



CITY OF
**VIRGINIA
BEACH**

Board of Zoning Appeals January 7, 2026

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

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

The Board of Zoning Appeals will conduct a public hearing on Wednesday, January 7, 2026, at 2:00 p.m., in the Council Chambers at City Hall, Building #1, second floor, 2401 Courthouse Drive. A staff briefing will be held at 1:00 p.m., in room 2034, building #1. All interested parties are invited to observe the 1:00 p.m. briefing.

For more information, please call (757) 385-8074 or visit [VB BZA webpage](#).

Board of Zoning Appeals agenda for January 7, 2026:

- **1 p.m. (Room 2034, Building #1, second floor)**
 - a) Comments by zoning administration and Board Chairman
 - b) Case briefings (City staff presentation to Board)
- **2 p.m. (Council Chambers – large auditorium, Building #1, second floor)**
 - a) Conduct public hearing (all cases heard in order listed below)

Public Hearing Cases:

- **Case 2025-BZA-00083**
Applicants: *Sara and Luis Ramirez*
Representative: Self Represented
Address: 2496 Seven Kings Road
Request: A variance to the required yard for a proposed inground swimming pool
- **Case 2025-BZA-00084**
Applicant: *AtlantiCoast Development, LLC*
Representative: R. Edward Bourdon, Jr., esq, Sykes Bourdon Ahern & Levy, P.C.
Address: 100 Butts Lane
Request: Variances to the required yards for a proposed single-family dwelling
- **Case 2025-BZA-00090**
Applicant: *Joseph Maloney*
Representative: Self Represented
Address: 2332 Greenwell Road
Request: A variance to the required yard for a one story shed
- **Case 2025-BZA-00091**
Applicant: *Anthony P. Nero Trust*
Representative: R. Edward Bourdon, Jr., esq, Sykes Bourdon Ahern & Levy, P.C.
Address: 6408 Ocean Front Avenue
Request: Variances to the required yards and maximum impervious cover for a proposed building addition and an existing accessory structure

- **Case 2025-BZA-00092**

Applicant: *Beco Construction, Inc.*

Representative: R. Edward Bourdon, Jr., esq, Sykes Bourdon Ahern & Levy, P.C.

Address: 3400 Arctic Avenue

Request: Variances to the maximum allowable height and required yards for a proposed three-dwelling unit multi-family building

- **Case 2025-BZA-00093**

Applicant: *Alexander Flowe*

Representative: Self Represented

Address: 2109 St. Marshall Street

Request: Variances to the required yards for an existing gazebo with chimney

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CASE: 2025-BZA-00083 - Sara and Luis Ramirez

HEARING DATE: January 7, 2026

TO: Chairman, Board of Zoning Appeals

FROM: Wilissa Blair-Miller, Planner III

ADDRESS ASSOCIATED WITH VARIANCE REQUEST:

2496 Seven Kings Road

REPRESENTATIVE:

Sara Ramirez, Property Owner

VARIANCE REQUEST(S) (ABBREVIATED):

A variance to the required yard for a proposed inground swimming pool.

VARIANCE REQUEST(S) (DETAILED):

The following variance is requested pursuant to Article 2, Section 201(a)(1) of the City Zoning Ordinance:

YARD ADJACENT TO TOWER BRIDGE LOOP (SOUTHEAST): A setback variance to 15 feet instead of 20 feet as required for the construction of an inground swimming pool.

GEOGRAPHIC PARCEL INFORMATION NUMBERS (GPIN):

2405-30-1196

LOT AREA:

- 7,370 square feet (.16 acres) (per plat)

AICUZ:

70-75 decibels

REGULATORY WATERSHED AND FLOOD ZONE:

- Southern Rivers
- X (area determined to be outside the 500-year flood)

VOTING DISTRICT:

District 5

PREVIOUS BOARD OF ZONING APPEALS VARIANCE(S):

None found

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

- Single-family (built in 2000)
- PDH-2(R10) (Planned Development Residential District)
- Not in a Strategic Growth Area

SURROUNDING LAND USES/ZONING DISTRICTS:

- North: Residential (single-family), PDH-2(R10)
- South: Residential (single-family), PDH-2(R10)
- East: Residential (single-family), PDH-2(R10)
- West: Residential (single-family), PDH-2(R10)

EXISTING CONDITIONS:

- Dwelling: 26.7 feet from front property line (northwest)
- Dwelling: 6.8 feet from side property line (north)
- Dwelling: 10.7 feet from side property line (southwest)
- Dwelling: 30 feet from rear property line rear (southeast)

EXTENT OF PROJECT:

Inground swimming pool (variance requested)

Proposed 12 feet by 24 feet inground swimming pool located 15 feet from the property line abutting Tower Bridge Loop instead of 20 feet as required.

