the time when there like that it's like for impervious area or something most of these non-conforming structures were already built prior to an engagement of the ordinance you know what I mean or by an enforcement of the ordinance. At the same time, you really need to have as part of the evidence the contractor that applied for the permit along with the company for part of the evidence. Do you know who applied for the permit?

Arnold: Yes, Gerald Baker who is my husband. But in full disclosure we have different businesses.

Does anyone have a problem with this?

McInturf: Will you clarify something for me? One whole side of the house is in the setback, it is not just a wall, you said you could not add to a nonconforming structure. How is the language of

157.102 where it talks about how you can't increase the extent of nonconformity? If they built on the other side, they're not increasing the nonconforming

Evans: They are not trying to increase; they are trying to add additional living area to the structure.

McInturf: To the right?

Evans: Yes.

Roberts: In 1971 was it in compliance?

Evans: Yes, because it had to receive a certificate of occupancy.

Arnold: Any comments or questions?

Chairperson Anne Arnold stated that case 04-23 was unanimously voted for the variance.

OLD BUSINESS

No old business.

NEW BUSINESS

No new business.

ADJOURNMENT 3:48 P.M.



**TOWN OF HOLDEN BEACH
BOARD OF ADJUSTMENT
REGULAR MEETING
TOWN HALL PUBLIC ASSEMBLY
Monday, July 15, 2024
3:00 PM**

1. Call to Order
2. Roll Call
3. Approval of minutes from October 16, 2023
4. CASE NO. 01-24: The Board of Adjustment will be hearing Case 01-24 in reference to the citation issued, Planning Department Case # 2024009 and received 03/16/2023, The case involves the erecting of a fence in violation of the town's zoning code, the applicant installed the fence without a zoning permit. The applicant is requesting a review of the decision, in the form of an appeal under the North Carolina Administrative Code. The Board of Adjustment should listen to the evidence and either accept or reject the homeowner's appeal, or take into consideration all evidence for consideration of a Variance.
5. Old Business
6. New Business
7. Adjournment

TOWN OF HOLDEN BEACH ZONING PERMIT APPLICATION

ALL SECTIONS MUST BE COMPLETED IF NOT APPLICABLE WRITE N/A

Section 1: Basic Data

Name: DAVID VMALESKI Telephone #: 910 554-4810
 Holden Beach Property Address: 121 Seaside Drive Holden Beach NC 28526
 Permanent Mailing Address (print same if local address above applies):
 Street Address: 233 STANLEY SCHOOL ROAD
 City/State/Zip Code: NEWTON GROVE NC 28366

Contractor Who Will Perform the Work: MATT BABSON Telephone #: 910 254-6290
 Contact Person: MATT BABSON Telephone #: 910 254-6290
 Address: 3376 Bay Weck Road NW Telephone #: 770 288-853
ASHEVILLE NC 28820

Section 2: Specific Criteria Required to Support Application Approval

Type of Structure: _____
 New: _____ Alteration: _____ Repair: _____ Relocate: _____ Driveway: Fence
 Other: _____

Property use: _____
 Single Family: _____ Two Family: _____ Apartment: _____ Duplex: _____ Townhouse: _____ Other: _____
 Total Gross Floor Area of Structure: 1140 sq. ft.

Required Setbacks in Feet: Front: N/A Rear: N/A Side: N/A
 Platted Area in Square Feet: N/A Usable Area in Square Feet per Survey: N/A

Flood Zone (AE, VE, X) Base Flood: AE Elevation: N/A

Design Flood Elevation (DFE): N/A

Highest Point of Structure Above Mean Sea Level: N/A

Type of Driveway Material: Gravel Driveway Area in square feet: N/A

Lowest Original Grade Elevation Below Building in Feet: N/A

Proposed Finished Grade in feet as shown on Fill Plan if Fill is to be Placed on Lot: N/A

Is Fill Material being Proposed on the Lot? Yes: _____ No: If Yes: Depth of Fill: _____

Proposed Concrete Slab Elevation as Shown on Stormwater Plan: N/A

Proposed Concrete Slab Elevation as Shown on Construction Plans: N/A

How Many Bedrooms will the/does the Structure have? 3

Lowest Horizontal Structural Member: N/A

Driveway Area in square feet: N/A

Proposed Original Grade Elevation Below Building in Feet: N/A

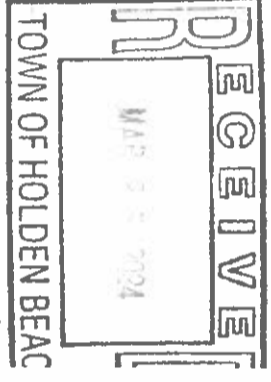
Proposed Finished Grade in feet as shown on Fill Plan if Fill is to be Placed on Lot: N/A

