



CITY OF
**VIRGINIA
BEACH**

Board of Zoning Appeals
April 1, 2026

Kevin Newton, Chairman
Robert Thornton, Vice Chairman
Myles Pocta, Secretary

City Staff:
Hannah Sabo, Zoning Administrator
Victoria Eisenberg, City Attorney

A Board of Zoning Appeals public hearing is scheduled for 2:00 p.m. **Wednesday, April 1, 2026**, on the second floor of City Hall (Council Chambers, Building #1, 2401 Courthouse Drive).

Informal discussions and staff briefings will occur at 1:00 p.m. in room 2034 of Building #1. All interested parties are invited to observe the 1:00 p.m. informal meeting and/or the 2:00 p.m. public hearing.

Please call (757) 385-8074 or visit <https://virginiabeach.gov/BZA> for more details.

AGENDA FOR APRIL 1, 2026:

- A. Comments from Board Chair and/or zoning staff (1:00 p.m. to 2:00 p.m.)
- B. Review of public hearing cases and staff briefing (1:00 p.m. to 2:00 p.m.)
- C. Public hearing (2:00 p.m. to finish / variance cases called in order by case number)

AGENDA CASES

- **Case 2026-BZA-00001** (*variance request*)
Applicant: Joseph Tyler Edwards (*property owner*)
Representative: R. Edward Bourdon (*attorney*)
Address: 5036 Lauderdale Avenue
Request: A variance to the required yard for proposed additions to an existing single-family dwelling, and to modify conditions of a Board of Zoning Appeals variance granted on June 6, 2012.
- **Case 2026-BZA-00002** (*variance request*)
Applicant: Eric and Carly Bird (*property owners*)
Representative: R. Edward Bourdon (*attorney*)
Address: 4532 Delmar Drive
Request: Variances to the required yards for a proposed screen porch and existing shed.
- **Case 2026-BZA-00012** (*variance request*)
Applicant: Gary A. Howorka (*property owner*)
Representative: R. Edward Bourdon (*attorney*)
Address: 219 72nd Street
Request: Variances to the required yards and maximum impervious cover for proposed additions/renovations.
- **Case 2026-BZA-00009** (*appeal*)
Applicant: John A. Kerr (*property owner*)
Representative: John A. Kerr (*property owner*)
Address: 5903 Atlantic Avenue
Request: Appeal of a Zoning Administrator, or designee, determination letter dated December 17, 2025, pertaining to the loss of short-term rental grandfathering designation.



CASE: 2026-BZA-00001 - Joseph Tyler Edwards
HEARING DATE: April 1, 2026
TO: Chairman, Board of Zoning Appeals
FROM: Wilissa Blair-Miller

ADDRESS ASSOCIATED WITH VARIANCE REQUEST:

5036 Lauderdale Avenue

REPRESENTATIVE:

R. Edward Bourdon, Jr. Esq., of Sykes, Bourdon, Ahern, & Levy, PC

VARIANCE REQUEST(S) (ABBREVIATED):

A variance to the required yard for proposed additions to an existing single-family dwelling and to modify conditions of a Board of Zoning Appeals variance granted on June 6, 2012.

VARIANCE REQUEST(S) (DETAILED):

The following variance is requested pursuant to Article 1, Section 106 and Article 5, Section 502(a) of the City Zoning Ordinance, and Section 15.2-2309 of the Code of Virginia:

1. **FRONT YARD ADJACENT TO UNIMPROVED OCEAN VIEW AVENUE (NORTH):** A setback variance to 9 feet instead of 30 feet as required adjacent to unimproved Ocean View Avenue for proposed building additions.
2. **MODIFICATION OF CONDITIONS:** Modification of condition #1 as mandated by the Board of Zoning Appeals on June 6, 2012.

GEOGRAPHIC PARCEL INFORMATION NUMBERS (GPIN):

1570-43-2217

LOT AREA:

- 7,500 square feet (.17 acres) (per BZA exhibit)

AICUZ:

Less than 65 decibels

REGULATORY WATERSHED AND FLOOD ZONE:

- Chesapeake Bay Preservation Area (Resource Management Area)
- VE (Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves), AE (1% annual chance flood hazard), and X (area determined to be outside the 500-year flood)

Please Note: Planning Department, Environmental Unit, staff reviewed this matter on January 9, 2026, and determined that the subject property is within the resource management area of the overall Chesapeake Bay Preservation Area. In addition, the Planning Department Floodplain Manager also reviewed the application and provided comments to the property owner pertaining to Floodplain Ordinance requirements associated with the proposed project.

VOTING DISTRICT:

District 9

PREVIOUS BOARD OF ZONING APPEALS VARIANCE(S):

June 6, 2012 (conditionally approved)

A variance to a 10-foot front yard setback (Ocean View Avenue) instead of 30 feet as required on a through lot (Proposed Single Family Dwelling)

Condition of 2012 approval requested for modification:

1. The proposed dwelling shall be constructed in substantial adherence to the submitted site plan and building elevations.

EXISTING LAND USE, ORIGINAL BUILD DATE, ZONING DISTRICT, STRATEGIC GROWTH AREA:

- Single-family (built in 2013)
- R-7.5 (SD) (Residential District) (Shore Drive Overlay)
- Not in a Strategic Growth Area

SURROUNDING LAND USES/ZONING DISTRICTS:

- North: Residential (vacant lots and beach of the Chesapeake Bay), R-7.5
- South: Residential (single-family), R-7.5
- East: Residential (single-family), R-7.5
- West: Residential (single-family), R-7.5

EXISTING CONDITIONS:

- Dwelling: 9.7 feet from the property line adjacent to the unimproved Ocean View Avenue (north)
- Dwelling: More than 30 feet from front property line (south)
- Dwelling: 16.6 feet from side property line (south)
- Dwelling: 19 feet from side property line (east)
- Dwelling: 11.4 feet from side property line (west)

EXTENT OF PROJECT:

Building additions (variance requested)

Multiple proposed building additions and renovations to an existing single-family dwelling presently located within the 30-foot setback adjacent to unimproved Ocean View Avenue.

BACKGROUND INFORMATION:

According to City records, the subject property originally consisted of multiple smaller lots created over 100 years ago. On September 15, 2010, those lots were resubdivided to form a single parcel.

The subject parcel sits between improved Lauderdale Avenue and unimproved Ocean View Avenue. As a result, the property is considered a through lot, with the boundaries abutting improved Lauderdale Avenue and unimproved Ocean View Avenue defined as front property lines.

The applicant is requesting a variance to encroach into the required front yard adjacent to unimproved Ocean View Avenue and to modify a condition of the Board of Zoning Appeals dated June 6, 2012.

The subject lot meets the current minimum required lot area of 7,500 square feet and the current minimum lot width adjacent to unimproved Ocean View Avenue of 75 feet. Nonetheless, the lot width adjacent to Lauderdale Avenue is roughly 34 feet instead of 75 feet as required.¹

On June 6, 2012, the Board of Zoning Appeals granted a variance to allow a new home to be constructed 10 feet from the front property line adjacent to unimproved Ocean View Avenue instead of 30 feet as required. The approval stipulated that construction must be in substantial adherence with the then submitted site and elevation plans (see plans on page 10 for details). Because the applicant is proposing extensive additions and renovations to the existing home, a modification to the 2012 Board condition is requested.

The subject dwelling presently encroaches .3 feet into the 2012 Board approved 10-foot setback adjacent to unimproved Ocean View Avenue (north). As a result, this minor construction oversight is included within this overall variance request. It should be underscored that the proposed improvements will not encroach into the required northern yard any further than the current encroachment. Moreover, it must also be recognized that the required subject yard abuts an unimproved City right-of-way and vacant beach lots, which are expected to remain unimproved in perpetuity.

NOTE:

1. In accordance with Section 200(d) of the City Zoning Ordinance, the width of a lot abutting a straight right-of-way, or where the radius of curvature is ninety (90) feet or more, shall be determined by measuring across the rear of the required front yard.

KEY CONSIDERATIONS:

- It could be argued that the strict application of the ordinance would unreasonably restrict the utilization of the property since the proposed improvements will not encroach into the required yard any further than the current home.
- The unimproved City right-of-way and undeveloped lots abutting the subject property line will likely remain unimproved and undeveloped in perpetuity.
- The boundaries of the lot are atypically shaped, which is arguably a hardship based on a physical condition relating to the property.

LETTERS OF SUPPORT AND OPPOSITION *(final count to be determined on hearing date):*

- Letters of Support: 0
- Letters of Opposition: 0

APPLICANT STATED HARDSHIP:

“The strict application of the zoning ordinance would be an undue hardship for the property. I'm seeking a variance for the 30' setback requirement from the unimproved "Ocean View Ave". Previously in 2012, a variance was granted for the current residential home that sits on the property. I've proposed an addition to the current home for my growing family (my wife and three young children) and so my parents can move in with us in the future when they can no longer care for themselves in lieu of having them move to a nursing home. The proposed additions to my home meet and do not exceed the current setback (approved by the BZA in 2012) of my current two storey [sic] porch. I need this variance to be granted so I do not face hardship in not being able to expand our current 2,122 SF home for our growing family and for the future imminent needs for my parents in the near future when they move in with us so we can take care of them. The adjacent 5038 Guy Avenue property and many others in the neighborhood does not share this hardship as they have enclosed living space even closer to the unimproved "Ocean View Ave" than [sic] my property. The authorization of this variance matches the character of the neighborhood and in my assessment, does meet zoning ordinance (unimproved "Ocean View Ave" in my assessment does not meet the classificaiton [sic] of a "street" as defined by the zoning ordinance as it would be illegal for vehicular traffic to drive on the beach/dunes in current times. Being unable to construct this addition would be a hardship and would effect [sic] my ability to use this property and is therefore in harmony with the spirit and purpose of this ordinance.”

