



CITY OF
**VIRGINIA
BEACH**

Board of Zoning Appeals February 4, 2026

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

City Staff:
Hannah Sabo, Zoning Administrator
Diamond Royster, Deputy City Attorney

A Board of Zoning Appeals public hearing is scheduled 2:00 p.m. **Wednesday, February 4, 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://planning.virginiabeach.gov> for more details.

AGENDA FOR FEBRUARY 4, 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 1:20 p.m.)
- C. Learning Session for Board Members (topic is required yards)
- D. Public hearing (2:00 p.m. to finish / cases typically called in order by case number)

AGENDA CASES

- **Case 2025-BZA-00096**

Applicants: Andrew K. and Elizabeth M. Barnett

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

Address: 221A 84th Street

Request: Variances to the required yards and maximum impervious cover for proposed building additions and an existing shed

- **Case 2025-BZA-00100**

Applicant: Matthew J. Schmucker

Representative: William Mallory of NOVA Build Pros

Address: 600 Maryland Avenue

Request: Variances to the required yards for proposed building additions and a deck



CASE: 2025-BZA-00096 - Andrew K. and Elizabeth M. Barnett

HEARING DATE: February 4, 2026

TO: Chairman, Board of Zoning Appeals

FROM: Wilissa Blair-Miller, Planner III

ADDRESS ASSOCIATED WITH VARIANCE REQUEST:

211A 84th 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 building additions and an existing shed.

VARIANCE REQUEST(S) (DETAILED):

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

SIDE YARD (WEST): A side yard setback variance to 6 feet instead of 10 feet as required for a proposed one-story covered patio.

SIDE YARD (WEST): A side yard setback variance to 0 feet instead of 5 feet as required for an existing one-story shed under 150 square feet in floor area.

REAR YARD (NORTH): A rear yard setback variance to 12 feet instead of 20 feet as required to repair/replace an existing third floor deck ~~and the conversion of an existing second floor screen room into enclosed space/floor area.~~ * (See note on page #2)

REAR YARD (NORTH): A rear yard setback variance to 13 feet instead of 20 feet as required for a proposed covered porch.

IMPERVIOUS COVER: A variance to permit 65 percent impervious cover instead of a maximum of 60 percent as allowed.

*NOTE: While visiting the subject site on January 15, 2026, Planning Department staff, BZA Unit, found that the existing second floor rear yard screen porch had been removed and mostly converted to enclosed space (i.e., new room addition with full height walls, windows, etc.). Afterward, it was discovered that staff mistakenly approved this construction within the rear yard setback and issued an accompanying building permit without a Board of Zoning Appeals granted variance. Section 15.2-2307(D)(ii) of the Code of Virginia establishes vested rights when “(ii) a property owner, relying in good faith on the issuance of a building permit, incurs extensive obligations or substantial expenses in diligent pursuit of a building project that is in conformance with the building permit and the Uniform Statewide Building Code (§36-97 et seq.).” As a result, and with agreement from the City Attorney’s Office, the demolition of the second-floor rear yard screen porch, and subsequent construction of a new room addition in its place, no longer requires a zoning variance since vested rights were established under Section §15.2-2307(D)(ii).

GEOGRAPHIC PARCEL INFORMATION NUMBERS (GPIN):

2510-40-9077

LOT AREA:

- 10,000 square feet (.22 acres) (per survey)

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 1973) (creation of condominium form of ownership on May 24, 1989, as recorded in deed book 2828 at page 682)
- R-5R(NE) (Residential District) (North End Overlay District)
- 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 building plans associated with the proposed subject improvements, it appears such recommendations will be met; however, staff are uncertain if the same compliance can be observed pertaining to the existing subject improvements (i.e., the existing shed).

SURROUNDING LAND USES/ZONING DISTRICTS:

- North: Residential (duplex), R-5R(NE)
- South: Vacant Lot, R-5R(NE)
- East: Residential (duplex), R-5R(NE)
- West: Commonwealth of Virginia Property (First Landing State Park, formally Seashore State Park)

EXISTING CONDITIONS:

- Duplex: 26.6 feet from front property line (south)
- Duplex: 14.7 feet from side property line (west)
- Duplex: Greater than 10 feet from the from side property line (east)
- Duplex: 12 feet from rear property line rear (north)
- Shed: 0.1 feet from the side property line (west)

EXTENT OF PROJECT:**Proposed building additions and existing shed** (variances requested)

Proposed one-story side yard covered patio located 6.6 feet from the property line instead of 10 feet as required and 13 feet from the rear property line instead of 20 feet as required; proposed repair/replace third floor deck located 12.5 feet from the rear property line instead of 20 feet as required; and, an existing 122 square foot one-story shed located 0.1 feet from the side property line instead of 5 feet as required.

BACKGROUND INFORMATION:

According to City records, the existing home was constructed in 1973. At the time of construction, the subject property was located within an RD-2 zoning district. On November 28, 1973, the RD-2 zoning district was renamed to R8. Then, in 1988, the R8 zoning district was renamed to R-5R, which is the current designation.

The applicant is requesting variances to the required side and rear yards for a proposed first floor covered patio, third floor deck repair/reconstruction, and an existing shed. In addition, a variance to allow 65 percent in impervious cover instead of the maximum 60 percent as allowed is also part of this request.

The subject parcel meets the minimum required 10,000 square feet of area and exceeds the minimum required lot width of 75 feet. Moreover, the existing duplex building meets all minimum required front and side yards; however, portions of the structure presently encroach into the required 20-foot rear yard (north). Such encroachment is seemingly due to the age of the subject building, which was constructed when the required rear yard was only 10 feet. For reference, on November 27, 2001, City Council adopted an amendment to the zoning ordinance increasing the required rear yard from 10 feet to 20 feet. As a result, the current encroachment into the required 20-foot rear yard is nonconforming in accordance with 15.2-2307 of the Code of Virginia.

Details of each matter associated with the subject variance requests are listed separately below.

1. Covered patio (west side of building):

- A roughly 7.5-foot by 19.75-foot one-story covered porch is proposed for the western side of the building facing First Landing State Park, which will presumably remain preserved Commonwealth land for the foreseeable future. This covered area would encroach into the required side and rear yards; however, because it is proposed for construction over an existing concrete patio, the imperious cover percentage of the subject property would not increase with this improvement.

2. Repair and/or replacement of existing third floor deck (rear of building):

- An existing third-floor deck sits directly above a second-floor screen room conversion and a first-floor family room, all of which presently encroach into the required 20-foot rear yard (screen room currently being converted into living space; please see note on page #2 of this staff report for details). Due to the age of these structures, among other factors, this required yard encroachment is legally nonconforming.
- While the nonconforming third-floor deck structure may be well maintained presently, its continued exposure to the elements will undoubtedly lead to necessary structural repairs and/or full replacement in the future. When this occurs, a zoning variance would be required for such repairs and/or replacement. Consequently, staff recommended that the deck be included with this request.
- The deck will remain within the current footprint. Consequently, the imperious cover percentage of the subject property would not increase with the repair or replacement of this structure in kind.

3. Impervious cover:

- On November 27, 2001, City council adopted a text amendment to the City Zoning Ordinance pertaining to maximum impervious cover of properties located within the subject zoning district. This text amendment limited such properties to a maximum of 60 percent impervious cover.
- According to *Google Street View* images and City staff calculations, 191 square feet of compacted gravel was added to the subject property sometime between June 2011 and September 2015.
- On March 18, 2014, City staff approved 500 square feet of additional impervious cover on the subject property in the form of a building addition associated with Unit B. Using documents submitted with the permit application at that time, City staff performed all appropriate impervious cover calculations and determined the proposed addition would not cause the subject lot to exceed the maximum 60 percent allowable cover.