Is Fill Material being Proposed on the Lot? Yes: _____ No: If Yes: Depth of Fill: _____

Proposed Concrete Slab Elevation as Shown on Stormwater Plan: N/A

Proposed Concrete Slab Elevation as Shown on Construction Plans: N/A

How Many Bedrooms will the/does the Structure have? 3



Certification to be Completed by Applicant:

"I certify that any construction, alteration, repair or replacement of building and/or use of land shall be carried out in accordance with the information and Zoning Permit criteria listed above."

Authorized Signature: [Signature] Printed Name: DAVID VMALESKI Date: 11/1/23

Section 3: To Be Completed by Town of Holden Beach Zoning Official

CAMA Permit Required? Yes: _____ No: Stormwater Permit Required? Yes: _____ No:
 Zoning District Determination for Property: _____ Residential District (R1 Zone) _____
 Residential District (R2 Zone) _____ Commercial District (C Zone) _____

Zoning Official Approval Signature: _____ Date: _____

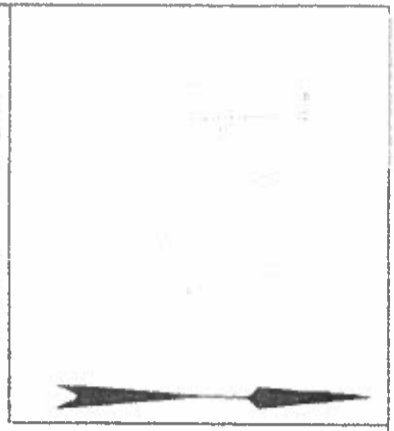
This permit expires 1 year from the date of issuance if construction has not begun. This form replaces all previous forms.

Fencing 121 Seaside Drive Holden Beach NC 28462

Fence:

Wooden portion is pine board over board with supports 8 feet apart. Height 6 feet - runs along driveway and wooded area between our property and adjacent property across Seaside Drive

Aluminum portion runs parallel to the Marsh in line with the house and under the house adjacent to parking areas. Height 5 feet -- supports are standard distance apart for this type of fencing.



