



**TOWN OF HOLDEN BEACH  
BOARD OF ADJUSTMENT  
REGULAR MEETING  
TOWN HALL PUBLIC ASSEMBLY  
Monday, February 17, 2025  
3:00 PM**

1. Call to Order
2. Roll Call
3. Approval of minutes from November 21, 2024
4. CASE NO 01-25 The Board of Adjustment will be hearing Case 01-25 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 relief from the Ordinance to obtain a Variance from the materials, height and location of the fence located at 121 Seaside Dr Holden Beach, NC 28462.
5. Old Business
6. New Business
7. Adjournment



**Town of Holden Beach  
Board of Adjustment  
Regular Meeting  
Monday, November 18, 2024**

The Town of Holden Beach Board of Adjustment met for a meeting on Monday, November 18, 2024, at 3:00 P.M. in the Holden Beach Town Hall Public Assembly. Present were Chairperson Anne Arnold, Regular Members Phil Caldwell, Mary Lou Lahren, and David Yarasheski. Alternate Member present was Rick McInturf. Present town staff members were Tim Evans, Janna Pigott and Carey Redwine. Absent was Vice Chairperson Richard Griffin and Alternate Member Richard Roberts.

**CALL TO ORDER**

Chairperson Arnold called the meeting to order.

**ROLL CALL**

**APPROVAL OF MINUTES FROM OCTOBER 21, 2024**

*Chairperson Arnold made a motion to approve the minutes, second by Member McInturf; minutes were approved.*

**CASE NO. 02-24: To request a variance from the Holden Beach Zoning Code of Ordinances Chapter 15, Section 157.060 (D)(4) to encroach into the back yard setback measured 20 feet from bulkhead located at 159 High Point Street, Holden Beach, North Carolina.**

Evans: Are you guys ready for testimony? Do you guys want to hear anything?

Arnold: Of course we do.

Evans: CASE NO. 02-24: To request a variance from the Holden Beach Zoning Code of Ordinances Chapter 15, Section 157.060 (D)(4) to encroach into the back yard setback measured 20 feet from bulkhead located at 159 High Point Street, Holden Beach, North Carolina. The staff stipulate to the four conditions, we have no reason to believe that this

variance should not be issued. I don't know what else to say except if you go down through them, he complies with all the provisions. He also did not create the hardship himself. The variance is in harmony if you go under 3B and see there would be no harm to the life for public safety. The town staff reviewed this, and we stipulate to the facts that this is a case that the variance should be issued.

Arnold: Thank you, Tim. Would you like to say anything Mr. McSwain?

McSwain: No.

McInturf: I have a question. I don't disagree, if you guys looked at it in totality you know that is the way it's probably going to go. What is the purpose of the 20-foot setback in theory anyway?

Evans: 20-foot setback has several obligations in its criteria. One of which is stormwater runoff for sheet flow, another is to create a less dense activity on the property. It is basically a form of planning to hold down density. Setbacks are typically determined if you've got a large subdivision and you have a lot of stormwater, then setbacks can be reduced. I think our setbacks are a victim of the lot sizes depending on our ability to handle that stormwater and the density of itself.

McInturf: Okay. The second part of that question and again it does not question the decision, but it is more of a curiosity thing. We have 5-foot setbacks on the sides, have we examined this property in its totality to see if there is room on the side?

Evans: This is why staff came to this conclusion, we looked at the property and I also had a conversation with the property owner, we determined that the property was there before both of our stormwater rules and possibly even prior to the setback regulations. Because of this it is non-conforming now and it makes it hard for the property to be used. The other thing is when you are talking about setbacks, we've already made provisions in the past for the setbacks' requirements, in fact we give an exemption for egresses up to 10 ft in the front and rear setbacks. You can have one, but you cannot have both.

McInturf: Thank you.

Arnold: I have a correction I think, we are looking at a setback 20 feet from the recorded lot line not the bulkhead. Am I correct on that Tim?

Evans: We measure our setbacks from the recorded lot line, we measure the CAMA buffer from the bulkhead.

Arnold: Okay. I just wanted to make sure. Any more questions? Clarifications? We've met all three questions that the Board of Adjustment is required to meet. Tim has already gone through those. We will do this verbally. Alright, are there practical difficulties, unnecessary hardships in the way of carrying out the strict letter of this ordinance? The owner can secure no reasonable return from or make no reasonable use of this property, you cannot make full use of this property, I'll rephrase that a little bit. The hardship is a result from unique circumstances related to the applicant's land, the hardship suffered of the applicant is common with his neighbors does not justify a variance, also unique personal family hardships are irrelevant since a variance if granted runs with the land. The hardship is not a result of the applicant's own actions. Do I hear a vote on that?

Caldwell: Are we saying those are met?

Arnold: Yes, are met. Then number two the variance is in harmony with the general purpose and intent of the ordinance and preserves his spirit.

Caldwell: I think that is true.

Arnold: Everybody? The granting of the variant secures the public safety and welfare and does substantial justice. Will the applicant be harmed if we find against him? Does everybody agree? Any objections to either of these three? Alright let's do the vote.

Moore: Ms. Arnold, can someone make a motion to vote before you do vote?

Arnold: We all have a voting ballot that says for or against that we write our vote on.

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

#### **OLD BUSINESS**

No old business.

#### **NEW BUSINESS**

Caldwell: Tim, I have a question for you. You know we have been up here several times over the several years doing this. You always say it's okay you've looked into it. We all know the reasons that these houses are built with elevators. I bet there is not a house that's over one story that doesn't have an elevator. How do we get the city to change that ordinance?

Evans: I am about to direct staff to go to the Planning Board and we're going to have an exception. CAMA has recently decided that cargo lifts and platform lifts are not development. They decided that it is an internal policy. A year ago they would have considered it development, now they no longer do. What I intend to do is go to the Planning Board, because its land use. I must take it there first. I will do it this coming up week. After that we will get an ordinance in place that allows for exceptions either in the front or the rear, not both.

Caldwell: Do you think that's a good idea?

Evans: I think that since CAMA is no longer going to call it development and CAMA will no longer have a restriction to it, that most would then fall upon us, and we would be denying people. We couldn't really do anything before because it was a state rule that wasn't allowed to be in some of those areas. Now, there is not a reason to not have an exception.

Arnold: Any other business? Do I hear a motion to adjourn?

*Anne Arnold made a motion to adjourn the meeting, second by Rick McInturf.*

**ADJOURNMENT 3:17 P.M.**

TOWN OF HOLDEN BEACH  
BOARD OF ADJUSTMENT

Application No. \_\_\_\_\_ Date 01/10/2025  
Permit Fee \$175.00 Receipt # \_\_\_\_\_

GENERAL APPLICATION FORM

Permit or Relief Requested: \_\_\_\_\_ Appeal ☒ Variance \_\_\_\_\_ Special Use Permit

Applicant Collin J. Tarrant Owner David Varasheski and Jentry E. Naylor

Address 310 N. Front Street, Address 233 Straw Pond School Rd

P.O. Box 4, Wilmington, NC 28402 Newton Grove, NC 28366

Telephone 910-763-2727 Telephone 910-584-4010

Legal relationship of applicant to property owner Attorney

Purpose of permit Obtain a variance from the materials, height and location of the fence

Property location 121 Seaside Drive, Holden Beach, NC 28462

Tax map PIO: 24SEA014 (Street Address) \_\_\_\_\_ Lot L-26&27 B&W  
Map Book 11, Page 84 Block \_\_\_\_\_

Lot size .23 square feet \_\_\_\_\_ Zoning District HB-R-1

No. of buildings to remain \_\_\_\_\_ Gross floor area of proposed buildings \_\_\_\_\_

Total square footage of land to be disturbed \_\_\_\_\_ square feet

Estimated cost of project \$ \_\_\_\_\_

The following documents are attached to and a part of this application: (Plot plan, building permit application, drawings, surveys, etc.)

Survey; photos; Brunswick County GIS map; and  
tax parcel identification and ownership information  
of adjacent property owners

Date 1/10/25 Signature of Applicant [Signature]

Application No. \_\_\_\_\_

TOWN OF HOLDEN BEACH  
APPLICATION FOR A VARIANCE

Month January Day 13 Year 2025

TO THE HOLDEN BEACH ZONING BOARD OF ADJUSTMENT:

I, David Warkowski, hereby petition the Zoning Board of Adjustment for a VARIANCE from the literal provisions of the Holden Beach Code of Ordinances because, under the interpretation given to me by the Zoning Enforcement Officer, I am prohibited from using the parcel of land described in the attached form (General Application Form) in a manner shown by the plot plan attached to that form. I request a variance from the following provisions of the ordinance (cite paragraph numbers):  
158.080, 157.999, 95.05 and any other violations alleged by the Town of Holden Beach.

so that the above-mentioned property can be used in a manner indicated by the plot plan attached to the General Application Form or, if the plot plan does not adequately reveal the nature of the variance, as more fully described herein: (If a variance is requested for a limited time only, specify duration requested.)

Factors Relevant to the Issuance of a Variance

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach three conclusions before it may issue a variance: (a) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance; (b) that the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit; and (c) that in granting the variance, the public safety and welfare have been assured and substantial justice has been done. In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these three required conclusions.

a. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. The courts have developed three rules to determine whether in a particular situation "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

(1) If he complies with the provisions of the ordinance, the property owner can secure no reasonable return from, or make no reasonable use of, his property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

See Attached Exhibit A

(2) The hardship of which the applicant complains results from unique circumstances related to applicant's land. (Note: Hardships suffered by the applicant in common with his neighbors do not justify a variance. Also, unique personal and family hardships are irrelevant, since a variance, if granted, runs with the land.)

See Attached Exhibit A

(3) The hardship is not the result of the applicant's own actions.

See Attached Exhibit A

c. The variance is in harmony with the harmony with the general purposes and intent of the ordinance and preserves its spirit. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

See Attached Exhibit ,

c. The granting the variance secures the public safety and welfare and does substantial justice. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

See Attached Exhibit A

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.



Signature

EXHIBIT A  
NARRATIVE

The subject property is located at 121 Seaside Dr., Holden Beach, North Carolina, bearing parcel ID number 245EA014 and is currently zoned HB-R-1(L-26&27 B&W Subdivision). The Owners, David Yarasheski and Jentry Naylor, ("Owners") erected a wooden fence extending along the perimeter of the front yard (the "Fence") adjacent to Seaside Drive. Based on the foregoing, Applicant requests variance from Town of Holden (the "Town") as to the material, height and location of the Fence located on their property. In accordance with the Town Zoning Ordinance and North Carolina General Statutes, Applicant meets the requirements for approval of a variance as set forth below:

1. **Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.**

Moving and reconstructing the Fence with different materials requires substantial costs and unnecessary work. The Owners erected the Fence on the property in what the Owners consider their side yard for privacy, however, there is very limited space on the property the Fence can be relocated to without requiring a variance because of the configuration of the Owner's property.

2. **The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make reasonable accommodation under the Federal Fair Housing Act for a person with a disability.**

The survey indicates the configuration of the Owners' lot and the Fence encroachment into the setbacks. The configuration of the Owners' property makes compliance with the ordinance extremely difficult as the Owners' property is configured so that the rear of the Owners' property faces the canal. The Owners enter the property via driveway around the left side of the house. The Owners use the yard adjacent to Seaside Drive as the side yard. A portion of the Owner's front yard as defined by the ordinance is shielded by the undeveloped right of way, which is an extension of Seaside Drive. Because of the 30' Cama buffer on the side yard of lot as defined by the ordinance there is limited placement for the Fence. The Fence is not unusual in size for the side yard and is standard for residential use. The conditions creating the hardship result from the unique shape and dimensional characteristics of the Owners' property.

**3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.**

The hardship results from the unique and limited size and dimensional characteristics of Owners' Property. The Property has very limited front yard that is visible from Seaside Drive due to the portion of undeveloped right of way that extends majority of the length of the property.

**4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.**

Due to the height of the Fence in the front setback, the Fence will not meet permit requirements and requires variance to legally remain in its location. The Fence does not impact the use and enjoyment of the neighboring properties, as the majority of the Fence is not visible from neighboring properties or even Seaside Drive due to the portion of undeveloped right of way. The requested variance is also consistent with the purpose and intent of the regulation as this is a unique situation for a corner lot that faces the canal. The Fence does not negatively impact other surrounding property owners, nor does it threaten the public safety.