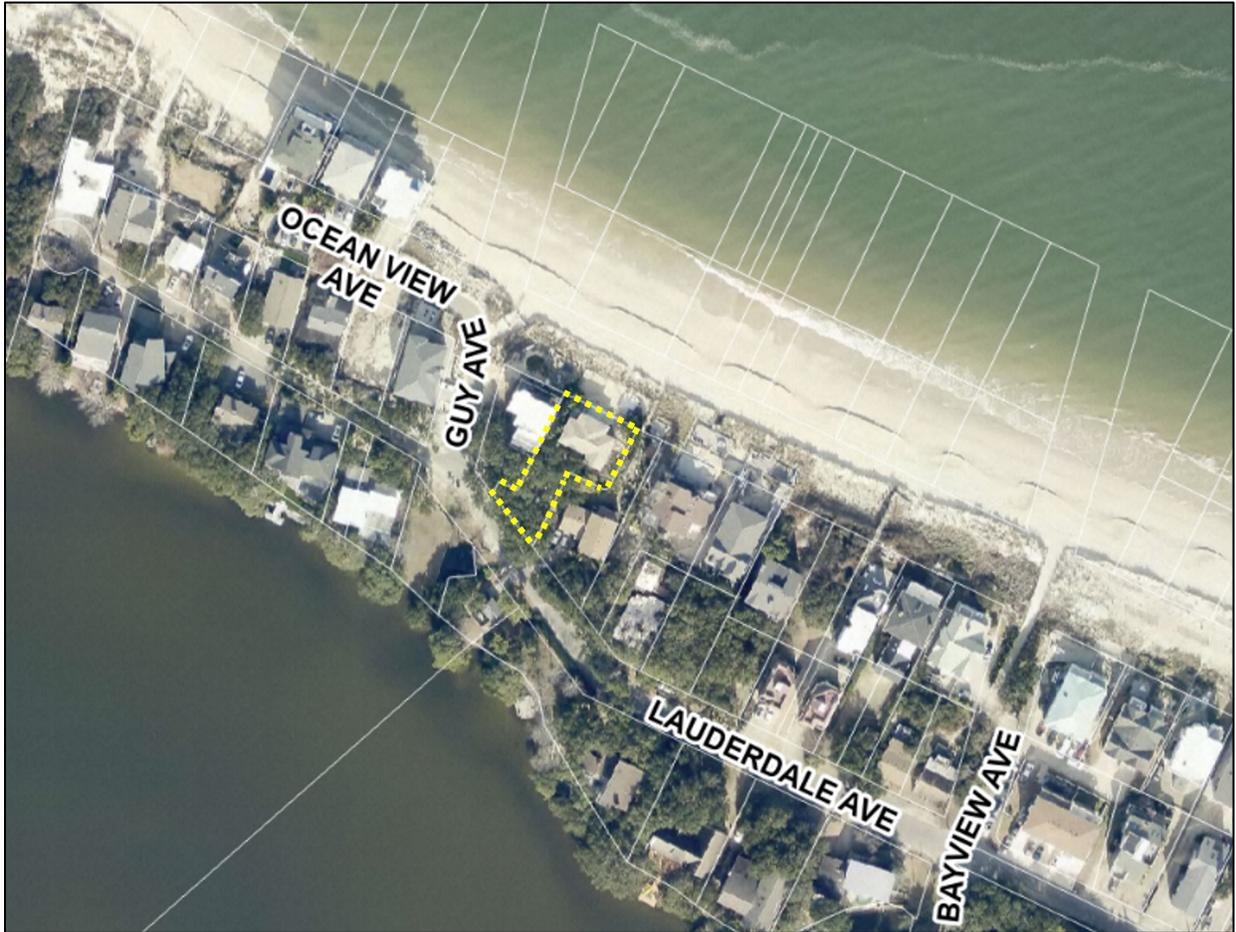
RECOMMENDED CONDITIONS IF APPROVED:

1. The proposed improvements shall be constructed in substantial conformance to the City staff modified and marked exhibit titled, “Renovations and Additions to Edwards Residence, at 5036 Lauderdale,” dated January 5, 2026, and prepared by Rober E. Frere, Architect (shown as *Exhibit A* in this staff report). This condition does not permit deviations from any applicable laws, codes, policies, or interpretations not specifically requested by the applicant and granted by the Board of Zoning Appeals. Nevertheless, this condition shall not prohibit improvements to the subject property that otherwise comply with minimum requirements of the City Zoning Ordinance. The Zoning Administrator has the right to interpret substantial conformance with the Board approved plan, which may include considerations based on details found in the associated staff report and compliance with the *Public Works Design Standards Manual*.
2. The height of the dwelling shall not exceed the maximum allowed by the City Zoning Ordinance, which is measured from the lowest grade within six feet of the building perimeter to the highest point of the building.
3. The existing shed on the subject property located in the required yard (west), and as shown on *Exhibit A* in this staff report as “to be removed,” shall either be removed from the property as noted or moved to meet minimum City Zoning Ordinance requirements. This shall occur prior to the final inspection of any building permits issued for the subject improvements, or six months from this Board action, whichever occurs first.
4. Any existing structures shown on *Exhibit A*, as found in the *Site Plan* section of this staff report, not meeting current minimum requirements of the City Zoning Ordinance and which fail to meet minimum nonconformity/vested rights requirements listed in 15.2-2307 of the Code of Virginia, shall not be considered part of this variance request.
5. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, laws, judgements, encroachments or other encumbrances to title affecting the subject property, shown or not, on the approved exhibit in this staff report (i.e., *Exhibit A*). Approval of this application does not annul, interfere with, or invalidate such matters.
6. All applicable permits associated with the subject improvements shall be obtained from the City of Virginia Beach Planning Department and/or any other relevant authority.

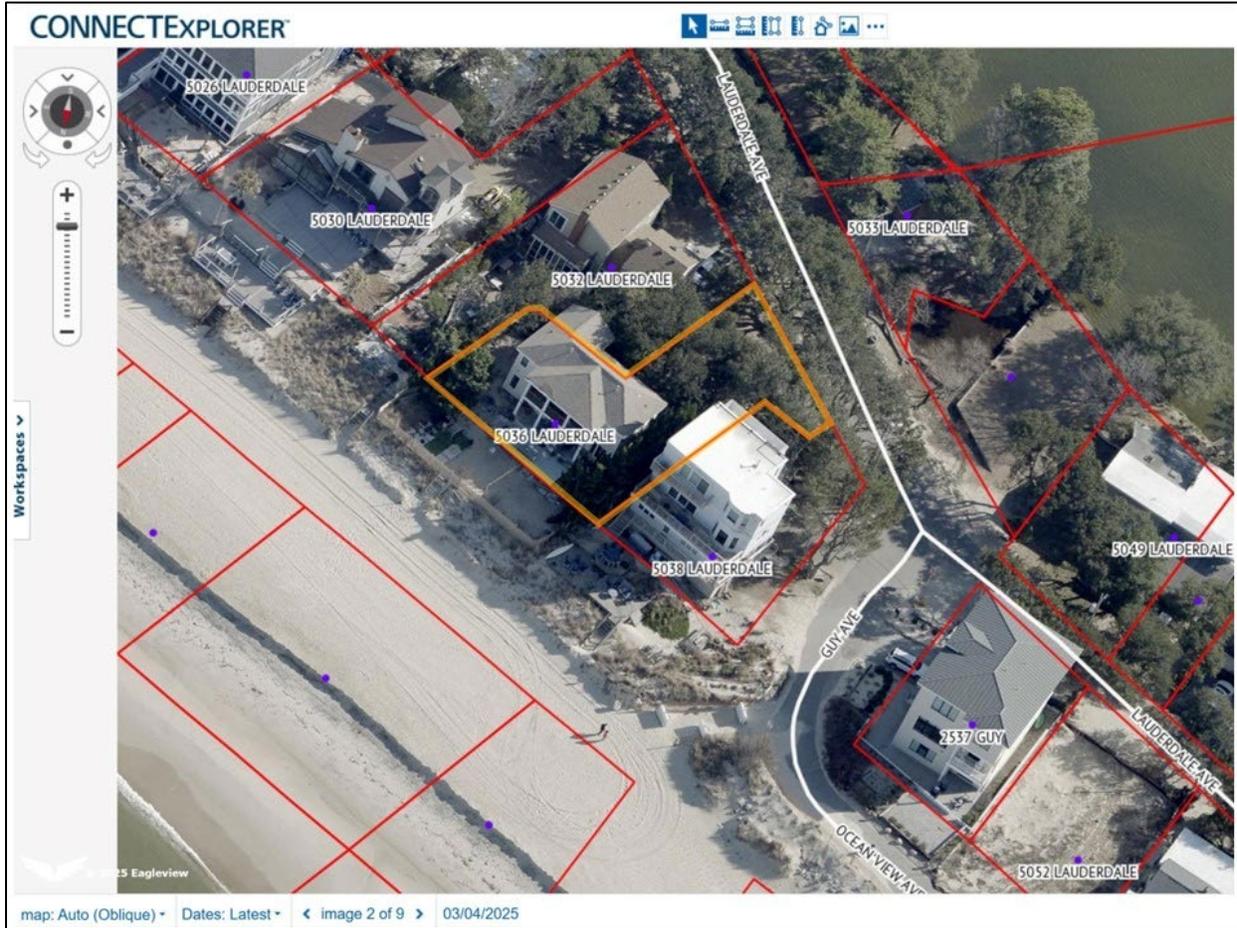
LOCATION MAPS:



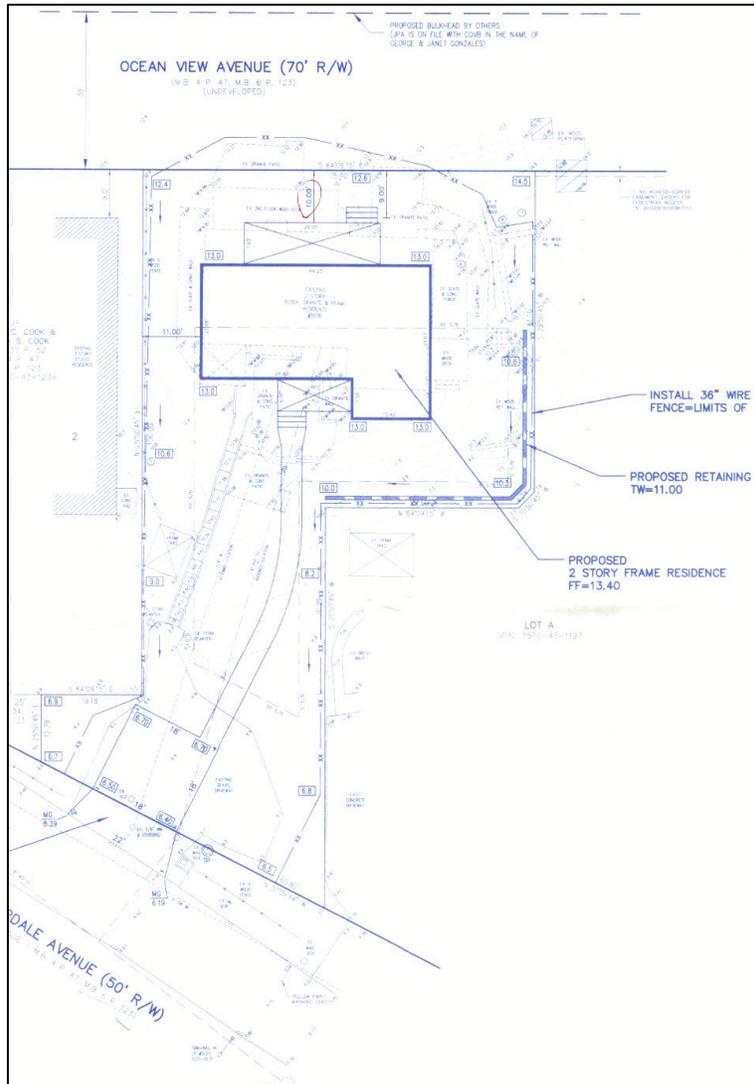
AERIAL:



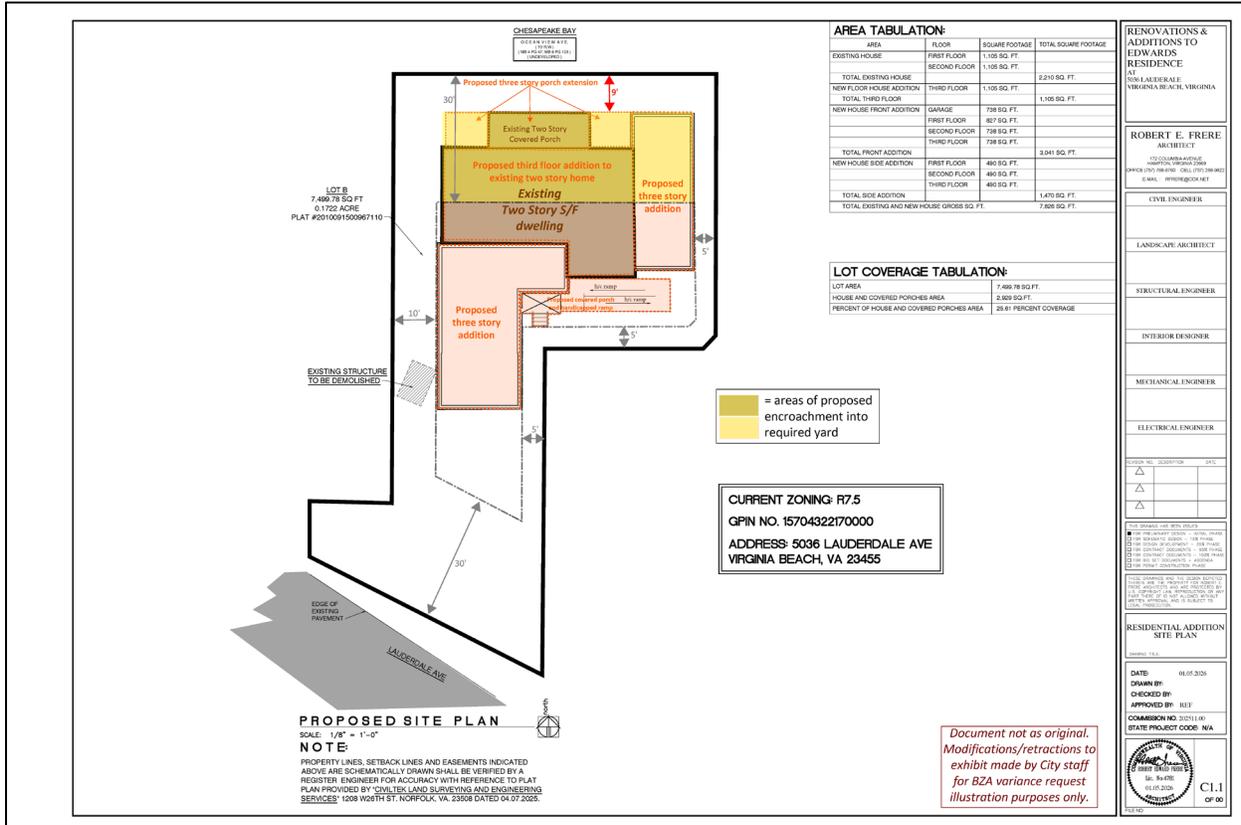
AERIAL (DETAIL):



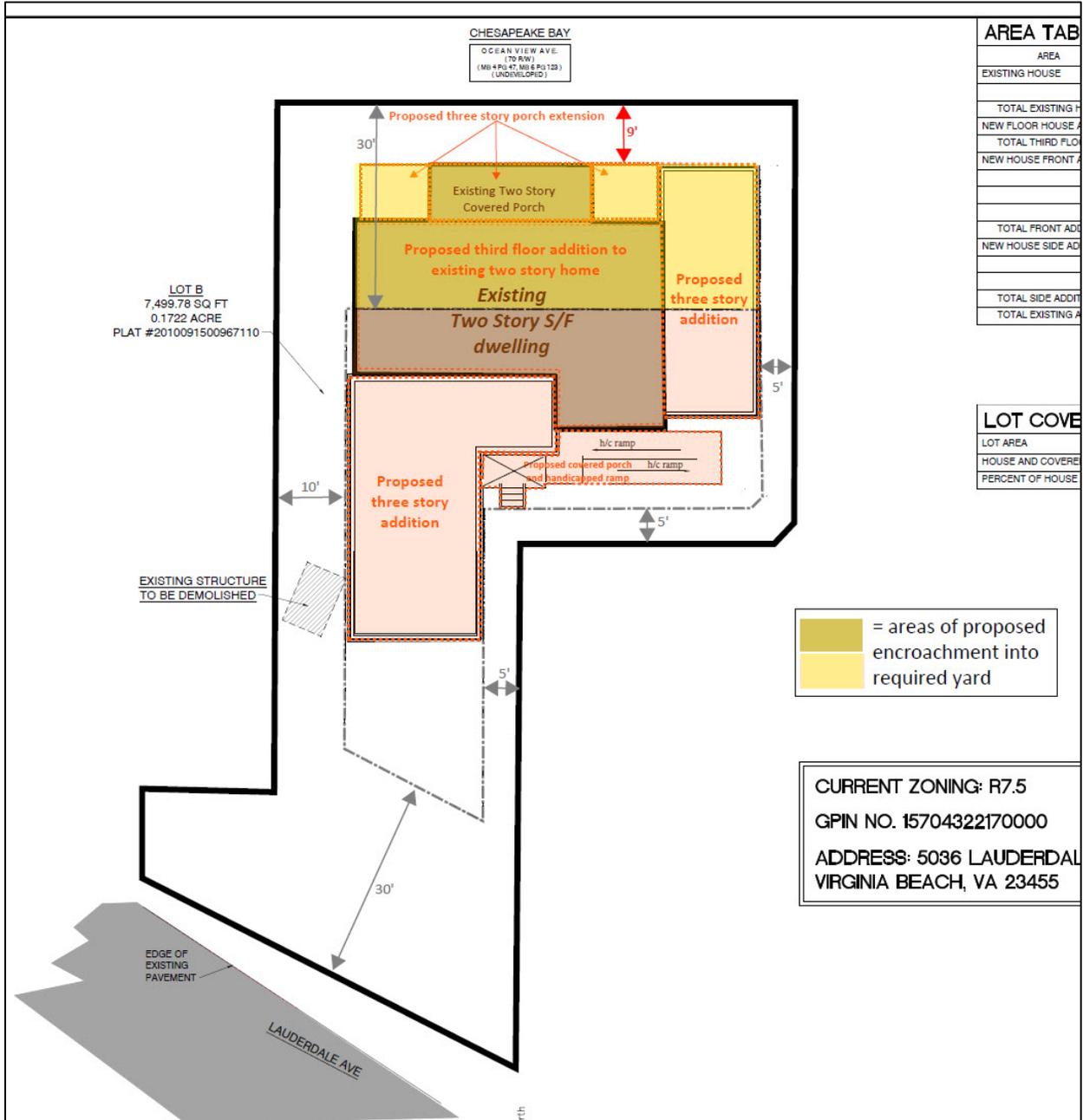
2012 BOARD OF ZONING APPEALS CONDITIONED SITE PLAN AND BUILDING ELEVATIONS



SITE PLAN (EXHIBIT A):



SITE PLAN DETAIL (EXHIBIT A):



PHOTOGRAPHS:



PHOTOGRAPHS:



PHOTOGRAPHS:



DISCLOSURE STATEMENT:



CITY OF
**VIRGINIA
BEACH**

**Disclosure
Statement**

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. Completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council, boards, commissions, or other bodies.

SECTION 1: APPLICANT DISCLOSURE

APPLICANT INFORMATION

Applicant Name:
as listed on application Joseph Tyler Edwards

Is Applicant also the Owner of the subject property? Yes No

If no, Property Owner must complete SECTION 2: PROPERTY OWNER DISCLOSURE (page 3).

Does Applicant have a Representative? Yes No

If yes, name Representative: R. Edward Bourdon, Jr., Esq.

Is Applicant a corporation, partnership, firm, business, trust or unincorporated business? Yes No

If yes, list the names of all officers, directors, members, or trustees below AND businesses that have a parent- subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach list if necessary.)

Does the subject property have a proposed or pending purchaser? Yes No

If yes, name proposed or pending purchaser: _____

KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? Yes No

If yes, name the official or employee, and describe the nature of their interest.

APPLICANT SERVICES DISCLOSURE

READ: The Applicant must certify whether the following services are being provided in connection to the subject application or any business operating or to be operated on the property. The name of the entity and/or individual providing such services must be identified. (Attach list if necessary.)

| SERVICE | YES | NO | SERVICE PROVIDER <i>(Name entity and/or individual)</i> |
|---|----------------------------------|----------------------------------|--|
| Financing (mortgage, deeds of trust, cross-collateralization, etc.) | <input checked="" type="radio"/> | <input type="radio"/> | Dollar Bank, FSB |
| Real Estate Broker/Agent/Realtor | <input type="radio"/> | <input checked="" type="radio"/> | |

Disclosure Statement | rev. May-2024
page 1 of 3

DISCLOSURE STATEMENT:

SECTION 1: APPLICANT DISCLOSURE *continued*

| SERVICE | YES | NO | SERVICE PROVIDER <i>(Name entity and/or individual)</i> |
|---|----------------------------------|----------------------------------|--|
| Accounting/Tax Return Preparation | <input checked="" type="radio"/> | <input type="radio"/> | Zukerman & Associates, Ltd. |
| Architect/Designer/Landscape Architect/Land Planner | <input checked="" type="radio"/> | <input type="radio"/> | Robert E. Frere, AIA |
| Construction Contractor | <input type="radio"/> | <input checked="" type="radio"/> | TBD |
| Engineer/Surveyor/Agent | <input checked="" type="radio"/> | <input type="radio"/> | Albert Hammett, CivilTek |
| Legal Services | <input checked="" type="radio"/> | <input type="radio"/> | R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C. |

*Applicant holds an active Virginia Real Estate Salesperson License

APPLICANT CERTIFICATION

READ: I certify that all information contained in this Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein three weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Joseph Tyler Edwards 
 Applicant Name (Print) Applicant Signature Date

¹ "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

FOR CITY USE ONLY:

No changes as of (date): 03.10.2026

Wilissa Blair-Miller Wilissa Blair-Miller 03.10.2026
 Staff Name (Print) Staff Signature Date



CASE: 2026-BZA-00002 - Eric and Carly Bird
HEARING DATE: April 1, 2026
TO: Chairman, Board of Zoning Appeals
FROM: Wilissa Blair-Miller, Planner III

ADDRESS ASSOCIATED WITH VARIANCE REQUEST:

4532 Delmar Drive

REPRESENTATIVE:

R. Edward Bourdon, Jr. Esq., of Sykes, Bourdon, Ahern, & Levy, PC

VARIANCE REQUEST(S) (ABBREVIATED):

Variances to the required yards for a proposed screen porch and existing shed.

VARIANCE REQUEST(S) (DETAILED):

The following variances are requested pursuant to Article 5, Section 502(a) of the City Zoning Ordinance:

1. **FRONT YARD ADJACENT TO NORTHAMPTON BOULEVARD / U.S. ROUTE 13 (NORTHWEST):** A front yard setback variance to 14 feet instead of 30 feet as required for a proposed screen porch.
2. **FRONT YARD ADJACENT TO NORTHAMPTON BOULEVARD / U.S. ROUTE 13 (NORTHWEST):** A front yard setback variance to 5 feet instead of 20 feet as required for an existing shed.

GEOGRAPHIC PARCEL INFORMATION NUMBERS (GPIN):

1479-66-2718

LOT AREA:

- 6,130 square feet (.14 acres) (per BZA exhibit)

AICUZ:

Less than 65 decibels

REGULATORY WATERSHED AND FLOOD ZONE:

- Chesapeake Bay Preservation Area (Resource Management Area)
- X (area determined to be outside the 500-year flood)

VOTING DISTRICT:

District 9

PREVIOUS BOARD OF ZONING APPEALS VARIANCE(S):

None found

EXISTING LAND USE, ORIGINAL BUILD DATE, ZONING DISTRICT, STRATEGIC GROWTH AREA:

- Single-family (built in 1955)
- R-10(SD) (Residential District) (Shore Drive Overlay)
- Not in a Strategic Growth Area

SURROUNDING LAND USES/ZONING DISTRICTS:

- North: Northampton Blvd (U.S. Route 13) (no zoning district assignment)
- South: Residential (single-family), R-10(SD)
- East: Residential (single-family), R-10(SD)
- West: Residential (single-family), R-10(SD)

EXISTING CONDITIONS:

- Dwelling: 28.5 feet from front property line (southeast – Delmar Drive)
- Deck: 16.2 feet from front property line (northwest – Northampton Boulevard)
- Dwelling: 10.8 feet from side property line (northeast)
- Dwelling: 14.2 feet from side property line (southwest)

EXTENT OF PROJECT:

Screen porch and shed less than 150 square feet in area (variances requested)

Proposed one-story screen porch located 14 feet from the property line abutting Northampton Boulevard (U.S. Route 13) instead of 30 feet as required and an existing shed located 5 feet from the property line abutting Northampton Boulevard (U.S. Route 13) instead of 20 feet as required.