DAVE YARASHESKI
 LOT 26 & 27
 B/W SUBDIVISION
 MC 11 - PAGE 84

LOCKWOOD FOLLY W/ W
 SOLE 111-30

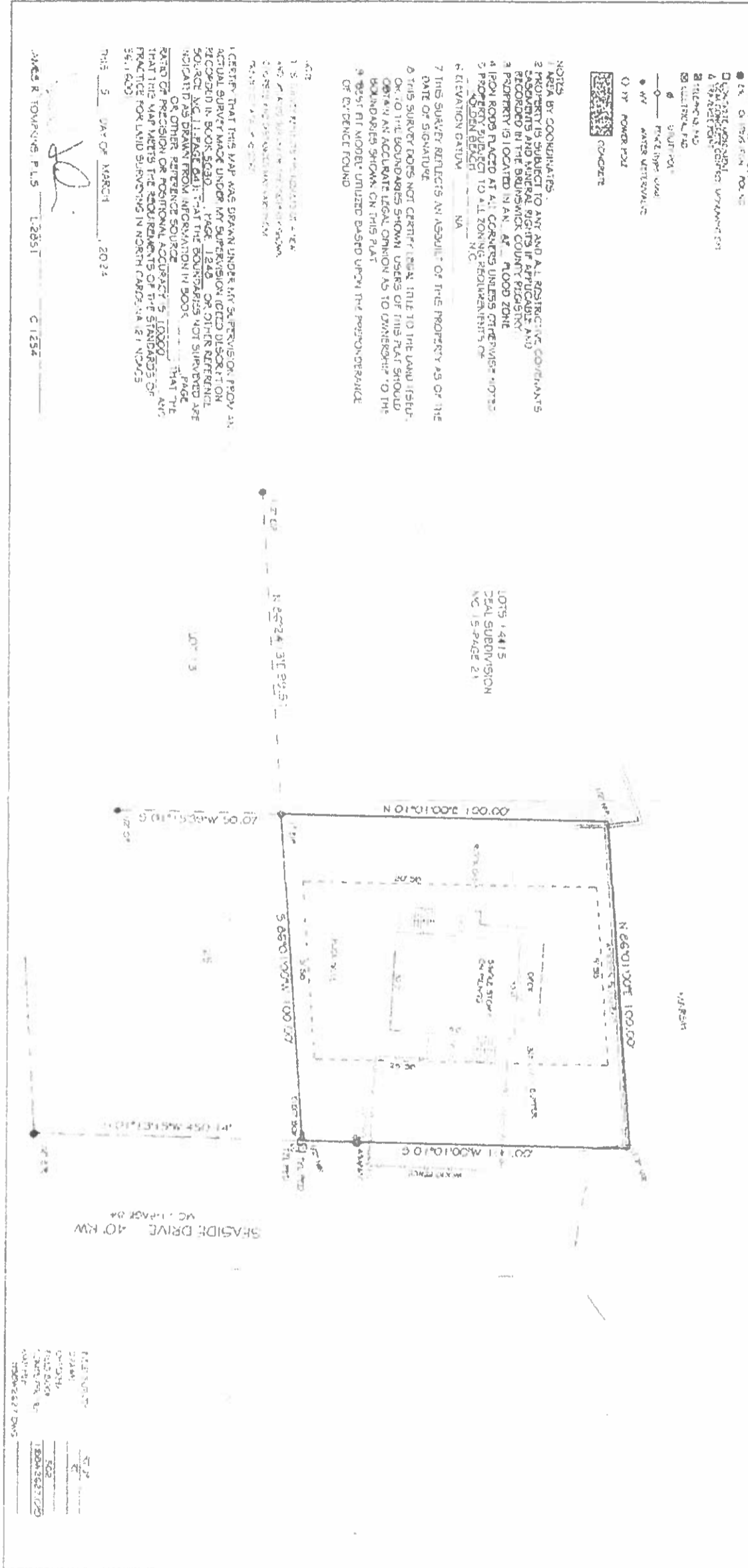
BRUNSWICK COUNTY, N.C.
 MARCH 5, 2024

ITS TOMPKINS
 LAND SURVEYING
 P.A.

1388 COVER BAND DRIVE
 CHARLOTTE, NORTH CAROLINA 28270
 (704) 779-8905

- LOCATION MAP (NO SCALE)
- 1/4" IRON NAIL SET
 - 1/4" IRON NAIL SET
 - 1/4" IRON NAIL SET
 - △ 1/4" IRON NAIL SET
 - ▽ 1/4" IRON NAIL SET
 - ◇ 1/4" IRON NAIL SET
 - SURVEY PIN
 - SURVEY PIN
 - POWER POLE
 - W/ WATER UTILITY
 - W/ WATER UTILITY
 - CONCRETE

- NOTES
1. THIS SURVEY REFLECTS AN ASSUMPTION OF THE PROPERTY AS OF THE DATE OF SIGNATURE.
 2. THIS SURVEY DOES NOT CERTIFY THAT THE BOUNDARIES SHOWN ON THIS PLAN SHOULD BE ACCURATE LEGAL OPINION AS TO OWNERSHIP OF THE BOUNDARIES SHOWN ON THIS PLAN.
 3. THIS SURVEY DOES NOT CERTIFY THAT THE BOUNDARIES SHOWN ON THIS PLAN SHOULD BE ACCURATE LEGAL OPINION AS TO OWNERSHIP OF THE BOUNDARIES SHOWN ON THIS PLAN.
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 6. THIS SURVEY DOES NOT CERTIFY THAT THE BOUNDARIES SHOWN ON THIS PLAN SHOULD BE ACCURATE LEGAL OPINION AS TO OWNERSHIP OF THE BOUNDARIES SHOWN ON THIS PLAN.
 7. THIS SURVEY DOES NOT CERTIFY THAT THE BOUNDARIES SHOWN ON THIS PLAN SHOULD BE ACCURATE LEGAL OPINION AS TO OWNERSHIP OF THE BOUNDARIES SHOWN ON THIS PLAN.



MARCH 5 DAY OF MARCH 2024

JAMES R. TOMPKINS P.L.S. 12851 C 1254

1388 COVER BAND DRIVE
 CHARLOTTE, NORTH CAROLINA 28270
 (704) 779-8905

BLOCK, CROUCH, KEETER, BEHM & SAYED, L.L.P.

