BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
Monday, September 16, 2024 at 6:00 pm
125 West Fort Macon Road

1. **CALL TO ORDER**

2. **APPROVAL OF MEETING MINUTES**
   A) May 15, 2024 Regular Meeting
   B) June 17, 2024 Regular Meeting

3. **NEW BUSINESS**

   A. Repeal Rules of Procedure from 2006
   For consistency with the UDO staff requests the board make a motion to formally repeal the Board of Adjustment Rules of Procedures from 2006.

   B. Public Hearing: Right-of-way of Encroachment EA 24-1: 514 East Fort Macon Road

   Action Needed
   1. Conduct Public Hearing; and
   2. Decision to:
      a. approval of the encroachment as proposed;
      b. approval of a revised encroachment; or
      c. denial of the encroachment

   C. Public Hearing: Right-of-way Encroachment EA 24-2: 229 Moonlight Drive

   Action Needed
   1. Conduct Public Hearing; and
   2. Decision to:
      d. approval of the encroachment as proposed;
      e. approval of a revised encroachment; or
      f. denial of the encroachment

4. **BOARD/STAFF COMMENTS**

5. **ADJOURNMENT**

Minutes
Town of Atlantic Beach
Board of Adjustment Meeting
Emergency Operations Center
125 West Fort Macon Road
Monday, May 13, 2024

Members Present	Members Absent	Others Present
Michael Bosse, Chair	Kathy McGehee, Alternate	Jonathan Eure, BOA Attorney
Harrison Smith, Vice Chair	Shannon Vance, Alternate	Katrina Tyer, Clerk
Tony Engrassia (via phone)		Jennifer Ansell, Planner
Bradley Jones		Elisabeth Webster, Planner
Joyce Livengood		John O'Daniel, Manager
Bonnie Pitts		
Stephen Rea, Alternate		

CALL TO ORDER AND ROLL CALL
The board and staff introduced themselves to Jonathan. Chairman Bosse called the meeting to order at 6:02 p.m. The board is meeting in the Town's Emergency Operations Center because the Board of Elections is using the Town Boardroom.

EXCUSE ABSENT MEMBERS
None.

ELECTION OF CHAIR/VICE-CHAIR
Harrison nominated Bosse as Chair. Seconded by Jones. The vote was unanimous, 5-0. Bosse nominated Smith as Vice Chair. Seconded by Jones. The vote was unanimous, 5-0.

APPROVAL OF OCTOBER 16, 2023 MINUTES
Jones made a motion *to approve* the October 16, 2023 Minutes. Seconded by Bosse. Vote was unanimous, 5-0. Motion carried.

INTRODUCTION OF BOARD OF ADJUSTMENT ATTORNEY/REVIEW OF RESPONSIBILITIES
Council recently approved Jonathan Eure of Mewborn & DeSelms, Attorneys at Law to represent the Board of Adjustment. In order to introduce the board to Jonathan and refresh them on procedures, a training session has been scheduled. Jonathan reviewed quasi-judicial hearings, variances, special use permits, and appeals. He also reviewed how to hold a hearing, hearsay and evidence, what is a majority, conflict of interest recusals, and making decisions. He provided a copy of the findings required on Right of Way Encroachment from the UDO.

The board asked several procedural questions, including what they could ask Jonathan during the hearing and how to determine expert witnesses.

BOARD/STAFF COMMENTS
None.

OTHER BUSINESS
None.

ADJOURNMENT
Jones made a motion *to adjourn*. Seconded by Smith. The vote was unanimous, 5-0.

There being no further business, the meeting adjourned. The time was 6:57p.m.

These minutes were approved at the September 16, 2024, meeting of the Atlantic Beach Board of Adjustment.

Approved by:

_____
Mike Bosse, Chair

_____
Katrina Tyer, Clerk

Minutes
Town of Atlantic Beach
Board of Adjustment Meeting
Town Boardroom
125 West Fort Macon Road
Monday, June 17, 2024

Members Present	Members Absent	Others Present
Michael Bosse, Chair	Stephen Rea, Alternate	Jane Gordon, Town Attorney
Harrison Smith, Vice Chair	Shannon Vance, Alternate	Jonathan Eure, BOA Attorney
Tony Engrassia		Katrina Tyer, Town Clerk
Bradley Jones		Jennifer Ansell, Planner
Bonnie Pitts		Elisabeth Webster, Planner
Joyce Livengood, Alternate		Matthew Van Horn, Attorney for Appellant Ocean Ridge Homeowners Association
Kathy McGehee, Alternate		John Harris, Attorney (and assistant Mansell Carloni) with White and Allen, for Property Owner Phil Lewis
		Harry Archer, Councilmember

CALL TO ORDER AND ROLL CALL
Chairman Bosse noted that it was 6:00 p.m. but that he was going to hold off on opening the meeting so the attorneys could speak with their clients. The attorneys and clients met in separate conference rooms outside of the boardroom until 6:43 p.m. when everyone returned to the boardroom and Chairman Bosse called the meeting to order.

EXCUSE ABSENT BOARDMEMBER(S)/APPOINTMENT OF ALTERNATES
None.

APPEAL 24-1: 1015 OCEAN RIDGE DRIVE (Appeal of an administrative decision to issue a zoning permit for a wall at 1015 Ocean Ridge Drive)

Chairman Bosse confirmed with the board members that no one had a conflict, financial or personal interest, conversation, or special knowledge about the case. They confirmed they did not. Attorney Van Horn confirmed he had no objections to the board seated to hear the case.

As Chairman Bosse was beginning to start the case, asking if any witnesses needed to be sworn, Attorney Van Horn stood and stated that based on the discussions before the beginning of the meeting, the appellant Ocean Ridge Homeowners Association respectfully requests to continue the hearing for 30-60 days. There are a lot of important issues here, and this is the first time he has met the other counsel involved in the case.

Chairman Bosse asked if Attorney Harris had any objections. He introduced himself and his associate Mansell Carloni. They represent Phil Lewis, who was present and was introduced. He admits that he initially suggested to Attorney Van Horn that he might want to consider a continuance for various reasons. He continued talking to Mr. Lewis and several witnesses, he has five witnesses here tonight that he may want to call to testify. Some live as far away as Winston-Salem, who made a special trip tonight, so he would like to proceed tonight rather than have to come back. His position is to proceed.

Attorney Gordon stated the Town has no objection to a continuance.

Attorney Eure stated it is usually in the best interest of justice to proceed only when everyone is prepared and has their witnesses and evidence ready. It is in the board's discretion to entertain a motion.

Chairman Bosse asked for a motion to continue the case or proceed tonight as scheduled. Pitts made a motion *to continue* this case. Seconded by Engrassia. Vote was unanimous, 5-0. Motion carried.

Both attorneys spoke with the parties in the audience regarding their availability on July 15 or August 19 and decided on August 19.
Jones made a motion *to schedule* this hearing for Appeal 24-1: 1015 Ocean Ridge Drive on August 19, 2024 at 6:00pm in the Town Boardroom. Seconded by Smith. Vote was unanimous, 5-0. Motion carried.

Clerk's Note: Glenn Corbett, 675 Old Winberry Road, signed the Public Hearing Comment sheet, but did not speak due to not taking public comment.

BOARD/STAFF COMMENTS

No comments.

Engrassia made a motion *to adjourn*. Seconded by Jones. Vote was unanimous, 5-0. Motion carried.

There being no further business the meeting adjourned. The time was 6:54 p.m.

These minutes were approved at the September 16, 2024 meeting of the Atlantic Beach Board of Adjustment.

Approved by:

_____
Mike Bosse, Chair

_____
Katrina Tyer, Clerk

P. O. Box 10
125 West Fort Macon Road
Atlantic Beach, NC 28512

Phone: (252) 726-2121
Fax: (252) 726-5115

MEMORANDUM

TO: BOA Members
DATE: August 29, 2024
SUBJECT: Repeal of Board of Adjustment Procedures

In March 2006, Council approved the attached Rules of Procedure for the Board of Adjustment to follow.

Since the update of the Unified Development Ordinance (Chapter 18.2) in 2009 and again following the 2021 NC GS 160D amendments, staff has not referred to these rules and they contain conflicting provisions with the requirements under the UDO and 160D.

Staff is requesting Council repeal the 2006 Rules of Procedure and any and all other Rules of Procedure not addressed by Chapter 18 of the Unified Development Ordinance.

Dan Dawkins, Vice President of the Wilmington office of W.K. Dickson introduced himself and the company. He thanked the Council for the opportunity to work with the Town of Atlantic Beach. He gave the Council a handout showing the service agreement for Task Order #1 to evaluate the Sugarloaf Wastewater Treatment Plant. He said the company would be reporting back to the Town at their May 15, 2006 Council meeting.