BACKGROUND INFORMATION:

The subject parcel sits between Delmar Drive and Northampton Boulevard. As a result, the property is considered a through lot, with the boundaries abutting Delmar Drive and Northampton Boulevard defined as front property lines.

According to City records, the subject property was created and recorded by plat in 1955/56 (map book 41 at page 37). Then, in the early 1960s, roughly 4,800 square feet of the subject property was acquired as part of the Route 166 highway project, now U.S. Route 13, a.k.a., Northampton Boulevard (note: square footage estimated based on original plat boundaries, actual land area acquired may slightly differ). This land acquisition reduced the size of the subject property to 6,130 square feet from roughly 11,000 square feet. Moreover, the acquisition decreased the yard width behind the home considerably, which greatly reduced the available land area for possible building expansions or accessory structure placement (see *Exhibit A* in the Site Plan section of this staff report to view the original boundaries of the property).

As a result of the noted land acquisition, the subject property is 3,870 square feet less in area than a standard 10,000 square foot R-10 zoned lot. Additionally, the parcel does not meet the current minimum 80 feet of lot width adjacent to Delmar Drive (its roughly 73 feet), but it does meet such lot width adjacent to Northampton Boulevard.

The applicant plans to remove a 10-foot by 12-foot uncovered deck presently located 16 feet from the property line abutting Northampton Boulevard. In its place, the applicant would like to build a 12-foot by 20-foot screened porch positioned 14 feet from the property line abutting Northampton Boulevard instead of 30 feet as required. Moreover, the applicant would also like to retain an existing 8.2-foot by 12.2-foot one story shed located 5 feet from the property line abutting Northampton Boulevard instead of 20 feet as required

KEY CONSIDERATIONS:

- The need for this variance arguably stems from the noted 1960s Northampton Boulevard land acquisition, which reduced the size of the subject property by roughly 44%. Had such acquisition not occurred, the parcel would contain sufficient area to accommodate the subject improvements as a matter of right.

LETTERS OF SUPPORT AND OPPOSITION (*final count to be determined on hearing date*):

- Letters of Support: 0
- Letters of Opposition: 0

APPLICANT STATED HARDSHIP:

“The original Lot 10, Plat of Bayville Gardens as recorded in the spring of 1956 contained at least 10,983 square feet, and it was soon thereafter developed with a ranch home and sold in 1958. In 1962, the Commonwealth of Virginia condemned and acquired no more than 0.128 acres (5,576 square feet, or no less than 4,853 square feet) off of the rear of Lot 10 creating a parcel that is today a non-conforming lot in the R-10 Zoning District, that contains 6,130 square feet, which in either case is far less than the 10,000 square foot minimum lot size and an average lot depth of only 81.8 feet instead of the 100 foot minimum lot depth specified in the District. This taking also transformed this existing developed property into a through-lot with the edge of pavement of the off-ramp from Northampton Boulevard to Shore Drive located 75 feet from the rear property line established with the 1962 Government Taking. Notably, there is a guardrail maintained all along the east side of the paved and linear off-ramp which runs behind the five (5) homes on Delmar Drive (f/k/a James Drive).

The home was built and situated on the lot roughly parallel to the rear property line which afforded ample room for an addition anywhere in the rear of the home (the largest area being the southwestern side) prior to the governmental action in 1962 which created the non-conformity and it also left a somewhat larger area for an addition on the northwest side due to the consequential shift in the direction of the new rear property line.

The applicants have proposed the addition to, and conversion of, the existing deck at the rear of the home, to a screened porch in the only area with additional buildable area outside the subsequently imposed setback line in order to minimize the requested and reasonable variance. Approval of the variance will neither change the character of the District nor be detrimental to adjacent property. The hardship created by the governmental taking is one that has been legally recognized by the Courts and in this neighborhood it is shared with three (3) adjoining properties, with this property having suffered the most consequential hardship. The relief requested is reasonable given the distance between the edge of pavement on a straight section of off-ramp and the proposed screened in porch of 66 feet, with a guardrail and fence in between.”

RECOMMENDED CONDITIONS IF APPROVED:

1. The proposed improvements shall be constructed in substantial conformance to the City staff modified and marked exhibit titled, “BZA Exhibit of Remainder of Lot 10, Bayville Gardens,” dated January 22, 2026, and prepared by WPL Landscape Architecture, Surveying, and Engineering (shown as *Exhibit A* in this staff report). This condition does not permit deviations from any applicable laws, codes, policies, or interpretations not specifically requested by the applicant and granted by the Board of Zoning Appeals. Nevertheless, this condition shall not prohibit improvements to the subject property that otherwise comply with minimum requirements of the City Zoning Ordinance. The Zoning Administrator has the right to interpret substantial conformance with the Board approved plan, which may include considerations based on details found in the associated staff report and compliance with the *Public Works Design Standards Manual*.
2. Future conversion of the proposed screen porch into a sunroom, or similar, is permitted without returning to the Board of Zoning Appeals for a modification of this approval; however, such conversion must remain within the footprint of the screen porch as shown in the *Site Plan (Exhibit A)* section of this report. In addition, such conversion allowance does not include a second story room addition or second story deck/balcony/porch. The Zoning Administrator shall have the right to determine conformance with the condition.
3. The applicant, or any future owner of the subject property, shall maintain the subject shed in good repair at all times or otherwise bring it into full compliance with the City Zoning Ordinance. For this condition, the Zoning Administrator is authorized to determine the meaning of ‘good repair.’
4. Any existing structures shown on *Exhibit A*, as found in the *Site Plan* section of this staff report, not meeting current minimum requirements of the City Zoning Ordinance and which fail to meet minimum nonconformity/vested rights requirements listed in Section 15.2-2307 of the Code of Virginia, shall not be considered part of this variance request.
5. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, laws, judgements, encroachments or other encumbrances to title affecting the subject property, shown or not, on the approved exhibit in this staff report (i.e., *Exhibit A*). Approval of this application does not annul, interfere with, or invalidate such matters.
6. All applicable permits associated with the subject improvements shall be obtained from the City of Virginia Beach Planning Department and/or any other relevant authority.

LOCATION MAPS:



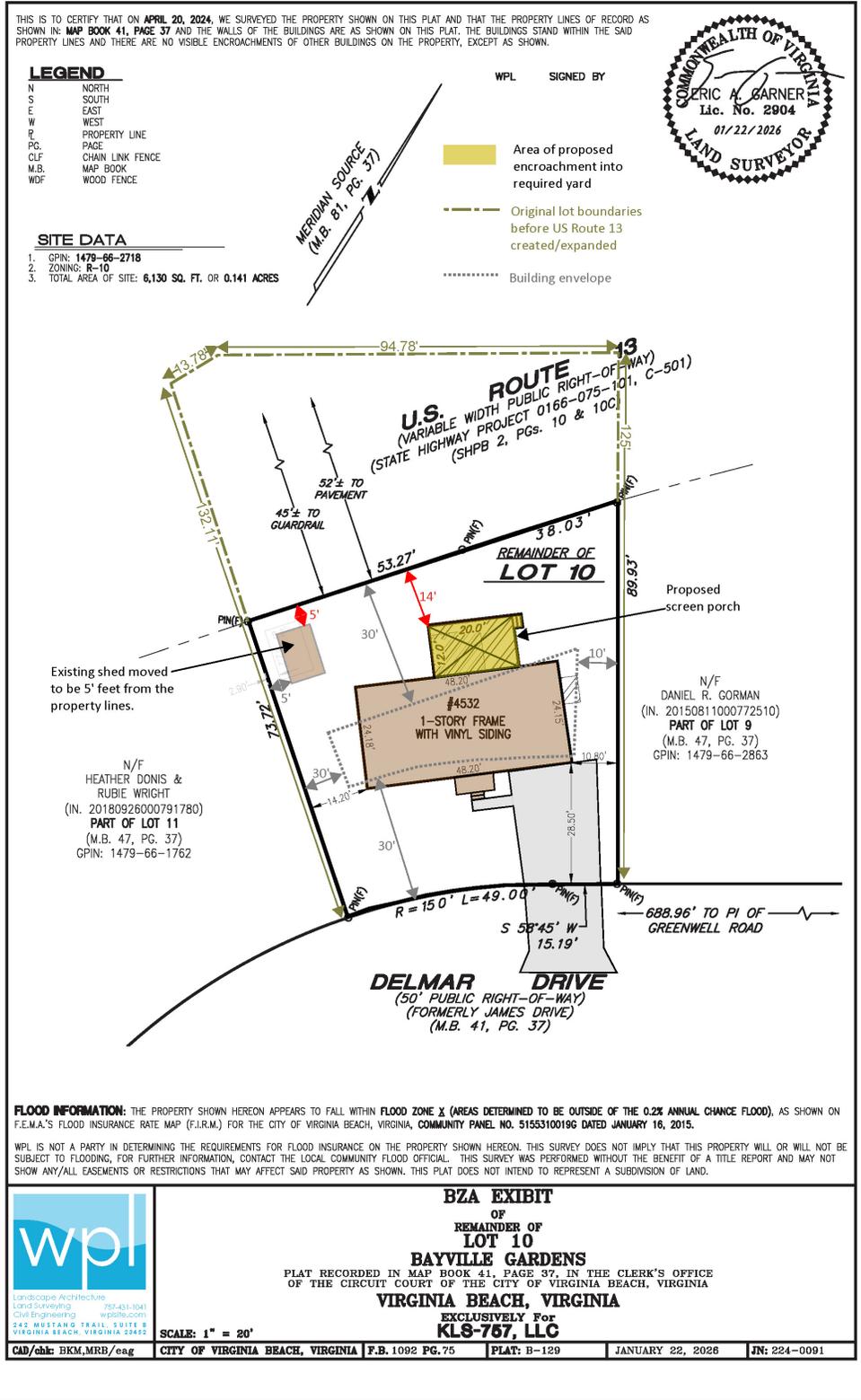
AERIAL:



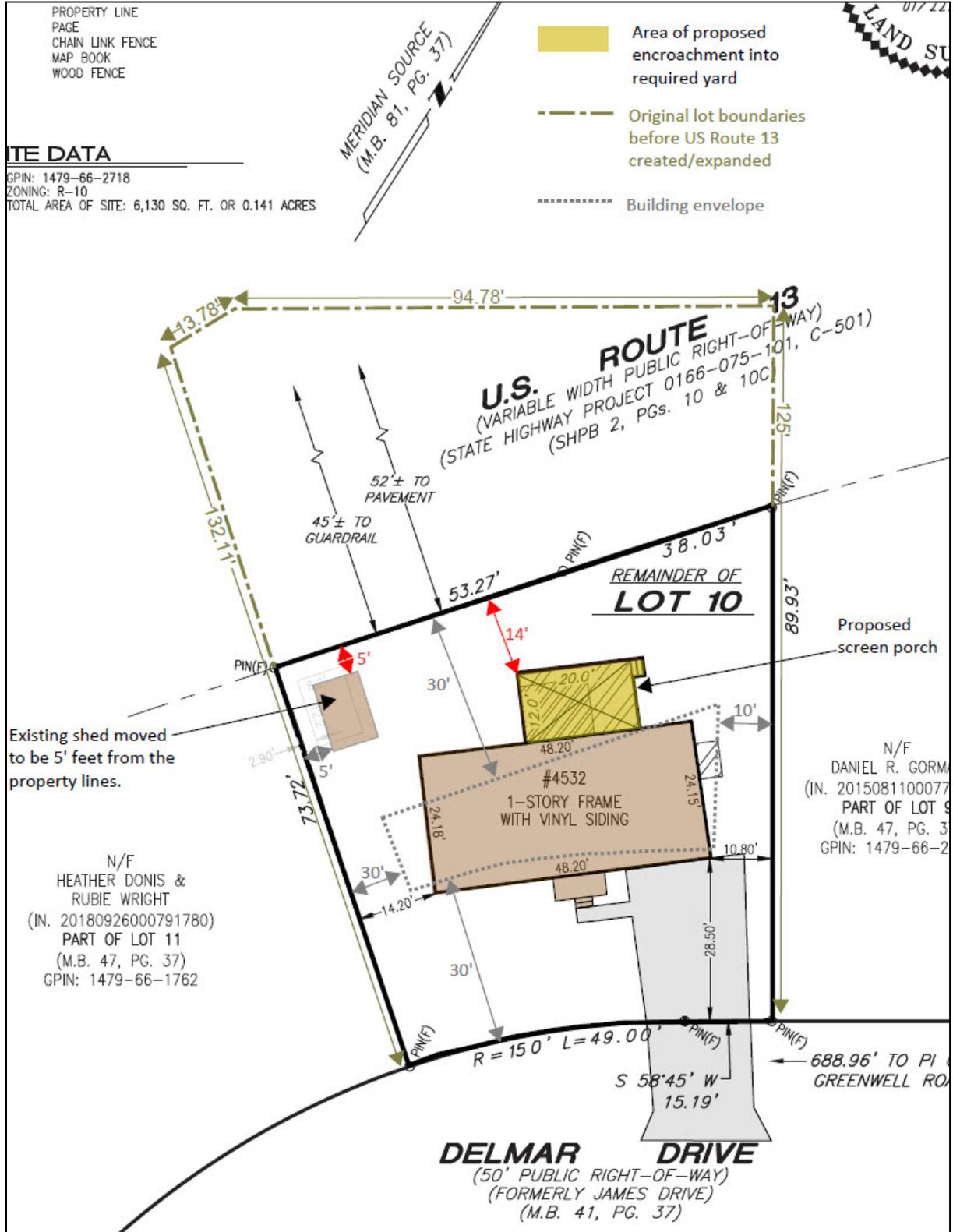
AERIAL (DETAIL):



SITE PLAN (EXHIBIT A):



SITE PLAN DETAIL (EXHIBIT A):



PHOTOGRAPHS:



PHOTOGRAPHS:



PHOTOGRAPHS:



DISCLOSURE STATEMENT:



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BEACH**

**Disclosure
Statement**

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. Completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council, boards, commissions, or other bodies.

SECTION 1: APPLICANT DISCLOSURE

APPLICANT INFORMATION

Applicant Name: as listed on application Eric & Carly Bird

Is Applicant also the Owner of the subject property? Yes No

If no, Property Owner must complete SECTION 2: PROPERTY OWNER DISCLOSURE (page 3).

Does Applicant have a Representative? Yes No

If yes, name Representative: R. Edward Bourdon, Jr., Esq.

Is Applicant a corporation, partnership, firm, business, trust or unincorporated business? Yes No

If yes, list the names of all officers, directors, members, or trustees below AND businesses that have a parent- subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach list if necessary.)

Does the subject property have a proposed or pending purchaser? Yes No

If yes, name proposed or pending purchaser: _____

KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? Yes No

If yes, name the official or employee, and describe the nature of their interest.

APPLICANT SERVICES DISCLOSURE

READ: The Applicant must certify whether the following services are being provided in connection to the subject application or any business operating or to be operated on the property. The name of the entity and/or individual providing such services must be identified. (Attach list if necessary.)

| SERVICE | YES | NO | SERVICE PROVIDER <i>(Name entity and/or individual)</i> |
|---|----------------------------------|----------------------------------|--|
| Financing (mortgage, deeds of trust, cross-collateralization, etc.) | <input checked="" type="radio"/> | <input type="radio"/> | Atlantic Coast Mortgage, LLC; MERS |
| Real Estate Broker/Agent/Realtor | <input type="radio"/> | <input checked="" type="radio"/> | |

DISCLOSURE STATEMENT:

SECTION 1: APPLICANT DISCLOSURE *continued*

| SERVICE | YES | NO | SERVICE PROVIDER <i>(Name entity and/or individual)</i> |
|--|----------------------------------|----------------------------------|---|
| Accounting/Tax Return Preparation | <input type="radio"/> | <input checked="" type="radio"/> | |
| Architect/Designer/Landscape Architect/Land Planner | <input type="radio"/> | <input checked="" type="radio"/> | |
| Construction Contractor | <input type="radio"/> | <input checked="" type="radio"/> | |
| Engineer/Surveyor/Agent | <input checked="" type="radio"/> | <input type="radio"/> | Eric Garner, WPL |
| Legal Services | <input checked="" type="radio"/> | <input type="radio"/> | R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C. |

APPLICANT CERTIFICATION

READ: I certify that all information contained in this Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein three weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Eric Bird 
Eric Bird (Jan 5, 2026 16:40:50 EST)
 Applicant Name (Print) Applicant Signature Date

¹ "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.
² "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

FOR CITY USE ONLY:

No changes as of (date): 03.10.2026

Wilissa Blair-Miller  03.10.2026
 Staff Name (Print) Staff Signature Date

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CASE: 2026-BZA-00012 - Gary A. Howorka
HEARING DATE: April 1, 2026
TO: Chairman, Board of Zoning Appeals
FROM: Wilissa Blair-Miller, Planner III

ADDRESS ASSOCIATED WITH VARIANCE REQUEST:

219 72nd Street

REPRESENTATIVE:

R. Edward Bourdon, Jr. Esq., of Sykes, Bourdon, Ahern, & Levy, PC

VARIANCE REQUEST(S) (ABBREVIATED):

Variances to the required yards and maximum impervious cover for proposed additions and renovations.

VARIANCE REQUEST(S) (DETAILED):

The following variances are requested pursuant to Article 5, Section 502(b1) of the City Zoning Ordinance:

1. **SIDE YARD (EAST):** A side yard setback variance to 9 feet instead of 10 feet as required for a building addition.
2. **IMPERVIOUS COVER:** A variance to permit 77 percent impervious cover instead of the maximum 60 percent as allowed.

GEOGRAPHIC PARCEL INFORMATION NUMBERS (GPIN):

2419-66-2001 (0219)

LOT AREA:

- 7,500 square feet (.17 acres) (per plat and BZA Exhibit)

AICUZ:

Less than 65 decibels

REGULATORY WATERSHED AND FLOOD ZONE:

- Atlantic Ocean
- X (area determined to be outside the 500-year flood)

VOTING DISTRICT:

District 6

PREVIOUS BOARD OF ZONING APPEALS VARIANCE(S):

None found

EXISTING LAND USE, ORIGINAL BUILD DATE, ZONING DISTRICT, STRATEGIC GROWTH AREA:

- Duplex (built in 2002)
- R-5R(NE) (Residential District) (North End Overlay)
- Not in a Strategic Growth Area

Note: The property is located within the North End Suburban Focus Area (NESFA). The November 20, 2018, adopted revision to the City’s Comprehensive Plan includes a recommendation that all residential and commercial construction projects within the NESFA use attractive and high-quality building materials capable of withstanding severe weather events. Based on the submitted renderings associated with the proposed subject improvements, it appears such recommendations will be met.

SURROUNDING LAND USES/ZONING DISTRICTS:

- North: Nonconforming Residential Use (multi-family duplex style condos), R-5R(NE)
- South: Residential (single-family and duplex) R-5R(NE)
- East: Residential (duplex) R-5R(NE)
- West: Residential (duplex) R-5R(NE)

EXISTING CONDITIONS:

- Dwelling: 27.9 feet from front property line (south)
- Dwelling: 9.7 feet from side property line (east)
- Dwelling: 9.9 feet from side property line (west)
- Dwelling: 21 feet from rear property line rear (north)

EXTENT OF PROJECT:

Building addition to ‘fill in’ a corner of the home to create additional indoor living area (variance requested)

Two proposed 5.4 feet by 7.4 feet over/under additions (previous balconies/decks).

BACKGROUND INFORMATION:

According to City records, the subject property was recorded by plat over 100 years ago, which was well before the first City/County Zoning and Subdivision Ordinances were adopted.

The subject parcel is situated roughly mid-block between Atlantic Avenue and Holley Road along 72nd Street. Because the parcel abuts private property at all boundaries other than 72nd Street it is considered an interior lot, with the 72nd Street property line defined as the front.

The property does not meet the current minimum required lot area of 10,000 square feet, nor does it meet the current minimum required lot width of 75 feet adjacent to 72nd Street. Instead, the lot area is 7,500 square feet and the lot width is 50 feet. Nevertheless, due to the age of the parcel, the lot area and width deficiencies are legally nonconforming.

The applicant is requesting a variance to encroach into the required side yard with a small two-story addition. This addition would simply 'fill in' a corner of the home presently occupied by multi-level decking. Because the home was mistakenly built slightly into the required side yard, and the proposed addition would stay in line with the existing building, a minimal side yard setback variance of .3 feet is requested. For clarity, because appropriate taxes associated with the subject dwelling have been paid for over 15 years, the current building encroachment into the required side yard is legally nonconforming in accordance with Section 15.2-2307 of the Code of Virginia. Nevertheless, this request comes before the Board because new construction is proposed slightly within the subject setback.

The applicant is also requesting a variance to permit a maximum impervious cover of 76.8% instead of 60% as allowed. It must be noted, however, that the subject property was originally approved for development in March 2001 with roughly 68.8% impervious cover, which is 8.8% higher than permitted by a subsequent November 2001 amendment to the zoning ordinance. As a result, the original impervious cover shown on the approved March 2001 plan is legally nonconforming since such approval occurred before the City began regulating such matters. Nevertheless, sometime after the duplex construction was completed in 2002, an additional 14.6% impervious cover was added to the property without any known City approvals. This brought the property total to 83.4%, which is also the present impervious cover on the lot.

The applicant is proposing to remove an unpermitted multi-story deck and certain existing concrete pavers. Such removals would reduce the total percentage of impervious cover on the property by 6.6% (i.e., from 83.4% to 76.8%); however, the total would still exceed the 68.8% originally approved with the March 2001 development plan. Even so, it is worth noting that the proposed building addition would not add any new impervious cover to the subject property.

KEY CONSIDERATIONS:

- The lot area associated with the subject parcel is legally nonconforming by 2,500 square feet.
- The lot width associated with the subject parcel is legally nonconforming by 25 feet.
- The proposed building addition would not add any new impervious area to the subject lot.
- The proposed building addition would not encroach into the required side yard any further than the existing structure.