LOCKWOOD POLY TRAP  
SCALE 1" = 30'

BRUNSWICK COUNTY, N.C.  
MARCH 5, 2024



1305 RIVER BEND DRIVE  
SMALLVILLE, NORTH CAROLINA 28470  
910824-6308

**LOCATION MAP (No Scale)**

- [illegible]

**Notes**

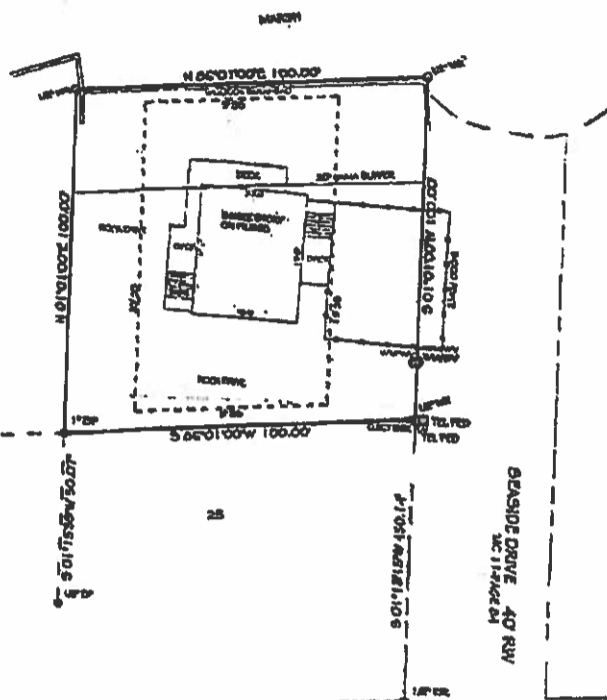
- NOTES
- 1 AREA OF COORDINATES.
  - 2 PROPERTY IS SUBJECT TO ANY AND ALL INCENTIVE ADVANTAGES OFFERED BY FEDERAL, STATE AND LOCAL GOVERNMENT AND RECORDED IN THE RELEVANT COUNTY RECORDS.
  - 3 PROPERTY IS LOCATED IN                      AND                      RECORDS IN THE RELEVANT COUNTY RECORDS.
  - 4 HIGH ROAD PLACED IN                      AND                      RECORDS IN THE RELEVANT COUNTY RECORDS.
  - 5 PROPERTY IS LOCATED IN                      AND                      RECORDS IN THE RELEVANT COUNTY RECORDS.
  - 6 PROPERTY IS LOCATED IN                      AND                      RECORDS IN THE RELEVANT COUNTY RECORDS.
  - 7 BLACK/WHITE                      NA.
  - 8 THIS SURVEY REPRESENTS AN ADJUST OF THIS PROPERTY AS OF THE DATE OF SURVEY.
  - 9 THIS SURVEY DOES NOT CARRY LEGAL TITLE TO THE LAND ITSELF, OR TO THE BOUNDARIES SHOWN. USERS OF THIS PLAN MUST OBTAIN AN APPROPRIATE LEGAL OPINION AS TO OWNERSHIP OF THE BOUNDARIES SHOWN ON THIS PLAN.
  - 10 BEST FIT POLYLINE UTILIZED BASED UPON THE PREPONDERANCE OF EVIDENCE POINTS.

**NOTE:**  
THIS SURVEY REPORTS THE RESULTS OF A NEW  
AND IMPROVED SURVEY OF THE MONTHLY TRAINING  
COURSES AND DISTANCE MANAGEMENT  
PROGRAMS IN THE RECORDS.

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION ACCORDING DESCRIPTION RECORDED IN BOOK \_\_\_\_\_, PAGE \_\_\_\_\_ OR OTHER REFERENCE INDICATED HEREON AND THAT THE DIMENSIONS NOT SURVEYED ARE INDICATED BY \_\_\_\_\_ OR OTHER REFERENCE INDICATED BY \_\_\_\_\_, PAGE \_\_\_\_\_, STATE OF MISSISSIPPI. I FURTHER CERTIFY THAT THE MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYS IN NORTH CAROLINA BY NCMS § 5C-1 GOAL.

THE 3 DAY OF MARCH, 2024

INSTRUMENTS FILE 1-285 4-15



BLASIDE DRIVE 40 RM  
MC 117ACE 01

FIELD NUMBER \_\_\_\_\_  
 DATE \_\_\_\_\_  
 COUNTRY \_\_\_\_\_  
 FIELD BOOK \_\_\_\_\_  
 CONTAINER NO. \_\_\_\_\_  
 MAP SHEET \_\_\_\_\_  
 NUMBER OF PLANTS \_\_\_\_\_



2/3/2024, 4:12:01 PM

County Boundary

Parcels

Roads

Minor

Municipalities

Holden Beach City

PICTOMETRY\_2023

Addresses

Red: Red

Green: Green

Blue: Blue

Brunswick

1/14/25, 12:57 PM

IMG\_4484.jpg | Powered by Box



1/14/25, 12:57 PM

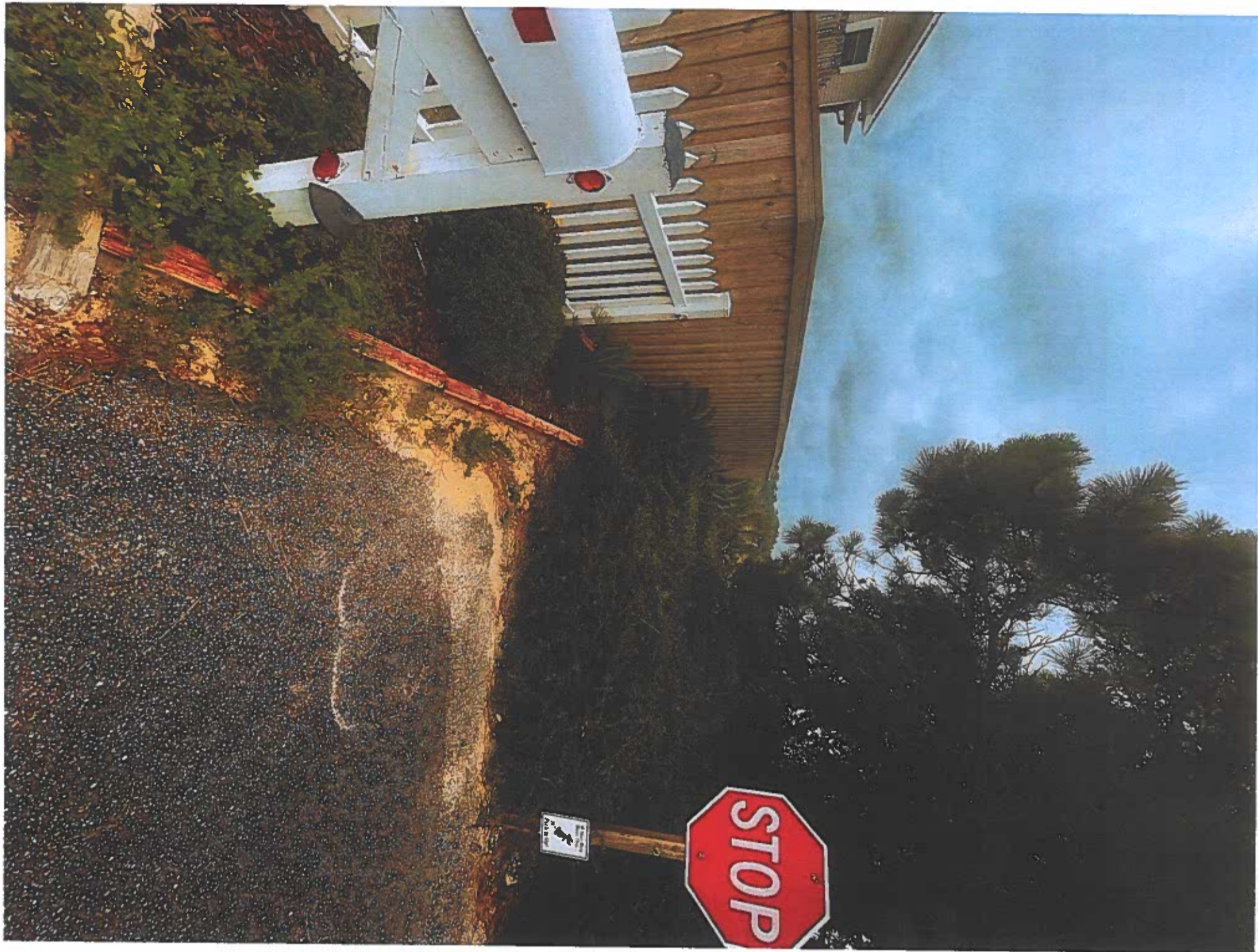
IMG\_4482.jpg | Powered by Box



1/14/25, 12:57 PM

IMG\_4516.jpg | Powered by Box





1/14/25, 12:57 PM

IMG\_4507.jpg | Powered by Box



Previously  
Sent in

BLO

SAVED, L.L.P.

AW

102

310 NORTH FRONT STREET, SUITE 200  
WILMINGTON, NORTH CAROLINA 28401

TELEPHONE  
910.763.2727

FACSIMILE  
910.762.6429

www.bcklawfirm.com  
clerkant@bcklawfirm.com

FRANKLIN L. BLOCK  
ATLEY M. CROUCH, II  
JEFFREY P. KEETER  
CHRISTOPHER K. BEH  
LINDA B. SAVED\*  
COLIN J. TARRAST  
J. DICKSON MCGEEAN  
BRITTANY C. HAYL\*  
JAMIE S. GETTY  
NATHANIEL H. COOK  
BRODY M. O'NEAL  
JACQUELINE M. C. VILGAT  
MELESSY 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](mailto:janna@hbtownhall.com)  
Evans Email: [tevans@hbtownhall.com](mailto: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 Yarasheski 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. Tarrant

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

## Notice of Violation

Holden Beach

110 Rothschild Street

Holden Beach, NC 28462

910-842-6080

Case Number: 2024009



03/27/2024

YARASHIESKI DAVID RICHARD ET UX  
121 SEASIDE DR  
SUPPLY, 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 right-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 right-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 right-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 1189, 1190, 1191, and 1192 OBW may install or place a fence within the right-of-way;
  - (C) The area of the right-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 right-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,

*Yvonne Pigoit*  
*Zealy D. Evans*

Janna Pigoit  
Development Services Officer Code Enforcement Officer  
Tim Evans  
Building Director

# TOWN OF HOLDEN BEACH ZONING PERMIT APPLICATION

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

## Section 1: Basic Data

Name: DAVID VIMASLESKI Telephone #: 910 554-4810  
 Holden Beach Property Address: 121 Seaside Drive Holden Beach NC 28462  
 Permanent Mailing Address (print same if local address above applies):  
 Street Address: 233 STAN PAUL School Road

City/State/Zip Code: Newton Grove NC 28366

Contractor Who Will Perform the Work: MATT BABSON - FENCE CLEANING  
 Contact Person: MATT BABSON Telephone #: 910 540-853 910 754-6290

Address: 3396 Big Neck Road NW ASH, NC 28420

## 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: N/A

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

Lowest Horizontal Structural Member: N/A

## 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: David Vimasleski Printed Name: David Vimasleski 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

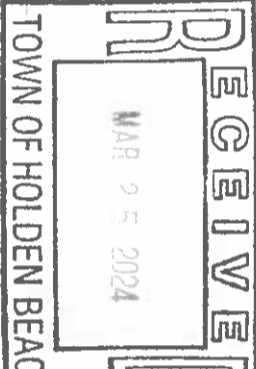
Residential District (R1 Zone)

Residential District (R2 Zone)

Commercial District (C Zone)

Zoning Official Approval Signature: \_\_\_\_\_

Date: \_\_\_\_\_



paperwork received for  
 Town attorney. Applicant  
 never submitted to staff.

**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.

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

David Yarasheski  
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

SECTION: 157.080

CODE DESCRIPTOR

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.

157.59

Penalty

§157.59 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 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 be fined not more than \$500.00 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 also 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 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 #10-99(B) of this code of ordinances.

  
Janna Pigott, Zoning Officer

Homeowner made contact with town  
on 1/25/24 @ 1:26 pm 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 homeowner hung up.  
Tim tried calling back @ 1:28 pm 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 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

**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 <dvyarasheski@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](mailto:janna@hbtownhall.com)> wrote:

Monday at 3:30 works, see you then.

Thanks,

**From:** David Yarasheski <[dvyarasheski@yahoo.com](mailto:dvyarasheski@yahoo.com)>  
**Sent:** Wednesday, October 25, 2023 8:54 PM  
**To:** Janna Pigott <[janna@hbtownhall.com](mailto: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 <[redacted]> 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 <[redacted]>  
**Sent:** Monday, October 23, 2023 1:42 PM  
**To:** Janna Pigott <[redacted]>  
**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 (910) 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 16<sup>th</sup>. 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 <[redacted]>  
Sent: Monday, November 20, 2023 7:03 AM  
To: Alan Holden <[redacted]>  
Subject: Fw: Fence

----- Forwarded Message -----  
From: David Yarasheski <[redacted]>  
To: Holden Beach, NC 28462 <[redacted]>  
Cc: Jentry <[redacted]> > David Yarasheski <[redacted]>  
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

910-763-2777

Collin Lawyer &  
Retired  
Call 2-6-2022  
T.P.E. lawyer

**BUILDING HEIGHT.** The vertical distance measured from design flood elevation (DFE) to the highest point of the structure.

**BUILDING INSPECTOR.** The person, officer, and his authorized representatives, whom the town Commissioners have designated as their agent for the administration and enforcement of these regulations.

**CHURCH.** An institution that people regularly attend to participate in or hold religious services, meetings and other activities. The term **CHURCH** shall not carry a secular connotation and shall include buildings in which religious services of any denomination are held.

**CLUBHOUSES** (to include, but not limited to, **BEACHCLUBS, CABANA CLUBS, PROPERTY OWNER ASSOCIATION FACILITIES** and similar type uses). A building or facility owned or operated by an incorporated, unincorporated, chartered association or an individual or individuals nominated by such entities for the purpose of engaging in social, civic, educational, recreational, cultural or similar activities, but not primarily for profit or to render a service that is customarily carried on as a business, for the benefits of its members.

**CONDITIONAL ZONING.** A legislative zoning map amendment with site specific conditions incorporated into the zoning map amendment.

**DISTRICT.** Any section of the town in which zoning regulations are uniform.

**DWELLING.** Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

**DWELLING, MULTIPLE-FAMILY.** A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, SINGLE-FAMILY.** A detached residential dwelling unit, other than a mobile home, designed for and occupied by one family only.

**DWELLING, TWO-FAMILY.** A building designed and constructed or reconstructed to be used for two dwelling units that are connected by a common structural or load bearing wall of at least ten lineal feet in length.

**DWELLING UNIT.** A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**EAVE.** An overhanging roof extension equal to or less than 20 inches.

**FAMILY.** One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

**FENCE.** A structure, obstacle, or barrier serving as an enclosure, boundary or screening device usually made of wooden posts or rails, wire, vinyl or fabric (and other natural or manufactured materials). Required heights and locations for fences are found in § 157.080.