4. Recognition of Retiring Police Officer Hugh Flynn-Police Chief

Scott Kilpatrick, Police Chief stated he would like to recognize Lieutenant Hugh Flynn, who was hired on August, 1988. After seventeen years of service, Lieutenant Flynn has decided to retire. The Town of Atlantic Beach Police Department would like to present him with his badge and sidearm as permitted by G.S. 20-187.2. Councilman Doe made a motion to adopt Resolution 06-03-04 Rewarding Badge and Service Sidearm to Lieutenant Hugh Flynn. Seconded by Mayor Pro Tem Creech, vote was 4-0, unanimous.

5. Board of Adjustment Rules of Procedure-Town Attorney

Attorney Taylor stated nothing had changed with the proposed Board of Adjustment Rules of Procedure on February 7, 2006 he had provided them. He had added some things the Council had suggested. It is a new written policy he would like for the Council to approve.

Councilman Doe said he was very happy with the new policy and he would like to see it go forward. He asked if it would be a problem to not vote on this until the Council and Board of Adjustment had their retreat. Attorney Taylor stated he would like the Council to approve this policy tonight knowing we could amend it and make changes at a later date.

Mayor Vinson asked if the Board of Adjustment was in favor of the new policy. Attorney Taylor said that no one really liked the policy but realized they had to get use to it.

Councilman Doe made a motion to approve the Town of Atlantic Beach Zoning Board of Adjustment Rules of Procedure as presented in the policy. Seconded by Mayor Pro Tem Creech. Mayor Pro Tem Creech believed the Board of Adjustment needed to use the rules before the joint retreat so they will be able to discuss and/or criticize it. The vote was 4-0, unanimous.

6. Council Vacancy-Town Council

Mayor Vinson said there had been a vacant seat on the Council since election time. This item was placed on the agenda tonight and up for discussion.

RULES OF PROCEDURE
ZONING BOARD OF ADJUSTMENT
ATLANTIC BEACH, NORTH CAROLINA

ARTICLE I

GENERAL RULES

The Zoning Board of Adjustment shall be governed by the provisions of Chapter 160A, Article 19, Part 3 of the General Statutes of North Carolina and any amendments thereto, and by the ordinances of the Town of Atlantic Beach and all amendments thereto. All members of the Board shall thoroughly familiarize themselves with these laws and ordinances. The Board shall consist of five (5) members who shall be appointed by the Town Council and shall be residents of the Town of Atlantic Beach. Members shall be appointed for overlapping terms of three (3) years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. In addition to the regular members, the Town Council may appoint five (5) alternate members, who shall be residents of the Town of Atlantic Beach, each for three (3) year terms. The Chairperson of the Zoning Board of Adjustment, or in his absence the acting Chairperson, may appoint the alternates to sit for any regular members in case of the absence or disqualification of any regular members. In such case, the alternate members shall have the same powers and duties of the regular members they are replacing during such time. In no case, however, shall more than five (5) regular members or combination of regular members and the alternate members be empowered to vote on any matter that comes before the Board.

ARTICLE II

OFFICERS AND DUTIES

1. **Election of Officers**: The members of the Zoning Board of Adjustment shall elect a Chairperson and Vice Chairperson annually at the regular meeting in the month of January or at their first meeting thereafter if the January meeting is not held for any reason.

2. **Chairperson**: The members of the Zoning Board of Adjustment shall elect a Chairperson from among its members. The term of office shall be one year or until his/her successor is elected, and the person elected shall be eligible for re-election. The Chairperson shall preside at all meetings and public hearings of the Zoning Board of Adjustment, shall take the oaths or affirmations of any witnesses that shall give testimony at any quasi-judicial hearing of the Board, and shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The Chairperson shall sign all orders reflecting all determinations made by the Zoning Board of Adjustment. The Chairperson shall appoint any committees found necessary to investigate any matters before the Board.

3. **Vice Chairperson**. A Vice Chairperson shall be elected by the Board from among its members in the same manner and for the same term as the Chairperson. He or she shall serve as acting Chairperson in the absence of the Chairperson, and at such times he or she shall have the same powers and duties as the Chairperson.

4. **Secretary**. A clerk or administrative official of the Town's Planning Department shall serve Secretary of the Board. The Secretary, subject to the direction of the Chairperson and the Board, shall provide for all public notices required to be given, shall notify members of pending meetings and their agenda, shall notify parties to cases before the Board of its decision on such cases, shall submit copies of the minutes to the Board for approval and to the Town Council to keep them apprised of the Board's activities, and shall generally supervise the clerical work of the Board. The Secretary shall keep in a permanent volume the minutes of every meeting of the Board. These shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Board, and all votes of members of the Board upon any resolution or upon the final determination of any question, indicating the names of members absent or failing to vote. The Secretary shall not be eligible to vote upon any matter.

ARTICLE III

ALTERNATE MEMBERS

At any meeting, which they are called upon to act, alternate members shall have the same powers and duties as regular members.

ARTICLE IV

RULES OF CONDUCT FOR MEMBERS

Members of the Board may be removed for cause, including violation of the rules stated below:

1. **Attendance**. Faithful attendance by all regular and alternate Board members at all meetings of the Board and conscientious performance of the duties required of regular members of the Board shall be considered a pre-requisite for continuing membership on the Board. Although alternate members of the Board are encouraged to attend every meeting of the Board, alternate members shall be required to attend Board meetings on a rotating basis unless due to circumstances requiring more than one member's attendance the Chairman shall direct otherwise. The Secretary will notify all alternate members of all meeting times and dates as they are to occur and will also identify and notify the proper alternate(s) of their required attendance, as appropriate.

2. **Conflicts**. No Board member shall take part in the hearing, consideration or determination of any case in which he/she is personally or financially interested. In addition, members must not participate in or vote on any matter where they have a fixed opinion on the case prior to the hearing, they have undisclosed ex-parte communications, have a close family, business or associational ties with an affected person, or have a financial interest in the outcome of the case. A Board member shall have a "financial interest" in a case when a decision in the case will 1) cause him or his spouse to experience a direct financial benefit or loss, or 2) will cause a business in which he or his spouse owns any interest to experience a direct financial benefit or loss. A Board member shall have "personal interest" in a case

when it involves a member of his immediate family (i.e. parent, spouse or child). Whenever possible, members of the Board shall give notice to the Chairperson forty-eight (48) hours prior to the hearing of any potential conflict of interest which he/she has in a particular case before the Board. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

3. **Absentee Voting**. No Board member shall vote on any matter deciding an application or appeal unless he/she shall have attended the public hearing on that application or appeal, or in the alternative, has made a thorough examination of the minutes and record of the hearing, including a review of the audio tape made of the same.

4. **Prehearing Communications**. No Board member shall discuss any case with any parties thereto, or any other person, prior to the public hearing on that case; provided however, that members may receive and/or seek information pertaining to the case from any other member of the Board, its Secretary, or the Planning Department prior to the hearing. Any information obtained from any of the above persons shall be disclosed by the requesting member during the hearing of the matter. Members of the Board will not express individual opinions on the proper judgment of any case with any parties thereto, or any other person, prior to the Board's determination of that case. Violation of this rule shall be cause for dismissal from the Board.

ARTICLE V

MEETINGS

1. **Regular Meetings.** Regular meetings of the Board shall be held on the fourth Monday of each month at 7:00 p.m. in the Council Room of the Municipal Building, provided that meetings may be held at any other convenient place in the Town if directed by the Chairperson in advance of the meeting. All Board meetings are to be held in accordance with Article 33B of Chapter 143 of the General Statues of North Carolina, commonly referred to as the Open Meeting Law.

2. **Special Meetings.** Special meetings of the Board may be called at any time by the Chairperson or the request of three (3) or more members of the Board. Unless North Carolina Statutes or Town Ordinances provide for a longer notice period, at least forty-eight (48) hours written notice of the time and place of special meetings shall be given by the Chairperson to each member of the Board. Board member requests for special meetings shall be submitted in writing to the Chairperson.

3. **Cancellation of Meetings**. Whenever there are no appeals, applications for special use permits or variances, or other business for the Board, or whenever so many regular and alternate members notify the Secretary of inability to attend that a quorum will not be available, the Chairperson may dispense with a regular meeting by giving written or oral notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

Quorum. A quorum shall consist of three (3) members of the Board, but the Board shall not pass upon any question relating to an appeal from a decision, order, requirement, or determination of the Zoning

Administrator or an application for a variance or special use permit when there are less than four (members present. Where an action of the Board requires a four-fifths vote for approval, and where only four members of the Board, including seated alternates, are available to hear the matter, the applicant shall be provided the choice to continue the hearing to a later date or to proceed with the hearing, thereby requiring a unanimous decision by the four members hearing the matter.

5. **Evidence & Burden of Persuasion**. The Zoning Board of Adjustment will hear evidence in the determination of all matters before it. The initial burden of proving the statutory and/or ordinance requirements for any action to be taken by the Board is upon the applicant. All evidence presented must be competent, material and substantial. "Competent evidence" is sworn testimony, reasonably authenticated documents, and non-hearsay offerings from witnesses. "Material evidence" is evidence related to the findings that must be found by the Board. "Substantial evidence" is that which a reasonable mind might accept as adequate to support a conclusion.