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FRANKLIN L. BLOCK (*Retired*)
ALEX M. CROUCH, III (*Retired*)
JEFFREY P. KEETER
CHRISTOPHER N. BEHM
LINDA B. SAYED*
COLE J. TARRANT
I. DICKSON SCLIEAN
BRITANY C. BAILEY
JAYDE S. GETTY
NATHANIEL H. COOK
BRODY M. O'NEAL
JACQUELINE M. C. ADGAL
MELISSA D. WRIGHT (*of counsel*)
DANIEL L. BRAMLEY (*of counsel*)

**Board Certified Family Law Specialist*

April 25, 2024

**VIA CERTIFIED MAIL, RETURN
RECEIPT REQUESTED AND
ELECTRONIC MAIL**

Town of Holden Beach
Attn: Janna Pigott & Tim Evans
110 Rothschild Street
Holden Beach, NC 28462
Pigott Email: janna@hbtownhall.com
Evans Email: tevans@hbtownhall.com

Re: **NOTICE OF APPEAL AND VARIANCE REQUEST**
Notice of Violation – Case No. 2024009
121 Seaside Drive, Holden Beach, North Carolina 28462
Property ID No. 245EA014

Dear Ms. Pigott and Mr. Evans:

This firm represents David Yurashkeski and wife, Jenny Naylor (collectively, "Clients"), owners of the real property located at 121 Seaside Drive in Holden Beach (the "Property"). On or about 6 March 2024, Clients submitted a Zoning Permit Application ("Zoning Application") to the Town of Holden Beach (the "Town"). The Zoning Application was received by the Town on or about 26 March 2024. Accompanying the Zoning Application, Clients submitted a survey of the Property indicating the location of a fence. In response to the Zoning Application, the Town issued a Notice of Violation to the Clients on 27 March 2024 (the "NOV"). No decision on Client's Zoning Application has been received. The NOV included alleged violations as to the location of the fence: the height of the fence in its current location; and the

Town of Holden Beach
Attn: Janna Pigott & Tim Evans
110 Rothschild Street
Holden Beach, NC 28462
April 25, 2024
Page 2

materials used for construction of the fence. Clients disagree with the alleged violations included in the NOY on the basis the Town has misinterpreted the Town's Zoning Ordinance (the "Ordinance") for one or more of the alleged violations.

Alternatively, Clients provide notice of their request for a variance related to the fence on the Property, including from any and all violations related to the location of the fence; the height of the fence in its current location; and the materials used for construction of the fence as set out in the NOY.

We respectfully request a full opportunity to appear, defend, and be heard on appeal from these violations. Please contact me to schedule the same. Also, please do not hesitate to contact me with any questions or concerns.

Sincerely,

Block, Crouch, Keeter, Behm & Sayed, LLP



Colin J. Farram

cc: Sydney Moore, Esq. (via email: sydney@moorelaw-llc.com)
David R. Yarasheski
Jentry E. Naylor

Notice of Violation



Holden Beach
110 Rothschild Street
Holden Beach, NC 28462
910-842-6080
Case Number: 2024009

03/27/2024

YARASHESKI, DAVID RICHARD ETUX
121 SEASIDE DR
SUFFLY, NC 28462-1731

Subject Property: 000121 SEASIDE DR, Holden Beach,
Property ID Number: 245EA014

Dear Property Owner:

An inspection by our Division has determined the property listed above is in violation of following Ordinance(s)

157.999- Penalty

(A)(1) Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements for which no penalty is otherwise provided, shall upon conviction thereof be fined not more than \$500 or imprisoned for not more than 30 days or both, and in addition shall pay all cost and expense involved in the case. Each day such violation continues shall be considered a separate offense.

(2) The owner or tenant of any building, structure, premises or part thereof, and any architect, building contractor, agent, or other person who commits, participates in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(3) Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation pursuant to G.S. 150A-175. A civil fine of \$500 per offense shall be levied for violation of provisions in this chapter for which no civil fine is otherwise provided in accordance with 10.99 (B) of this code of ordinances.

95.05- Streets Right-of-Way

(A) The purpose of this regulation is to establish what may be placed in streets rights-of-way which are cleared by installation or repair of utilities, streets, or walkways. This regulation is not intended to remove or destroy landscaping or structures which are presently in place. Landscaping in streets rights-of-way:

(1) Must not present a safety hazard;

(2) Must not impede traffic;

(3) Is placed at the risk of the individual; and is encouraged.

(B) The ten feet of rights-of-way nearest the pavement or road bed shall remain clear of all items with the following exceptions:

(1) Mailboxes, newspaper boxes, post and rope not to exceed 24 inches from grade

(2) Grass, an approved pervious product or vegetation not to exceed on foot in height

(3) The properties located at H 89, H 90, H 91, and H 92 OBW may install or place a fence within the right-of-way.

(C) The area of the rights-of-way beyond ten feet of the pavement or road bed

(1) May be landscaped by the abutting property owner provided 157.081 of the zoning code is complied with.