**FLOATING HOME.** Any vessel used, designed, or occupied as a dwelling unit, business, or private or social club, whether mobile or immobile in design or use and whether self-propelled or not.

**FLOOD, (COASTAL).** A temporary rise in ocean level that results in inundation of areas not ordinarily covered by water.

**FLOOD, REGULATION.** The flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur. The regulatory flood

#7  
Fence Definition  
For penalty purposes

(b) A flexible cloth, canvas or similar skirt may hang no more than 12 feet below the horizontal bar supporting the awning, but in no case shall a skirt be less than seven feet above the ground or sidewalk at the lowest point.

(U) *Noncompliance.* The building inspector, after giving 48-hours' notice to remove any unauthorized permanent signs, and informing in the notice that the penalty will begin, should notify the Town Attorney of non-compliance at the expiration of the time limit. Temporary or portable signs erected or situated upon public property should be given notice to remove immediately. Persons found guilty of violating this section shall be subject to a penalty in accordance with § 157.999. Each day a violation continues shall be considered a separate offense.

(85 Code, § 15-6-8) (Ord. 33, passed 10-5-81; Am. Ord. 8-88, passed 5-02-88; Am. Ord. 00-04, passed 2-28-00; Am. Ord. 00-21, passed 10-9-00; Am. Ord. 02-12, passed 10-14-02; Am. Ord. 03-08, passed 11-24-03; Am. Ord. 07-10, passed 7-10-07; Am. Ord. 21-10, passed 6-15-21) Penalty: see § 157.999

#### § 157.080 FENCES.

Except where otherwise provided herein, all fences shall be subject to the following regulations. Fences shall be exempt from the yard and building setback line requirements of this chapter. Fences not exceeding six 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 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 in § 157.081 of this chapter may impose stricter limits.

(85 Code, § 15-6-9) (Ord. 33, passed 10-5-81; Am. Ord. 94-27, passed 11-7-94; Am. Ord. 00-19, passed 8-28-00; Am. Ord. 06-01, passed 1-9-06) Penalty: see § 157.999

#### § 157.081 VISIBILITY AT INTERSECTIONS.

On a corner lot in all districts, nothing shall be erected, planted, or allowed to grow in such a manner as to impede vision over a height of three feet above the centerline grades of the intersecting streets within the triangular area bounded on two sides by the two street centerlines and on the third side by a straight line connecting points on the street centerlines located one-half the street right-of-way width plus 40 feet measured from the intersection of the centerlines.

(85 Code, § 15-6-10) (Ord. 33, passed 10-5-81; Am. Ord. 3-87, passed 3-2-87) Penalty: see § 157.999

#### § 157.082 ADDITIONAL HEIGHT REGULATIONS.

(A) Except as provided herein the 35-foot height limitation for the primary structure shall not be violated. In no case shall there be space above the 35-foot height that is suitable for human occupancy.

(B) Exceptions to this rule may only include the following:

(1) Town owned public utility structures are exempt.

(2) The following additional structures, when attached to the roof of the structure, may extend beyond the 35-foot height limit, provided further that they comply with the specifics set forth in this section:

(a) Chimneys not to exceed the minimum height specified by the State Building Code;

(b) Structurally functional rooftop appendages, including ventilators, exhaust fans and lightning rods. However, these appendages shall not extend more than two feet above the 35-foot height limit and shall not cover an area larger than three feet by three feet;

(c) Architectural elements, such as small decorative devices, including weather vanes and

much as is reasonably possible within property boundaries, and not drained onto adjacent areas, both private and public (for example streets and roads)

(B) The amount of any fill materials to be placed for whatever purpose (height above existing grades) shall be limited to either 12 inches above the average centerline of the road adjacent to the property.

(C) Prior to the placement of any soil fill material on parcels of land, with the exceptions as listed below in division (D), the property owner or their appointed representative shall apply for a Stormwater Permit. The permit shall contain the following information:

(1) Site plan drawn to a scale of 1:20 on white bond paper a minimum of 8.5" x 14" in size. The plan will be clearly and legibly labeled and will show existing land grades of the parcel (topographic relief), adjacent property lines with existing land grades at the property line, and proposed finished land grades for the property in question. Elevations of adjacent property will be shown at minimum intervals of 25 feet, with a minimum of four points per property. If there is a residence on adjacent property, the elevation of the concrete slab of the residence will be indicated, as well as the elevation of existing grade at the corners of the structure. The site plan shall also show the location and elevation of a benchmark established on or adjacent to the property, to be used as an on-the-ground elevation reference.

(2) Location, area and composition of all features proposed to be located on the property such as building structures, driveways, sidewalks, septic tank and drain field, or any other feature that may impact stormwater management per these regulations.

(3) Designation of ground level pertaining to FEMA base flood elevations and height above mean sea level per § 157.006 of the Town Code. This is in reference to the point at which ground level will be measured (in reference to the height restriction) in order that a home may be constructed on the property.

(4) Per information presented above, it is the intent of these regulations that stormwater flow be routinely contained within property lines in question, and not be directed onto adjacent real estate. Within property lines, sheet flow drainage of stormwater over grassy or adequately vegetated surfaces will be managed in such a manner so as not to create soil erosion, sedimentation buildup, or channeling water in any way onto adjacent property. In all cases when stormwater is proposed to be directed toward a public street, the plan will be designed so as to control the first 1.5 inches of rainfall from impervious surfaces during a 24-hour period within the property boundaries.

(5) Using the above guidance, the proposed direction of flow for stormwater will be clearly shown throughout the plan, so as to provide the approving authority with sufficient information to determine how the applicant proposes to manage stormwater primarily on site. In addition to sheet flow drainage, engineered stormwater management solutions are encouraged. The completed plan must be sealed by an engineer or land surveyor licensed to practice in the stormwater runoff planning in the state. The engineer or land surveyor in question shall certify that all aspects of the stormwater permit plan have been complied with according to the design.

(6) A retaining wall not to exceed 30 inches in height is allowed to retain the added soil fill materials on site as indicated in the septic permit, to prevent stormwater flow onto adjacent property. When the wall extends along the property lines, beyond the boundaries of the highest fill allowed, toward the street side or property rear, it must be decreased in elevation by a minimum of one foot for every 12 feet of wall length so that it remains parallel to the slope of the line of fill.

*Right-of-way  
#6  
Regulatory Rule*

limits shall be constructed in accordance with these minimum standards.

('85 Code, § 14-1.3) (Ord. 19, passed - - ) Penalty: see § 95.99

### § 95.05 STREET RIGHTS-OF-WAY.

(A) The purpose of this regulation is to establish what may be placed in street 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 street 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
- (4) Is encouraged.

('85 Code, § 14-2)

(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 one foot in height.
- (3) The properties located at 1189, 1190, 1191 and 1192 Ocean Boulevard West may install or place a fence within the right-of-way.

('85 Code, § 14-2.1)

(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.

('85 Code, § 14-2.2)

(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.

('85 Code, § 14-2.3) (Ord. 5-89, passed 5-1-89; Am. Ord. 90-17, passed 12-3-90; Am. Ord. 94-29, passed 11-7-94; Am. Ord. 95-03, passed 2-6-95; Am. Ord. 02-08, passed 5-27-02; Am. Ord. 06-13, passed 11-14-06; Am. Ord. 12-04, passed 5-8-12; Am. Ord. 18-08, passed 4-17-18) Penalty: see § 95.99

### § 95.06 PRESERVATION ZONE.

(A) The town is authorized and empowered by G.S. § 160A-296 to exercise control over its public streets and is generally authorized to pass laws to protect the health, safety, and welfare of its citizens. Hillside Drive, within the town limits, has become a hazard to the health, safety, and welfare of the citizens of the town because of the encroachment of the Atlantic Ocean onto lands immediately adjacent to and south of Hillside Drive, and onto parts of the road itself, and it has become necessary to take measures to protect the right-of-way of Hillside Drive.

('85 Code, § 14-3)

(B) All public use of the 50-foot right-of-way area of Hillside Drive shall be confined to the northern 20 feet of the right-of-way, subject to narrower areas of travel being designated by the Town Manager or eliminated altogether as necessary to establish a preservation zone within the right-of-way of Hillside Drive.

('85 Code, § 14-3.1)

(C) The southern 30 feet of the Hillside Drive right-of-way is hereby reserved for establishment of a preservation zone necessary to protect the remaining right-of-way of Hillside Drive, provided that the preservation zone may be extended northward as necessary due to existing erosion, as established by the Town Manager.  
(85 Code, § 14-3.2)

(D) The Holden Road, Elizabeth Street and Bendigo Street entrances to Hillside Drive shall be closed to vehicular traffic and shall be barricaded  
(85 Code, § 14-3.3)

(E) Except as prohibited by state law, any portion of the Hillside Drive right-of-way that is not within the preservation zone is exempt from town ordinances relating to minimum width standards for town roads and shall hereafter be designated as an alley.  
(85 Code, § 14-3.4) (Ord. 94-07, passed 3-10-94)  
Penalty, see § 95.99

# **§ 95.99 PENALTY.**

Any person who violates the provisions of this chapter shall, upon conviction, be liable to the penalty as stated in § 10.99 of this code of ordinances.  
(85 Code, § 14-1.5) (Ord. 19, passed - - )

combination of the remedies authorized and prescribed by this section and § 10.99 of this chapter. ('85 Code, § 1-5.4) (Ord. 93-07, passed 3-1-93; Am. Ord. 07-04, passed 5-22-07)

## § 10.99 GENERAL PENALTY.

### (A) Criminal.

(1) Unless otherwise specifically provided, violation of any part of this code or any other town ordinance shall be a misdemeanor, as provided by G.S. § 14-4, as amended.

(2) Unless a higher fine is stated in a particular chapter or section of this code or in an ordinance, violators will be subject to a \$100 criminal fine, and up to 30 days imprisonment for each offense.

(3) Each day a provision of the code or an ordinance is violated is a separate offense. ('85 Code, § 1-5.1)

### (B) Civil.

(1) In addition to criminal fines, the penalty clause for a specific section of the code or ordinance may impose civil penalties against an offender.

(2) Each day a provision of the code or an ordinance is violated is a separate offense. The civil fine will accrue daily, starting on the day the violation first occurs, and continuing through the day the violation ceases.

(3) Civil fines are due and payable within three business days after service of a civil citation is complete. Each day's fine for a continuing offense shall be due and payable within three business days of the day of the offense without further notice or service. The fines are payable at the Town Hall during regular business hours.

(4) Service of a civil citation is completed on the day it is personally delivered, or five days after it is mailed, to the following: an offender who is an

individual or owner of a sole proprietorship, any general partner of a partnership that is the offender; or the registered agent, or manager or other person in a supervisory capacity at the local place of business of an offender that is a corporation. The town shall use the address provided to the Tax Collector for all tax bills, and shall rely upon that address in serving notice. The five-day period for mailed service shall begin the day it is placed in the United States mail, in a properly stamped and addressed envelope, addressed to the appropriate person named above at the offender's address for tax mailings. Personal service may be made by any police officer, Town Manager, or Building Inspector.

(5) Recovery of overdue civil penalties shall be by a civil action against the offender in the nature of debt.

(6) Civil citations for all violations of code provisions and ordinances regulating building and housing, environmental matters, mobile homes, zoning, and subdivisions shall be issued by the Building Inspector. All other civil citations may be issued by any police officer or the Town Manager. ('85 Code, § 1-5.2) (Ord. 93-07, passed 3-1-93; Am. Ord. 02-04, passed 3-11-02; Am. Ord. 07-04, passed 5-22-07)

generally has a flood frequency of approximately 100 years as determined by the Federal Flood Insurance Administration, HUD.

**FRATERNITY or SORORITY HOUSES.** A building occupied by and maintained exclusively for college or university students who are affiliated with a social, honorary, or professional organization which is chartered by a national, fraternal, or sororal order and which is so recognized by the college, university, or other institution of higher education.

**FOOTPRINT.** The shape of a building reflecting the perimeter of the impervious area of the structure measured from exterior plate to exterior plate. If the eaves are greater than 20 inches, the footprint will be measured from eave to eave.

**GROSS FLOOR AREA.** The total area of all floors of a building as measured to the outside surfaces of exterior walls and including but not limited to, halls, stairways, elevator shafts, attached garages, porches, decks and balconies.

**HEIGHT MEASURING POINT: (HMP).** Design flood elevation or base flood elevation plus two feet.

(1) (a) Wherever there is less than nine feet between the DFE and finished grade the **HEIGHT MEASURING POINT** may be moved to a maximum of nine feet above finished grade.

(b) All structures located in any A, V or X zones must have a minimum of eight feet clearance between the lowest horizontal structural member and finished grade.

(2) FEMA flood area "X" measuring point shall be the lowest original soil under the structure after the undisturbed soil has been balanced. Exception: structures located in X zones may be measured as written in division (1)(a) above with a maximum height of 31 feet from the **ESTABLISHED HEIGHT MEASURING POINT**.

**HOME OCCUPATION.** An occupation for gain or support customarily conducted on the premises by a person or family residing thereon.

**IMPERVIOUS AREA.** Something that is incapable of being passed through or penetrated by water; this shall include, but not be limited to, sidewalks, driveways (with the exception of sand and grass), patios, and any roofed structure from exterior plate to exterior plate.

**JUNK YARD.** Any land or area use, in whole, or in part for commercial storage and/or sale of waste paper, rags, scrap metal, or other junk, and including storage of scrapped motor vehicles and dismantling of such vehicles or machinery.

**LIGHTING.** Artificial illumination as regulated by § 92-30 of the Holden Beach Town Code.

**LOT.** A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required.

**LOT COVERAGE.** The total footprint of the principal structure and all impervious areas of the total platted lot.

**LOT DEPTH.** The mean horizontal distance between front and rear lot lines.

**LOT FRONT.** The front of a lot shall be considered to be that side of the lot which fronts on a street. In the case of a corner lot the narrower side fronting on the street shall be considered to be the front of the lot. In case the corner lot has equal frontage on two or more streets, the lot shall be considered to front on the street on which the greatest number of lots front, or if unplatted, on the street on which the greatest number of buildings have been erected.