BACKGROUND INFORMATION:

According to City records, the existing home was constructed in 2000. At the time of construction, the subject property was located within an PDH-2(R-10) zoning district (planned development, Castleton community, Village F), which is also the current zoning district assignment.

In 1998, City council granted a conditional rezoning for the subject neighborhood, which changed the zoning district assignment from agricultural to residential planned development R-10 with an open space promotion. This approval reduced the minimum residential lot area below the standard 10,000 square feet. Such reduction was permitted because the developer dedicated a certain amount of public open space throughout the subdivision. As a result, the parcels within Village F of the subject neighborhood range in size from 7,200 square feet to 22,284 square feet, with the focus parcel containing 7,370 square feet.

The applicant would like to install an inground swimming pool behind their home. The pool would sit 15 feet from the property line abutting Tower Bridge Loop instead of 20 feet as required. Moreover, the proposed pool location would be roughly 27 feet from the vehicle travel lanes associated with Tower Bridge Loop, which is physically separated from the subject property by a 4-foot-tall vinyl fence and hedgerow.

The boundary configuration associated with the subject property is defined as a through lot. Such designation is used to describe properties that have frontage on more than one street or private road but are not corner lots. In this instance, the subject parcel fronts Seven Kings Road and Tower Bridge Loop. It should be noted the term frontage is applied only to the property boundaries and not necessarily the improvements thereon. In other words, through lots have required front yards adjacent to each abutting street, and while buildings on such lots typically contain designated front and rear walls, the positioning and design of such buildings have limited impact on the designation of required yards.

A City staff analysis of the existing through lots abutting Tower Bridge Loop revealed the following (data obtained from *Connect Explorer* software, last updated March 28, 2025):

- Number of through lots abutting Tower Bridge Loop = **92**
- Number of through lots abutting Tower Bridge Loop with inground swimming pools = **18**
- Number of through lots abutting Tower Bridge Loop where the pool encroaches into the 20-foot required yard = **1**

***NOTE:** The one exception was 2472 Seven Kings Road – staff are unclear how this inground swimming pool was approved for construction on 12/14/1999, nevertheless, because taxes have been paid by the property owner for the pool for over 15 years, the pool is nonconforming and is permitted to remain in accordance with State Code 15.2-2307(d).*

- Number of through lots abutting Tower Bridge Loop with inground swimming pools and an approved Board of Zoning Appeals variance = **0**

Originally, the applicant's requested a variance to an 11-foot setback instead of 20 feet as required adjacent to Tower Bridge Loop; however, after email correspondence with City staff, among other possible guidance, the applicant commendably revised the request to a 15-foot setback instead of the initially desired 11-foot setback.

Concerns pertaining to safety and public utility matters are generally points of consideration during City staff review of zoning variance requests involving through lots. For example, safety concerns may arise relating to motor vehicle travel lane departures from certain roadways abutting areas of property used for extended duration outdoor activities, such as backyard swimming pools. However, it should be noted that the speed limit assigned to Tower Bridge Loop, which is a 'minor street' as defined by the *2022 Virginia Beach Public Works Design Standards Manual*, is rather low at 25 miles per hour. Additionally, varying setback distances are required from certain underground utilities, which are often positioned in the verge abutting a roadway.* Therefore, specific improvements within adjoining private properties could negatively impact existing, or future, utility projects in the abutting City right-of-way; however, Public Utilities staff reviewed this application on November 3, 2025, and had no objections.

It should be disclosed that inground swimming pools located on interior lots (i.e., non-through lots) generally enjoy a minimal 5-foot required yard when positioned behind the home; however, the required yard increases to 20 feet when an inground swimming pool is proposed behind the home on a through lot.