(2) Shall be kept clear of all other manmade structures not used in landscaping with the exception of fences.

(D) The Town has no responsibility to protect any items, authorized or unauthorized, which are placed in street rights-of-way. Improvements are made at the owners risk and may be destroyed or damaged during walkway, street, and utility installation or maintenance. Items deemed to be a safety hazard or to impede traffic will be removed by the Town.

(E) All existing concrete within the right-of-way that is removed for any reason cannot be replaced.

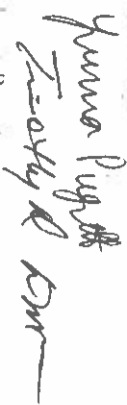
The following action must be taken to correct the above stated violation(s):

Upon review of the recent survey submitted on behalf of Mr. Yarasheski attorney to our Town attorney, the noncompliant fence appears to be in the Towns right-of-way approximately by 7-10FT. The noncompliant fence must be removed immediately prior to the Town taking action for penalties that have been accruing since the original notice of violation letter was received October 16, 2023.

The correspondence will serve as official notification that the above state violations must be corrected before 04/07/2024. Fines, liens or special assessments may be placed on the property for noncompliance and/or the costs of abatement, repair or demolition by the City.

For further information, you may contact me at 910-842-6080

Sincerely,



Jama Pigott

Development Services Officer Code Enforcement Officer

Tim Evans

Building Director

Town of Holden Beach
110 Rothschild St
Holden Beach, NC 28462

David Yarashski
121 Seaside Dr
Holden Beach, NC 28462

Property located at: 121 Seaside Dr
Parcel #: 245EA014
Date: October 13, 2023



Your property located at 121 Seaside Dr has been found to be in violation of the following regulations. As the owner or tenant of this property, you are on notice that you have 15 days from receipt of this notice to correct this violation. If you should have any questions you will need to contact this office at (910) 842-6080.

CODE	CODE DESCRIPTOR
SECTION: 157.080	FENCES

All fences shall be subject to the following regulations. Fences shall be exempt from the yard and building setback requirements. Fences not exceeding 6 feet may be erected only in side or rear yards and may not be extended toward the street beyond the front corner of the principal building. No fence exceeding a height of four feet will be constructed within 15 feet of any street. Fences not exceeding a height of 4 feet will be constructed within 15 feet to any street. Fences not exceeding four feet may be constructed to the street right-of-way except in corner lot situations when the corner visibility provisions of 157.081 may impose " stricter limits".

COMMENTS

Fences shall not exceed more than four feet in the front yard. Fences are permitted through our department. Please submit a zoning application and a survey showing the fence, along with the fence details (height, distance between pickets, and materials used). If you do not have an existing survey showing your house and the property lines of your home, a survey shall be submitted with your zoning application. If the fence is more than 4 feet tall in the front yard, it shall be removed within 15 days of receipt of this violation letter.

§ 157.09

Penalty

§ 157.09 PENALTY(A)(1) Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with the grant of a variance) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements for which no penalty is otherwise provided, shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days or both, and in

additor shall pay all cost and expense involved in the case. Each day such violation continues shall be considered a separate offense.

(2) The owner or tenant of any building structure, premises, or part thereof, and any architect, building contractor, agent, or other person who commits, participates in, or maintains such violation shall be deemed guilty of a separate offense and suffer the penalties herein provided.

(3) Nothing herein contained shall prevent the Town from taking such other lawful action is necessary to prevent or remedy any violation pursuant to G.S. # 160A-175. A civil fine of \$500.00 per offense shall be levied for violation of provisions in this chapter for which no civil fine is otherwise provided, in accordance with #10 60A(B) of this code of ordinances.


Janna Pigott, Zoning Officer

Homcowner made contact with town
on 1/25/24 @ 1:26pm regarding fence
violation. Janna spoke to him + then
asked Tim to talk to him because he was
getting irate on phone, as soon as Tim
answered homcowner hung up.
Tim tried calling back @ 1:28pm with no
answer. Tim left a voicemail.

Janna Pigott

From: David Yarasheski <dryarasheski@yahoo.com>
Sent: Thursday, November 16, 2023 11:58 AM
To: Janna Pigott
Subject: Re: 121 Seaside Drive - Fence
Attachments: Surveyor letter.pdf

Mrs. Pigott,

As I am in the process of getting this matter taken care of, my understanding from your department is that the penalties are suspended during this duration. I have been in contact with a surveyor - see attached - and am dependent on his schedule as far as obtaining the requested information by the city of Holden Beach in order to file the zoning permit. Please stop with the intimidation tactics and focus on assisting us in getting this matter resolved to both parties satisfaction.