**LOT OF RECORD.** A lot which is part of a subdivision recorded in the office of the Register of Deeds, Brunswick County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Setbacks shall be measured from the recorded property line.

**SHELTER, FALLOUT.** A structure or portion of a structure that provides protection to human life during periods of danger from nuclear fallout, air raids, storms, and other emergencies.

**SHOPPING CENTER.** Two or more commercial establishments planned and constructed as a single unit with off-street parking and loading facilities provided on the property and related in location, size, and type of shops to the trade area which the unit serves.

**SITE PLAN.** A drawing prepared by a licensed engineer or surveyor that adequately demonstrates the proposed use for which a permit is sought that will become an integral part of the application record. The required elements of an acceptable site plan may be obtained from the Planning and Inspections Department.

**SLEEPING ROOM.** A room designated as sleeping or bedroom on the plans and permit application.

**SLEEPING UNIT.** A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not **SLEEPING UNITS**.

**SPECIAL USE PERMITS.** A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent material and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

**STORES.** Business establishments where usual diversified goods are kept for retail sale.

**STREET.** A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to adjoining properties.

**STREET LINE.** The right-of-way boundary of a street.

**STRUCTURE AND/OR BUILDING.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, and poster panels.

**TOWN COMMISSIONERS.** Town Commissioners of Holden Beach, North Carolina.

**TRACT.** A piece of land whose boundaries have been described or delimited by a legal instrument or map recorded in the office of the Register of Deeds.

**TRAVEL TRAILER.** A wheeled vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes, having a body width not exceeding eight feet. This is also intended to include structures mounted on auto or truck bodies that are referred to as campers.

**TRAVEL TRAILER LOT.** A plot of land within a travel trailer park designed for the accommodation of one travel trailer.

**TRAVEL TRAILER PARK.** Travel trailer park shall mean any site or tract of land upon which are located the minimum number of travel trailer spaces or land area required by this chapter, regardless of whether or not a charge is made for such service.

**USEABLE AREA.** The available space of a platted lot after taking into consideration a bulkhead, marsh areas (as defined by the Coastal Area Management Act) and the first line of stable natural vegetation (as defined by the Coastal Area Management Act) and all federal and/or state regulated wetlands that may have reduced the actual area of land available for construction purposes. For

purposes of determining useable area, one seeking a building permit shall furnish the Building Inspector with a survey prepared by a registered land surveyor that delineates the useable area as defined herein. The surveyor shall further provide the Building Inspector with the calculation of the square feet of useable area available on the lot.

**USED or OCCUPIED.** Include the words "intended, designed, or arranged to be used or occupied."

**VARIANCE.** A relaxation of the terms of the zoning code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship. As used in this chapter, a **VARIANCE** is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in any zoning district.

**YARD.** A required open space unoccupied and unobstructed by a structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any **YARD** subject to height limitations and requirements limiting obstruction of visibility.

**YARD, FRONT.** An area extending between side lot lines across the front of a lot adjoining a street. Depth of required front yards shall be secured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.

**YARD, REAR.** An area extending across the full width of the lot and lying between the rear lot line and a line parallel thereto at a distance therefrom as required in the applicable district.

**YARD, SIDE.** An area extending along the length of the lot between the required front yard and the required rear yard and between the side lot lines and a line parallel thereto and a distance therefrom as required in the various districts.

**ZONING BOARD, ZONING COMMISSION,** or **PLANNING COMMISSION.** Holden Beach Planning Board

**ZONING MAP AMENDMENT or REZONING.** An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

**ZONING REGULATION.** A zoning regulation authorized by G.S. Ch. 160D, Art. 7 (§§ 160D-701 et seq.).

(85 Code, §§ 15-12.3, 15-12.4) (Ord. 33, passed 10-5-81; Am. Ord. 95-04, passed 2-22-95; Am. Ord. 95-05, passed 2-22-95; Am. Ord. 96-02, passed 5-20-96; Am. Ord. 96-08, passed 6-17-96; Am. Ord. 97-07, passed 4-21-97; Am. Ord. 98-14, passed 7-13-98; Am. Ord. 98-15, passed 7-13-98; Am. Ord. 01-08, passed 7-23-01; Am. Ord. 02-12, passed 10-14-02; Am. Ord. 04-04, passed 5-10-04; Am. Ord. 06-01, passed 1-9-06; Am. Ord. 06-07, passed 6-12-06; Am. Ord. 06-14, passed 11-14-06; Am. Ord. 15-01, passed 1-13-15; Am. Ord. 21-02, passed 3-16-21)

Building Code.

## Part II—Definitions

4

### CHAPTER 2 DEFINITIONS

*Definitions in this chapter preceded by a bracketed letter correlate with the chapters for Energy [RE], Plumbing [RP], Fuel Gas [RG], and Mechanical [RM] of this code. Definitions that are not preceded by a bracket are general definitions utilized throughout this code.*

#### SECTION R201 GENERAL

**R201.1 Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings indicated in this chapter.

**R201.2 Interchangeability.** Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

**R201.3 Terms defined in other codes.** Where terms are not defined in this code such terms shall have the meanings ascribed in other code publications of the North Carolina Building Code Council.

**R201.4 Terms not defined.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

#### SECTION R202 DEFINITIONS

**[RE] ABOVE-GRADE WALL.** A wall more than 50 percent above grade and enclosing *conditioned space*. This includes between-floor spandrels, peripheral edges of floors, roof and basement knee walls, dormer walls, gable end walls, walls enclosing a mansard roof and skylight shafts.

**[RP] ACCEPTED ENGINEERING PRACTICE.** Practice that conforms to accepted principles, tests or standards of nationally recognized technical or scientific authorities.

**[RP] ACCESS COVER.** A removable plate, usually secured by bolts or screws, to permit access to a pipe or pipe fitting for the purposes of inspection, repair or cleaning.

**ACCESS (TO).** Access that enables a device, *appliance*, or *equipment* to be reached by ready access or by a means that first requires the removal or movement of a panel, door or similar obstruction.

**ACCESSIBLE.** Signifies access that requires the removal of an access panel or similar removable obstruction. For energy purposes, *accessible* means admitting close approach as a result of not being guarded by locked doors, elevation or other effective means (see “*accessible, readily*”).

**ACCESSORY BUILDING.** In one- and two-family dwellings not more than three stories *above grade plane* in height with a separate means of egress, a building, the use of which is incidental to that of the main building and that is detached and located on the same lot. An accessory building is a building that is roofed over and more than 50 percent of its exterior walls are enclosed. Examples of accessory buildings are garages, storage buildings, workshops, boat houses, tree-houses, and similar structures.

**ACCESSIBLE, READILY.** Signifies access without the necessity for removing a panel or similar obstruction.

**[RB] ACCESSORY STRUCTURE.** A structure that is not defined as an *accessory building*. Examples of accessory structures are fencing, decks, gazebos, arbors, retaining walls, barbecue pits, detached chimneys, playground equipment, yard art, docks, piers, etc.

**[RE] LACH<sub>50</sub>.** Air changes per hour of measured airflow in relation to the building volume while the building is maintained at a pressure difference of 50 Pascals.

**[RP] ADAPTER FITTING.** An *approved* connecting device that suitably and properly joins or adjusts pipes and fittings that do not otherwise fit together.

**[RB] ADDITION.** An extension or increase in floor area or height of a building or structure. For energy purposes, an extension or increase in the *conditioned space*, floor area or height of a building or structure.

**[RB] ADHERED STONE OR MASONRY VENEER.** Stone or masonry veneer secured and supported through the adhesion of an *approved* bonding material applied to an *approved* backing.

**[RP] AIR ADMITTANCE VALVE.** A one-way valve designed to allow air into the plumbing drainage system where a negative pressure develops in the piping. This device shall close by gravity and seal the vent terminal under conditions of zero differential pressure (no flow conditions) and under positive internal pressure. The purpose of an air admittance valve is to provide a method of allowing air to enter the plumbing drainage system without the use of a vent extended to open air and to prevent sewer gases from escaping into a building.

**[RE] AIR BARRIER MATERIAL.** Material(s) that have an air permeability not to exceed 0.004 cfm/ft<sup>2</sup> under a pressure

**STORY.** That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above (see “*Basement*,” “*Building height*,” “*Grade plane*” and “*Mezzanine*”). A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

**STORY ABOVE GRADE PLANE.** Any story having its finished floor surface entirely above *grade plane*, or in which the finished surface of the floor next above is:

1. More than 6 feet (1829 mm) above *grade plane*; or
2. More than 12 feet (3658 mm) above the finished ground level at any point.

[BS] **STRENGTH (For Chapter 21).**

**Design strength.** Nominal strength multiplied by a strength reduction factor.

**Nominal strength.** Strength of a member or cross section calculated in accordance with these provisions before application of any strength-reduction factors.

**Required strength.** Strength of a member or cross section required to resist *factored loads*.

[BS] **STRENGTH (for Chapter 16).**

**Nominal strength.** The capacity of a structure or member to resist the effects of *loads*, as determined by computations using *specified* material strengths and dimensions and equations derived from accepted principles of structural mechanics or by field tests or laboratory tests of scaled models, allowing for modeling effects and differences between laboratory and field conditions.

**Required strength.** Strength of a member, cross section or connection required to resist *factored loads* or related internal moments and forces in such combinations as stipulated by these provisions.

**Strength design.** A method of proportioning structural members such that the computed forces produced in the members by *factored loads* do not exceed the member design strength [also called “*load and resistance factor design*” (LRFD)]. The term “strength design” is used in the design of concrete and *masonry* structural elements.

[BS] **STRUCTURAL COMPOSITE LUMBER.** Structural member manufactured using wood elements bonded together with exterior adhesives. Examples of structural composite lumber are:

**Laminated strand lumber (LSL).** A composite of wood strand elements with wood fibers primarily oriented along the length of the member, where the least dimension of the wood strand elements is 0.10 inch (2.54 mm) or less and their average lengths not less than 150 times the least dimension of the wood strand elements.

**Laminated veneer lumber (LVL).** A composite of wood veneer sheet elements with wood fibers primarily oriented along the length of the member, where the *veneer* element thicknesses are 0.25 inches (6.4 mm) or less.

**Oriented strand lumber (OSL).** A composite of wood strand elements with wood fibers primarily oriented along the length of the member, where the least dimension of the wood strand elements is 0.10 inches (2.54 mm) or less and their average lengths not less than 75 times and less than 150 times the least dimension of the strand elements.

**Parallel strand lumber (PSL).** A composite of wood strand elements with wood fibers primarily oriented along the length of the member where the least dimension of the wood strand elements is 0.25 inches (6.4 mm) or less and their average lengths not less than 300 times the least dimension of the wood strand elements.

[BS] **STRUCTURAL GLUED-LAMINATED TIMBER.** An engineered, stress-raised product of a timber laminating plant, comprised of assemblies of specially selected and prepared wood laminations in which the grain of all laminations is approximately parallel longitudinally and the laminations are bonded with adhesives.

[BS] **STRUCTURAL OBSERVATION.** The visual observation of the structural system by a *registered design professional* for general conformance to the *approved construction documents*.

[A] **STRUCTURE.** That which is built or constructed.

[BS] **SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

[BS] **SUBSTANTIAL IMPROVEMENT.** Any *repair*, reconstruction, rehabilitation, *alteration*, *addition* or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained *substantial damage*, any *repairs* are considered *substantial improvement* regardless of the actual *repair* work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the *building official* and that are the minimum necessary to assure safe living conditions.
2. Any *alteration* of a historic structure provided that the *alteration* will not preclude the structure's continued designation as a historic structure.

[BS] **SUBSTANTIAL STRUCTURAL DAMAGE.** A condition where one or both of the following apply:

1. The vertical elements of the lateral force-resisting system have suffered damage such that the lateral load-carrying capacity of any *story* in any horizontal direction has been reduced by more than 33 percent from its predamage condition.
2. The capacity of any vertical component carrying gravity load, or any group of such components, that supports more than 30 percent of the total area of the structure's floors and roofs has been reduced more than 20 percent from its predamage condition and the

SECTION R319  
SITE ADDRESS

**R319.1 Address identification.** Buildings shall be provided with *approved* address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 4 inches (102 mm) in height with a stroke width of not less than 0.5 inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional *approved* locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure.

SECTION R320  
ACCESSIBILITY

**R320.1 Scope.** Where there are four or more *dwelling units* or sleeping units in a single structure, the provisions of Chapter 11 of the *International Building Code* for Group R-3 shall apply.

**R320.1.1 Guestrooms.** Deleted.

SECTION R321  
ELEVATORS AND PLATFORM LIFTS

**R321.1 Elevators.** Where provided, passenger elevators, limited-use and limited-application elevators or private residence elevators shall comply with ASME A17.1/CSA B44

**R321.2 Platform lifts.** Where provided, platform lifts shall comply with ASME A18.1.

**R321.3 Accessibility.** Deleted.

**R321.4 Certification.** The installer shall certify that the following conditions have been met.

1. The elevator or platform lift has been installed in accordance with the manufacturer's installation instructions.
2. The elevator meets the requirements of ASME A17.1, Part 5, Section 5.3 and other applicable parts.
3. The elevator or platform lift meets the requirements of the *North Carolina Electrical Code*. Before a Certificate of Occupancy is issued, the permit holder shall provide the code enforcement official a letter of certification from the installer, evidencing compliance with the above conditions. Any maintenance requirements required by the manufacturer shall be stated and affixed to the component. When an elevator or platform lift or its components has been serviced, the service provider shall certify to the owner that the elevator continues to meet the above conditions.

