Minutes
Town of Atlantic Beach
Board of Adjustment Meeting
Boardroom - 125 West Fort Macon Road
Monday, July 13, 2026

Members Present	Members Absent	Others Present
Mike Bosse, Chair	Harrison Smith	Katrina Tyer, Town Clerk
Bradley Jones, Vice Chair		Elisabeth Webster, Planner
Tony Engrassia		John O'Daniel, Manager
Bonnie Pitts		Police Chief Jason Hutchinson
Wendy Tiner, Alternate		Laura Siegle, Harvell and Collins PA

Prior to the meeting, Clerk Katrina administered Oath of Office to Tony Engrassia.

CALL TO ORDER
Chairman Bosse called the meeting to order at 6:00pm.

EXCUSE ABSENT MEMBERS
Jones made a motion *to excuse* Harrison Smith. Seconded by Engrassia. Vote was unanimous, 4-0. Motion carried. Wendy Tiner was seated as an Alternate member.

APPROVAL OF ORDER GRANTING VARIANCE ORDER VAR-26-02: 201 EAST ATLANTIC BLVD. and VAR 26-03: DAVIS BLVD.
Pitts made a motion *to approve, adopt, and ratify* the Order granting a Variance at 201 East Atlantic Boulevard as proposed for a 10-foot variance from the 10-foot Minimum Street Setback as described in Section 18.3.3.F(g) Residential Single-Family and Duplex (RSD) for a set of steps to connect the existing driveway to the existing set of stairs leading to the existing deck. Seconded by Jones. Vote was unanimous, 5-0. Motion carried.

Jones made a motion *to approve, adopt, and ratify* the Order granting a Variance at Davis Blvd (Parcels: 637516841057000, 637516843018000, and 637516843098000) for a reduction in the 16-foot setback to 10 feet, conditioned upon approval of the major site plan. Seconded by Smith. Seconded by Pitts. Vote was unanimous, 5-0. Motion carried.

Clerk's Note: The Orders are filed with the June 8, 2026, Minutes.

APPROVAL OF MEETING MINUTES
Jones made a motion *to approve* the April 20, 2026 Minutes. Seconded by Pitts. Vote was unanimous, 5-0. Motion carried. Engrassia clarified the Clerk had corrected a clerical typo he noticed prior to the meeting; it did not change any substance.

RIGHT-OF-WAY ENCROACHMENT: 201 EAST ATLANTIC BLVD
Chairman Bosse confirmed with the board members that no one had a conflict of interest, financial or personal interest, conversation, or special knowledge regarding the cases. They confirmed they did not. The applicant confirmed they had no objections to the seated board.

Katrina Tyer, Town Clerk, administered oaths to Town Planner Elisabeth Webster, Attorney for Applicant Laura Siegle, and Michael Lopazanski and Carl Gaul, with Collective Contracting. Attorney Eure outlined the procedures and requirements the applicant must meet for the board granting a Right-of-Way Encroachment based on UDO Section 8.20.4.N.03.

Elisabeth presented the case, stating the contractor, on behalf of the property owner, has applied for a right-of-way encroachment for a retaining wall to be located within the Town's right-of-way along Beaufort Ave. and East Atlantic Ave. She reminded the board that last month they granted a variance for the same property related to the same underlying construction saga. The property previously had a retaining wall on each side of the driveway and a small retaining wall supporting a walkway in the right-of-way of Beaufort Ave. The retaining walls on both sides of the driveway can be seen on historical aerials dating back to 1980. The retaining wall supporting the walkway along the Beaufort Ave. side of the house can be seen on historical aerials dating back to 2007. In 2014, a permit was issued by the Town of Atlantic Beach to build a deck on the Beaufort Ave. side of the house, extending approximately 4-5 feet into the right-of-way.

This project has been under construction for an extended period following the failure of a prior contractor, who had excavated significant amounts of soil and left the project incomplete. Because more than 180 days had elapsed since that contractor's departure, the town could not permit the work to be rebuilt in the same original footprint. The new contractors, who are present at the meeting, proposed a retaining wall of approximately 2.5 feet extending into the right-of-way along both Beaufort Avenue and East Atlantic Boulevard, along with a freestanding decorative wall element atop the retaining wall.

The proposed new retaining wall would connect to the existing retaining wall on the Beaufort Ave. side of the house and allow for a small set of steps up to the existing walkway. On the Atlantic Ave. side of the property, the proposed retaining wall would extend from the existing retaining wall along Beaufort Ave. and come around, replacing the old retaining wall supporting the driveway. The retaining wall would wrap around to create a landing between the steps approved at the prior meeting and the existing steps leading up to the deck, the deck being the only means of access to the home, as there is no entry from the garage. Landscaping and pavers would be installed inside the retaining wall. Additionally, a portion of the proposed steps would be located within the right-of-way along Atlantic Blvd.

The application was received on May 21, 2026; Advertisements in Carteret News Time: July 1 and July 8 of 2026; adjoining property owners were sent notification letters on July 2, 2026, and signs were posted on the property on July 1, 2026.

Staff's recommendation is **approval with conditions**, specifically: (1) a pre-construction meeting with the town's fire chief and public works director, and (2) submission of an as-built survey following construction completion. She emphasized the importance of ensuring staff could access the utility infrastructure, including a water meter and water line located in the driveway area.

Attorney Laura Siegle provided each board member with a handout containing 21 photos (the same as last month) from the site and an enlarged survey and explained what each one detailed. She explained the home sits only 5 feet 8 inches from the property line, a condition attributable to the age of the lot, which predates the current 10-foot setback requirement. This severely limited options for creating safe access to the door. Using the photos, she illustrated the proximity of the structure to the right-of-way, the existing elevation changes across the property, and the planned configuration of pavers, the brick retaining wall to shore up the current retaining wall, landing area, and stairway. The existing deck will remain; it is 10 feet from the door of the house. This construction will not cause any obstruction at the 4-way stop. The homeowner is a woman in her seventies, and the deck and landing structure serve as the only practical means of safely entering and exiting the home, particularly for moving furniture, luggage, or emergency services.