Dr. David Yarasheski
121 Seaside Drive
Holden Beach, NC
28462

On Thursday, November 16, 2023 at 10:13:02 AM EST, Janna Pigott <janna@hbtownhall.com> wrote:

Good morning

Please note that penalties are occurring each day that the issue continues. The fence is in violation of Town Ordinance 157.080, a fence can only be 4 feet in the front of the structure and erect up to 5 feet in the rear and side yards. Please submit a zoning application with the fence details.

Thanks.

From: David Yarasheski <dryarasheski@yahoo.com>
Sent: Monday, November 6, 2023 7:14 AM
To: Janna Pigott <janna@hbtownhall.com>
Subject: Re: 121 Seaside Drive - Fence

Mrs. Pigott,

Good morning. I wanted to contact you again in reference to our residence 121 Seaside Drive and the fence problem. Please list what violations exist as far as city, local, state or federal ordinances which are not in compliance in order for me to address all at one time. I am in the process of getting a site map organized in order to submit for the zoning permit. Thank you.

Janna Pigott

From: Janna Pigott
Sent: Thursday, November 16, 2023 10:13 AM
To: David Yarasheski
Subject: RE: 121 Seaside Drive - Fence

Good morning,

Please note that penalties are occurring each day that the issue continues. The fence is in violation of Town Ordinance 157.080, a fence can only be 4 feet in the front of the structure and erect up to 6 feet in the rear and side yards. Please submit a zoning application with the fence details.

Thanks,

From: David Yarasheski <dryarasheski@yahoo.com>
Sent: Monday, November 6, 2023 7:14 AM
To: Janna Pigott <janna@hbtownhall.com>
Subject: Re: 121 Seaside Drive - Fence

Ms Pigott,

Good morning. I wanted to contact you again in reference to our residence 121 Seaside Drive and the fence problem. Please list what violations exist as far as city, local, state or federal ordinances which are not in compliance in order for me to address all at one time. I am in the process of getting a site map organized in order to submit for the zoning permit. Thank you.

Respectfully,

Dr. D. Yarasheski

On Thursday, October 26, 2023 at 08:30:37 AM EDT, Janna Pigott <janna@hbtownhall.com> wrote:

Monday at 3:30 works see you then.

Thanks

From: David Yarasheski <dryarasheski@yahoo.com>
Sent: Wednesday, October 25, 2023 8:54 PM
To: Janna Pigott <janna@hbtownhall.com>
Subject: Re: 121 Seaside Drive - Fence

Mrs Pigott

Janna Pigott

From: Janna Pigott
Sent: Monday, November 6, 2023 9:35 AM
To: David Yarasheski
Subject: RE: 121 Seaside Drive - Fence

You're in violation of our local Town Ordinance 157.080. Please have the 30-foot CAMA buffer line shown on the survey as well.

Thanks,

From: David Yarasheski <dryarasheski@yahoo.com>
Sent: Monday, November 6, 2023 7:14 AM
To: Janna Pigott <janna@hbtownhall.com>
Subject: Re: 121 Seaside Drive - Fence

Ms. Pigott

Good morning I wanted to contact you again in reference to our residence 121 Seaside Drive and the fence problem. Please list what violations exist as far as city, local, state or federal ordinances which are not in compliance in order for me to address all at one time. I am in the process of getting a site map organized in order to submit for the zoning permit. Thank you

Respectfully,

Dr. D. Yarasheski

On Thursday, October 26, 2023 at 08:30:37 AM EDT, Janna Pigott <jannapigott@hbtownhall.com> wrote:

Monday at 3:30 works see you then

Thanks,

From: David Yarasheski <dryarasheski@yahoo.com>
Sent: Wednesday, October 25, 2023 8:54 PM
To: Janna Pigott <janna@hbtownhall.com>
Subject: Re: 121 Seaside Drive - Fence

Mrs. Pigott

Unfortunately I will be out of the area tomorrow and Friday. Would Monday afternoon around 3:30 work for your schedule? Please let me know. Thank you

Janna Pigott

From: David Yarasheski <dryarasheski@yahoo.com>
Sent: Tuesday, October 31, 2023 7:31 AM
To: Janna Pigott
Subject: Re: 121 Seaside Drive - Fence

Mrs. Pigott.