SECTION R322  
FLOOD-RESISTANT CONSTRUCTION

**R322.1 General.** Buildings and structures constructed in whole or in part in flood hazard areas, including A or V Zones and Coastal A Zones, as established in Table R301.2(1), and substantial improvement and restoration of substantial damage of buildings and structures in flood hazard areas, shall be designed and constructed in accordance with the provisions contained in this section. Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most destructive flood hazard area. Buildings and structures located in whole or in part in identified floodways shall be designed and constructed in accordance with ASCE 24. See additional provisions in Chapter 46.

**R322.1.1 Alternative provisions.** As an alternative to the requirements in Section R322, ASCE 24 is permitted subject to the limitations of this code and the limitations therein.

**R322.1.2 Structural systems.** Structural systems of buildings and structures shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses from flooding equal to the design flood elevation.

**R322.1.3 Flood-resistant construction.** Buildings and structures erected in areas prone to flooding shall be constructed by methods and practices that minimize flood damage.

**R322.1.4 Establishing the design flood elevation.** The design flood elevation shall be used to define flood hazard areas. At a minimum, the design flood elevation shall be the higher of the following:

1. The base flood elevation at the depth of peak elevation of flooding, including wave height, that has a 1 percent (100-year flood) or greater chance of being equaled or exceeded in any given year; or
2. The elevation of the design flood associated with the area designated on a flood hazard map adopted by the community, or otherwise legally designated.

**R322.1.4.1 Determination of design flood elevations.** If design flood elevations are not specified, the building official is authorized to require the applicant to comply with either of the following:

1. Obtain and reasonably use data available from a federal, state or other source; or
2. Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering practices used to define special flood hazard areas. Determinations shall be undertaken by a registered *design professional* who shall document that the technical methods used reflect currently accepted engineering practice. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval.

mm) for each square foot (0.093 m<sup>2</sup>) of enclosed area where the enclosed area is measured on the exterior of the enclosure walls, or the openings shall be designed as engineered openings and the *construction documents* shall include a statement by a registered *design professional* that the design of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters as specified in Section 2.7.2.2 of ASCE 24.

2.2 Openings shall be not less than 3 inches (76 mm) in any direction in the plane of the wall.

2.3 The presence of louvers, blades, screens and faceplates or other covers and devices shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.

**R322.2.2.1 Installation of openings.** The walls of enclosed areas shall have openings installed such that:

1. There shall be not less than two openings on different sides of each enclosed area; if a building has more than one enclosed area below the design flood elevation, each area shall have openings.
2. The bottom of each opening shall be not more than 1 foot (305 mm) above the higher of the final interior grade or floor and the finished exterior grade immediately under each opening.
3. Openings shall be permitted to be installed in doors and windows; doors and windows without installed openings do not meet the requirements of this section.

**R322.2.3 Foundation design and construction.** Foundation walls for buildings and structures erected in flood hazard areas shall meet the requirements of Chapter 4.

**Exception:** Unless designed in accordance with Section R404:

1. The unsupported height of 6-inch (152 mm) plain masonry walls shall be not more than 3 feet (914 mm).
2. The unsupported height of 8-inch (203 mm) plain masonry walls shall be not more than 4 feet (1219 mm).
3. The unsupported height of 8-inch (203 mm) reinforced masonry walls shall be not more than 8 feet (2438 mm).

For the purpose of this exception, unsupported height is the distance from the finished *grade* of the under-floor space to the top of the wall.

**R322.2.4 Tanks.** ~~Deleted.~~

**R322.3 Coastal high-hazard areas (including V Zones and Coastal A Zones, where designated).** Areas that have been determined to be subject to wave heights in excess of 3 feet

(914 mm) or subject to high-velocity wave action or wave-induced erosion shall be designated as coastal high-hazard areas. Flood hazard areas that have been designated as subject to wave heights between 1 1/2 feet (457 mm) and 3 feet (914 mm) or otherwise designated by the jurisdiction shall be designated as Coastal A Zones. Buildings and structures constructed in whole or in part in coastal high-hazard areas and Coastal A Zones, where designated, shall be designed and constructed in accordance with Sections R322.3.1 through R322.3.7.

**R322.3.1 Location and site preparation.** ~~Deleted.~~

**R322.3.2 Elevation requirements.**

1. Buildings and structures erected within coastal high-hazard areas and Coastal A Zones, shall be elevated so that the bottom of the lowest horizontal structural members supporting the lowest floor, with the exception of piling, pile caps, columns, grade beams and bracing, is elevated to or above the base flood elevation or the design flood elevation, whichever is higher.
2. Basement floors that are below *grade* on all sides are prohibited.
3. The use of fill for structural support is prohibited.
4. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
5. Walls and partitions enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.4 and R322.3.5.

**R322.3.3 Foundations.** Buildings and structures erected in coastal high-hazard areas and Coastal A Zones shall be supported on pilings or columns and shall be adequately anchored to such pilings or columns. The space below the elevated building shall be either free of obstruction or, if enclosed with walls, the walls shall meet the requirements of Section R322.3.4. Pilings shall have adequate soil penetrations to resist the combined wave and wind loads (lateral and uplift). Water-loading values used shall be those associated with the design flood. Wind-loading values shall be those required by this code. Pile embedment shall include consideration of decreased resistance capacity caused by scour of soil strata surrounding the piling. Pile systems design and installation shall be certified in accordance with Section R322.3.6. Spread footing, mat, raft or other foundations that support columns shall not be permitted where soil investigations that are required in accordance with Section R401.4 indicate that soil material under the spread footing, mat, raft or other foundation is subject to scour or erosion from wave-velocity flow conditions. If permitted, spread footing, mat, raft or other foundations that support columns shall be designed in accordance with ASCE 24. Slabs, pools, pool decks and walkways shall be located and constructed to be structurally independent of buildings and structures and their foundations to prevent transfer of flood loads to the buildings and structures during conditions of

flooding, scour or erosion from wave-velocity flow conditions, unless the buildings and structures and their foundations are designed to resist the additional flood load.

**Exception:** In Coastal A Zones, stem wall foundations supporting a floor system above and backfilled with soil or gravel to the underside of the floor system shall be permitted provided the foundations are designed to account for wave action, debris impact, erosion and local scour. Where soils are susceptible to erosion and local scour, stem wall foundations shall have deep footings to account for the loss of soil.

**R322.3.4 Walls below design flood elevation.** Walls and partitions are permitted below the elevated floor, provided that such walls and partitions are not part of the structural support of the building or structure and:

1. Electrical, mechanical and plumbing system components are not to be mounted on or penetrate through walls that are designed to break away under flood loads; and
2. Are constructed with insect screening or open lattice; or
3. Are designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a resistance of not less than 10 (479 Pa) and not more than 20 pounds per square foot (958 Pa) as determined using allowable stress design; or
4. Where wind loading values of this code exceed 20 pounds per square foot (958 Pa), as determined using allowable stress design, the *construction documents* shall include documentation prepared and sealed by a registered *design professional* that:
  - 4.1. The walls and partitions below the design flood elevation have been designed to collapse from a water load less than that which would occur during the base flood.
  - 4.2. The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting simultaneously on structural and nonstructural building components. Water-loading values used shall be those associated with the design flood. Wind-loading values shall be those required by this code.

5. Walls intended to break away under flood loads as specified in Item 3 or 4 have flood openings that meet the criteria in Section R322.2.2, Item 2.

**R322.3.5 Enclosed areas below design flood elevation.** Enclosed areas below the design flood elevation shall be used solely for parking of vehicles, building access or storage.

**R322.3.5.1 Protection of building envelope.** ~~Deleted.~~

**R322.3.6 Construction documents.** The *construction documents* shall include documentation that is prepared

and sealed by a registered *design professional* that the design and methods of construction to be used meet the applicable criteria of this section.

**Exception:** *Piers and docks meeting the requirements of Section R322.7.*

**R322.3.7 Tanks.** ~~Deleted.~~

## SECTION R323

### STORM SHELTERS

**R323.1 General.** This section applies to storm shelters where constructed as separate detached buildings or where constructed as safe rooms within buildings for the purpose of providing refuge from storms that produce high winds, such as tornadoes and hurricanes. In addition to other applicable requirements in this code, storm shelters shall be constructed in accordance with ICC/NSSA-500.

## SECTION 324

### SOLAR ENERGY SYSTEMS

**R324.1 General.** Solar energy systems shall comply with the provisions of this section.

**R324.2 Solar thermal systems.** Solar thermal systems shall be designed and installed in accordance with Chapter 23.

**R324.3 Photovoltaic systems.** Photovoltaic systems shall be designed and installed in accordance with Sections R324.3.1 through R324.6.1 and NFPA 70. Inverters shall be *listed* and *labeled* in accordance with UL 1741. Systems connected to the utility grid shall use inverters listed for utility interaction.

**R324.3.1 Equipment listings.** Photovoltaic panels and modules shall be listed and labeled in accordance with UL 1703.

**R324.4 Rooftop-mounted photovoltaic systems.** ~~Deleted.~~

**R324.5 Building-integrated photovoltaic systems.** ~~Deleted.~~

**R324.6 Ground-mounted photovoltaic systems.** Ground-mounted photovoltaic systems shall be designed and installed in accordance with Section R301.

**R324.6.1 Fire separation distances.** Ground-mounted photovoltaic systems shall be subject to the *fire separation distance* requirements determined by the local *jurisdiction*.

## SECTION R325

### MEZZANINES

**R325.1 General.** Mezzanines shall comply with Section R325.

**R325.2 Mezzanines.** The clear height above and below mezzanine floor construction shall be not less than 7 feet (2134 mm).

**R325.3 Area limitation.** The aggregate area of a mezzanine or mezzanines shall be not greater than one-third of the floor area of the room or space in which they are located. The enclosed portion of a room shall not be included in a determination of the floor area of the room in which the *mezzanine* is located.

### § 151.16 BUILDING PERMITS REQUIRED.

(A) No person shall commence or proceed with the construction, alteration, repair, removal, or demolition of any building or other structure, or part thereof, without a written permit therefor from the Building Inspector.

(B) Work started in violation of G.S. § 160D-11110 shall be subject to a fine of up to and not exceeding five times the permit fee.

(C) Any fines levied under § 151.16(B) may be appealed to the Town Manager by written request within ten days.

('85 Code, § 8-2.1a, b.) (Ord. 8, passed - - -; Am. Ord. 14-03, passed 3-11-14; Am. Ord. 21-10, passed 6-15-21)

### § 151.17 APPLICATION FOR PERMITS.

(A) Applications for permits required by this subchapter shall be made in writing on forms provided by the town. Application shall be made by the owner of the building or structure affected, or by his authorized representative.

(B) In addition, to such other information as may be required by the Building Inspector to enable him to determine whether the permit applied for should be issued, the application shall furnish the following information:

- (1) Name and address of owner;
- (2) Name and address of authorized representative, if any;
- (3) Name and address of general contractor, if any;
- (4) Location of premises; proposed use of premises; and
- (5) Estimated cost of work.

('85 Code, § 8-2.2) (Ord. 8, passed - - -)

### § 151.18 PLANS FOR CONSTRUCTION, ALTERATION, OR REPAIR.

With every application for the construction, alteration, or repair of any building or structure there shall be furnished to the Building Inspector a set of plans covering the work proposed to be done. This requirement may be waived when in the opinion of the Inspector such plans are not necessary in order to determine if all ordinances of the town are to be complied with.

('85 Code, § 8-2.3) (Ord. 8, passed - - -)

### § 151.19 APPROVAL OF APPLICATION.

All complete applications for permits required by this section shall be approved or disapproved by the Building Inspector within a period of not exceeding two weeks from the date of filing thereof. Such applications shall be approved if the work proposed to be done conforms to the requirements of all codes and ordinances of the town applicable thereto.

('85 Code, § 8-2.4) (Ord. 8, passed - - -; Am. Ord. 02-10, passed 7-8-02)

### § 151.20 ISSUANCE.

Upon approval by the Building Inspector of any application for a permit, and upon payment of fees prescribed by §§ 151.21 and 151.22 of this subchapter, a proper permit shall be issued to the applicant. A copy of the permit and application shall be kept on file in the office of the Building Inspector.

('85 Code, § 8-2.5) (Ord. 8, passed - - -; Am. Ord. 93-13, passed 9-22-93)

Norm Carlstrom #3

## LOT TYPES.

- (1) **CORNER LOT.** A lot located at the intersection of two or more streets.
- (2) **INTERIOR LOT.** A lot other than a corner lot with only one frontage on a street.

(3) **THROUGH LOT.** A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

**LOT WIDTH.** The distance between the side property lines measured at the front building line

**MANUFACTURED HOME or MOBILE HOME.** A structure as defined in G. S. § 143-145(7).

**MOBILE HOME LOT.** A mobile home lot is a piece of land within a mobile home park whose boundaries are delineated in accordance with the requirements of this chapter.

**MOBILE HOME PARK.** A mobile home park is a piece of land so designed and improved that it is licensed as a **MOBILE HOME PARK** under this chapter, or a piece of land licensed as a nonconforming park under § 157.118 of this chapter

**NEIGHBORHOOD.** Construed to be the houses within 200 feet of the subject lot, within the subdivision the lot is located. If there are less than ten houses in this area, the closest ten houses will be considered the **NEIGHBORHOOD**.

## NONCONFORMING SITUATIONS.

(1) A situation that occurs when, on the effective date of this chapter or any amendment to it, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a **NONCONFORMING SITUATION** may arise because a lot does not meet minimum setback requirements

because structures do not satisfy maximum height or minimum floor-space limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with the chapter, or because land or buildings are used for purposes made unlawful by the chapter.

(2) **NONCONFORMING USE.** A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially-zoned area is a nonconforming use.)