6. **Voting**. All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed in Article IV. The concurring vote of four-fifths, that is, four of the five members of the Board qualified to vote, including alternates seated to hear a particular matter, shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, to decide in favor of the applicant any matter upon which the Board is required by ordinance to pass, to grant a special use permit, or to grant a variance from the ordinance provisions. For purposes of calculating the requisite four-fifths vote, the size of the Board shall be reduced by vacancies and members who are disqualified from voting if there are no alternate members available to take the place of such members. In all other matters the vote of a majority of the members present and voting sha decide issues before the Board. Where an action of the Board requires a four-fifths vote for approval, and where only four members of the Board, including seated alternates, are available to hear the matter, the applicant shall be provided the choice to continue the hearing to a later date or to proceed with the hearing, thereby requiring a unanimous decision by the four members hearing the matter.

7. **Subpoenas**. The Zoning Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the Superior Court of Carteret County for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the Zoning Board of Adjustment pursuant to a subpoena issued in exercise of this power may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. The Board may request a district attorney of Carteret County to prosecute any person who, while under oath during a proceeding before the Zoning Board of Adjustment, willfully swears falsely.

8. **Conduct of Meetings**. All meetings shall be open to the public. The order of business at regular meetings shall generally be as follows: (a) roll call: (b) reading and possible approval of the minutes of previous meetings; (c) hearing of cases; (d) reports of committees; (e) unfinished business; (f) new business; (g) consideration and determination of cases heard.

9. **Member Attendance Policy**. A regular or alternate member's seat on the Atlantic Beach Zoning Board of Adjustment shall be considered vacant in the event such member fails to attend three (3) consecutive regular or special meetings of the Board unless excused from attendance by recorded vote by the other Board members present and acting at the regular or called meeting. Any regular or alternate member

who finds it necessary to miss a regular or special meeting of the Board shall notify the Chairperson or Secretary to the Board a minimum of eight (8) hours in advance of the meeting, failing which the Board may not excuse the absence.

ARTICLE VI

APPEALS AND APPLICATIONS

1. **Appeals.** The Zoning Board of Adjustment shall hear and decide all appeals from any order, requirement, decision, or determination made by the Zoning Administrator. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Adjustment or by a court of record on application, on notice to the zoning administrator, on due cause shown.

   a. Procedure for Filing Appeals. No appeal shall be heard by the Zoning Board of Adjustment unless notice thereof is filed within forty–five (45) days after the interested party or parties receive notice of the order, requirement, decision, or determination by the Zoning Administrator. The applicant must file his appeal and application for a hearing with the Secretary, who shall act as clerk for the Board in receiving this notice. The appellant shall use and submit a fully completed form provided by the Town's Planning Department for such appeals, and shall clearly state the grounds for the appeal. All information required by the form shall be provided before an appeal shall be considered as having been filed. The Secretary shall transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Zoning Board of Adjustment shall fix a reasonable time for hearing the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time

   b. Staff Report. At least 5 days prior to the hearing of an appeal, the Town's Planning Staff will provide the Board and the appellant with a copy of all orders, requirements, decisions, and/or determinations, along with copies of all relevant North Carolina statutes and Atlantic Beach Ordinances, supporting documents, evidence collected, and any other material that will help the Board and the appellant to understand the basis of the Zoning Administrator's order, requirement, decision, and/or determination. The Planning Staff may also submit a written statement of explanation of the factors considered in making the decision being appealed.

   c. Town Attorney Role. The Town Attorney shall represent the Town and the Zoning Administrator or other Planning Department member whose determination is being challenged. The Secretary will engage substitute counsel to advise the Zoning Board of Adjustment at any meeting where the Town Attorney will be representing the Town or any Town employee before the Board.

d. Hearings.

1) Time. After receipt of notice of appeal the Secretary shall schedule the time for a hearing, which shall be at a regular or special meeting within thirty (30) days from the filing of such notice of appeal. No special meeting of the Zoning Board of Adjustment shall be called by the Chairperson or any other person with authority to do so unless and until the appellant shall show a compelling reason for such a special meeting and that such reason was not of his/her/its own making.

2) Notice. The Secretary shall give public notice of the hearing in a newspaper published in Carteret County by advertisement published once a week for two weeks, the first time shall not be less than 10 days, and not more than 25 days before the date of the hearing. The Secretary shall cause the appellant to mail notices of the hearing to all property owners within two hundred feet of the property which is the subject matter of the appeal and such other persons as the Planning Department or North Carolina statutes shall direct, at least ten (10) days prior to the hearing. Such notice shall state the location of the building, lot, or tract of land affected, the general nature of the question involved in the appeal and the time and place of the hearing.

3) Conducting The Hearing. The Chairperson shall conduct the hearing in the manner described in Exhibit A attached hereto.

2. **Special Use Permits.** The Zoning Board of Adjustment shall hear and decide all applications for Special Use permit that is provided for by the Zoning Ordinances of the Town of Atlantic Beach.

a. Procedure for Filing Applications For Special Use Permits. No application for a special use permit shall be heard by the Zoning Board of Adjustment unless and until the applicant files a fully completed special use permit application (see Exhibit A) with the Zoning Administrator at least thirty (30) days prior to the date of the next regular meeting or a specially called meeting of the Board. All information required by the Town's form and all required supporting documentation shall be provided to the Secretary before an application for a special use permit shall be considered as having been properly filed and ready for scheduling of a hearing. Upon proper submission of a completed application, the Secretary will also schedule a hearing before the Zoning Board of Adjustment for evaluation of the application and will provide the applicant with a copy of all relevant ordinances and with a copy of the Special Use order/evaluation form (see Exhibit B) which will indicate to the applicant those items that the applicant will have to address and prove by testimony and/or entry of evidence at the hearing.

b. Staff Report. At least 5 days prior to the hearing of a special use permit application, the Town's Planning Department will submit to the Zoning Board of Adjustment members and the applicant a written evaluation of the application submitted. This report will address and comment on each relevant item required by the Town's ordinances to be shown by the applicant for obtaining the special use permit requested. Each item addressed will state whether or not the Town's Planning Department believes that the applicant can or has met the particular requirement and why. The report will be presented in a manner generally similar to the order/evaluation form provided to

the applicant (see Exhibit A). Copies of the application and any relevant North Carolina Statutes, Atlantic Beach Ordinances, supporting documents and maps or diagrams, and/or any other material that will help the Board to make a determination in the matter will attend the Staff Report. The Planning Department may also submit as part of its report a recommendation of conditions to be added to the special use permit should the Board determine that it should be issued.

c. Hearings.

1) Time. After receipt of an application for a special use permit the Secretary shall schedule the time for a hearing, which shall be at a regular or special meeting within thirty (30) days from the filing of such application for a special use permit. No special meeting of the Zoning Board of Adjustment shall be called by the Chairperson or any other person with authority to do so unless and until the applicant shall show a compelling reason for such a special meeting and that such reason was not of his/her/its own making.

2) Notice. The zoning administrator will cause notice of the public hearing to be published in a paper of local circulation once at least ten (10) but not more than thirty (30) calendar days prior to the date of the hearing.

3) Conducting The Hearing. The Chairperson shall conduct the hearing in the manner described in Exhibit A attached hereto.

- The applicant will have the burden of proving every requirement of the Town's ordinances for a Special Use Permit

- Once the applicant has proven each requirement with competent, material, and substantial evidence, those in opposition to the permit will bear the burden of proving the permit requirements have not been met by the same standard.

- If applicant has proven each requirement, and there is no competent, material, and substantial evidence presented in opposition, the Board will grant the application for the special use permit.

- The Board may grant a special use permit to the applicant subject to conditions that are expressly acceptable to the applicant and which are related to making the permitted development and/or use conform to the Town's development plans and ordinances, or to address reasonably expected impacts of the development or uses requested.