Sorry I missed you yesterday. My understanding is that you were sick - I certainly hope you are feeling better. I had spoken briefly with Tim Evans from your office who had indicated that I need to file for a zoning application for the fence on out property at this time, which I am in the process of doing. I have a copy of the ordinance 157.080 and the associated penalty 157.99. If there are any other local, city or state ordinances or regulations that the fence is in violation of, please delineate the specifics in an email so I can address all of these at the same time with the city of Holden Beach. Thank you for your time

Respectfully,

Dr. David Yarasheski

On Thursday, October 26, 2023 at 08:30:37 AM EDT, Janna Pigott <janna@hbtownhall.com> wrote:

Monday at 3:30 works see you then

Thanks,

From: David Yarasheski <dryarasheski@yahoo.com>
Sent: Wednesday, October 25, 2023 8:54 PM
To: Janna Pigott <janna@hbtownhall.com>
Subject: Re: 121 Seaside Drive - Fence

Mrs Pigott

Unfortunately I will be out of the area tomorrow and Friday. Would Monday afternoon around 3:30 work for your schedule? Please let me know. Thank you

Dr. D Yarasheski

Sent from my iPhone

On Oct 25, 2023, at 2:54 PM, Janna Pigott < > wrote:

Good afternoon

I apologize for the late response. Could you be able to meet tomorrow or Friday of this week on the property?

From: David Yarasheski < >
Sent: Monday, October 23, 2023 1:42 PM
To: Janna Pigott < >
Subject: 121 Seaside Drive - Fence

Mrs. Pigott

I had received a copy of your letter regarding our property at 121 Seaside over the weekend. I have been in contact with the Company that had installed the fence today. I was unaware that fencing required a permit and that ordinances were in place that outline fencing specifics as this was never discussed with me by the individual from the Fence company that we hired. I never would have invested the amount of money we had in the fence had we known this information prior to its installation without going through the proper channels.

I apologize for the problems this has created. I understand that as homeowners, ultimately we are responsible for our property and any alterations made to it. I am hopeful that we can arrive at a common sense solution for this matter that is satisfactory for both Holden Beach and to us as homeowners.

I would request the opportunity to meet with you at the property to review the fence and to discuss what changes are necessary in order for it to be in compliance with the Holden Beach ordinance. Please contact me at (310) 584-4010 when it is convenient for you, so that we may arrange a mutually agreeable time and day.

Respectfully,

Dr. David Yarasheski

121 Seaside Drive

Janna Pigott

From: Tim Evans
Sent: Wednesday, November 22, 2023 2:14 PM
To: Alan Holden; dryarasheski@yahoo.com
Cc: David Hewett; Janna Pigott; Carey Redwine
Subject: RE: Fence

Mr. Mayor

I called The owner of this property 10/30/2023 the day MS Pigott was supposed to meet him and she was sick, the owner of this property was very combative and argumentative, in front of two other staff members on a open call for reference, (speaker phone) and documented staff (ME) proceeded to give him all the information required for both permitting and variance applications and the process as well as the possible timeline it could be accomplished, for application and variance. the property owner was very combative and angry at staff for doing their job, he believed that the notice of violation was the beginning of a negotiating point to keep the unpermitted and un- approve fence, he even stated the fence as installed, was for a future pool which staff informed him that a pool cannot go in the front yard. His recollection of events does match our records, for Janna Sick Days taken and information given on this violation. He has not applied for any permits as of today and ordinance requires penalties for every day since notification was received on October 16th. He responds to our request by claiming we are trying to intimidate him, all our correspondents are public record and the phone call witness by staff, can be pulled for duration of time. Staff is still willing to help the homeowner any way we can, but state rules and town ordinances are not points of negotiation when work has been performed without permits.

From: Alan Holden <Alan@alanholdenrealty.com>
Sent: Wednesday, November 22, 2023 1:36 PM
To: dryarasheski@yahoo.com
Subject: Re: Fence

I am sorry for your disappointment with the Town of Holden Beach.

I do know Miss. Pigott was out sick for a few days. Mr. Evans and his staff overall do a good job.

I regret that your fence contractor did not address the permit issue when the contract was negotiated as is the normal process.

I appreciate you trying to follow up and "do things right". The inspections/permitting staff will, I am sure, work with you to try to get the matter resolved.

The variance process is governed by specific rules. Whether a variance can be issued in this case will be determined and I am not going to render an opinion.

Holden Beach welcomes new owners and trust that you, in time, will find that this is indeed the best "family beach" in America as the national award indicated.

I hope to meet you soon.