- According to *Connect Explorer* satellite imagery and City staff calculations, sometime after January of 2017, 60.42 square feet of impervious cover was added in the form of a small shed (i.e., the original half of the subject shed associated with Unit A).*
- According to *Connect Explorer* satellite imagery and City staff calculations, sometime after January of 2018, 61.61 square feet of impervious cover was added in the form of a second small shed (i.e., the second half of the subject shed associated with Unit A).*
- According to *Connect Explorer* satellite imagery, it appears that Unit B added an unknown amount of impervious cover in the form of a concrete paver patio sometime after January 2019.

In summary, it seems the subject lot did not exceed the maximum allowable percentage of impervious cover until sometime after the issuance of the 2014 building permit associated with Unit B (i.e., the approved 500 square foot addition), with both Units A and B contributing to the excess percentage of cover thereafter.

4. Shed:

- According to *Connect Explorer* satellite imagery, the existing shed was placed on the subject property in two phases, with the first occurring after January 2017 and the second occurring after January 2018.
- The combined floor area of both subject sheds is 122.03 square feet.
- Based on the overall size of the shed, a building permit was not required. Nevertheless, such structures were, and still are, required to meet minimum standards of the City Zoning Ordinance.

KEY CONSIDERATIONS:

- The third-floor deck would not encroach into the required rear yard any further than the existing structures located below it, nor would it increase the overall percentage of lot coverage and impervious surface cover. Accordingly, it could be argued that the strict application of the ordinance would unreasonably restrict the utilization of the property in this instance.
- The percentage of maximum allowable impervious cover on the subject property appears to have been exceeded after City Council adopted such limits in 2001. Specifically, the excess appears to have occurred after the permitted 500 square foot expansion to Unit B in 2014.
- The west side of the subject parcel abuts property that will likely remain preserved in perpetuity, which is arguably uncommon when generally compared to other lots.

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

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

APPLICANT STATED HARDSHIP:

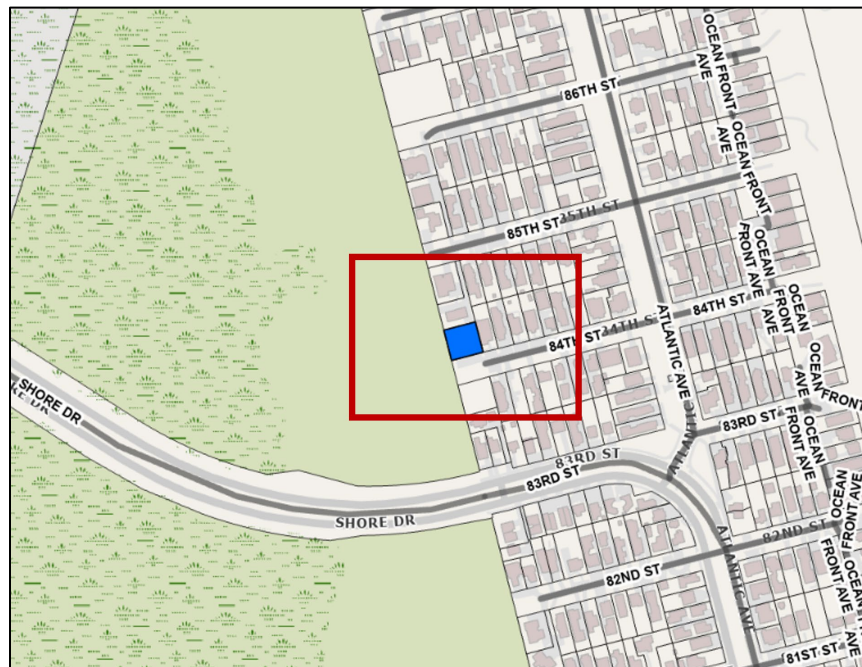
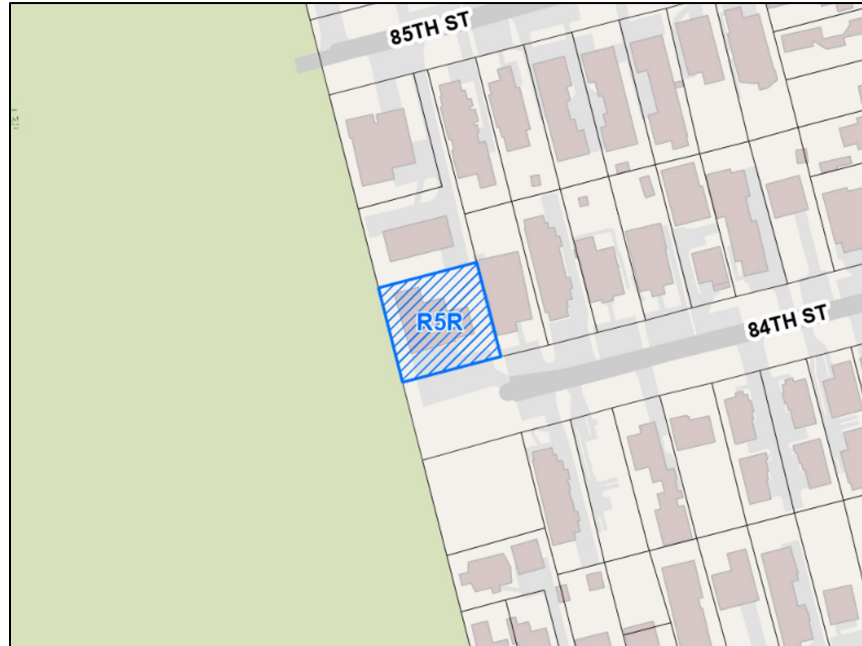
"The proposed 8' x 16' structural cover over an existing patio is aligned with the rear first floor wall of the home which is at a legally non-conforming 13.9' setback which exceeded the required setback when the home was built. But for a subsequent change by the City in the required rear yard setback, no variance from that setback would be necessary. The adjoining acres of state park land, which includes the adjacent heavily vegetated sand dune held back by a retaining wall, most certainly will not be detrimentally impacted by the proposed cover over the existing patio at a 6.6-foot setback from the retaining wall. This is a unique circumstance where the purpose for the side yard setback from another developed or developable lot, or a right of way, is not present. Cases like this are one of the reasons why our State Code and local Zoning Ordinance have established the Board of Zoning Appeals. There is no increase in the impervious surface on the property."

RECOMMENDED CONDITIONS IF APPROVED:

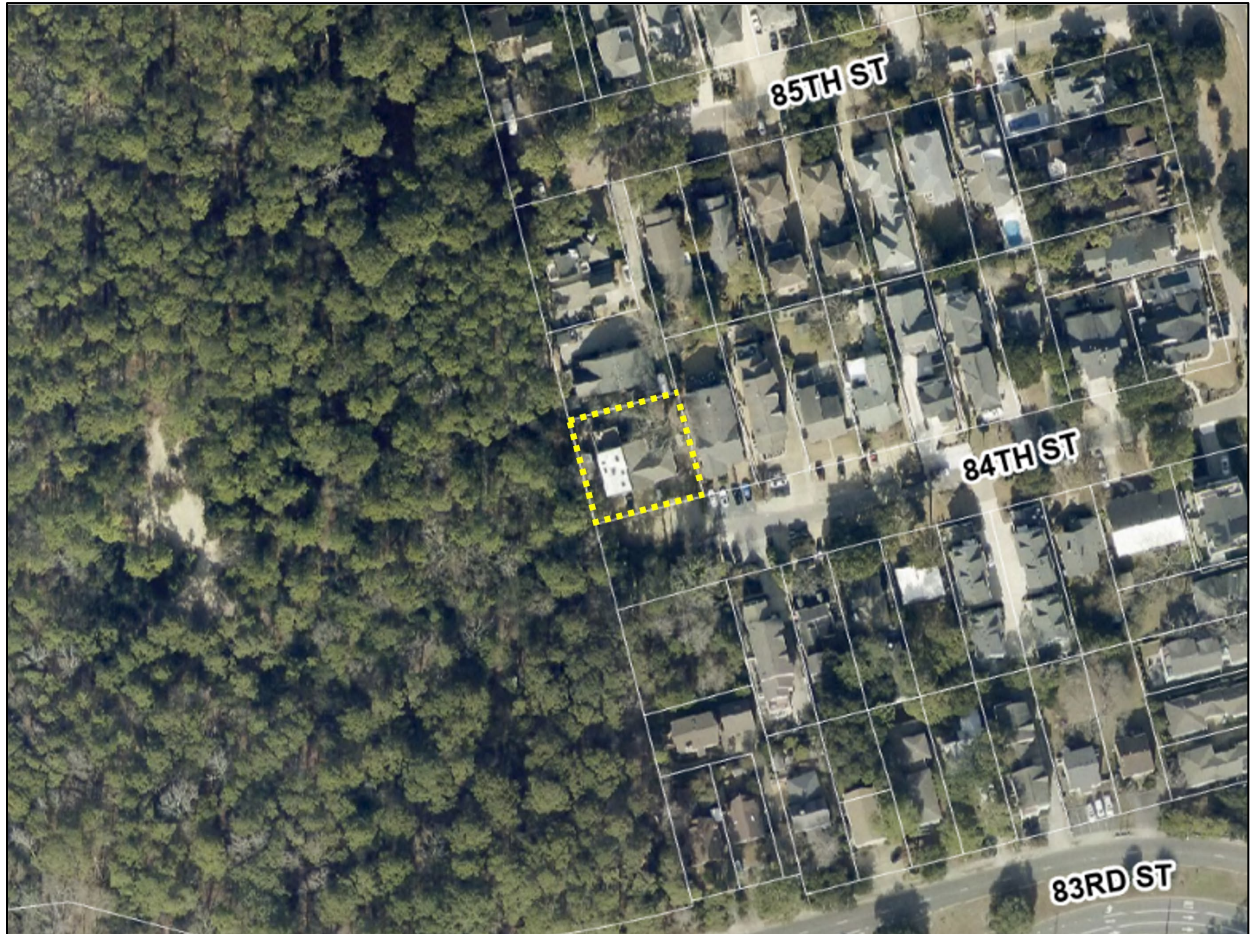
1. The proposed improvements shall be constructed in substantial conformance to the marked submitted exhibit titled, *BZA Exhibit for Unit A*, dated November 24, 2025, and prepared by Align Surveying and Design, P.C. (shown as *Exhibit A* in this staff report). This condition does not permit deviations 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 compliance with the *Public Works Design Standards Manual*.
2. 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.
3. The proposed improvements shall be constructed in substantial conformance to *Plan Sheet #1* found 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 the meaning of 'substantial conformance,' which may include considerations based on compliance with the *Public Works Design Standards Manual*.
4. The subject shed shall meet all City Zoning Ordinance requirements for use.
5. The subject shed, in combination with any other applicable accessory structures on the subject property, shall not exceed the maximum permissible square footage of floor area allowed by the City Zoning Ordinance.
6. 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.'
7. Within 90 days of this Board action, the subject property owner(s), or agent, shall submit an application to the City Department of Public Works, Real Estate Division, for a right-of-way encroachment agreement associated with all fencing located within the 84th street right-of-way. If such encroachment is not granted, all fencing within the City right-of-way shall be removed.
8. The existing privacy fencing located within the required front yard, as highlighted in the *Site Plan (Exhibit A)* section of this report, shall be brought into compliance with current fencing and landscaping requirements found in the City Zoning Ordinance. This shall occur prior to the final inspection associated with any building permit issued for the subject improvements, or within six months of this Board action, whichever occurs first.

9. 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.
10. 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.

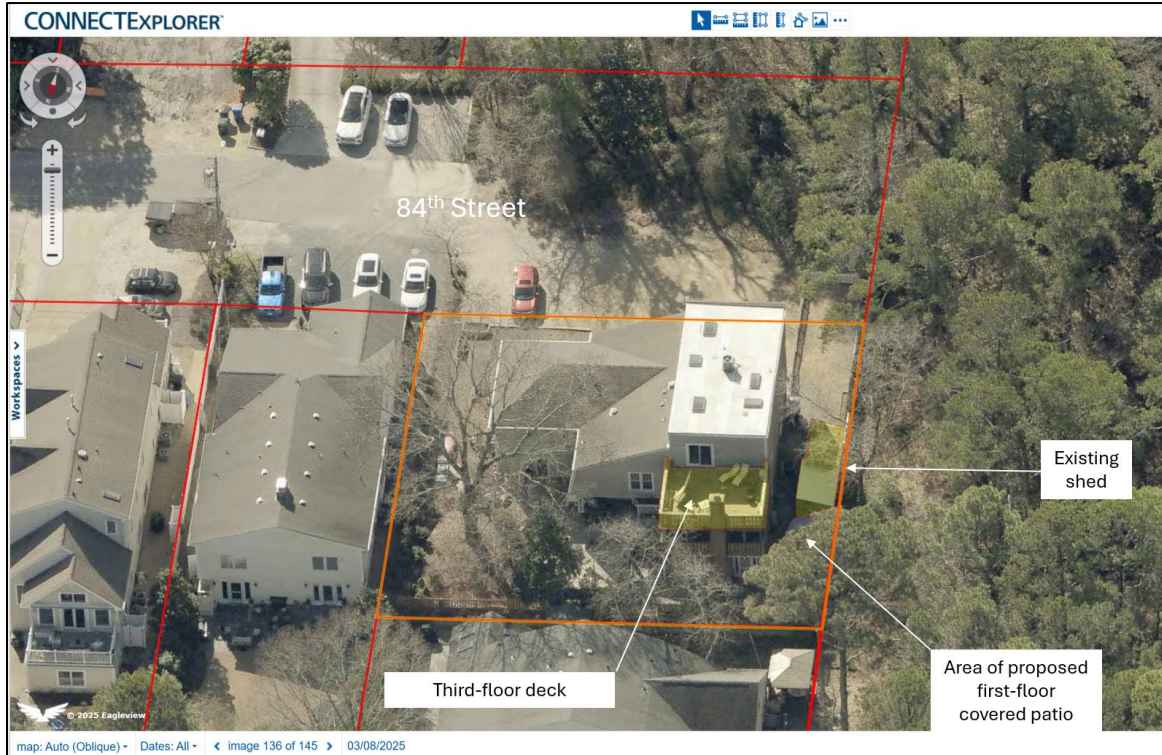
LOCATION MAPS:



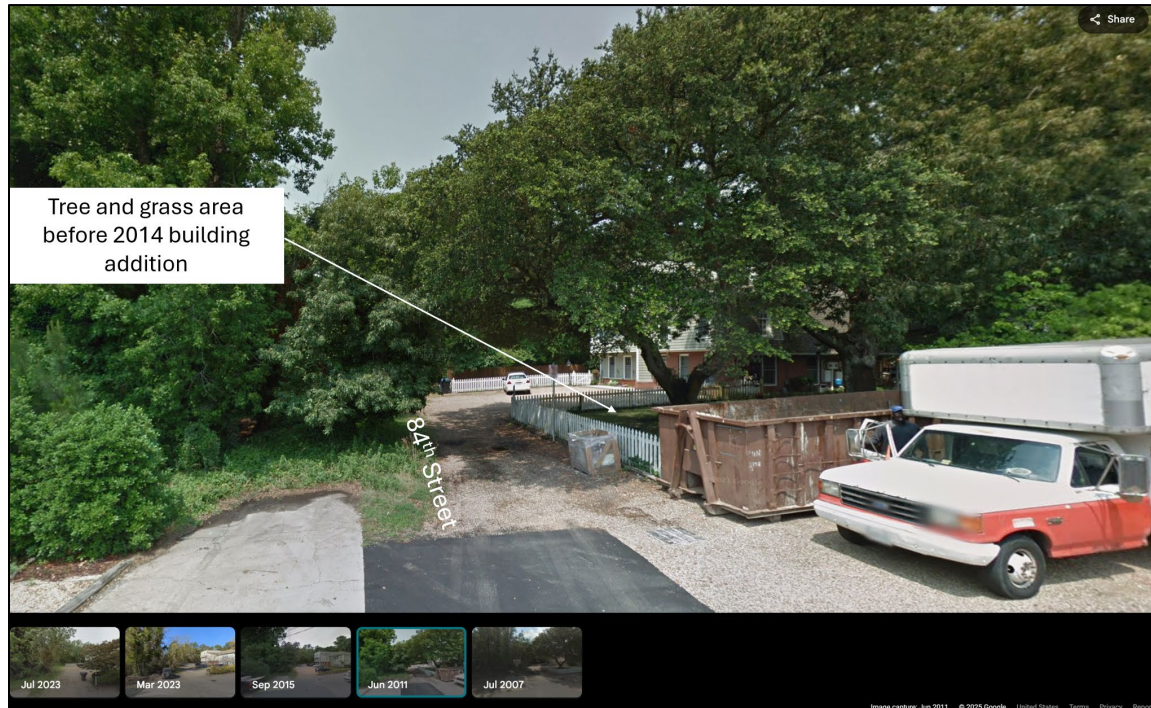
AERIAL:



AERIAL (DETAIL):



STREET VIEW (impervious cover added to subject property and r.o.w between 2011 and 2015):



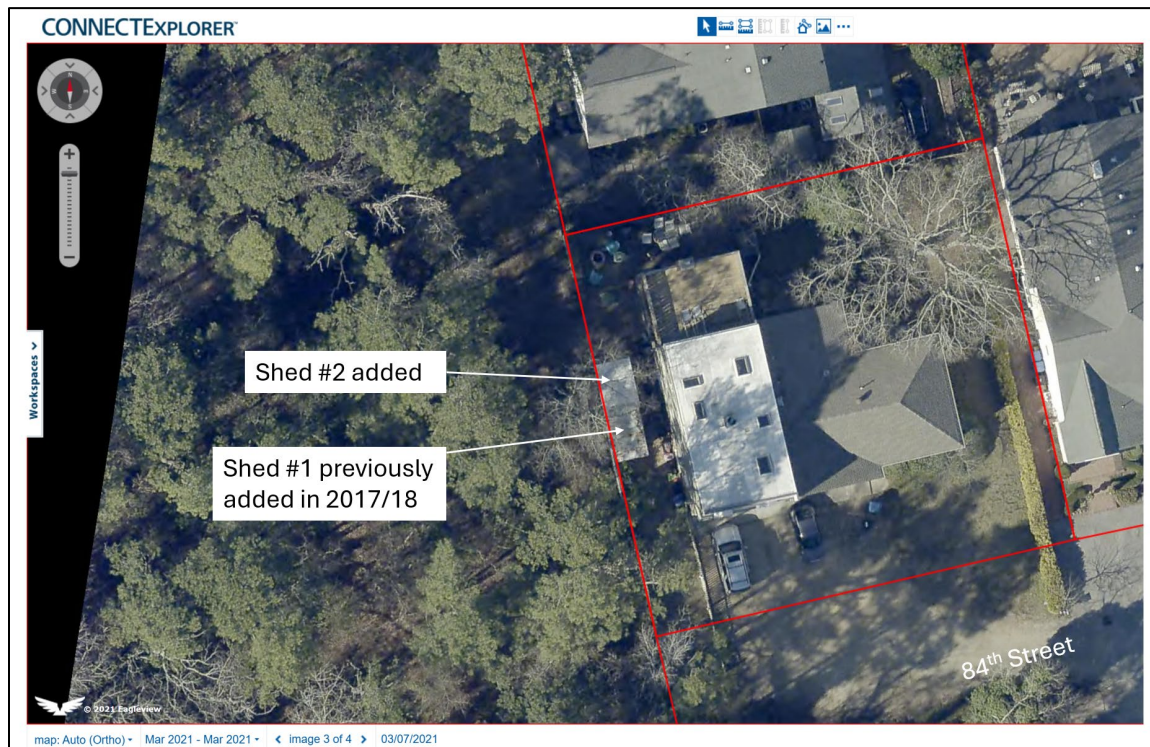
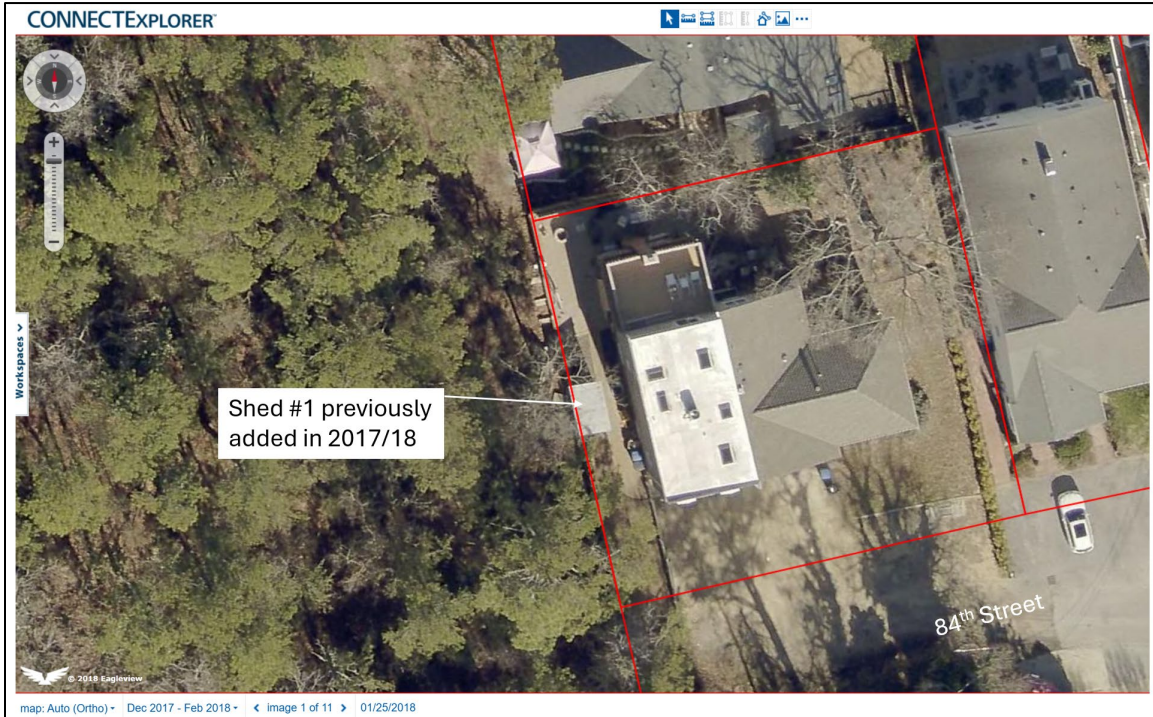
AERIAL (impervious cover added between 2012 and 2015):



AERIAL (impervious cover added between 2017 and 2018):