3. **Variances**. When practical difficulties or unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Zoning Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of the ordinance so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done, however, no change in permitted uses may be authorized by variance. Variances may be granted only of the Board finds

competent, material, and substantial evidence to support each and every requirement of town ordinance and North Carolina statutes (see Exhibit C). Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed on any approval issued by the Board.

a. Procedure for Filing Applications For Variances. No application for a variance from an ordinance of the Town of Atlantic Beach shall be heard by the Zoning Board of Adjustment unless and until the applicant files a fully completed variance request application form (see Exhibit B) with the Secretary at least 30 days prior to the date of the next regular session of the Board. All information required by the Town's form and all required supporting documentation shall be provided to the Secretary before an application for a variance shall be considered as having been properly filed and ready for scheduling of a hearing. Upon proper submission of a completed application, the Secretary shall schedule a hearing before the Zoning Board of Adjustment for evaluation of the application and will provide the applicant with a copy of all relevant ordinances and statutes, and with a copy of the Variance order/evaluation form (see Exhibit C) which will indicate to the applicant those items that the applicant will have to prove by testimony and/or entry of evidence at the hearing.

b. Staff Report. At least 5 days prior to the hearing of an appeal, the Town's Planning Department will submit to the Zoning Board of Adjustment members and the applicant a written evaluation of the application submitted. This report will address and comment on each relevant item required by the Town's ordinances and North Carolina General Statutes to be shown by the applicant for obtaining the variance requested. Each item addressed will state whether or not the Town's Planning Department believes that the applicant can or has met the particular requirement and why. The report will be presented in a manner generally similar to the order/evaluation form provided to the applicant (see Exhibit B). Copies of the application and any relevant North Carolina Statutes, Atlantic Beach Ordinances, supporting documents, maps or diagrams, and/or any other material that will help the Board to make a determination in the matter will attend the Staff Report. The Planning Department may also submit as part of its report a recommendation of conditions to be added to the variance should the Board determine that such a variance should be granted.

c. Hearings.

1) Time. After receipt of an application for a variance approval the Secretary shall schedule the time for a hearing, which shall be at a regular or special meeting within thirty (30) days from the filing of such application for a variance. No special meeting of the Zoning Board of Adjustment shall be called by the Chairperson or any other person with authority to do so unless and until the applicant shall show a compelling reason for such a special meeting and that such reason was not of his/her/its own making.

2) Notice. The Secretary shall give public notice of the hearing in a newspaper published in Carteret County by advertisement published once a week for two weeks, the first time shall not be less than 10 days, and not more than 30 days before the date of the hearing. The Secretary shall cause the applicant to mail notices of the hearing to such other persons as the Planning Department or North Carolina statutes shall direct, at least fourteen (14) days prior to the hearing. Such notice shall state the location of the

building, lot, or tract of land affected, the general nature of the application and the time and place of the hearing.

3) Conducting The Hearing. The Chairperson shall conduct the hearing in the manner described in Exhibit A attached hereto.

- Variances may not be granted unless the applicant proves by competent, material, and substantial evidence that each statutory and ordinance requirement for the granting of the variance has been met.

- If the applicant fails to offer substantial and material evidence that each requirement has been met, the Board must deny the variance request.

4. **Zoning Compliance Certificate with Vested Rights.** The Zoning Board of Adjustment shall hear and decide zoning compliance certificates with vested rights in accordance with the Town's ordinances.

5. **Authorize the Cutting of Trees or Shrubs**. In considering a permit request to cut Maritime Forest within setback areas, the Board shall consider the practical need for the cutting and any alternatives to cutting of Maritime Forest proposed by the applicant. It is the Board's duty to determine that there is no practicable alternative to the cutting of Maritime Forest within the setback areas. In making such determination, the Board shall consider the proposed use by the applicant, whether there are other locations upon the lot or parcel that the subject use could occur without cutting the Maritime Forest within the setback, and whether there are existing circumstances peculiar to the lot that require the consideration of the use of the setback area. In granting any permits to cut Maritime Forest within setback areas, the Board shall, at a minimum, require that the applicant replace all trees cut within the setback area on at least a one (1) for one (1) basis elsewhere on the subject parcel.

6. **Town Attorney**. The Town Attorney will act as legal advisor to the Board but will have no vote on any issue before the Board nor shall he direct the Board's action. Nevertheless, the Town Attorney shall inform the Board as to whether the Board has authority to take whatever action is being requested of it and as to the opinion of the Town Attorney concerning the sufficiency of the evidence presented both for and against the matter under consideration by the Board

7. **Rehearings**. In the event the Zoning Board of Adjustment denies a variance or special use application, no applicant shall be entitled to apply for the same or a similar variance or special use permit for the same property within one (1) year of the date of the Zoning Board of Adjustment's action in denying such variance or special use permit.

8. **Decisions.**

a. Time. Decisions by the Board shall be made not more than thirty-two (32) days from the time of the hearing.

b. Form. Written notice of the decision in a case shall be given to the applicant by the Secretary as soon as practicable after the decision is filed. The final decision of those members of the Board

whose vote or abstention is decisive shall be shown on the record of the case as entered in o appended to the minutes of the Board, which minutes shall be signed by the Secretary and the Chairperson. The decision of the Board shall be deemed to be final and filed upon the adjournment of the meeting at which the vote is taken. The record shall show the reasons for the determination, with a summary of the evidence introduced and the findings of fact made by those members of the Board whose vote or abstention is decisive. The decision may approve or deny a special use permit application or request for variance, or it may reverse or affirm, wholly or partly, or modify an order, requirement, decision, or determination appealed from. The record shall state in detail what, if any, conditions and safeguards are imposed by the Board in connection with the granting of a variance or a special use permit.

9. Public Record Decisions. The decision of the Board as filed in its minutes, shall be a public record, available for inspection at all reasonable times.

ARTICLE VII

AMENDMENTS

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than four (4) members of the Board, provided that such amendment is presented in writing at a regular or special meeting preceding the meeting at which the vote is taken, that such amendments are not inconsistent with the Town's ordinances or North Carolina law, and provided the Town Council shall approve and adopt the amendments.

Adopted this _____ day of March, 2006.

ATTEST:

Dr. Everette Cameron - Chairperson

Secretary

Planning Department Staff Report

TO: Members of the Board of Adjustment

FROM: Elisabeth Webster, Planning and Development Director

SUBJECT: EA 24- 1 514 East Fort Macon Road

DATE: September 11, 2024

I. PROJECT AT A GLANCE

Project Number(s):	**EA 24-1** 514 East Fort Macon Road
Applicant:	Stroud Engineering, P.A
Owner:	EDWARDS JOSEPH LEE
Project Area & Location:	514 East Fort Macon Road
Carteret Count PIN(s):	638513234297000
Current Zoning:	Mixed Use High Intensity (MHI)
Request:	A right-of-way encroachment of 1.5 linear foot (57 sq./ft) encroachment into the Town's right-of-way for a portion of the septic drain field

II. BACKGROUND / REQUEST SUMMARY

Stroud Engineering, P.A. has submitted a right-of-way encroachment on behalf of the owners of 514 West Fort Macon Road. The request is for 1.5 linear foot (57 sq./ft) into the Town's existing right-of-way to the east of the property.

In the application the applicant stated that the requested encroachment into the Town's right-of-way was for the septic drain field for a proposed mobile home. As of September 11, 2024, staff has not received an application.

Site Location:

III. ADJACENT ZONING AND LAND USE

North:	Mixed Use High Intensity (MHI)	Marina
South:	Mixed Use High Intensity (MHI)	Vacant Lot
East:	Mixed Use High Intensity (MHI)	Mobile home
West:	Mixed Use High Intensity (MHI)	Mobile home

IV. PROCESS & PROCEDURES

- The application on August 9, 2024
- Adjoining property owners were sent notification letters on September 6, 2024
- Signs were posted on the property on September 5, 2024

V. FINDINGS

Pursuant to Section 18.2.4.N.3, Right-of-Way Encroachment Review Standards, of the Unified Development Ordinance, a right-of-way encroachment shall be approved if the applicant demonstrates the proposed encroachment:

a. Is necessary for the applicant's reasonable use of their property and no reasonable alternative is available;
b. Will not interfere with the public's use of the affected right(s)-of-way and is not in violation of any State, federal, or local regulation; and

c. Will not interfere with any Town service or service from any public service company, including without limitation: provision of water, sewer, electricity, telephone, cable, drainage, garbage collection, or emergency services.

VI. BOARD RULING

The BOA, after the conclusion of a quasi-judicial public hearing, shall decide the application in accordance with Section 18.2.4.N.3, Right-of-Way Encroachment Review Standards. The decision shall be one of the following

a) Approval of the encroachment as proposed;
b) Approval of a revised encroachment; or
c) Denial of the encroachment.