LETTERS OF SUPPORT AND OPPOSITION *(final count to be determined on hearing date):*

- Letters of Support: 0
- Letters of Opposition: 0

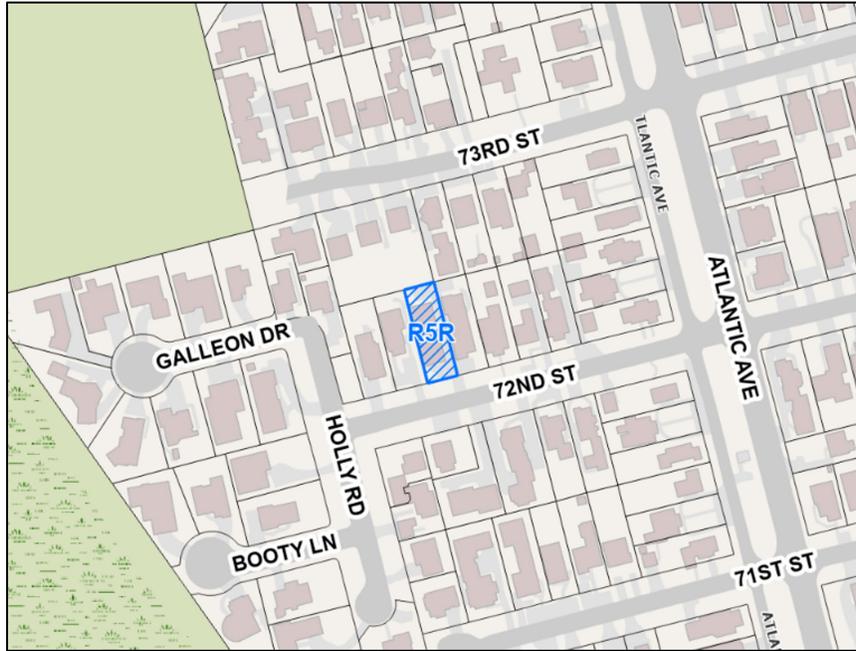
APPLICANT STATED HARDSHIP:

“The existing minor duplex encroachments into the side yard setbacks have existed since the structure was constructed and the proposed extension of the existing eastern wall of the duplex a distance 5.4’ to partially enclose the Unit’s 7.4’ by 5.4’ access porch and the current deck accesses on the 3rd and 4th floors will be in line with the existing wall. Simultaneously the 2nd and 3rd floor rear decks which align with the east facing wall encroaching in the setback will be removed permanently. As noted in the description, 132 square feet of brick pavers between the parking pad for Unit 219 and the Unit’s entry were present on the site when the applicants bought the unit in 2018 as were the 340 square feet of pavers and gravel on the west side of Unit 217. The applicants added 690 square feet of pavers in the rear and side yards at the northwest corner of Unit 219, having no knowledge of the 60% impervious surface limit adopted solely in the R-5R Zoning District. They propose to remove 495 square feet of the pavers they installed leaving the 195 square feet of impervious surface they installed on the site (2.6% of the required 8.9% variance requested which is entirely for existing onsite impervious surface of both Units).”

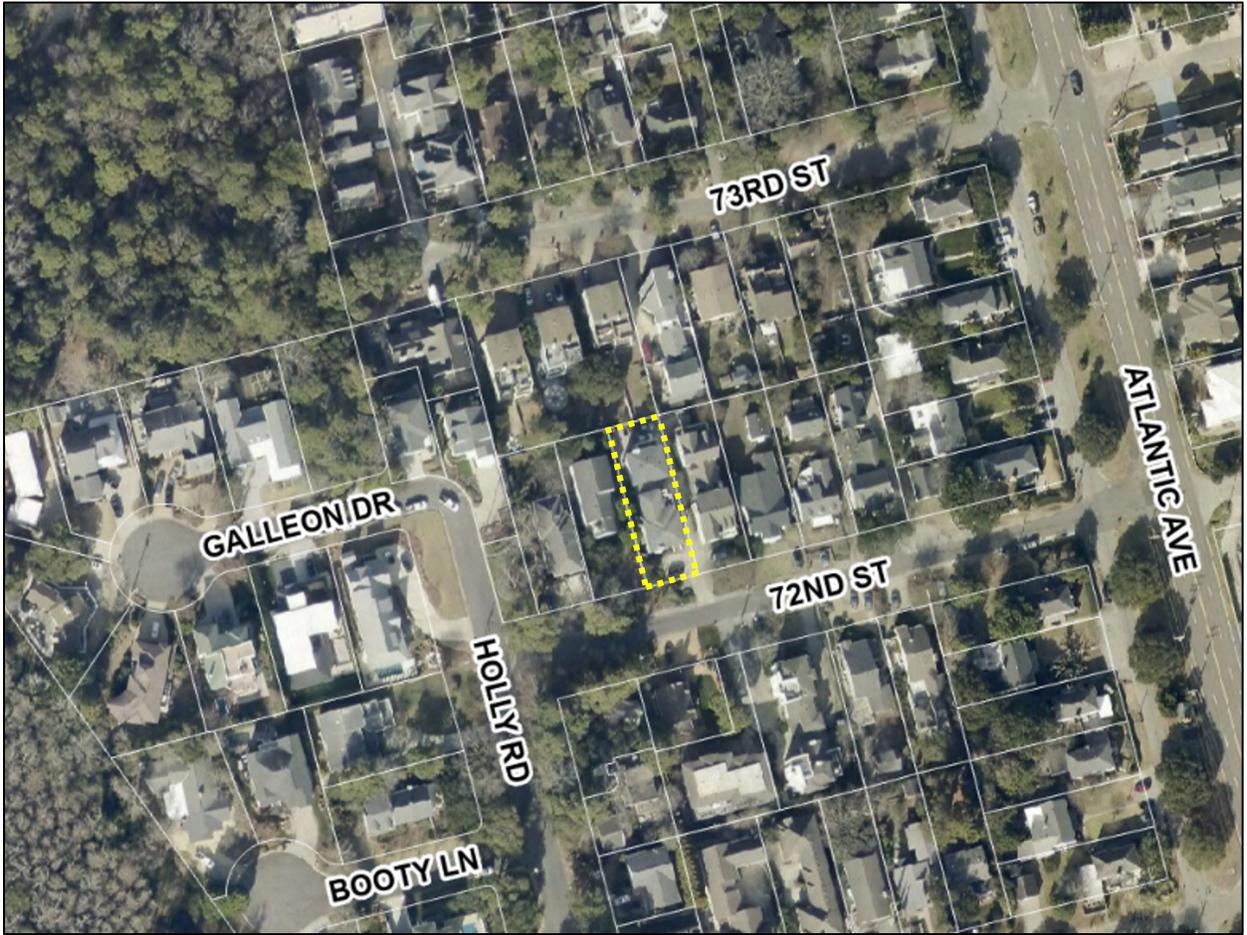
RECOMMENDED CONDITIONS IF APPROVED:

1. The proposed improvements shall be constructed in substantial conformance to the City staff modified and marked exhibit titled, “BZA Exhibit for 219 72nd Street,” dated December 30, 2025, and prepared by Gaddy Engineering Services (shown as *Exhibit A* in this staff report). This condition does not permit deviations from any applicable laws, codes, policies, or interpretations not specifically requested by the applicant and granted by the Board of Zoning Appeals. Nevertheless, this condition shall not prohibit improvements to the subject property that otherwise comply with minimum requirements of the City Zoning Ordinance. The Zoning Administrator has the right to interpret substantial conformance with the Board approved plan, which may include considerations based on details found in the associated staff report and compliance with the *Public Works Design Standards Manual*.
2. The proposed improvements shall be constructed in substantial conformance to the submitted renderings titled, “Howorka Residence, BZA Elevations,” dated January 20, 2026, and prepared by 1230 Architects (shown as *Elevation Drawings* in this staff report). This condition does not permit deviations from any applicable laws, codes, policies, or interpretations not specifically requested by the applicant and granted by the Board of Zoning Appeals. Nevertheless, this condition shall grant the Zoning Administrator the right to interpret substantial conformance with the Board approved renderings, which may include considerations based on details found in the associated staff report and compliance with the *Public Works Design Standards Manual*.
3. Any existing structures shown on *Exhibit A*, as found in the *Site Plan* section of this staff report, not meeting current minimum requirements of the City Zoning Ordinance and which fail to meet minimum nonconformity/vested rights requirements listed in Section 15.2-2307 of the Code of Virginia, shall not be considered part of this variance request.
4. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, laws, judgements, encroachments or other encumbrances to title affecting the subject property, shown or not, on the approved exhibit in this staff report (i.e., *Exhibit A*). Approval of this application does not annul, interfere with, or invalidate such matters.
5. All applicable permits associated with the subject improvements shall be obtained from the City of Virginia Beach Planning Department and/or any other relevant authority.

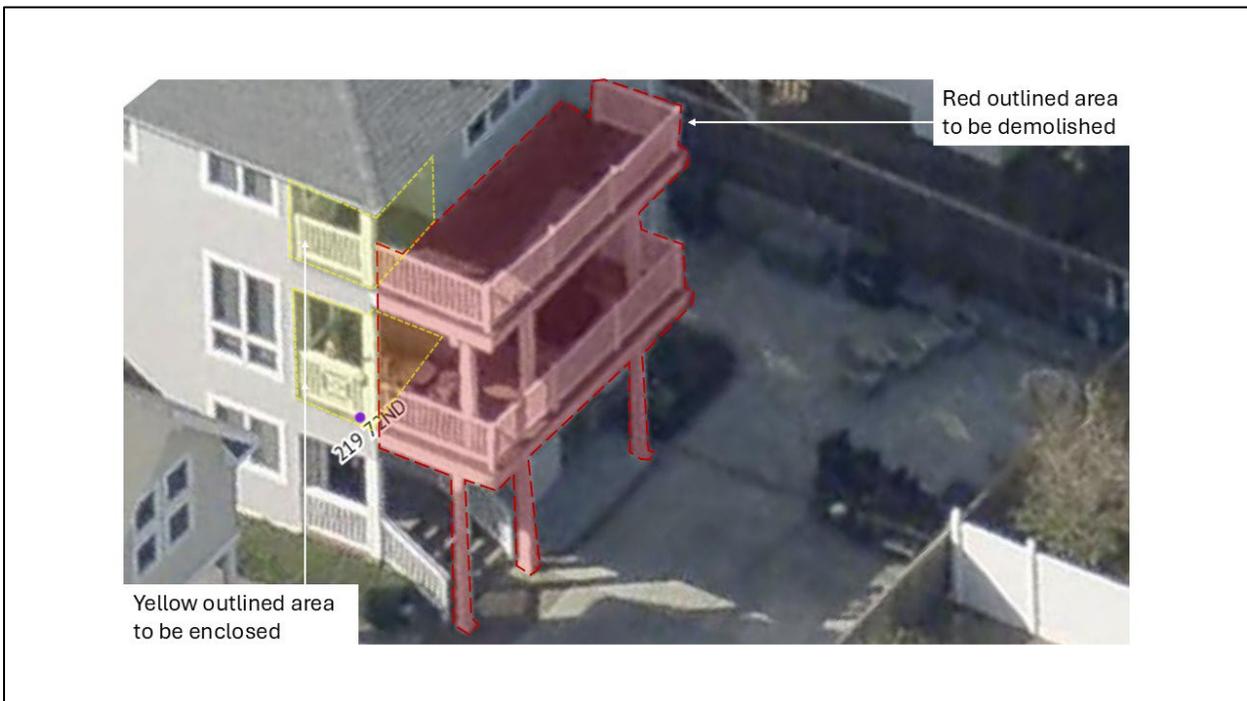
LOCATION MAPS:



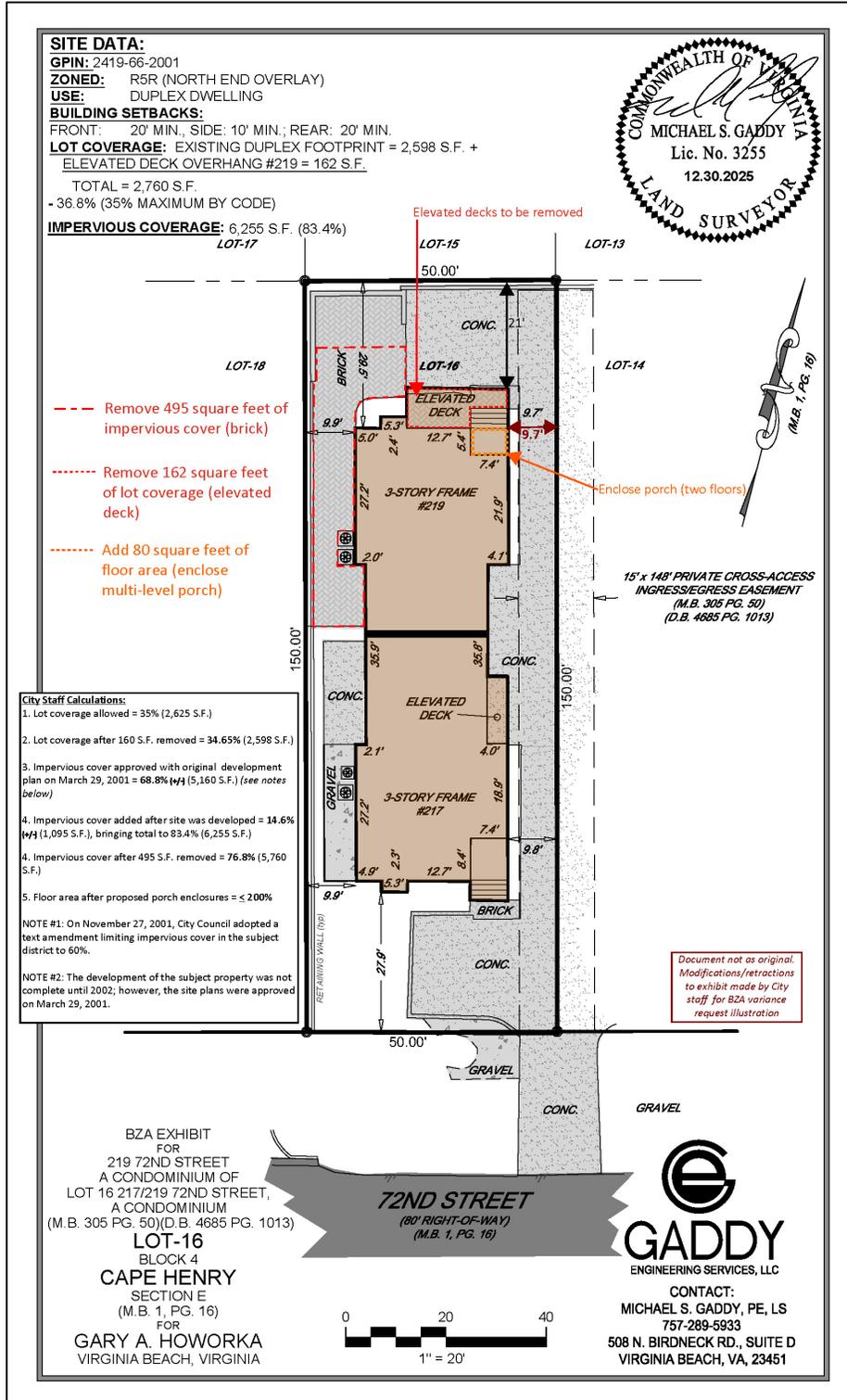
AERIAL:



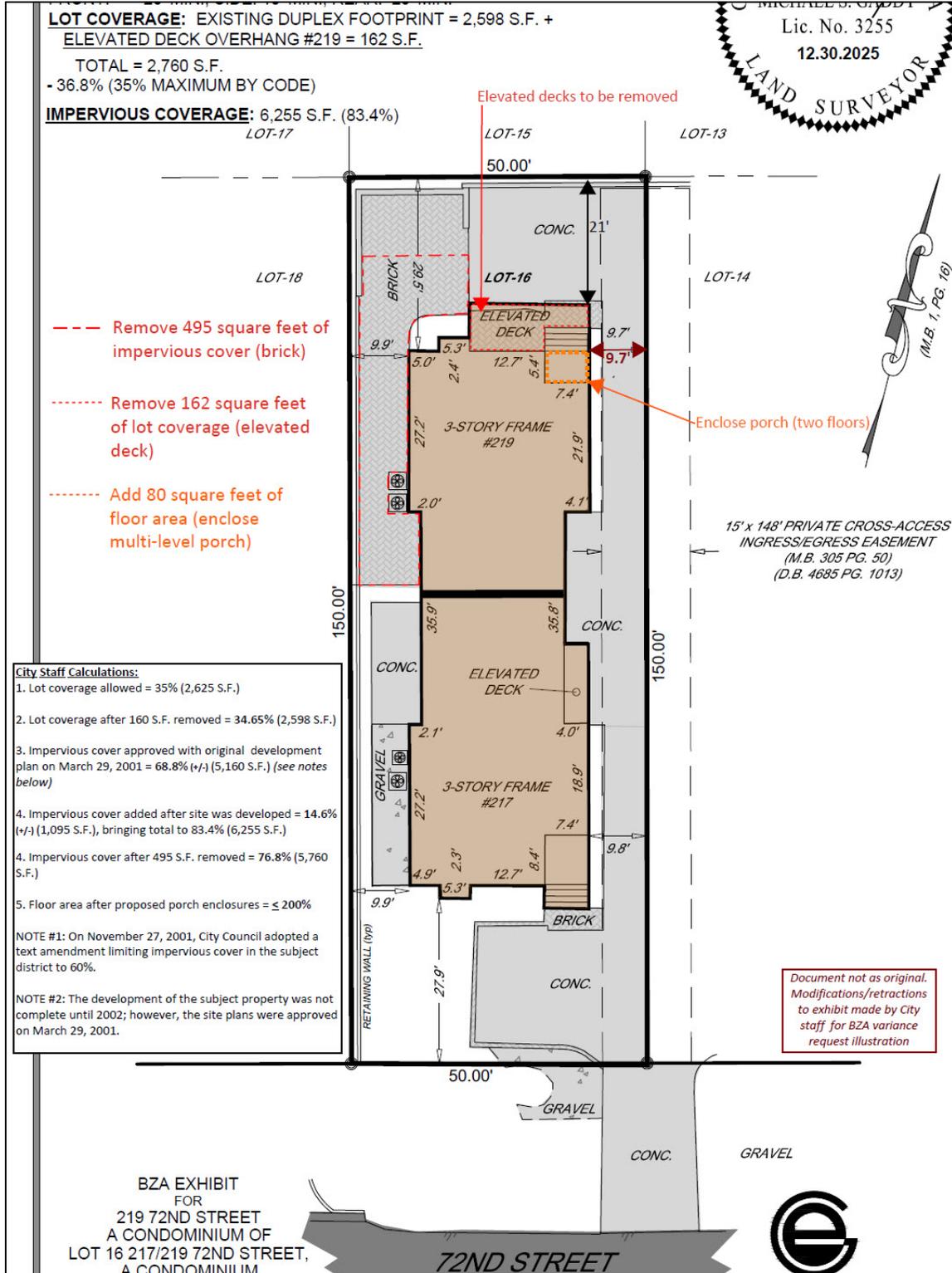
AERIAL (DETAIL):



SITE PLAN (EXHIBIT A):



SITE PLAN DETAIL (EXHIBIT A):



PHOTOGRAPHS:



PHOTOGRAPHS:



PHOTOGRAPHS:



ELEVATION DRAWINGS:

DECK ELEVATION - NORTH BZA
1/8" = 1'-0"

DECK ELEVATION- EAST BZA
1/8" = 1'-0"

VIEW OF PROPOSED WORK AFTER RENOVATION

VIEW OF EAST ELEVATION

VIEW FROM NORTH EAST CORNER OF LOT

DISCLOSURE STATEMENT:



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. Completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council, boards, commissions, or other bodies.

SECTION 1: APPLICANT DISCLOSURE

APPLICANT INFORMATION

Applicant Name: as listed on application Gary A. Howorka

Is Applicant also the Owner of the subject property? Yes No

If no, Property Owner must complete SECTION 2: PROPERTY OWNER DISCLOSURE (page 3).

Does Applicant have a Representative? Yes No

If yes, name Representative: R. Edward Bourdon, Jr., Esq.

Is Applicant a corporation, partnership, firm, business, trust or unincorporated business? Yes No

If yes, list the names of all officers, directors, members, or trustees below AND businesses that have a parent- subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach list if necessary.)

Does the subject property have a proposed or pending purchaser? Yes No

If yes, name proposed or pending purchaser: _____

KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? Yes No

If yes, name the official or employee, and describe the nature of their interest.

APPLICANT SERVICES DISCLOSURE

READ: The Applicant must certify whether the following services are being provided in connection to the subject application or any business operating or to be operated on the property. The name of the entity and/or individual providing such services must be identified. (Attach list if necessary.)

| SERVICE | YES | NO | SERVICE PROVIDER <i>(Name entity and/or individual)</i> |
|---|----------------------------------|----------------------------------|--|
| Financing (mortgage, deeds of trust, cross-collateralization, etc.) | <input checked="" type="radio"/> | <input type="radio"/> | Nationstar Mortgage, LLC d/b/a Mr. Cooper |
| Real Estate Broker/Agent/Realtor | <input type="radio"/> | <input checked="" type="radio"/> | |



CASE: 2026-BZA-00009 - John A. Kerr
HEARING DATE: April 1, 2026
TO: Chairman, Board of Zoning Appeals
FROM: Hannah Sabo, Zoning Administrator

ADDRESS ASSOCIATED WITH APPEAL:

5903 Atlantic Avenue

REPRESENTATIVE:

John A. Kerr, Property Owner

GEOGRAPHIC PARCEL INFORMATION NUMBER (GPIN):

2419-71-9470 (3830)

ZONING DISTRICT:

R-5R(NE)

REGULATORY WATERSHED AND FLOOD ZONE:

- Atlantic Ocean
- X (area determined to be outside the 500-year flood) and 0.2% (area of moderate flood hazard, usually the area between the limits of the 100-year and 500-year floods)