Michael Lopazanski, with Collective Contracting, confirmed that the maximum height of any element, including the retaining wall combined with the freestanding decorative top, would not exceed approximately 3 to 4 feet at the corner near the stop sign. The knee wall will be taller; it acts like a rail, starting at the house and diminishing as needed. He stated the soil that was previously removed is in the backyard and will be hauled away. They will backfill the new wall with gravel for drainage.

Attorney Siegle confirmed that nothing would exceed 3.5 feet for the structural retaining wall components. She affirmed that the property owner would be agreeable to all conditions proposed by town staff, including the pre-construction meeting and the as-built survey.

The testimony from last month, the application, and photo exhibit were incorporated into the record.

Engrassia questioned staff and the contractor for more details regarding the configuration of the wall configuration, height, prior soil excavation, the slope of the lot along East Atlantic Boulevard, and the position of the town's utility infrastructure. Elisabeth stated the town does not have any obstruction issues near the stop sign. The town has a water line and meter there, but the applicant knows this is just an encroachment; the town can access the water infrastructure if needed, and we do not have to replace any structures she has on the property.

Engrassia asked why the wall could not move closer to the house. The contractor explained the previous contractor had excavated most of the dirt, but they do not want to move inward mainly for cosmetic reasons, and they want to tie into the existing wall. The wall would wrap around the corner, the freestanding wall element would diminish in height as the retaining wall descended in elevation, and the proposed design would create a unified, aesthetically cohesive appearance consistent with the retaining wall already present on the other side of the structure. They have looked at many options, and this is the best one for her. He requested to read a statement from the homeowner, but the Board determined that it was considered hearsay and not admissible.

The board evaluated the requirements for a Right-of-Way Encroachment based on UDO Section 8.20.4.N.03.

1. The encroachment is necessary for the applicant's reasonable use of their property, and no reasonable alternative is available.
   Jones: he feels this request is necessary for access into the home, and there is no other reasonable or functional alternative.
   Engrassia: No comments at this time.

Tiner: If there is not a retaining wall, it is a mess and unsafe.
Pitts: There does not appear to be another alternative based on the lot and placement of the door.
Bosse: Based on the location of the house on a corner and the history of the previous wall, it is necessary to install stairs and hold the soil that was left unsecured by the previous contractor. The wall and landing will protect anyone walking on the patio.

Jones made a motion *to accept* that the encroachment is necessary for the applicant's reasonable use of their property, and no reasonable alternative is available. Seconded by Pitts. Vote was unanimous, 5-0. Motion carried.

2. The encroachment will not interfere with the public's use of the affected right-of-way and is not in violation of any state, federal, or local regulation.
   Pitts: This is a modest encroachment request. Her only concern has been with the stop sign, but testimony has clarified it will not interfere with line of sight at the stop sign or for the public.
   Tiner: Same.
   Bosse: Agrees barring all town departments' approval. He does not see much change other than a better appearance.
   Engrassia: There are no line-of-sight issues, and it does not affect any public use.
   Jones: No issues with the stop sign.

Engrassia made a motion *to accept* that the encroachment will not interfere with the public's use of the affected right-of-way and is not in violation of any state, federal, or local regulation. Seconded by Jones. Vote was unanimous, 5-0. Motion carried.

3. The encroachment will not interfere with any town service or service from any public service company, including water, sewer, electricity, telephone, cable, drainage, garbage collection, or emergency services.
   Tiner: The Agreement will contain standard provisions to ensure there is no interference.
   Pitts: feels the retaining wall and materials used will improve the potential to not have issues.
   Engrassia: Agrees.
   Jones: Per Elisabeth and Attorney testimony and agreement to be drafted, the town can assume the property anytime needed.
   Bosse: Agrees with other board member's comments.

Jones made a motion *to accept* that the encroachment will not interfere with any town service or service from any public service company, including water, sewer, electricity, telephone, cable, drainage, garbage collection, or emergency services. Seconded by Engrassia. Vote was unanimous, 5-0. Motion carried.

Elisabeth reminded the board that the right-of-way encroachment agreement itself would contain standard language preserving the town's right to access and remove the wall if needed to access utilities, including the water line and water meter located in the driveway. It was emphasized that the town retains the right-of-way at all times and that the encroachment agreement is a conditional license, not a conveyance of ownership.

Tiner made a motion *to approve* the right-of-way encroachment as proposed. Attorney Eure reminded the board of the conditions recommended by the town. Motion was not seconded.

Tiner made a motion *to approve* the right-of-way encroachment at 201 East Atlantic Blvd. *with conditions*: (1) a pre-construction meeting with the town's fire chief and public works director, and (2) submission of an as-built survey following construction completion. She emphasized the importance of ensuring staff could access the utility infrastructure, including a water meter and water line located in the driveway area. Seconded by Pitts. Vote was unanimous, 5-0. Motion carried. The time was 6:51p.m.

BOARD/STAFF COMMENTS
Elisabeth informed the board that an application had been received for a case to be heard at the regular August meeting.

ADJOURNMENT
Jones made a motion *to adjourn*. Seconded by Engrassia. Vote was unanimous, 5-0. Motion carried. The time was 6:52p.m.

These minutes were approved at the August 17, 2026 meeting of the Atlantic Beach Board of Adjustment.

Approved by:

Katrina Tyer, Clerk

Mike Bosse, Chair