VII. ATTACHMENTS

A. Application
B. Site Plan
C. Public Hearing Notices

TOWN OF ATLANTIC BEACH PLANNING & ZONING DEPARTMENT

125 WEST FORT MACON ROAD ATLANTIC BEACH, NC 28512
Phone (252)726-4456 • Fax (252)727-7043

CASE NUMBER:

RIGHT OF WAY ENCROACHMENT REQUEST INFORMATION

Applicant's Name: STROUD ENGINEERING, P.A.
Mailing Address: 422 HIGHWAY 24
MOREHEAD CITY, NC 28557
Primary Telephone: 252-247-7479
Primary E-mail: TJACKS@STROUDENGINEER.COM

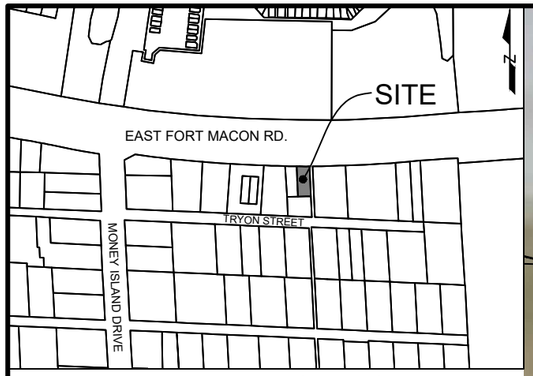
Owner's Name: JOSEPH LEE EDWARDS
Mailing Address: 2600 DAVISTOWN ROAD
WENDELL, NC 27591-7930
Primary Telephone: 919-422-2886
Primary E-mail: PROSTROKESPAINTING@YAHOO.COM

Subject Property Address: 514 EAST FORT MACON ROAD

Zoning District: MHI **PIN:** 638513234297000 **Deed Bk/Pg:** 1828-295

Briefly describe the proposed request: 1.5' R/W ENCROACHMENT FOR SEPTIC DRAIN FIELD

RIGHT OF WAY ENCROACHMENT REQUEST SUBMISSION REQUIREMENTS	INCLUDED: Y or N or N/A	SUBMITTED & APPROVED
Fee for right of way encroachment request, as required in the current fee schedule	Y	
Applicant name and contact information (with authorized agent information, if applicable)	Y	
A written description of proposed encroachment, including detail on use type, density, number of residential units, floor area, lot coverage, and the configuration of features required in Article 18.5, as applicable	Y	
A description of how the development will comply with the standards in Article 18.6: Environment, as applicable	N/A	
A survey prepared by a registered land surveyor, registered professional landscape architect, or licensed professional engineer showing the location and size of the encroachment	Y	
Digital map of site plan superimposed on aerial imagery	Y	
A description of any public infrastructure which must be relocated	N/A	
Right of way encroachment metes and bounds description	Y	



VICINITY MAP (N.T.S.)

LEGEND

EIP= EXISTING IRON PIPE
SIR= SET IRON ROD
CP = COMPUTED POINT
BOUNDARY LINE
RIGHT-OF-WAY LINE
NON-SURVEYED LINE (PLATTED BY DEED)
MINIMUM-BUILDING LINE

NOTES

1. ALL AREAS CALCULATED BY COORDINATE GEOMETRY. AREA = 1,206.70 FT.^{2} OR 0.028± ACRES OF LAND.
2. ALL BEARINGS AND COORDINATES ARE BASED ON N.C. STATE PLANE COORDINATE SYSTEM; NAD 83 (2011). ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES. UNITS: US SURVEY FOOT.
3. THIS PARCEL IS ZONED MHI PER THE TOWN OF ATLANTIC BEACH UNIFIED DEVELOPMENT ORDINANCE. SETBACKS INCLUDE: 10' FRONT, 5' SIDE AND 10' REAR; SECTION 18.3.4 [3][4]. SETBACKS SHOULD BE VERIFIED WITH PANNING & ZONING PRIOR TO DEVELOPMENT.
4. THIS PROPERTY IS LOCATED IN FLOOD HAZARD DESIGNATION: SHADED X AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM. FIRM PANEL 3720638500J, DATED 7/16/2003. FLOOD HAZARD LINES PER N.C. FLOOD RISK INFORMATION SYSTEMS.
5. THIS MAP IS OF AN EXISTING PARCEL OF LAND. THIS MAP IS NOT FOR RECORDATION.

I, JEREMY T. MCCOMBS ,CERTIFY THAT THIS MAP WAS COMPLETED UNDER MY DIRECTION AND RESPONSIBLE CHARGE FROM A SURVEY UNDER MY DIRECT SUPERVISION; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN REFERENCES HEREON; THAT THIS MAP MEETS THE REQUIREMENTS OF THE "STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA" (21 NCAC 56.1600).

WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 9TH DAY OF JULY, 2024.

PRELIMINARY

PROFESSIONAL LAND SURVEYOR L- 5355

PROJECT NO.: LSM560~001

DRAWING NO.: SURVEY

R: 2725.74'
L: 21.90'
Ch B: S 89°24'36" E
Ch L: 21.90'

R:2725.74'
L:22.01'
Ch B: S 89°23'59" E
Ch L: 22.01'

AE 6'
SHADED X

NAD 83 (2011)

6.01'

POWER POLE (TYP.)

EX. WOOD POST

EIR

SIR

NPS
INSIDE ENCROACHMENT

SEPTIC DRAIN FIELD
PER EH PERMIT
(1.5' R/W ENCROACHMENT)

EIP

S 02°49'36" E
55.24'

0.88'

1.00'

N 02°49'36" W
54.63'

EX. DWELLING

10' MBL
11.5'

L1

VARIOUS ENCROACHMENT DISTANCES FROM 512 E. FT. MACON RD. ON TO 514 E. FT. MACON RD.

4.69'

PROP. PARK MODEL

5' MBL

AC

33.5'

EX. PORCH

5' MBL

L4

L2

2.86'

104.02' S 02°49'36" E

0.96'

10' MBL

5.0'

L3

86.0'

SIR

SMN
ON BLOCK WALL

N 02°51'35" W 113.84'

EX. DWELLING

EX. BLOCK WALL

EX. FENCE

EX. WOOD POST

N 87°49'36" W
22.06'

0.53'

ENCROACHMENT LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	1.54'	N 87°10'02" E
L2	38.00'	S 02°49'36" E
L3	1.54'	S 87°10'24" W
L4	38.00'	N 02°49'36" W

REVISIONS			
BY	NO.	DATE	DESCRIPTION

PRELIMINARY
NOT FOR CONSTRUCTION

-10 -5 0 10 20

GRAPHIC SCALE: 1"=10'

PRELIMINARY PLOT PLAN FOR:

PART OF LOT #17 BLOCK K
MONEY ISLAND BEACH

PHYSICAL ADDRESS: 514 EAST FORT MACON ROAD, ATLANTIC BEACH

TAX PARCELS: 638513234297000; DB 1828 PG 295; MB 1 PG 96

MOREHEAD TOWNSHIP, CARTERET COUNTY, NORTH CAROLINA

CLIENT: JOSEPH EDWARDS

ADDRESS: 2600 DAVISTOWN RD. WENDELL, MD 27591

PHONE: N/A

STROUD ENGINEERING, P.A.
422 HIGHWAY 24
MOREHEAD CITY, NC 28557
(252) 247-7479
LICENSE NO.C-0647

SURVEYED: AC

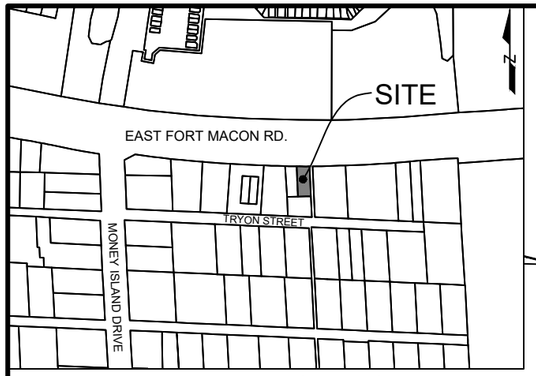
DRAWN: JTM

APPROVED: JTM

DATE: 7/9/24

SCALE: 1"=10'

SHEET 1 OF 1



VICINITY MAP (N.T.S.)

LEGEND

EIP= EXISTING IRON PIPE
SIR= SET IRON ROD
CP = COMPUTED POINT
BOUNDARY LINE
RIGHT-OF-WAY LINE
NON-SURVEYED LINE (PLATTED BY DEED)
MINIMUM-BUILDING LINE

VARIOUS ENCROACHMENT DISTANCES FROM 512 E. FT. MACON RD. ON TO 514 E. FT. MACON RD.