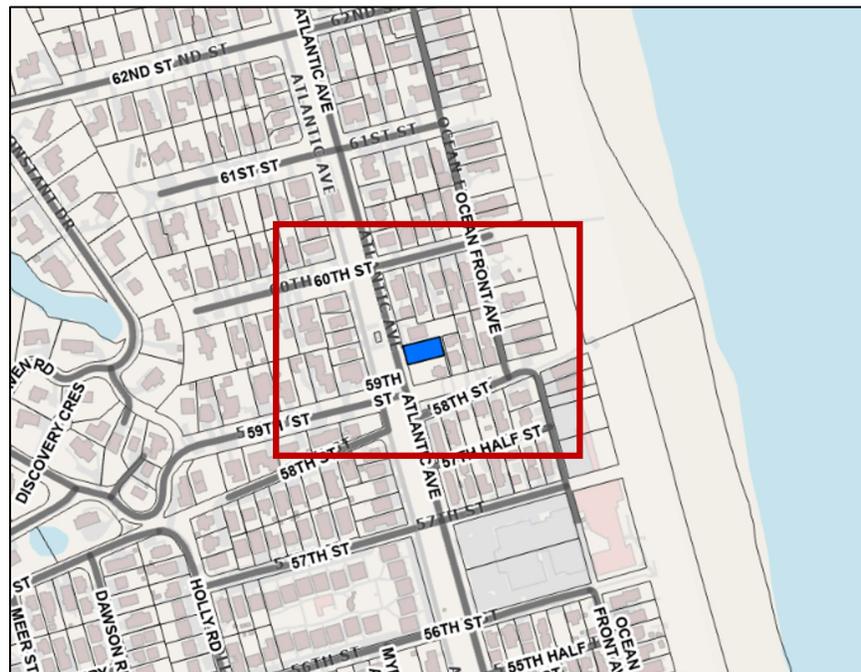
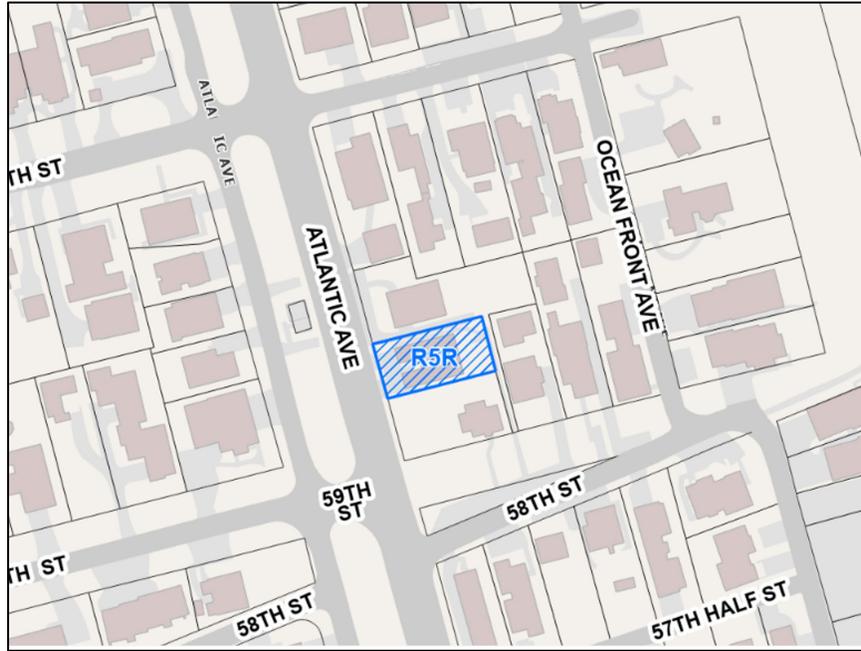
NATURE OF APPEAL (GENERAL DESCRIPTION):

Appeal of a Zoning Administrator, or designee, determination letter dated December 17, 2025, pertaining to the loss of short-term rental grandfathering designation.

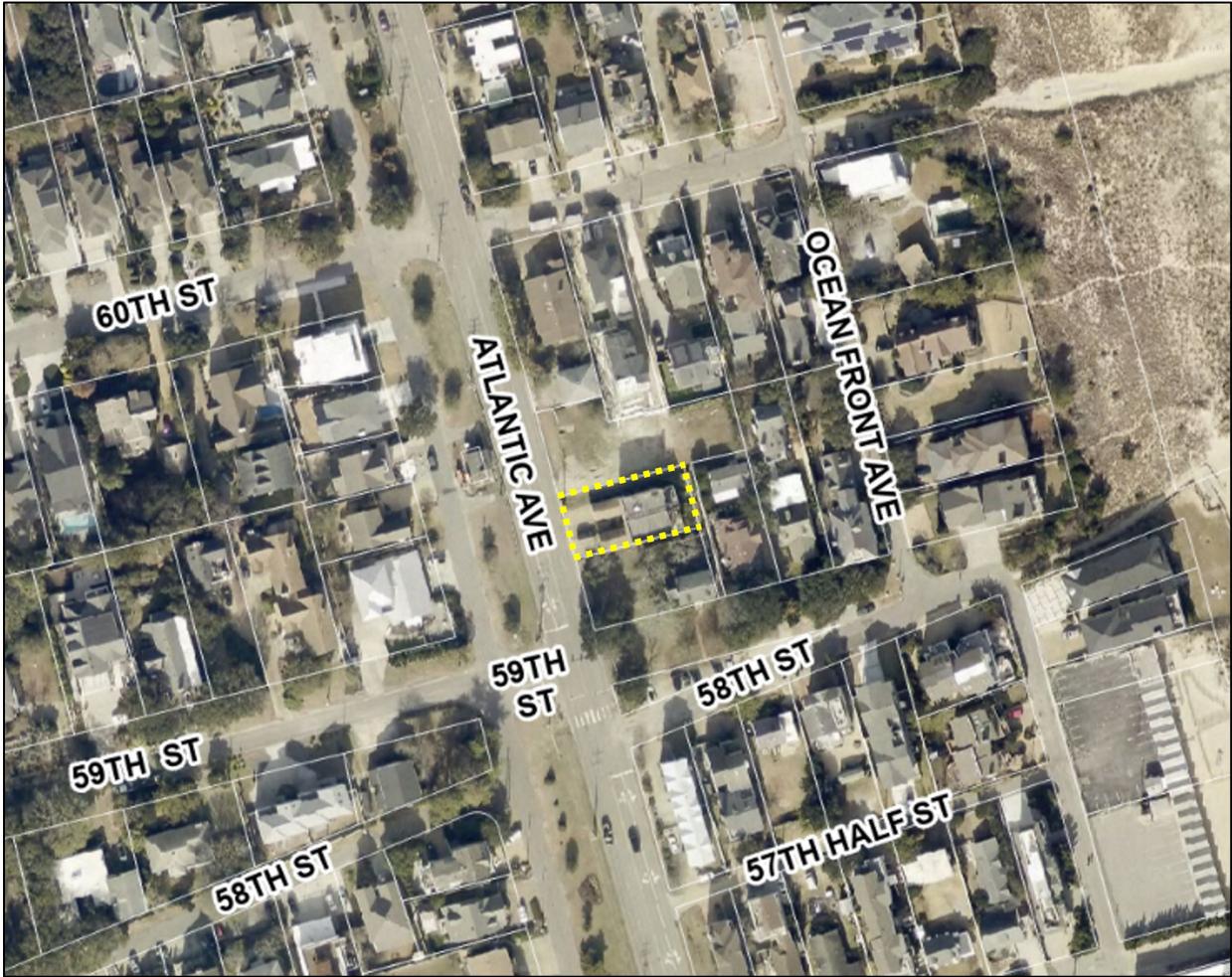
WRITTEN STATEMENTS FROM APPELLANT (IF ANY):

"I did not rent out during Covid for safety and health reasons. My son lived in the house during his counseling sessions. Cosmetic work was done in the house which did not allow for occupancy."

LOCATION MAPS:



AERIAL:



CITY EXHIBIT(S):



Philip J. Kellam
Commissioner

Commissioner of the Revenue

City Hall
2401 Courthouse Drive
Virginia Beach, VA 23456-9002
757.385.8660



cor.virginiabeach.gov

December 11, 2025

John A Kerr
6102 Woodmont Road
Alexandria, VA 22307

Re: Short Term Rental at 5903 Atlantic Ave
Account #214421 Item #159190

Dear Mr. Kerr,

I hope this letter finds you well. I am writing to inform you that your short-term rental registration with the Commissioner of the Revenues Office is being closed due to inactivity.

Our records indicate that there has been no activity associated with your registered property since June of 2019. Registrations that remain inactive for 24 months or more are subject to closure as required by the Municipal Code of Virginia Beach appendix A, article 2, conditional use section 241.2.

Should you believe this closure is in error or you wish to appeal this decision, please notify Commissioner Kellam in writing outlining your concerns within 30 days of the date of this letter. The City of Virginia Beach Planning Department has been notified and will be in contact with you in the coming days.

You may contact me by phone at (757) 385-5776, by fax at (757) 385-8508, by email at tglee@vbgov.com, or visit our office Monday through Friday from 8:00AM to 5:00PM if you have any questions or would like to meet.

Sincerely,

Timothy G. Lee
Deputy Commissioner for Audit

cc: Katelyn Kennedy, Short Term Rental Manager
Planning and Community Development

CITY EXHIBIT(S):



PLANNING & COMMUNITY DEVELOPMENT
ZONING DIVISION
planning.virginiabeach.gov

2304 Courthouse Drive
Virginia Beach, VA 234526

December 17, 2025

Mr. John A. Kerr
6102 Woodmont Rd.
Alexandria, VA 22307

Re: Short-Term Rental at 5903 Atlantic Ave., Virginia Beach, VA 23451

Dear Mr. John A. Kerr,

Following the letter you received from the office of the Commissioner of Revenue, our office is writing to inform you that you have lost your grandfathered designation (*which allowed your above listed property to function as a short-term rental*) due to rental inactivity.

The City of Virginia Beach Municipal Code Appendix A, Article 2(A), Section 241.2(12) states, "any grandfathered short-term rental that continuously remains vacant, or not used as a short-term rental, for a period of two (2) years or more, starting from the date of the adoption of this ordinance (01.15.19), shall lose its "grandfathered" designation". Due to this clause and the property's confirmed rental inactivity, the property referred to above will not be able to legally operate as a short-term rental property, now or in the future.

Should you have any questions please contact me by phone at (757) 385-8862, by email at STR@vbgov.com, or visit our office Monday through Friday from 8:00AM to 5:00PM.

In accordance with Section 15.2-2311 of the Code of Virginia, you have the right to appeal this decision to the Board of Zoning Appeals within 30 days. The appeal application and additional information regarding the filing of an appeal may be obtained at the Zoning Division located at 2304 Courthouse Drive, from the City's Web Site at <https://planning.virginiabeach.gov>, or by calling the Zoning Division at (757) 385-8074. The application, along with a filing fee in the amount of **\$400.00** for residential uses (includes costs of notification and advertising) and **\$500.00** for commercial uses (includes costs of notification and advertising), payable to the Treasurer, City of Virginia Beach, must be filed with the Zoning Division. If you do not appeal, this decision shall be final and unappealable.

Sincerely,

A handwritten signature in black ink that reads 'Katie Kennedy'.

Katie Kennedy
Short-Term Rental Manager, City of Virginia Beach

(757)385-8862 | STR@vbgov.com
<https://planning.virginiabeach.gov/permits/short-term-rental>

CITY EXHIBIT(S):

ADDITIONAL EXHIBITS MAY BE PRESENTED BY CITY STAFF AT THE PUBLIC HEARING

PHOTOGRAPHS:



PHOTOGRAPHS:



DISCLOSURE STATEMENT:



Disclosure Statement

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. Completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council, boards, commissions, or other bodies.

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APPLICANT INFORMATION

Applicant Name:
as listed on application John A. Kerr

Is Applicant also the Owner of the subject property? Yes No

If no, Property Owner must complete SECTION 2: PROPERTY OWNER DISCLOSURE (page 3).

Does Applicant have a Representative? Yes No

If yes, name Representative: _____

Is Applicant a corporation, partnership, firm, business, trust or unincorporated business? Yes No

If yes, list the names of all officers, directors, members, or trustees below AND businesses that have a parent- subsidiary ¹ or affiliated business entity ² relationship with the applicant. (Attach list if necessary.)

Does the subject property have a proposed or pending purchaser? Yes No

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Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? Yes No

If yes, name the official or employee, and describe the nature of their interest.

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| SERVICE | YES | NO | SERVICE PROVIDER <small>(Name entity and/or individual)</small> |
|---|-----------------------|----------------------------------|--|
| Financing (mortgage, deeds of trust, cross-collateralization, etc.) | <input type="radio"/> | <input checked="" type="radio"/> | |
| Real Estate Broker/Agent/Realtor | <input type="radio"/> | <input checked="" type="radio"/> | owner is a licensed Agent |

Disclosure Statement | rev. May-2024
page 1 of 3