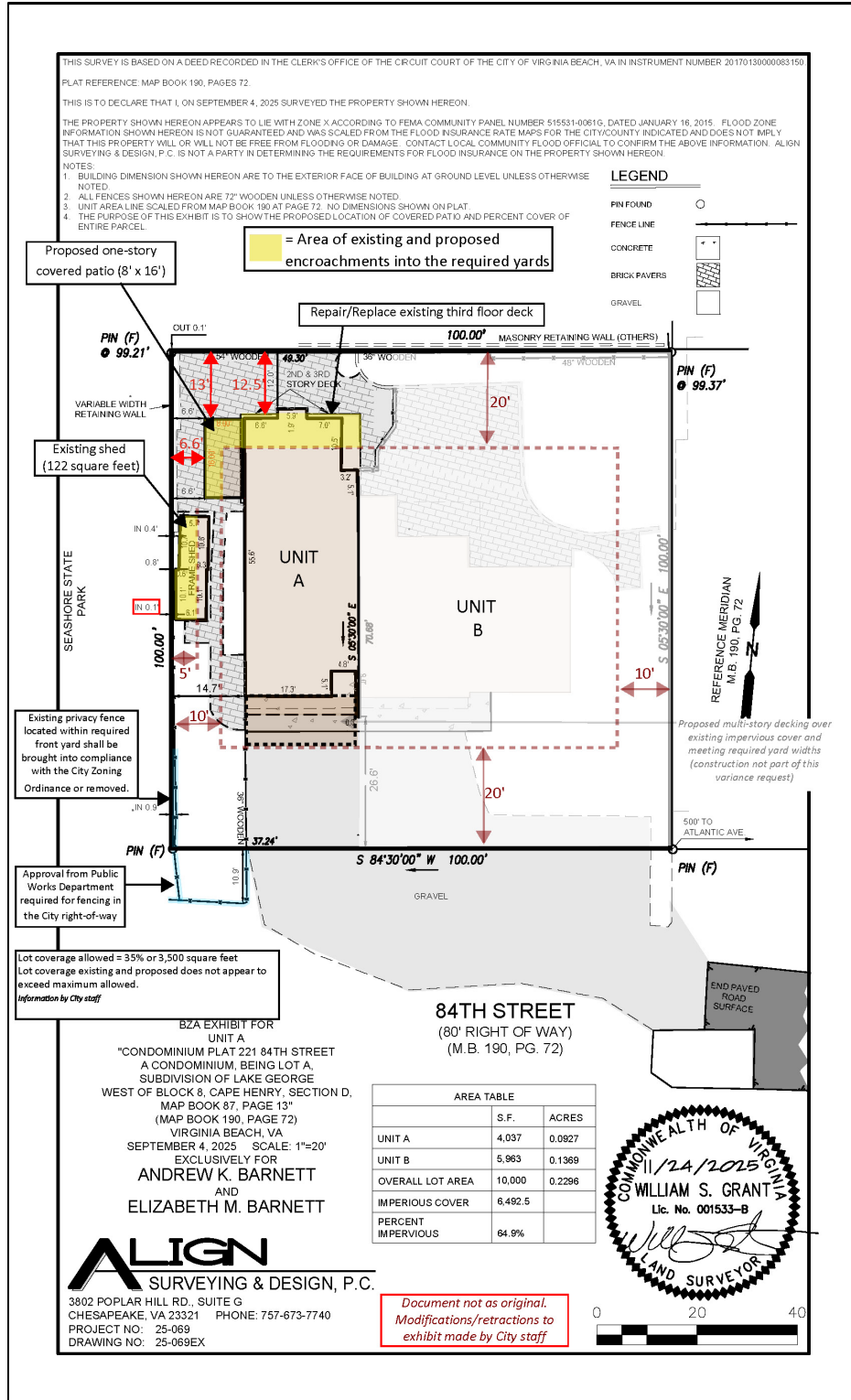
AERIAL (impervious cover added between 2018 and 2021):



AERIAL (apparent impervious cover added between 2019 and 2023):



SITE PLAN (EXHIBIT A):



[illegible]

PHOTOGRAPHS:



PHOTOGRAPHS:



PHOTOGRAPHS:



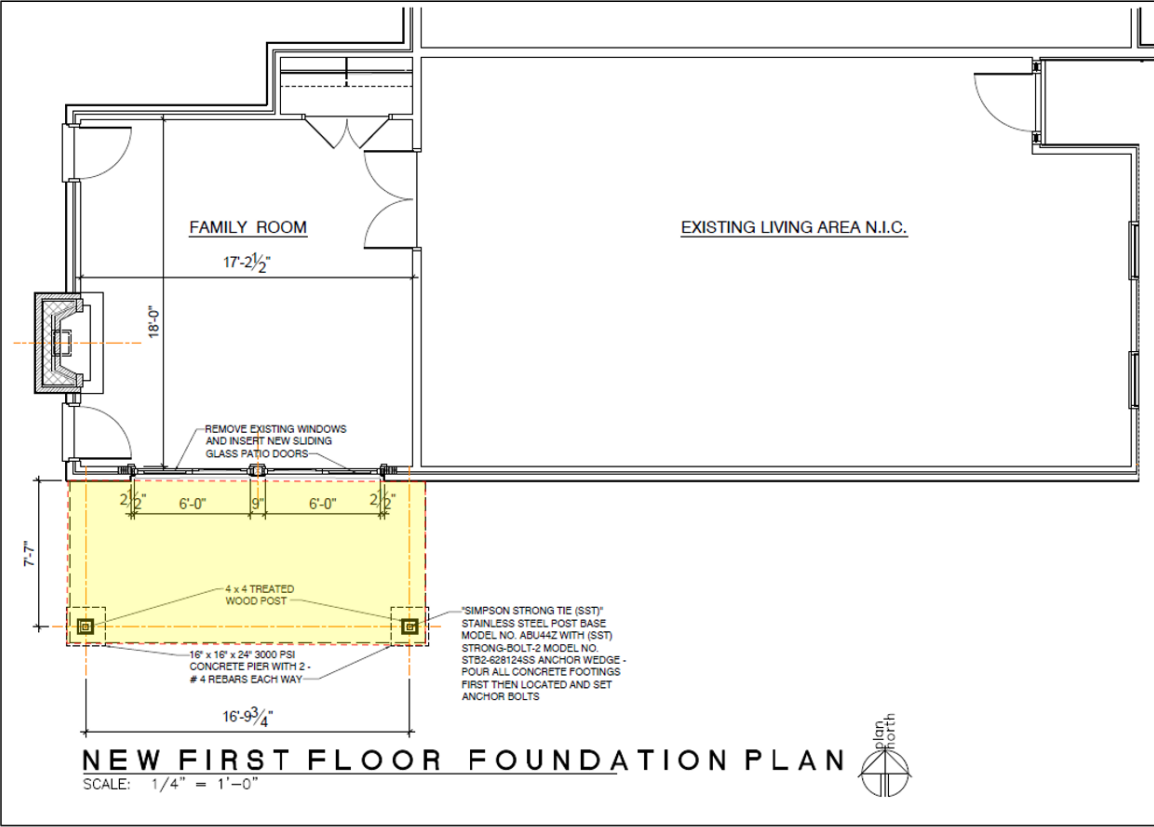
PHOTOGRAPHS:



PHOTOGRAPHS:



PLAN SHEET #1 (covered patio – west):



Plan sheet #1 - First floor covered patio on west side of building

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: Andrew K. & Elizabeth M. Barnett
as listed on application

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- subsidiary ¹ or affiliated business entity ² relationship with the applicant. (Attach list if necessary.)

| |
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| |
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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.

| |
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| |
|--|

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 (Name entity and/or individual) |
|---|----------------------------------|----------------------------------|---|
| Financing (mortgage, deeds of trust, cross-collateralization, etc.) | <input checked="" type="radio"/> | <input type="radio"/> | LoanDepot; 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 (Name entity and/or individual) |
|---|----------------------------------|----------------------------------|---|
| Accounting/Tax Return Preparation | <input type="radio"/> | <input checked="" type="radio"/> | |
| Architect/Designer/Landscape Architect/Land Planner | <input checked="" type="radio"/> | <input type="radio"/> | Robert E. Frere, Architect |
| Construction Contractor | <input checked="" type="radio"/> | <input type="radio"/> | Bryan Hietpas, Virginia Coastal Homes |
| Engineer/Surveyor/Agent | <input checked="" type="radio"/> | <input type="radio"/> | William S. Grant, Align Surveying & Design |
| Legal Services | <input checked="" type="radio"/> | <input type="radio"/> | R. Edward Bourdon, Jr., Esq., Sykes, |

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.