NOTES

1. ALL AREAS CALCULATED BY COORDINATE GEOMETRY. AREA = 1,206.70 FT.^{2} OR 0.028± ACRES OF LAND.
2. ALL BEARINGS AND COORDINATES ARE BASED ON N.C. STATE PLANE COORDINATE SYSTEM; NAD 83 (2011). ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES. UNITS: US SURVEY FOOT.
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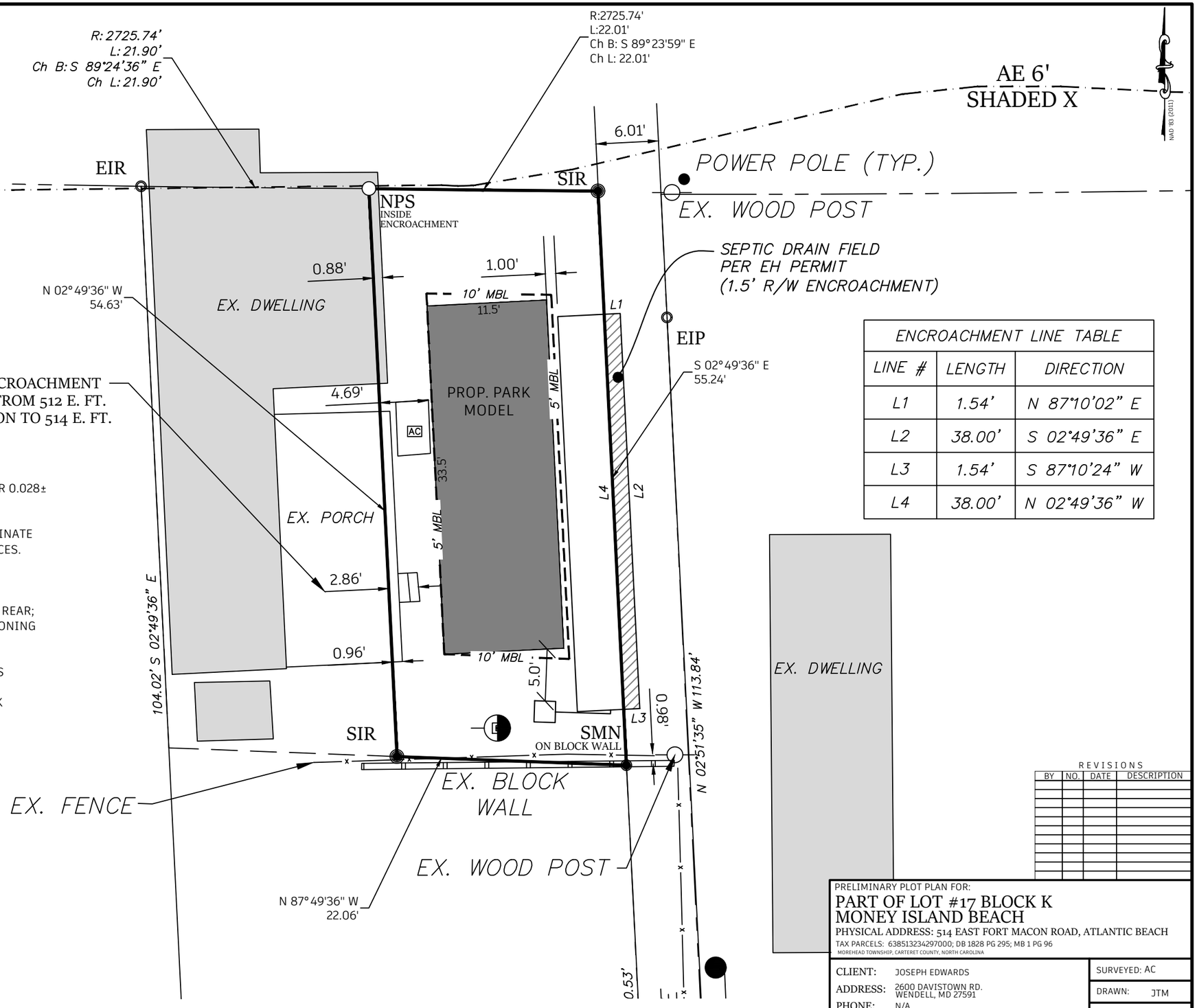
WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 9TH DAY OF JULY, 2024.

PRELIMINARY

PROFESSIONAL LAND SURVEYOR L- 5355

PROJECT NO.: LSM560-001

DRAWING NO.: SURVEY



ENCROACHMENT LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	1.54'	N 87°10'02" E
L2	38.00'	S 02°49'36" E
L3	1.54'	S 87°10'24" W
L4	38.00'	N 02°49'36" W

PRELIMINARY
NOT FOR CONSTRUCTION

-10 -5 0 10 20

GRAPHIC SCALE: 1"=10'

REVISIONS

BY	NO.	DATE	DESCRIPTION

PRELIMINARY PLOT PLAN FOR:

PART OF LOT #17 BLOCK K MONEY ISLAND BEACH

PHYSICAL ADDRESS: 514 EAST FORT MACON ROAD, ATLANTIC BEACH

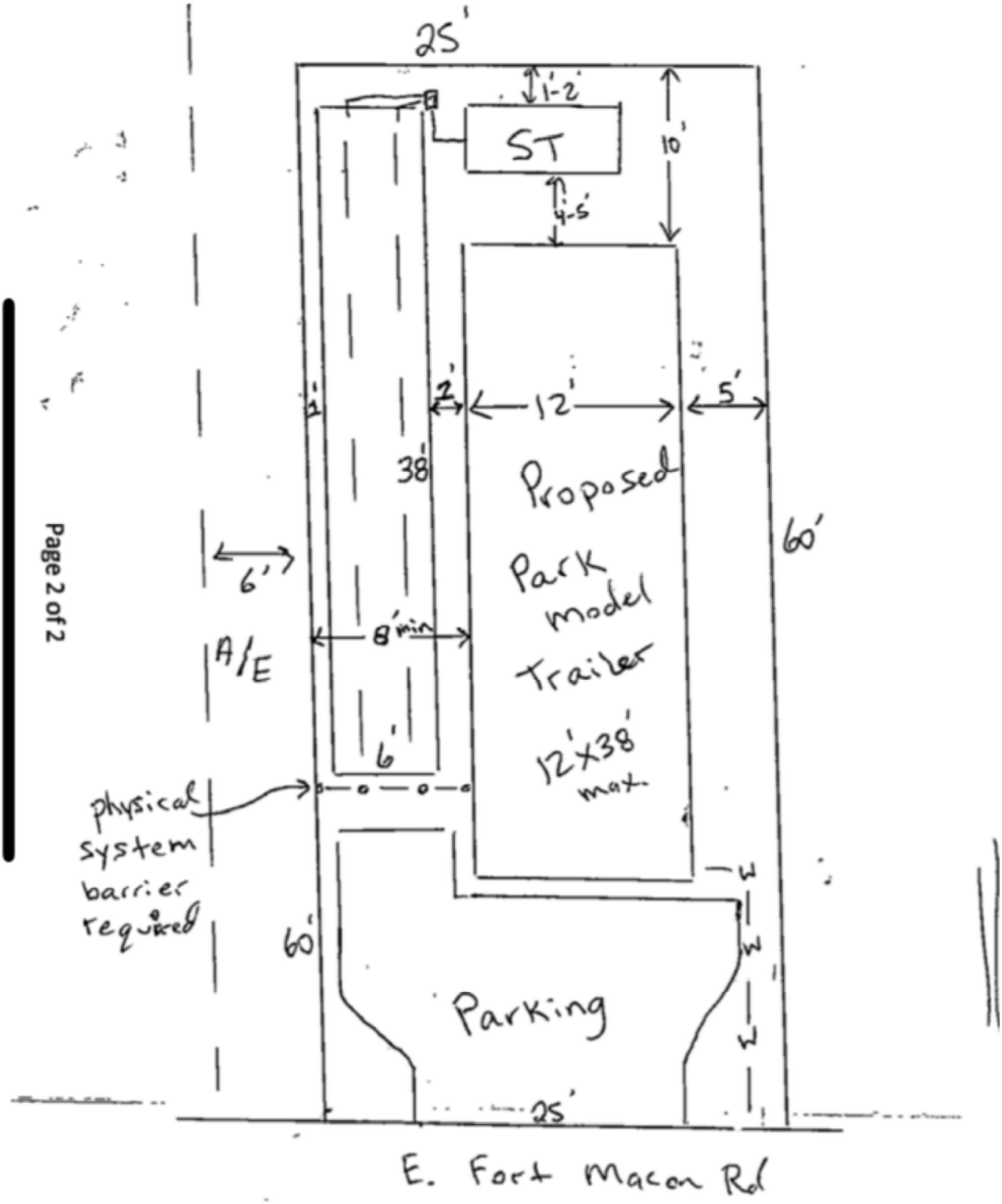
TAX PARCELS: 638513234297000; DB 1828 PG 295; MB 1 PG 96

MOREHEAD TOWNSHIP, CARTERET COUNTY, NORTH CAROLINA

CLIENT: JOSEPH EDWARDS
ADDRESS: 2600 DAVISTOWN RD. WENDELL, MD 27591
PHONE: N/A

SURVEYED: AC
DRAWN: JTM
APPROVED: JTM
DATE: 7/9/24
SCALE: 1"=10'
SHEET 1 OF 1

STROUD ENGINEERING, P.A.
422 HIGHWAY 24
MOREHEAD CITY, NC 28557
(252) 247-7479
LICENSE NO.C-0647


25'
1'-2'
ST
10'
4'-5'
1'
2'
12'
5'
38'
Proposed
Park
model
Trailer
12'X38'
max.
60'
6'
8' min
A/E
6'
physical
system
barrier
required
60'
Parking
25'
E. Fort Macon Rd

TOWN OF ATLANTIC BEACH
BOARD OF ADJUSTMENT
PUBLIC HEARING NOTICE

The Board of Adjustment will conduct public hearings on **Monday, September 16, 2024 at 6:00pm** in the Town Boardroom located at 125 West Fort Macon Road regarding the following:

E-24-01 - 514 E. Fort Macon Road is requesting a 1.5 linear foot (57 sq/ft) encroachment into the Town's right-of-way for a portion of the septic drain field.