(3) **DIMENSIONAL NONCONFORMITY.** A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

(4) **LOT.** A parcel of land whose boundaries have been established by some legal instrument such as a deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. If a public road crosses a parcel of land otherwise characterized as a lot by this definition, the land on each side of the public road shall constitute a separate lot.

(5) **NONCONFORMING LOT.** A lot existing at the effective date of this chapter or any amendment to it, and not created for the purpose of evading the restrictions of this chapter, that cannot meet the minimum area or lot-width requirements of the district in which the lot is located.

(6) **ORDINANCE.** This chapter, including any amendments. Whenever the effective date of the chapter is referred to, the reference includes the effective date of any amendment to it.

the nonconforming lot, or his successor in interest, may not take advantage of the provisions of division (A) of this section

(Ord. 85 Code, § 15-4-2) (Ord. 33, passed 10-5-81; Am Ord. 21-10, passed 6-15-21) Penalty, see § 157 999

# § 157.102 EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS.

(A) Except as specifically provided in this section it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.

(B) Subject to division (C) of this section, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this chapter, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional building or to land outside the original building.

(C) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other divisions of this section occur.

(D) Physical alteration of structures or the placement of new structures on open land are unlawful if they result in:

(1) An increase in the total amount of space devoted to a nonconforming use.

(2) Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements.

(3) The enclosure of previously unenclosed areas. An area is unenclosed unless at least 75% of the perimeter of the area is marked by a permanently constructed wall.

(E) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged.

(F) Notwithstanding division (D) of this section, any structure used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of a larger size, so long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback requirements. This division is subject to the limitations stated in § 157 104 of this subchapter on abandonment and discontinuance of nonconforming situations.

(G) A structure that is nonconforming in any respect or a structure that is used in a nonconforming manner may be reconstructed or replaced if partially or totally destroyed subject to the following restrictions:

(1) The total amount of space devoted to a nonconforming use may not be increased.

(2) The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformities must be eliminated if that can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of such building.

(3) The reconstructed building may not enclose areas that were previously unenclosed. An area is unenclosed unless at least 75% of the perimeter of the area is marked by a permanently constructed wall.

(4) Under no circumstances can a mobile or manufactured home in a nonconforming situation be replaced. (Ord. 85 Code, § 15-4-3) (Ord. 33, passed 10-5-81; Am Ord. 4-90, passed 4-2-90; Am. Ord. 02-12, passed 10-14-02) Penalty, see § 157 999

**§ 157.088 BED AND BREAKFAST HOMES.****NONCONFORMANCE PROVISIONS**

(A) Bed and breakfast homes offering accommodations to no more than six persons shall be allowed in R-2, Residential Zones.

(B) Bed and breakfast homes offering accommodations to no more than eight persons shall be allowed in C-1 Commercial Zones only.

(C) Bed and breakfast homes shall be registered at Town Hall annually before beginning operation thereof, giving the name of the owner or operator, address, accommodations offered and period of operation.

(D) Evidence shall be provided that the facility is in full compliance with the North Carolina Administrative Code administered by the Department of Natural Resources and Community Development, Division of Health Services, pertaining to bed and breakfast homes.

(E) A minimum of one off-street parking space shall be provided for each bedroom and other room used for sleeping in bed and breakfast homes.

(F) There shall be no sign visible from the outside of the building identifying the premises as a bed and breakfast home or facility except as permitted under § 157.079 of this subchapter and specifically in the following districts: R-2 Residential, § 157.079(1), and C-1 Commercial, § 157.079(1), provided the sign area shall not exceed four square feet.

(G) A business license shall be required, the fee for which shall be \$10 annually.  
(85 Code, § 15-6.17) (Ord. 13-87, passed 8-3-87) Penalty, see § 157.999

**§ 157.100 CONTINUATION OF NONCONFORMING SITUATIONS.**

Nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued, subject to the restrictions and qualifications set forth in this subchapter.

(85 Code, § 15-4.1) (Ord. 33, passed 10-5-81; Am. Ord. 4-90, passed 4-2-90)

**§ 157.101 NONCONFORMING LOTS.**

(A) When a nonconforming lot can be used in conformity with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such a use may be made as of right. Otherwise, the nonconforming lot may be used only in accordance with a special use permit issued by the Board of Adjustment. The Board shall issue such a permit if it finds that:

(1) The proposed use is one permitted by the regulations applicable to the district in which the property is located; and

(2) The property can be developed as proposed without any significant negative impact on the surrounding property or the public health, safety, or welfare. In issuing the permit authorized by this section, the Board may allow deviations from applicable dimensional requirements (such as setback lines and yard size minimums) if it finds that no reasonable use of the property can be made without such deviations.

(B) Whenever this chapter creates a nonconforming lot and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot to create a conforming lot (without thereby creating other nonconformities), the owner of

Setback #2

yard setback and side yard setbacks adjacent to a street right-of-way shall be gravel, grass or of an approved pervious product

(8) *Off-street parking* Off-street parking shall be provided as required in §§ 157.075 through 157.077 of this chapter.

(85 Code, § 15-5.5) (Ord. 93-05, passed 2-17-93; Am. Ord. 95-04, passed 2-22-95; Am. Ord. 96-02, passed 5-20-96; Am. Ord. 98-06, passed 5-11-98; Am. Ord. 01-01, passed 1-22-01; Am. Ord. 01-08, passed 7-23-01; Am. Ord. 06-01, passed 1-9-06; Am. Ord. 06-07, passed 6-12-06; Am. Ord. 06-13, passed 11-14-06; Am. Ord. 07-05, passed 6-12-07; Am. Ord. 13-01, passed 1-13-15) Penalty, see § 157.999

§ 157.059 RURAL CONDITIONAL ZONING (RS).

(A) Water Dependent Structures or uses, such as utility easements, docks (covered and uncovered), boatlifts, dolphins, boat ramps, dredging apparatus, bridge and approaches, revetments, bulkheads, culverts, groins, navigational aids, mooring pilings, navigational channels, simple access channels and drainage ditches, are permitted provided all town requirements are met.

(B) The Rural Conditional Zoning is established as a district in which the use of land is the Corps of Engineers spoil activities.  
(85 Code, § 15-5.6) (Ord. 93-05, passed 2-17-93; Am. Ord. 02-03, passed 10-14-02; Am. Ord. 21-10, passed 6-15-21)

§ 157.060 RESIDENTIAL DISTRICT (R-1).

(A) The R-1 Residential District is established as a district in which the principal use of land is for one- and two-family dwellings. The regulations of this district permit intensive development

(1) A dwelling is a residence where people live for domestic purposes. **DOMESTIC USE** is defined as devoted to home dunes and activities, nothing in this section shall preclude one- and two-family homes from being used as a vacation rental home consisting of a minimum of two overnight stays.

(2) Transient occupancy not consisting of at least two overnight stays shall be considered to be inconsistent with domestic residential usage and is not allowed. This would include persistent usage for group gatherings for the purpose of short-term social or recreational activities. This would include use as a clubhouse, lodge, public or private clubs, cabana clubs and property owner association facilities except when contiguous, owned by and within the borders of an on-island residential subdivision.

(B) Permitted uses are set forth in the Table of Permitted Uses, § 157.054.

(C) Parking requirements - see § 157.075(B)(1) and (2).

(D) Dimensional requirements R-1

(1) *Lot area.* Minimum required:

(a) For a one-family dwelling, 5,000 square feet

(b) For a two-family dwelling, 7,500 square feet

(2) *Lot width.* Minimum required, 50 feet

(3) *Front yard setbacks per structure size*

Gross Floor Area	Minimum Required
< 4,000 square feet	25 feet
4,000 - 5,000 square feet	30 feet
5,000 - 6,000 square feet	35 feet

4. Side yard setbacks per structure size

Gross Floor Area	Minimum Required
< 4,000 square feet	5 feet
4,000 - 5,000 square feet	7 feet
5,000 - 6,000 square feet	10 feet

(a) Open porches, decks, or overhangs shall not extend into minimum setbacks.

5. Rear yard setbacks per structure size

Gross Floor Area	Minimum Required
< 4,000 square feet	20 feet
4,000 - 5,000 square feet	25 feet
5,000 - 6,000 square feet	30 feet

(6) Building height. No building shall exceed a maximum height of 31 feet measured from Design Flood Elevation to the highest point of the structure, with the exception that a building in an X Zone when measured from the finished grade should have a maximum height of 35 feet

7. Lot coverage

(a) Lot coverage of main structure shall not exceed 30% of the plated lot. If a structure is 4,000 square feet, (gross floor area), or greater then lot coverage cannot be greater than 25%. If structure coverage is 5,000 square feet, (gross floor area), or greater lot coverage is limited to 20%. All impervious structures outside of main structure shall not exceed 30% of buildable land less area of the main structure. All Health Department and CMAA requirements must also be met. Open decks are not considered in the 30% lot coverage of the main structure, but they must meet all setback requirements. Gravel, sand and grassed areas are considered pervious. An approved pervious product shall be allowed to cover 30% of the plated lot in addition to the allowable impervious area. (See definition of **APPROVED PERVIOUS PRODUCT**)

(b) Driveways, parking lots, parking spaces, parking areas, patios and other similar areas and surfaces located in the front yard setback, rear yard setback and side yard setbacks adjacent to a street right-of-way shall be gravel, grass or of an approved pervious product.

(c) Pools are prohibited within the front yard setbacks.

(7) **NONCONFORMING LOT.** Any structure development or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

(8) **EXPENDITURE.** A sum of money paid out in return for some benefit or to fulfill some obligation. Whenever the term is used hereafter, it also includes binding, contractual commitments to make future expenditures, as well as any other substantial changes in position.

**NURSING HOME (CONVALESCENT HOME, REST HOME).** A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

**OPEN SPACES.** An area (land and/or water) generally lacking in manmade structures and reserved for the enjoyment of residents of the Planned Unit Development, or other group project. Common **OPEN SPACES** may contain accessory structures and improvements necessary or desirable for religious, educational, non-commercial, recreational, or cultural uses.

**PARKING SPACE, OFF-STREET.** Consists of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

**PERSON.** Means and include a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

**PLANNED DEVELOPMENT, RESIDENTIAL.** A parcel of land in single or joint ownership of whatever form which is planned to be developed as a unit and is developed according to an approved plan in a single development operation or in a programmed series of development operations. Density within the **PLANNED DEVELOPMENT-RESIDENTIAL DISTRICT** is controlled by the following ratios:

(1) The maximum floor area ratio (FAR) is a ratio of the maximum square foot amount of total floor area (all stories) permitted for each square foot of land area.

(2) The minimum open space ratio (OSR) is a ratio of the minimum square foot amount of open space which shall be provided for each square foot of floor area.

(3) The minimum recreational space ratio (RSR) is a ratio of the minimum square foot amount of recreation space required for each square foot of floor area.

(4) The minimum total car ratio (TCR) is a ratio of the total number of parking and garage spaces required for each living unit, including spaces without time limits (primarily for occupants) and spaces available for limited time periods (primarily for guests).

**PLATTED LOT.** See **LOT OF RECORD**.

**RENTAL HOME.** A rental home is a dwelling unit available for rent to non-property owners for periods of as little as one day and for periods in excess of one day.

**SCREENING (BUFFERS).** A fence, wall, hedge, or other planted area or device used to conceal something from adjacent lots or streets. In the case of contrasting districts, buffers are required to lessen the visual impact of the more intense uses from those of less intense use (example: business screened from residential). Plantings shall be of sufficient height and density to conceal from public view the subject being screened. If fencing or structure is used, it shall be compatible in appearance to the primary structure.

**SERVICES.** Occupation contributing to the welfare of others which is useful labor that does not produce tangible commodity.

**SETBACK LINE.** The line on the front, rear, and sides of a lot, which delineates the area upon which a structure may be built and maintained.

footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE.** A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of **SUBSTANTIAL IMPROVEMENT**. **SUBSTANTIAL DAMAGE** also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,