Andrew K. Barnett

Applicant Name (Print)



Applicant Signature

21 Nov 2025

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): 01-13-2026

Wilissa Blair-Miller

Staff Name (Print)



Staff Signature

01-13-2026

Date



CASE: 2025-BZA-00100 - Matthew J. Schmucker

HEARING DATE: February 4, 2026

TO: Chairman, Board of Zoning Appeals

FROM: Wilissa Blair-Miller, Planner III

ADDRESS ASSOCIATED WITH VARIANCE REQUEST:

600 Maryland Avenue

REPRESENTATIVE:

William Mallory of NOVA Build Pros

VARIANCE REQUEST(S) (ABBREVIATED):

Variances to the required yards for proposed building additions and deck.

VARIANCE REQUEST(S) (DETAILED):

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

SIDE YARD ADJACENT TO A STREET (EAST - MEDITERRANEAN AVENUE): A side corner setback variance to 12 feet instead of 15 feet as required for a second-floor addition and any necessary structural repairs to the existing first floor and foundation.

REAR YARD (SOUTH): A rear yard setback variance to 12 feet instead of 20 feet as required for the repair/replacement of an existing deck.

GEOGRAPHIC PARCEL INFORMATION NUMBERS (GPIN):

2427-03-6604

LOT AREA:

- 6,000 square feet (.13 acres) (per survey)

AICUZ:

70-75 decibels

REGULATORY WATERSHED AND FLOOD ZONE:

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

VOTING DISTRICT:

District 5

PREVIOUS BOARD OF ZONING APPEALS VARIANCE(S):

September 17, 1986 (granted)

A side yard setback variance (west) to 2 feet instead of 5 feet as required and a rear yard setback variance (south) to 2.5 feet instead of 10 feet as required for a shed.

Note: The 10.2 feet by 12.2 feet shed, as shown in *Exhibit A* in the *Site Plan* section of this staff report, encroaches into the required setbacks previously granted by the Board. As a result, a condition was added for Board consideration that would require the shed to be brought into compliance with the 1986 zoning variance approval.

SUBDIVISION ADMINISTRATION COMMENTS:

On January 6, 2026, the City Subdivision Administrator provided the following comments:

“A final subdivision plat must be submitted for review, approval and recordation to vacate the property line between lots 2 & 4 to create one lot. The final plat must be prepared in accordance with Section 6.3 of the Subdivision Regulations.”

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

- Single-family (built in 1968)
- R-5S (Residential District)
- Strategic Growth Area: Resort*

The applicant is proposing an improvement to a single-family home located on a developed lot within the boundaries of the Resort Strategic Growth Area (RSGA). Because the lot is already developed and located outside the four main districts/corridors within the RSGA, the development design principles and guidelines associated with those four main areas are not applicable. Nevertheless, the submitted plans for the subject home are noteworthy as they establish an aesthetically pleasing mixture of form, bulk, and silhouette, which are achieved using a cross-gable roof design and strategically placed dormers. Furthermore, the proposed board and batten gable ends and accents add visual interest to the project. To put this another way, the proposed improvements arguably reflect a simple, yet pleasing, design.

**Note: While the subject site is within the boundaries of the Resort SGA, it is located outside of the four main districts and corridors therein. For reference, those areas are as follows: 1. Marina District; 2. Central Beach District; 3. Laskin Gateway District; 4. Oceanfront Corridor.*

SURROUNDING LAND USES/ZONING DISTRICTS:

- North: Residential (single-family), R-5S
- South: Residential (single-family), R-5S
- East: Residential (single-family), R-5S
- West: Residential (single-family), R-5S

EXISTING CONDITIONS:

- Dwelling: 33.1 feet from front property line (north)
- Dwelling: 6.6 feet from side property line (west)
- Dwelling: 12.6 feet from side corner property line (east)
- Dwelling: Greater than 20 feet from rear property line rear (south)
- Attached Raised Deck: 12 feet from the rear property line (south)(noted distance is to the deck and not the steps leading to the deck)

EXTENT OF PROJECT:**Second floor building addition and deck (variance requested)**

Proposed second floor building addition over the existing first floor positioned 12.6 feet from the side corner property line instead of 15 feet as required, and an existing deck positioned 12 feet from the rear property line instead of 20 feet as required.

BACKGROUND INFORMATION:

According to City records, the existing home was constructed in 1968 within the Shadow Lawn Heights subdivision, which was created by plat in 1934 (map book 7 at page 14). The subject property appears to have been located within an R-1 zoning district until 1973, an R-7 zoning district until 1988, and an R-5S zoning district thereafter.

The applicant is requesting a variance to construct a room addition above the first floor of the subject home. The proposal would stay within the footprint of the existing building, which presently encroaches into the required 15-foot side yard adjacent to Mediterranean Avenue. Among other reasons, the existing first floor encroachment into the required yard is legally nonconforming due to the overall age of the structure. As a result, the proposed second floor addition over the nonconforming area of existing first floor cannot be built unless minimal setback relief is granted.

The applicant is also requesting a variance for the future reconstruction of an existing deck, which is presently encroaching roughly eight feet into the required rear yard. Because appropriate taxes appear to have been paid associated with the subject deck for more than 15 years, it seems to be a legally nonconforming structure in accordance with Section 15.2-2307 of the Code of Virginia. Nevertheless, repairs or replacements of such nonconforming structures are only permitted by §15.2-2307 when damaged or destroyed by a natural disaster or other act of God.* In other words, normal deterioration due to weathering and everyday use are not covered, although it is a longstanding zoning administration policy to allow deck boards and railings to be replaced on such nonconforming structures. Consequently, when the subject deck reaches the end of its useful life, it cannot be rebuilt in kind, which is why City staff encouraged the applicant to add the deck to the present request since it will certainly require structural repair or replacement in the future.

**Note: The existing deck appears to have been refreshed over the years with new deck boards and skirting, which is permissible without the need for a zoning variance. 'Act of God' is defined by §15.2-2307 as "any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire."*

KEY CONSIDERATIONS:

- Because the proposed improvements will not encroach further into the required yards, it could be argued that the strict application of the ordinance would unreasonably restrict the utilization of the property.
- The request does not seem to be of substantial detriment to adjacent and nearby properties.

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

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

APPLICANT STATED HARDSHIP:

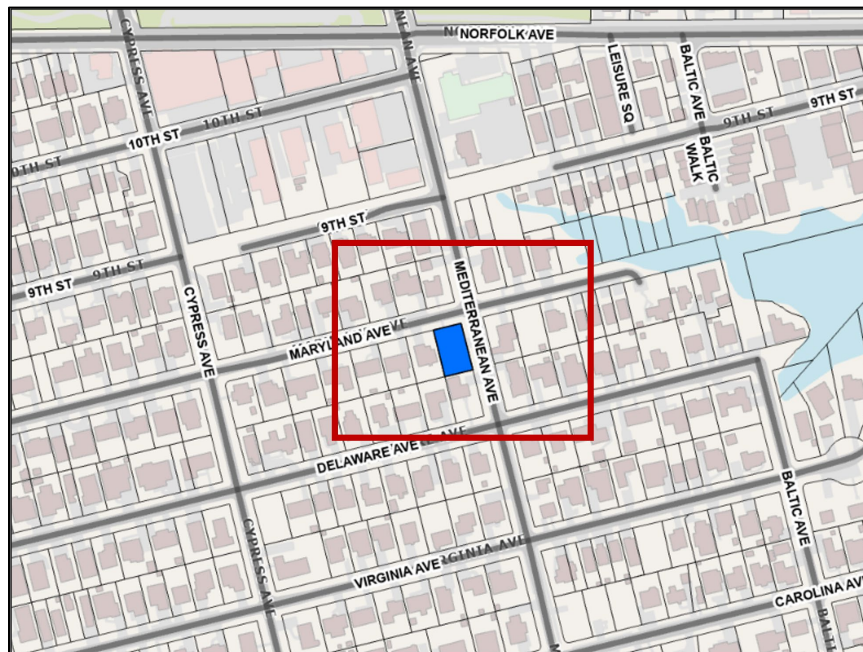
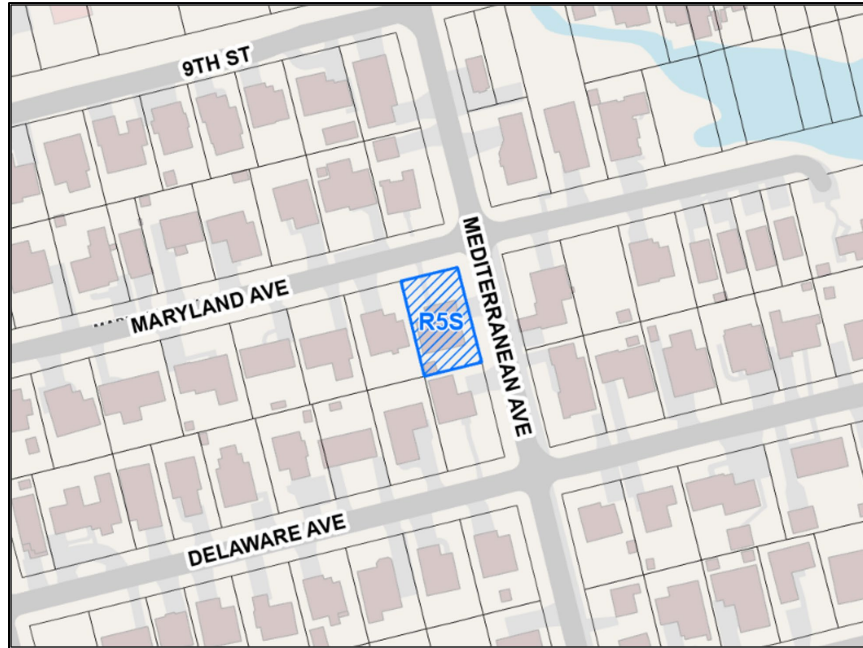
“Existing home was placed inside what is now a 15' setback along Mediterranean Ave. Not reasonable to move the house 2.4' to comply. Request a variance.”