E-24-02 - 229 Moonlight Drive is requesting a 15.34-linear foot (333.1 sq/ft) encroachment into the Town's right-of-way to encompass a portion of the pump tank and a portion of drain field.

Applications can be obtained at Town Hall. The public is invited to attend. Those wishing to speak at the public hearing should be prepared to establish legal standing and provide competent, relevant, and substantial evidence on the matter.

For questions and/or comments, contact the Planning Department at (252) 726-4456.

S4,8

Planning Department Staff Report

TO: Members of the Board of Adjustment

FROM: Elisabeth Webster, Planning and Development Director

SUBJECT: EA 24-2 229 Moonlight Drive

DATE: September 11, 2024

I. PROJECT AT A GLANCE

Project Number(s):	**EA 24-2** 229 Moonlight Drive
Applicant:	Joseph Harris
Owner:	MASON KEITH S ETAL HARRIS JOSE
Project Area & Location:	229 Moonlight Drive
Carteret Count PIN(s):	637512868839000
Current Zoning:	Residential Single Family Manufactured (RSM)
Request:	A right-of-way encroachment of 15.34 linear foot (333.1 sq./ft) encroachment into the Town's right-of-way to encompass a portion of the pump tank and a portion of drain field

II. BACKGROUND / REQUEST SUMMARY

Joseph Harris has submitted a right-of-way encroachment request for 229 Moonlight Drive. He is requesting 15.34 linear feet (333.1 square feet) of existing Town right-of-way to put a portion of his drain field.

In the application the applicant, Joseph Harris, stated that the current system is malfunctioning and needs to be replaced. Due to limited available space he is requesting that a portion of the new drain field be located in the Town's right-of-way.

Site Location:

III. ADJACENT ZONING AND LAND USE

North:	Residential Single Family Manufactured (RSM)	Single-family
South:	Residential Single Family Manufactured (RSM)	Single-family
East:	Residential Single Family Manufactured (RSM)	Single-family/mobile home
West:	Water	

IV. PROCESS & PROCEDURES

- The application on August 19, 2024
- Adjoining property owners were sent notification letters on September 6, 2024
- Signs were posted on the property on September 5, 2024

V. FINDINGS

Pursuant to Section 18.2.4.N.3, Right-of-Way Encroachment Review Standards, of the Unified Development Ordinance, a right-of-way encroachment shall be approved if the applicant demonstrates the proposed encroachment:

a. Is necessary for the applicant's reasonable use of their property and no reasonable alternative is available;

b. Will not interfere with the public's use of the affected right(s)-of-way and is not in violation of any State, federal, or local regulation; and
c. Will not interfere with any Town service or service from any public service company, including without limitation: provision of water, sewer, electricity, telephone, cable, drainage, garbage collection, or emergency services.

VI. BOARD RULING

The BOA, after the conclusion of a quasi-judicial public hearing, shall decide the application in accordance with Section 18.2.4.N.3, Right-of-Way Encroachment Review Standards. The decision shall be one of the following

a) Approval of the encroachment as proposed;
b) Approval of a revised encroachment; or
c) Denial of the encroachment.

VII. ATTACHMENTS

A. Application
B. Site Plan
C. Public Hearing Notices

TOWN OF ATLANTIC BEACH PLANNING & ZONING DEPARTMENT
125 WEST FORT MACON ROAD ATLANTIC BEACH, NC 28512
Phone (252)726-4456 · Fax (252)727-7043

CASE NUMBER:

RIGHT OF WAY ENCROACHMENT REQUEST INFORMATION

Applicant's Name: Joseph Miltano Harris
Mailing Address: 2 Linkes Circle
Durham NC 27707
Primary Telephone: 919-599-8549
Primary E-mail: JHarris@HarrisBuild.com

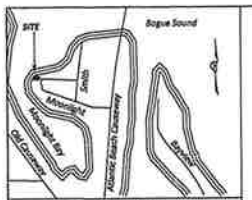
Owner's Name: Joseph Miltano Harris
Mailing Address: 2 Linkes Circle
Durham NC 27707
Primary Telephone: 919-599-8549
Primary E-mail: JHarris@HarrisBuild.com

Subject Property Address: 229 Moonlight Dr. Atlantic Beach 28512

Zoning District: _____ **PIN:** 15=6375128688 39000 **Deed Bk/Pg:** 839 pg 032
1421 pg 023
743 pg 432

Briefly describe the proposed request: Easement Request For Septic Drainfield

RIGHT OF WAY ENCROACHMENT REQUEST SUBMISSION REQUIREMENTS	INCLUDED: Y or N or N/A	SUBMITTED & APPROVED
Fee for right of way encroachment request, as required in the current fee schedule		
Applicant name and contact information (with authorized agent information, if applicable)		
A written description of proposed encroachment, including detail on use type, density, number of residential units, floor area, lot coverage, and the configuration of features required in Article 18.5, as applicable		
A description of how the development will comply with the standards in Article 18.6: Environment, as applicable		
A site plan of the proposed encroachment showing surveyed lot lines and generalized site configuration features like buildings, required parking, landscaping, fences/walls, utilities, and description of adjacent development		
Digital map of site plan superimposed on aerial imagery		
Right of way encroachment legal documents		



LOCATION
239 MOONLIGHT DRIVE
ATLANTIC BEACH, NC
PIN 13 = 637512868859000

PAGE 043
MAP BOOK 7

NOTES

TOTAL AREA OF PARCEL = 4,499.13 sq ft / 0.103 acres, BY COORDINATE METHOD. NORMAL HIGH WATER LINE IS TRUE PROPERTY LINE, FOR THIS SURVEY, THE EXISTING BULKHEAD IS CONSIDERED THE NORMAL HIGH WATER LINE.

ALL OF PROPERTY IS LOCATED IN FLOOD ZONE "AE" WITH A BASE FLOOD ELEVATION(BFE) of 7.0ft per FIRM 3720625900J, PANEL 6375, MAP EFFECTIVE DATE JULY 16, 2003.

LOT SERVED BY PUBLIC WATER AND INDIVIDUAL SEPTIC.
SEPTIC INFORMATION TAKEN FROM CARTERET COUNTY HEALTH DEPT PERMIT # 2132, DATED NOVEMBER 26, 1997.

BROKEN / DASHED LINES NOT SURVEYED, TAKEN FROM REFERENCES.

DWELLING & OFF-SET DIMENSIONS ARE SHOWN ROUNDED TO THE NEAREST TENTH / FOOT AND ARE NOT TO BE USED FOR ARCHITECTURAL DESIGN.

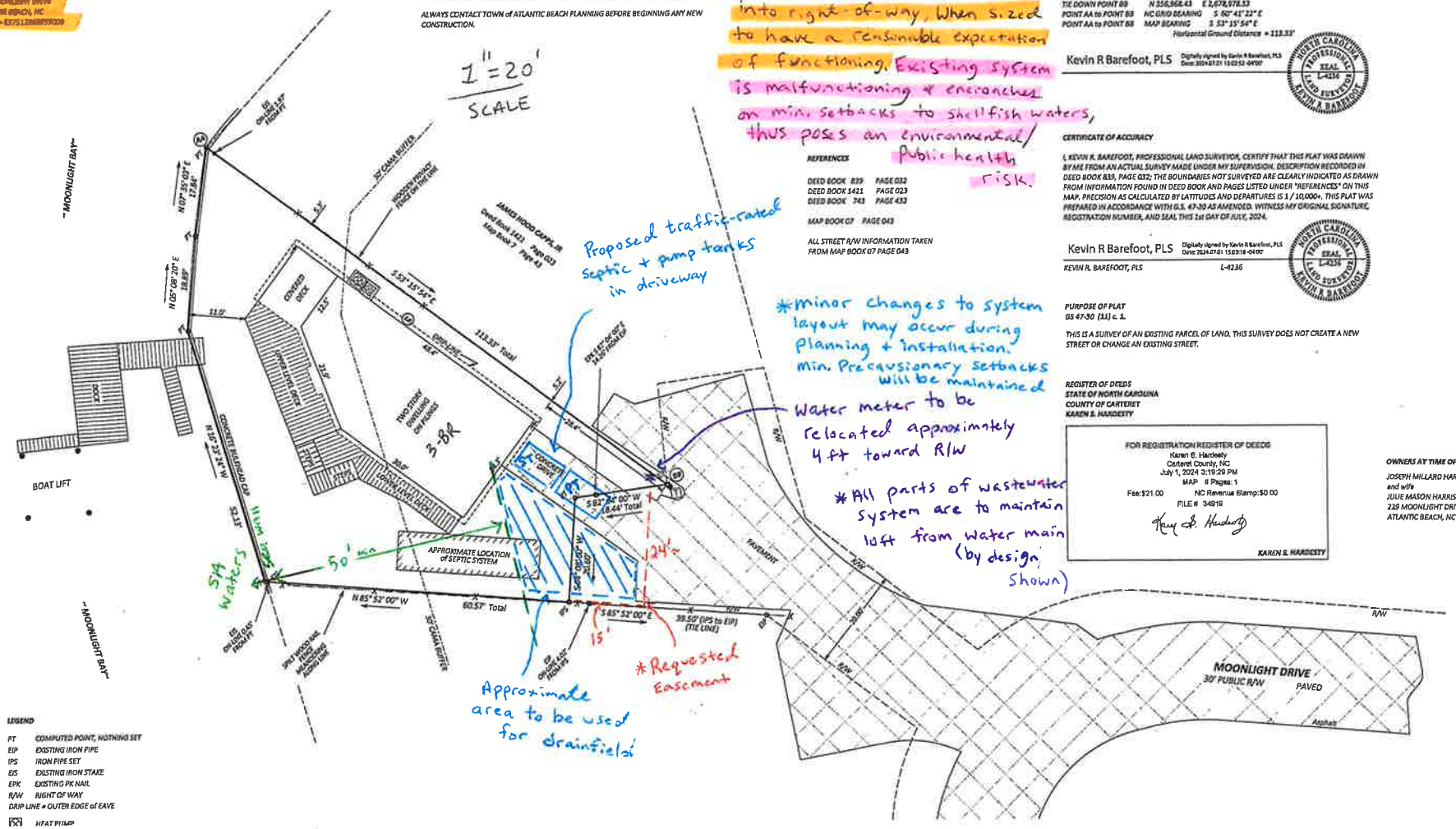
FOR SETBACK INFORMATION CONTACT TOWN of ATLANTIC BEACH PLANNING DEPT.