Alan

J. Alan Holden

Mayor of Holden Beach
REALTOR@Emeritus, ABR, CLHMS, CRB, CRS, e-PRO, GRI, RRS, SFR, SRS, RSPS, NCAR HALL OF FAME,
RE/MAX HALL OF FAME, RE/MAX Lifetime Achievement, BIC, OWNER - RE/MAX at the Beach, Alan Holden
Realty, Sea Castles Inc.

RE/MAX at the Beach / Holden Beach (Primary) - Oak Island - Southport - Calabash
128 Ocean Blvd West
Holden Beach, NC 28462

Phone: (910) 842-8686
Fax: (910) 842-8292

E-mail: alan@alanholdenrealty.com

Important information for buyers and sellers

From: David Yarasheski <David.Yarasheski@ncbar.com>
Sent: Monday, November 20, 2023 7:03 AM
To: Alan Holden <alan@alanholdenrealty.com>
Subject: Fw: Fence

----- Forwarded Message -----
From: David Yarasheski <David.Yarasheski@ncbar.com>
To: Alan Holden <alan@alanholdenrealty.com>
Cc: Jenthy <jenthy@ncbar.com>
Sent: Friday, November 17, 2023 at 04:09:25 PM EST
Subject: Fence

Mayor Holden

Good morning. My name is Dr. David Yarasheski and my wife and I recently purchased a home in Holden Beach and I felt the need to bring a matter regarding our home to your attention.

We hired a fencing company to install a fence in our yard. As new residents we were not familiar with the city ordinances governing the installation of a fence and were relying on the fence company to handle the details as this is their business. The gentleman did not file for a permit and we were only made aware of this in late October via a letter from the Town of Holden Beach indicating that we need a permit and that the fence is out of compliance.

I had contacted the permitting department for clarification several times and was finally able to arrange for J Pigott to meet me at the property so I could better understand what the exact problems were and how best to address them. This was scheduled on 10/30/23. Unfortunately after taking a half of day off from work and driving 2 hours to our house, when no one was there. I contacted the office only to be told that she was our "sick". I received no email, text or phone call prior indicating that she would not be able to make our appointment and essentially wasted half a day. I was able to speak with T Evans who indicated that the fence was above the allowed limit and I needed to apply for a permit. Along with the permit I was also to submit a survey of the property, house and fence.

Through my own research with little help from The Town of Holden Beach my understanding of this process is that we file for a permit with the requested information. Once this is denied, we can appeal and also request that a variance be considered. Once this is denied we can then request a meeting with the Town Council/Commissioners to present our side of the case.

At no time has anyone from Holden Beach offered to outline our options, helped us with this matter, nor even asked why we installed the fence as we did. We have just been "instructed" that the fence is out of compliance and we are in

violation. Please understand me when I ask - aren't the town officials there to help us as residents? I have been nothing but professional and respectful in my communication with the Town of Holden Beach, yet that treatment just doesn't seem to be reciprocated. Most recently I received an email from J Pigott (attached) indicating that the monetary penalty is continuing daily throughout this process as the fence is out of compliance. We just recently found a local company to conduct a survey on the property per the Town's request in order to file a zoning permit. I am working to follow the instructions - yet the meter begins running with regard to the penalty? How is this even fair to us as residents? I cannot control the schedule of other individuals nor am I going to remove a fence that was installed at considerable expense before I have the opportunity to investigate my options as a homeowner and proceed with our due process. The prevailing attitude of your inspectors quite honestly is one that as Mayor, I would be embarrassed to be associated with. We get offered no help and are fined while following the very instructions we have been given by those in charge? It was my hope that a common sense solution to this problem could be found, but unfortunately, it doesn't appear that there is even a remote possibility of that occurring. It seems that any questions or reasonable attempts to resolve an ordinance problem in Holden Beach is met with indifference and a "comply or else" attitude. This is just not right.

My wife and I have always dreamed of owning a Beach house for us and our family to enjoy. This dream came into realization this past summer only to have it evolve into the nightmare we are now experience courtesy of Holden Beach. As new residents we are not feeling terribly welcomed in our new surroundings.

I wanted to bring this situation to your attention as these individuals represent Holden Beach and your office out in public and to the residents of this town. My only request is that we not be fined \$500.00/day at any point during this process and are allowed to proceed with this matter in a reasonable timeframe. If ultimately the fence needs to be altered, then that can be addressed once we have exercised our rights to due process as homeowners.

Dr. David Yarasheski
121 Seaside Drive
Holden Beach NC 28462

910-7103-2777

Collin Lawyer &

Restored

Call 2-6-702

T.D.E.-lawyer