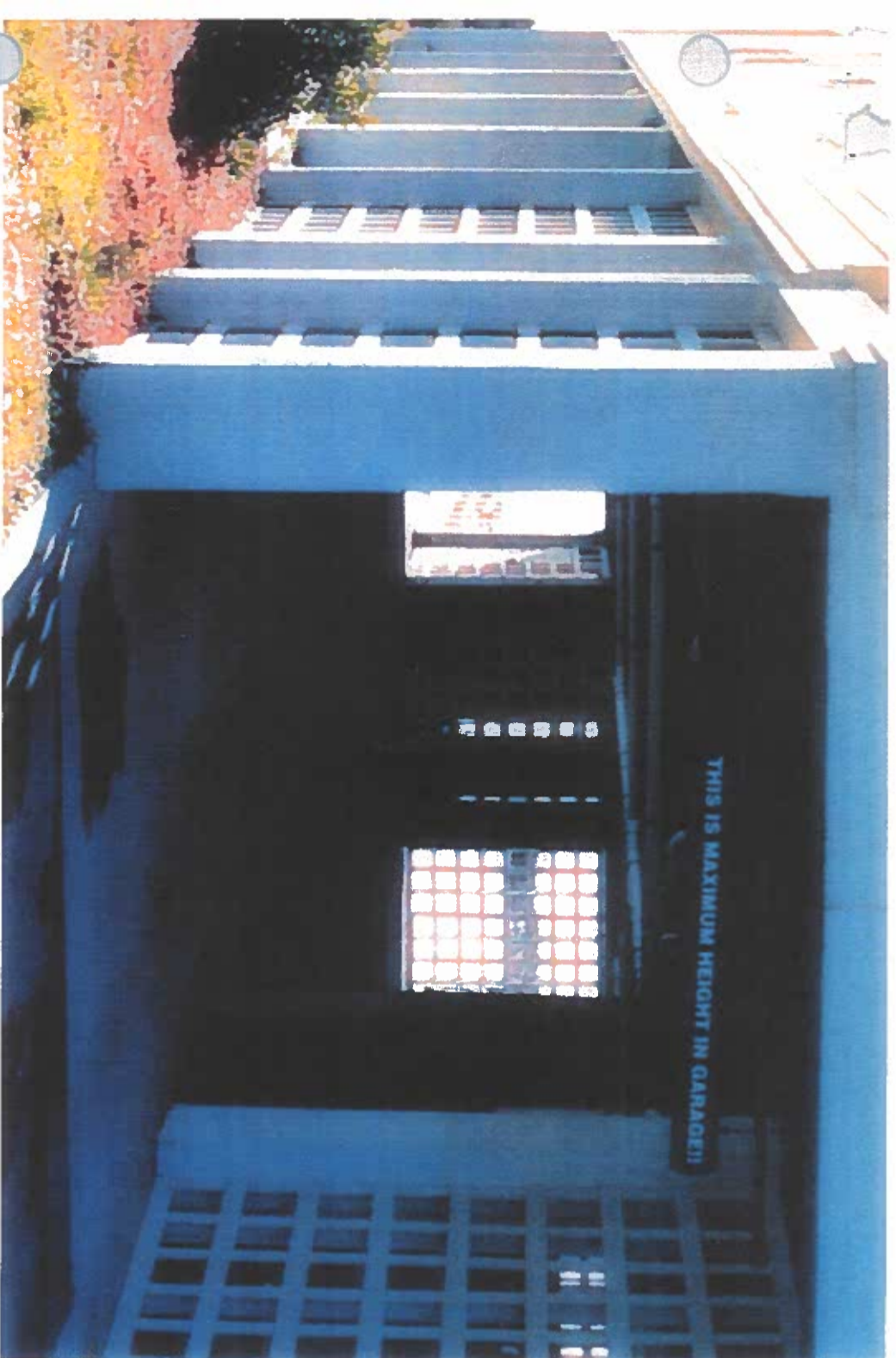
(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

#### TECHNICAL BULLETIN AND TECHNICAL FACT SHEET.

(1) A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at § 60.3. The bulletins and fact sheets are intended for use primarily by state and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

(2) It should be noted that technical bulletins and technical fact sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive state or local regulations apply to the building or site in question. All applicable standards of the state or local building code must also be met for any building in a flood hazard area.

**TEMPERATURE CONTROLLED.** Having the temperature regulated by a heating and/or cooling system, built-in or appliance.



# Free-of-Obstruction Requirements

For Buildings Located in Coastal High Hazard Areas  
in Accordance with the National Flood Insurance  
Program

NFIP Technical Bulletin 5 / *March 2020*

Comments on the Technical Bulletins should be directed to:

DHS/FEMA

Federal Insurance and Mitigation Administration (FIMA) Risk Management Directorate

Building Science Branch

400 C Street, S.W., Sixth Floor

Washington, DC 20472-3020

NFIP Technical Bulletin 5 (2020) replaces NFIP Technical Bulletin 5 (2008), *Free-of-Obstruction Requirements*.

Cover photograph: Area beneath an elevated building that is free of obstruction.

NFIP Technical Bulletin 5 contains information that is proprietary to and copyrighted by the American Society of Civil Engineers and information that is proprietary to and copyrighted by the International Code Council, Inc. All information is used with permission.

For more information, see the FEMA Building Science Frequently Asked Questions website at <http://www.fema.gov/frequently-asked-questions-building-science>.

If you have any additional questions on FEMA Building Science Publications, contact the helpline at FEMA Building Science help@fema.dhs.gov or 866-927-2104.

You may also sign up for the FEMA Building Science email subscription, which is updated with publication releases and FEMA Building Science activities. Subscribe at [https://service.govdelivery.com/accounts/USDHSFEMA/subscribe/new?topic\\_id=USDHSFEMA\\_193](https://service.govdelivery.com/accounts/USDHSFEMA/subscribe/new?topic_id=USDHSFEMA_193).

Visit the Building Science Branch of the Risk Management Directorate at FEMA's Federal Insurance and Mitigation Administration at <https://www.fema.gov/building-science>.

To order publications, contact the FEMA Distribution Center:

Call: 1-800-480-2520

(Monday-Friday, 8 a.m.-5 p.m., EST)

Fax: 719-948-9724

Email: [FEMApubs@gpo.gov](mailto:FEMApubs@gpo.gov)

Additional FEMA documents can be found in the FEMA Library at

<https://www.fema.gov/media-library/resources>.

Please scan this QR code to visit the FEMA Building Science web page.



Figure 25:  
Shore-parallel timbers attached  
to a pile foundation that were  
intended to act as a bulkhead but  
constituted an obstruction and are  
not permitted



FEMA's coastal mapping guidance suggests that a 30-foot-wide "VE overtopping splash zone" (the area where waves breaking on or running up the seaward face of an erosion control structure land or splash down) be mapped landward of erosion control structures, but the guidance also contains site-specific calculations that can lead to a narrower splash zone. For floodplain management purposes, a 30-foot minimum splash zone width is desirable for new construction landward of existing erosion control structures, but this width may not be feasible for existing buildings situated close to erosion control structures. There is no established minimum distance between a building and an erosion control structure, but a reasonable minimum width is 10 to 15 feet. States and communities should take local conditions and observed building damage into account when establishing minimum distances.

## 7.4 Fences and Privacy Walls

Fences and privacy walls, including walls separating one property from another, may obstruct or divert flood flow and waves toward buildings. Their potential effects on buildings, including debris generation, should be evaluated. Open fences (e.g., wood, plastic, open masonry units, metal slat fencing with generous openings) are presumed to not cause harmful diversion of floodwater or wave runup and reflection. Fences with small openings and solid fences and walls may divert flow and waves and can trap debris.

Solid fences, privacy walls, and fences prone to trapping debris must be designed and constructed to fail under base flood conditions without causing harm to nearby buildings. Where building or fire codes require ground-level walls for tenant fire separation, designers should strive to satisfy code requirements while minimizing potential adverse effects from flood diversion.

Siting of new buildings near fences and privacy walls should be reviewed carefully given the impact that these structures could have on a building if they fail during a flood event. Figure 26 shows an example of a shore-perpendicular solid privacy wall that failed during a coastal flood event and damaged the pile foundation of an adjacent elevated building.

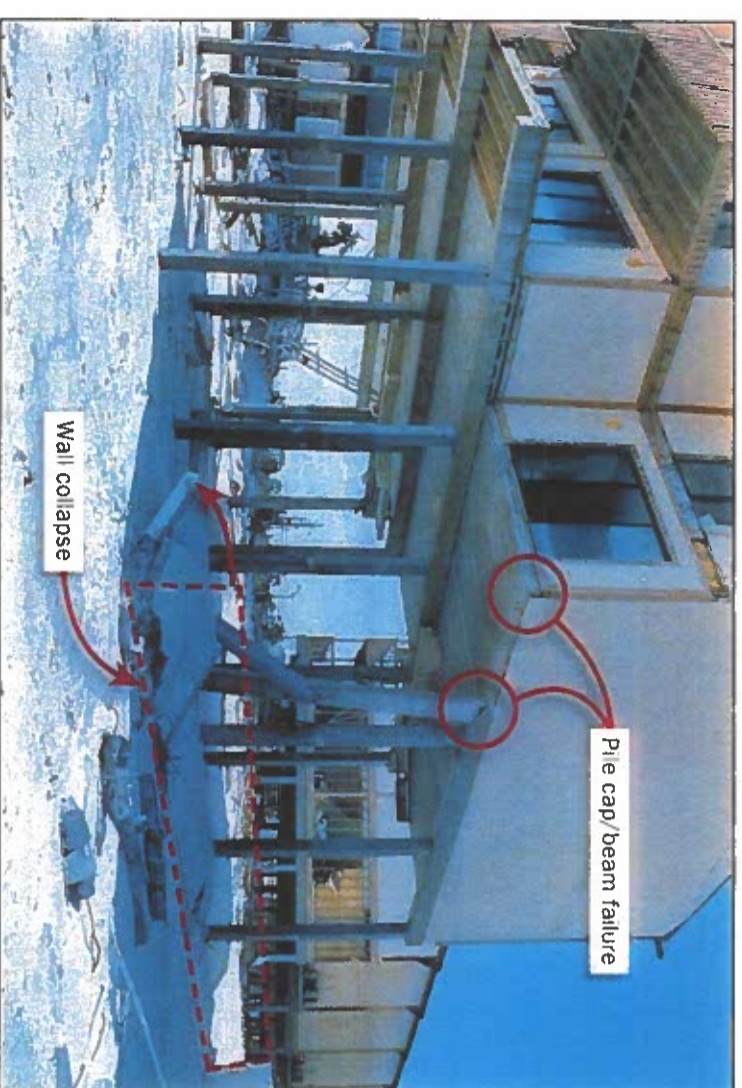


Figure 26:  
Shore-perpendicular reinforced masonry privacy wall that collapsed into the foundation of an adjacent building and contributed to failure of the corner foundation piling and pile cap/beam

## 7.5 Fill

NFIP regulations prohibit the use of fill for structural support of buildings in Zone V. Minor grading and the placement of minor quantities of nonstructural fill are allowed in Zone V but only for landscaping, drainage under and around buildings, and support of parking slabs, pool decks, patios, walkways, and similar site elements. Nonstructural fill should not prevent the free passage of floodwater and waves beneath elevated buildings, divert floodwater or waves such that building damage is exacerbated, or lead to damaging flood and wave conditions on a site or adjacent sites. Nonstructural fill should be assumed to wash away and should not be used in foundation design calculations.

Determining whether the placement and shaping of nonstructural fill will be detrimental is complicated. Therefore, some state and local

### MINOR GRADING AND MINOR QUANTITIES OF NONSTRUCTURAL FILL

**Minor grading:** Minimum grading necessary to provide for landscaping and drainage purposes required or allowed by community regulations, subject to the limitations described in this Technical Bulletin.

**Minor quantity of fill:** Minimum quantity necessary to provide for adequate drainage of areas below and around elevated buildings; support of parking slabs, in-ground pool decks, decks, patios, walkways, and similar site elements; and for site landscaping, subject to the limitations described in this Technical Bulletin.

## ZONE V CERTIFICATION OF STRUCTURAL DESIGN AND METHODS OF CONSTRUCTION

The NFIP regulations require communities to ensure that construction meets Zone V requirements, including the free-of-obstruction requirement. Registered professional engineers or architects must develop or review structural designs, specifications, and plans for new construction and Substantial Improvements and certify that designs and methods of construction are in accordance with the accepted standards of practice. Building engineers and architects should consult with communities on their certification requirements before starting design, and communities must obtain and retain the certifications.

Satisfying the NFIP free-of-obstruction requirement is part of the certification. Local officials should determine that construction and/or site plans show all proposed site improvement elements described in this Technical Bulletin. The NFIP requires Zone V certification prior to construction. The community must ensure that what is constructed is compliant; some jurisdictions may require post-construction certification by the registered design professional.

See Technical Fact Sheet 1.5 in the *Home Builder's Guide to Coastal Construction* (FEMA P-199) (2010a) for a discussion of Zone V certification requirements.

The NFIP regulations for Zone V construction are codified in Title 44 Code of Federal Regulations (44 CFR) Part 60 Criteria for Land Management and Use. Specific to this Technical Bulletin, Section 60.3(a)(3) of the NFIP regulations states:

If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall ... (iii) be constructed by methods and practices that minimize flood damages ...

Section 60.3(e)(1) states that a community shall require (emphasis added):

... that all new construction and substantial improvements in Zones VI-V30, VE, and also Zone V if base flood elevation data is available, on the community's FIRM, are elevated on pilings and columns so that (i) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and (ii) the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of paragraphs (e)(1)(i) and (ii) of this section.

Section 60.3(e)(5) further states that a community shall require (emphasis added):

... that all new construction and substantial improvements within Zones VI-V30, VE, and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse,

NFIP REQUIREMENTS AND HIGHER REGULATORY STANDARDS

**State and Local Requirements.** State or local requirements that are more restrictive or stringent than the minimum requirements of the NFIP take precedence. The Technical Bulletins and other FEMA publications provide guidance on the minimum requirements of the NFIP and describe best practices. Design professionals, builders, and property owners should contact local officials to determine whether more restrictive provisions apply to buildings or sites in question. All other applicable requirements of the state or local building codes must also be met for buildings in flood hazard areas.

**Substantial Improvement and Substantial Damage.** As part of issuing permits, local officials must review not only proposals for new construction but also for work on existing buildings to determine whether the work constitutes Substantial Improvement or repair of Substantial Damage. If the work is determined to constitute Substantial Improvement or repair of Substantial Damage, the buildings must be brought into compliance with NFIP requirements for new construction. Some communities modify the definitions of Substantial Improvements and/or Substantial Damage to be more restrictive than the NFIP minimum requirements. For more information on Substantial Improvement and Substantial Damage, see FEMA P-758, *Substantial Improvement/Substantial Damage Desk Reference* (2010b), and FEMA 213, *Answers to Questions About Substantially Damaged/Substantially Damaged Buildings* (2018a).

**Higher Building Elevation Requirements.** Some communities require that buildings be elevated above the NFIP minimum requirements. The additional elevation is called freeboard. Design professionals, builders, and property owners should check with local officials to determine whether a community has freeboard requirements. References to building elevations in this Technical Bulletin should be construed as references to the community's elevation requirement in areas where freeboard is required.

### 3 Building Codes and Standards

In addition to complying with the NFIP requirements, all new construction, Substantial Improvements, and repair of Substantial Damage must comply with applicable building codes and standards that have been adopted by states and communities.