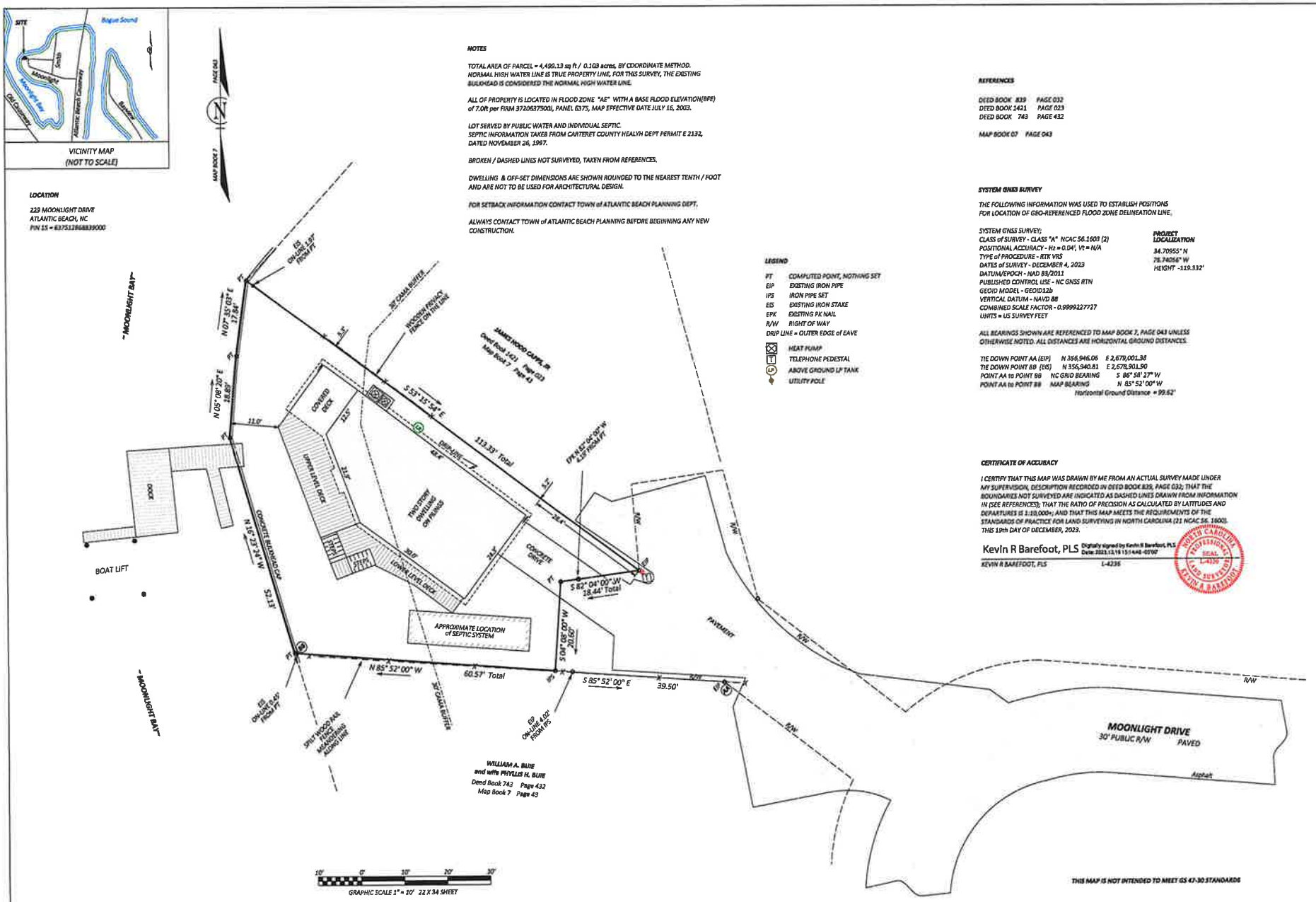
ALWAYS CONTACT TOWN of ATLANTIC BEACH PLANNING BEFORE BEGINNING ANY NEW CONSTRUCTION.

Easement Request

for purpose of installing a replacement wastewater system. Due to limited available space (after setbacks) and drain field will need to extend into right-of-way. When sized to have a reasonable expectation of functioning. Existing system is malfunctioning & encroaches on min. setbacks to shellfish waters, thus poses an environmental/public health risk.

1" = 20'
SCALE


~ MOONLIGHT BAY ~
N 07° 35' 03" E
17.84'
N 05° 08' 20" E
18.85'
5' CAMA BUFFER
HOODED FENCE FIRST ON THIS LINE
JAMES HOOD CAPPS, JR
Deed Book 1421 PAGE 023
Map Book 7 Page 43
S 53° 15' 54" E
113.33' Total
43.6'
CONCRETE DECK
11.0'
12.5'
OVERHEAD POWER
TWO-STORY DWELLING ON PILINGS
3-BR
ELEV. 14.5'
ELEV. 12.2'
CONCRETE
CONCRETE
CONCRETE
LOW PROFILE LOUVERED SCREEN
STEPS
STEPS
30.0'
BOAT LIFT
CONCRETE BULKHEAD CAP
N 82° 22' 34" W
52.5'
54' CAMA BUFFER
APPROXIMATE LOCATION of SEPTIC SYSTEM
S 82° 24' 00" W
68.44' Total
S 85° 52' 00" E
31.00'
S 85° 52' 00" E
39.52' (IPS to EIP) (TIE LINE)
N 85° 52' 00" W
60.53' Total
50' min
SA Waters
24'±
15'
EIP
EIP
EIP



KR BAREFOOT SURVEYING
NC FIRM C-3521
KEVIN R. BAREFOOT, PLS L-4235
PO BOX 1753
NEWPORT, NC 28570
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MOREHEAD TWP
ATLANTIC BEACH
CARTERET COUNTY
NORTH CAROLINA
SCALE : 1" = 10'
DECEMBER 7, 2023

SURVEY FOR
JOSEPH MILLARD HARRIS
and wife
JULIE MASON HARRIS
BEING THE PROPERTY DESCRIBED IN DEED BOOK 839, PAGE 032, IN THE CARTERET COUNTY REGISTER OF DEEDS

TOWN OF ATLANTIC BEACH
BOARD OF ADJUSTMENT
PUBLIC HEARING NOTICE

The Board of Adjustment will conduct public hearings on **Monday, September 16, 2024 at 6:00pm** in the Town Boardroom located at 125 West Fort Macon Road regarding the following:

E-24-01 - 514 E. Fort Macon Road is requesting a 1.5 linear foot (57 sq/ft) encroachment into the Town's right-of-way for a portion of the septic drain field.

E-24-02 - 229 Moonlight Drive is requesting a 15.34-linear foot (333.1 sq/ft) encroachment into the Town's right-of-way to encompass a portion of the pump tank and a portion of drain field.

Applications can be obtained at Town Hall. The public is invited to attend. Those wishing to speak at the public hearing should be prepared to establish legal standing and provide competent, relevant, and substantial evidence on the matter.

For questions and/or comments, contact the Planning Department at (252) 726-4456.

S4,8