RECOMMENDED CONDITIONS IF APPROVED:

1. The proposed improvements shall be constructed in substantial conformance to the marked submitted exhibit titled, “Physical Survey of Lot 2 and Lot 4, Block 36, Map of Shadow Lawn Heights,” dated August 22/23, 2016, and prepared by Fox Land Surveying (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 compliance with the *Public Works Design Standards Manual*.
2. The proposed improvements shall be constructed in substantial conformance to the submitted elevation drawings titled, “Second Floor Addition, 600 Maryland Avenue,” sheet #2, dated January 20, 2025, and prepared by Residential Designs, LTD. (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 elevation drawings, which may, if applicable, include considerations based on compliance with the *Public Works Design Standards Manual*.

3. The subject Lots (i.e., Lots 2 and 4, Block 36) shall be resubdivided through the vacation of the existing property boundary presently separating existing Lot 2 from existing Lot 4. This 'interior' lot line vacation shall be completed and properly recorded with the City of Virginia Beach Land Records Office prior to the final inspection of any building permits issued for the subject improvements, or six months from this Board action, whichever occurs first. The applicant may request additional time to satisfy this condition. If additional time is needed, the applicant may submit a written request to the City Zoning Administrator, who shall be authorized to grant an extension.
4. The existing 10.2 feet by 12.2 feet shed located in the southwest corner of the subject property shall either be moved to meet minimum requirements of the September 17, 1986, granted Board of Zoning Appeals variance or removed from the subject property. 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.
5. 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.
6. 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.
7. 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.

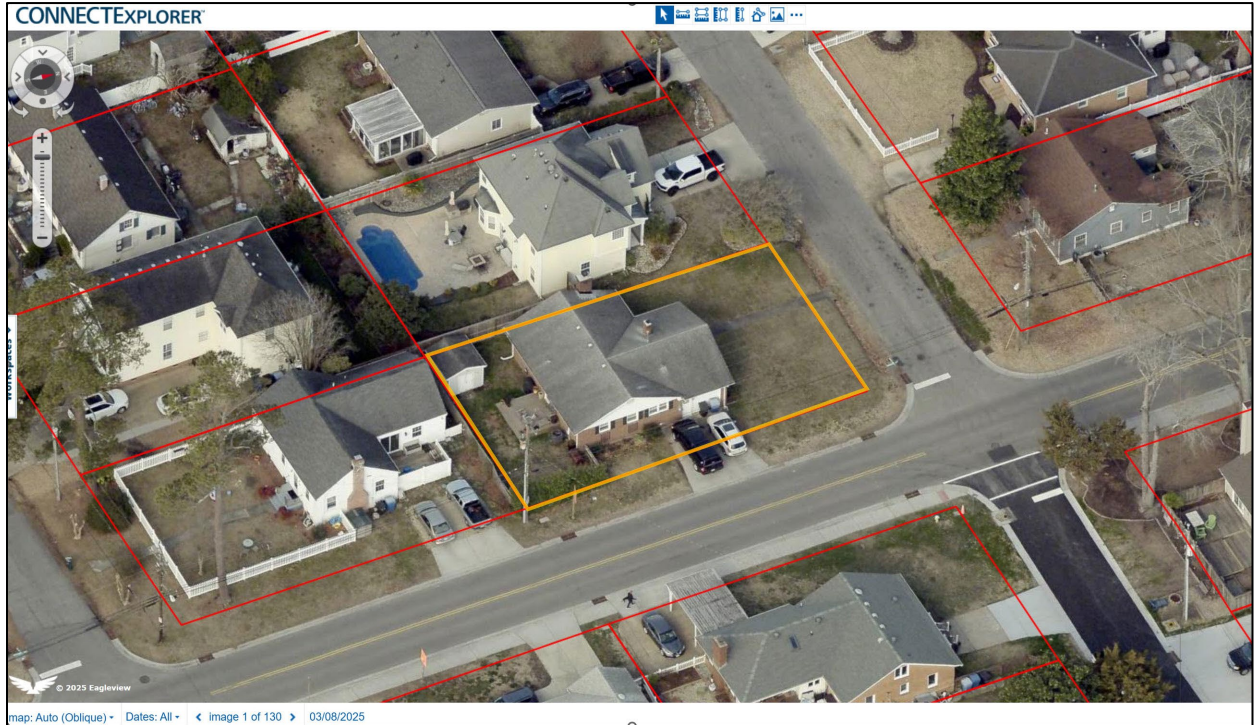
LOCATION MAPS:



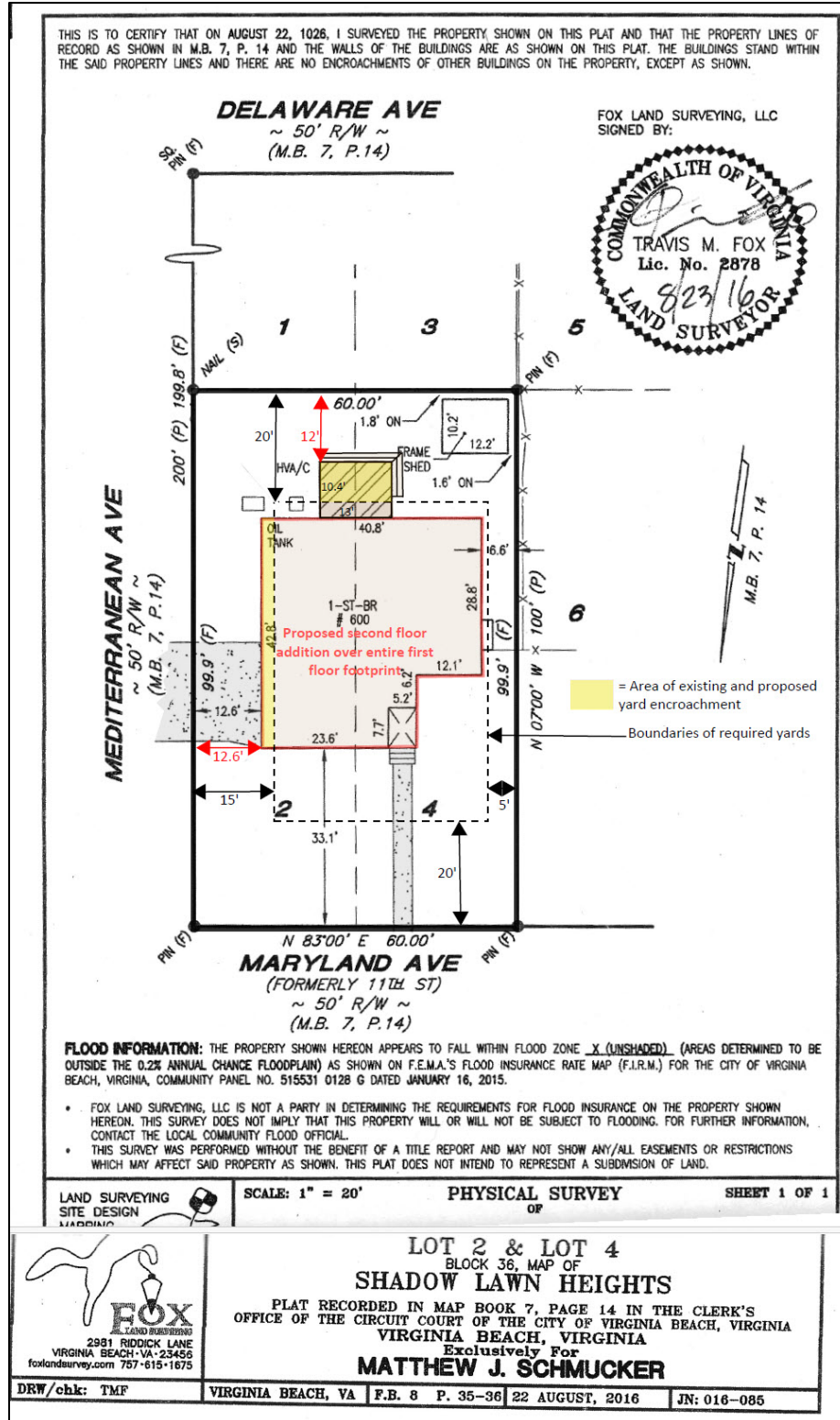
AERIAL:



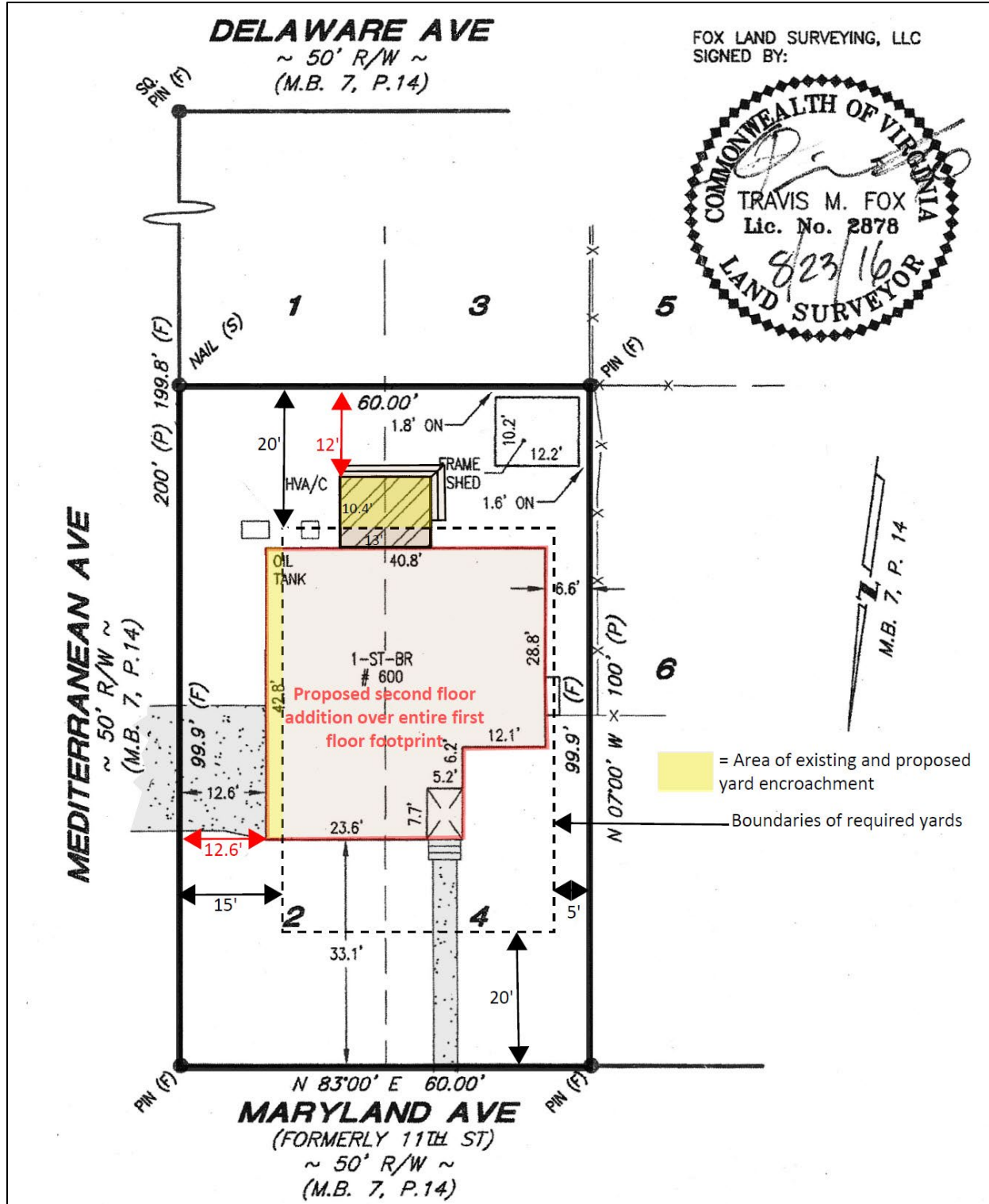
AERIAL (DETAIL):



SITE PLAN (EXHIBIT A):



SITE PLAN DETAIL (EXHIBIT A):



PHOTOGRAPHS:



PHOTOGRAPHS:



PHOTOGRAPHS:



ELEVATION DRAWINGS:



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 Mathew Schmucker

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: William Mallory

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.

| |
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| |
|--------------|

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 (Name entity and/or individual) |
|---|----------------------------------|-----------------------|---|
| Financing (mortgage, deeds of trust, cross-collateralization, etc.) | <input checked="" type="radio"/> | <input type="radio"/> | Sean Thompson, Partner Home Loans |
| Real Estate Broker/Agent/Realtor | <input type="radio"/> | <input type="radio"/> | |

DISCLOSURE STATEMENT:

SECTION 1: APPLICANT DISCLOSURE *continued*

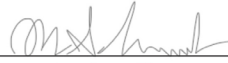
| SERVICE | YES | NO | SERVICE PROVIDER (Name entity and/or individual) |
|--|----------------------------------|----------------------------------|---|
| Accounting/Tax Return Preparation | <input type="radio"/> | <input checked="" type="radio"/> | |
| Architect/Designer/Landscape Architect/Land Planner | <input checked="" type="radio"/> | <input type="radio"/> | Carroll Johnson, Res Design Services |
| Construction Contractor | <input checked="" type="radio"/> | <input type="radio"/> | Bill Mallory, NOVA Build Pros |
| Engineer/Surveyor/Agent | <input checked="" type="radio"/> | <input type="radio"/> | Jason Smith, Small Potatoes |
| Legal Services | <input type="radio"/> | <input checked="" type="radio"/> | |

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.

Mathew Schmucker

Applicant Name (Print)



Applicant Signature

12/9/25

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): 01-14-2026

Wilissa Blair-Miller

Staff Name (Print)



Staff Signature

01-14-2026

Date