The International Codes® (I-Codes®), published by the International Code Council® (ICC®), are a family of codes that includes the International Residential Code® (IRC®), International Building Code® (IBC®), International Existing Building Code® (IEBC®), and codes that govern the installation of mechanical, plumbing, fuel gas service, and other aspects of building construction. FEMA has deemed that the latest published editions of the I-Codes meet or exceed NFIP requirements for buildings and structures in flood hazard areas. Excerpts of the flood

**I-CODES AND COASTAL A ZONES**

The 2018 International Codes (I-Codes) treat Coastal A Zones like Zone V if a Limit of Moderate Wave Action (LIMWA) is delineated on FIRMs. If a community designates an area as a Coastal A Zone through its building code or floodplain management regulations, buildings in that area are required to comply with the Zone V requirements for foundations, including the free-of-obstruction requirement, with an exception that permits filled stem wall foundations.

Note: Per the I-Codes and ASCE 24-14, breakaway walls in the Coastal A Zone and Zone V must have flood openings.

2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood

(4) *Other development.*

(a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 154.23

(b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 154.23.

(c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of § 154.23.

(85 Code, § 8-4.5b.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18; Am. Ord. 20-11, passed 9-3-20; Am. Ord. 21-10, passed 6-15-21) Penalty, see § 154.99

## § 154.22 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivisions proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) Base flood elevation data should be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots of five acres.

(85 Code, § 8-4.5c.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18) Penalty, see § 154.99

## § 154.23 COASTAL HIGH HAZARD AREAS (ZONES VE).

Coastal high hazard areas are special flood hazard areas established in § 154.05, and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, in addition to meeting all requirements of this chapter with the exception of floodway and non-encroachment area provisions, the following provisions shall apply:

(A) All development shall:

(1) Be located landward of the reach of mean high tide;

(2) Be located landward of the first line of stable natural vegetation; and

(3) Comply with all applicable CAMA setback requirements.

(B) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in coastal high hazard areas to satisfy the regulatory flood protection elevation requirements.

(C) All new construction and substantial improvements shall have the space below the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exceptions:

## C. ROLES AND RESPONSIBILITIES

The National Flood Insurance Program is founded on a mutual agreement between the federal government and each participating community. Local, state and federal governments, and private insurance companies must share roles and responsibilities to meet the goals and objectives of the NFIP.

The community's role is of paramount importance. Residents and property owners can get flood insurance only if the community carries out its responsibilities.

### THE COMMUNITY ROLE

A community is a governmental body with the statutory authority to enact and enforce development regulations. These governmental bodies vary from state to state, but can include cities, towns, villages, townships, counties, parishes, special districts, states and Indian nations.

The community enacts and implements the floodplain regulations required for participation in the NFIP. The community's measures must meet regulations set by its state, as well as NFIP criteria. The NFIP requirements are covered in Unit 5.

A participating community commits itself to:

- ◆ Issuing or denying floodplain development building permits
- ◆ Inspecting all development to assure compliance with the local ordinance.
- ◆ Maintaining records of floodplain development.
- ◆ Assisting in the preparation and revision of floodplain maps.
- ◆ Helping residents obtain information on flood hazards, floodplain map data, flood insurance and proper construction measures.

### THE STATE ROLE

Each governor has selected a state coordinating agency for the NFIP. While the role of this agency varies from state to state, it usually includes:

- ◆ Ensuring that communities have the legal authorities necessary to adopt and enforce floodplain management regulations.
- ◆ Establishing minimum state regulatory requirements consistent with the NFIP.
- ◆ Providing technical and specialized assistance to local governments.



MC 11-PAGE 84  
MAP NORTH

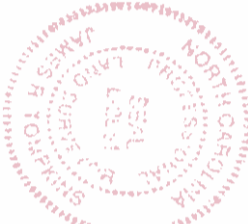
LOCATION MAP (No Scale)

- 1. NEW LUMEN, BT
- 2. EX. CONCRETE FOUND
- 3. CONCRETE FOUND
- 4. IRON ROD FOUND
- 5. IRON ROD FOUND
- 6. IRON ROD FOUND
- 7. IRON ROD FOUND
- 8. IRON ROD FOUND
- 9. IRON ROD FOUND
- 10. IRON ROD FOUND
- 11. IRON ROD FOUND
- 12. IRON ROD FOUND
- 13. IRON ROD FOUND
- 14. IRON ROD FOUND
- 15. IRON ROD FOUND
- 16. IRON ROD FOUND
- 17. IRON ROD FOUND
- 18. IRON ROD FOUND
- 19. IRON ROD FOUND
- 20. IRON ROD FOUND
- 21. IRON ROD FOUND
- 22. IRON ROD FOUND
- 23. IRON ROD FOUND
- 24. IRON ROD FOUND
- 25. IRON ROD FOUND
- 26. IRON ROD FOUND
- 27. IRON ROD FOUND
- 28. IRON ROD FOUND
- 29. IRON ROD FOUND
- 30. IRON ROD FOUND
- 31. IRON ROD FOUND
- 32. IRON ROD FOUND
- 33. IRON ROD FOUND
- 34. IRON ROD FOUND
- 35. IRON ROD FOUND
- 36. IRON ROD FOUND
- 37. IRON ROD FOUND
- 38. IRON ROD FOUND
- 39. IRON ROD FOUND
- 40. IRON ROD FOUND
- 41. IRON ROD FOUND
- 42. IRON ROD FOUND
- 43. IRON ROD FOUND
- 44. IRON ROD FOUND
- 45. IRON ROD FOUND
- 46. IRON ROD FOUND
- 47. IRON ROD FOUND
- 48. IRON ROD FOUND
- 49. IRON ROD FOUND
- 50. IRON ROD FOUND
- 51. IRON ROD FOUND
- 52. IRON ROD FOUND
- 53. IRON ROD FOUND
- 54. IRON ROD FOUND
- 55. IRON ROD FOUND
- 56. IRON ROD FOUND
- 57. IRON ROD FOUND
- 58. IRON ROD FOUND
- 59. IRON ROD FOUND
- 60. IRON ROD FOUND
- 61. IRON ROD FOUND
- 62. IRON ROD FOUND
- 63. IRON ROD FOUND
- 64. IRON ROD FOUND
- 65. IRON ROD FOUND
- 66. IRON ROD FOUND
- 67. IRON ROD FOUND
- 68. IRON ROD FOUND
- 69. IRON ROD FOUND
- 70. IRON ROD FOUND
- 71. IRON ROD FOUND
- 72. IRON ROD FOUND
- 73. IRON ROD FOUND
- 74. IRON ROD FOUND
- 75. IRON ROD FOUND
- 76. IRON ROD FOUND
- 77. IRON ROD FOUND
- 78. IRON ROD FOUND
- 79. IRON ROD FOUND
- 80. IRON ROD FOUND
- 81. IRON ROD FOUND
- 82. IRON ROD FOUND
- 83. IRON ROD FOUND
- 84. IRON ROD FOUND
- 85. IRON ROD FOUND
- 86. IRON ROD FOUND
- 87. IRON ROD FOUND
- 88. IRON ROD FOUND
- 89. IRON ROD FOUND
- 90. IRON ROD FOUND
- 91. IRON ROD FOUND
- 92. IRON ROD FOUND
- 93. IRON ROD FOUND
- 94. IRON ROD FOUND
- 95. IRON ROD FOUND
- 96. IRON ROD FOUND
- 97. IRON ROD FOUND
- 98. IRON ROD FOUND
- 99. IRON ROD FOUND
- 100. IRON ROD FOUND

NOTES:  
1. AREA BY COORDINATES.  
2. PROPERTY IS SUBJECT TO ANY AND ALL RESTRICTIVE COVENANTS, EASEMENTS AND MINERAL RIGHTS IF APPLICABLE AND RECORDED IN THE BRUNSWICK COUNTY REGISTER.  
3. PROPERTY IS LOCATED IN AN A-1 FLOOD ZONE.  
4. IRON RODS PLACED AT ALL CORNERS UNLESS OTHERWISE NOTED.  
5. PROPERTY SUBJECT TO ALL ZONING REQUIREMENTS OF BRUNSWICK COUNTY, N.C.  
6. ELEVATION DATUM: NA  
7. THIS SURVEY REFLECTS AN ASSUULT OF THIS PROPERTY AS OF THE DATE OF SIGNATURE.  
8. THIS SURVEY DOES NOT CERTIFY LEGAL TITLE TO THE LAND ITSELF, NOR TO THE BOUNDARIES SHOWN. USERS OF THIS PLAT SHOULD OBTAIN AN ACCURATE LEGAL OPINION AS TO OWNERSHIP TO THE BOUNDARIES SHOWN ON THIS PLAT.  
9. BEST FIT MODEL UTILIZED BASED UPON THE PREPONDERANCE OF EVIDENCE FOUND.

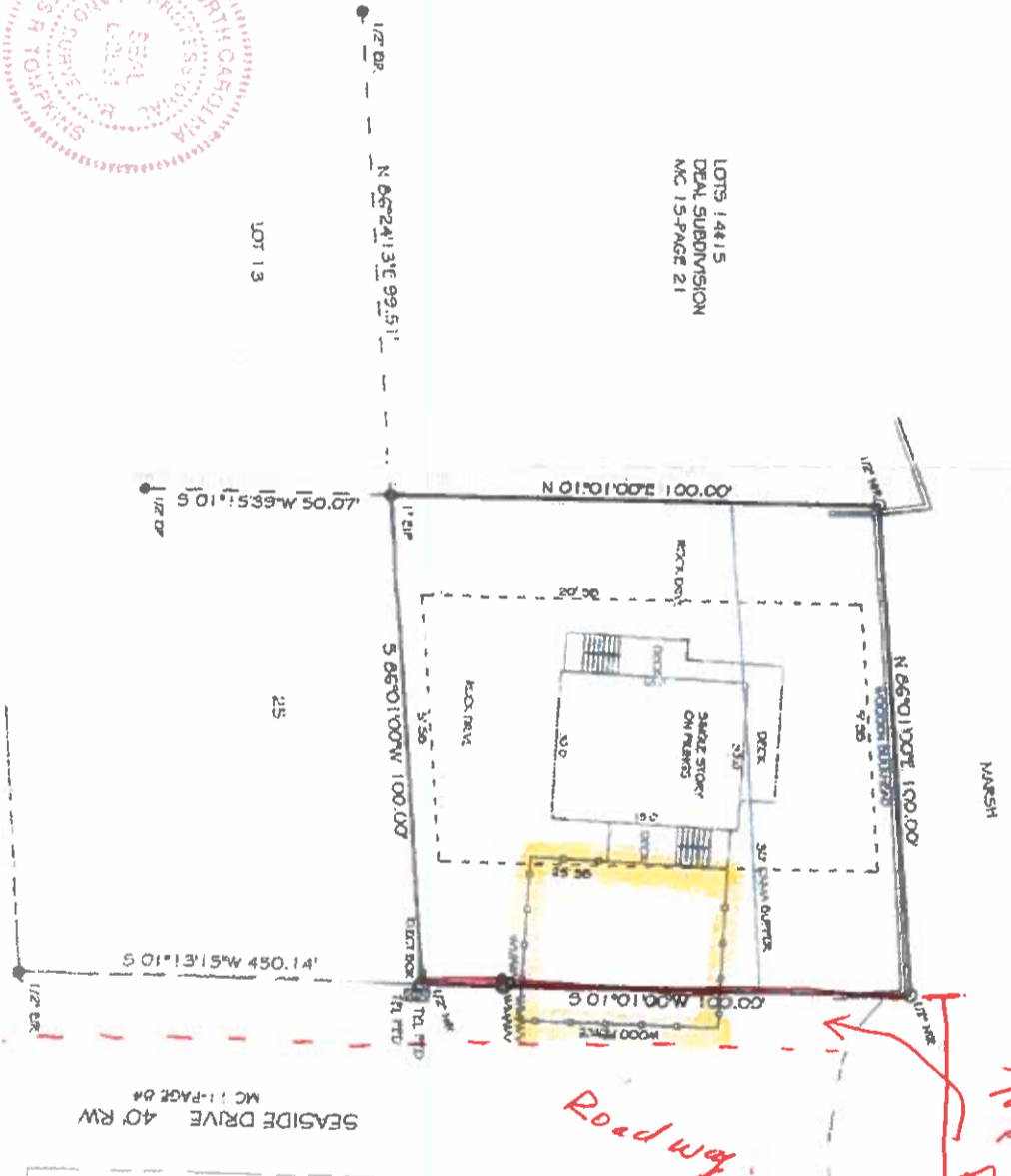
NOTE:  
THIS SURVEY REFLECTS THE RESULTS OF A NEW AND IMPROVED SURVEY OF THE PROPERTY SHOWN. CRUISES AND DISTANCES MAY VARY FROM PREVIOUS DATA OF RECORD.  
I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, I HAVE DISCUSSED THE SOURCE, MEASUREMENT, AND THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_ OR OTHER REFERENCE SOURCE. THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS \_\_\_\_\_ THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS \_\_\_\_\_ AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600).  
THIS 5 DAY OF MARCH 2024

JAMES R. TOMPKINS, P.L.S. L2651 C-1254



SURVEY FOR  
Dave Yarasheski  
or  
LOTS 26 & 27  
B&W SUBDIVISION  
MC 11-PAGE 84

BRUNSWICK COUNTY, N.C.  
MARCH 5, 2024  
SCALE 1" = 30'



*Handwritten:* Road way  
*Handwritten:* Town property Right of Way

**JR TOMPKINS**  
LAND SURVEYING  
P.A.  
1368 RIVER BEND DRIVE  
SHALLOTTE, NORTH CAROLINA 28470  
(910) 577-9505

FIELD SKETCH  
DRAWN BY  
CHECKED BY  
FIELD BOOK  
COMPUTED BY  
DATE  
18002627.DWG