**For this report, the term 'verge' is defined as a strip of ground alongside a road that separates the roadway from private property and is often covered in grass or other vegetation.*

KEY CONSIDERATIONS:

- Such need for the variance appears to be shared by other through lots within the subject community.
- The variance request seems contrary to the purpose of the zoning ordinance.
- The applicants commendably reduced the variance request from 9 feet to 5 feet of required yard encroachment (i.e., from an 11-foot setback to a 15-foot setback instead of 20 feet as required).

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

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

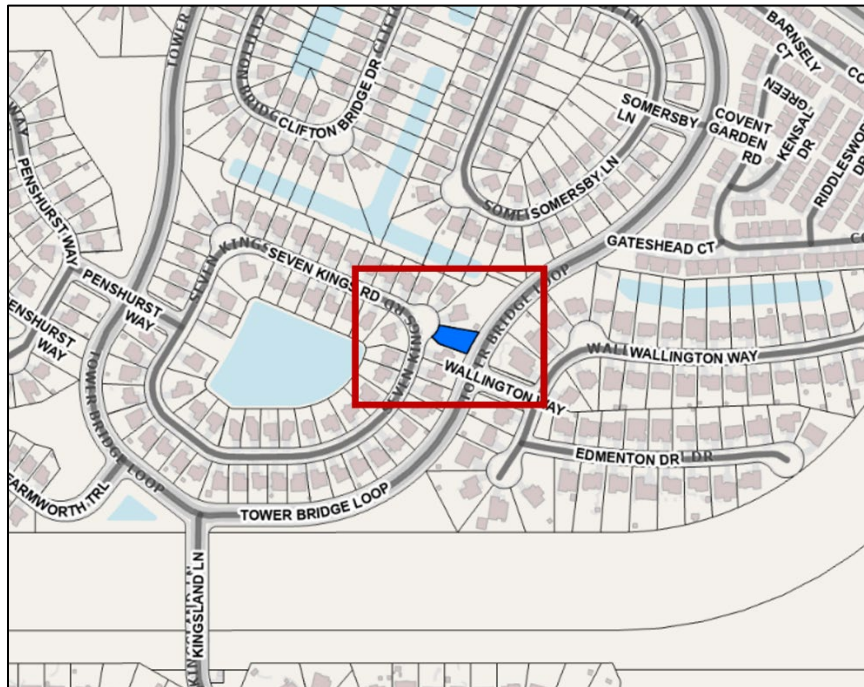
APPLICANT STATED HARDSHIP:

"We learned our property is subject to a 20-foot rear setback requirement. Strict compliance with this requirement creates a hardship, as it significantly reduces the buildable area of the rear yard and makes installation of a reasonably sized pool impractical. Granting a variance to allow a reduced setback to approximately 11 feet [applicant increased setback request to 15 feet] from the fence line will relieve this hardship while still providing a meaningful buffer from the road. The reduced setback will not create safety concerns, will be screened by fencing and landscaping, and will remain compatible with the neighborhood. This is supported by the fact that it was already approved by the HOA, which exist to maintain consistent neighborhood standards. In addition, several properties that also back up to Tower Bridge Rd have pools that can be observed to also appear less than 20 feet from the fence line. There is one in particular within a few houses of our property that satellite imaging would suggest the pool sits only 7 feet from the fence line. Approval of this request would allow for a safe, functional, and common residential improvement, consistent with both the character of the surrounding neighborhood and the intent of the zoning ordinance."

RECOMMENDED CONDITIONS IF APPROVED:

1. The proposed improvements shall be constructed in substantial conformance to the marked submitted exhibit titled, "Physical Survey of Lot 20, Castleton at London Bridge, Village F," dated December 15, 2021, and prepared by DKT and Associates Land Surveyors (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 grant the Zoning Administrator the right to interpret substantial conformance with the Board approved plan.
2. The existing 8.2-foot by 8.2-foot shed located in the southeast corner of the subject property shall either be moved to meet minimum City Zoning Ordinance requirements or removed from the subject property. This shall occur prior to the final inspection of any permits issued for the subject improvements, or six months from this Boards action, whichever occurs first.
3. 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 shown, on the submitted exhibit (i.e., *Exhibit A*). Approval of this application does not annul, interfere with, or invalidate such claims.
4. Any existing structures shown on *Exhibit A*, as found in the *Site Plan* section of this staff report, that do not meet 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. All applicable permits shall be obtained from the City of Virginia Beach Planning Department and/or any other relevant authority.

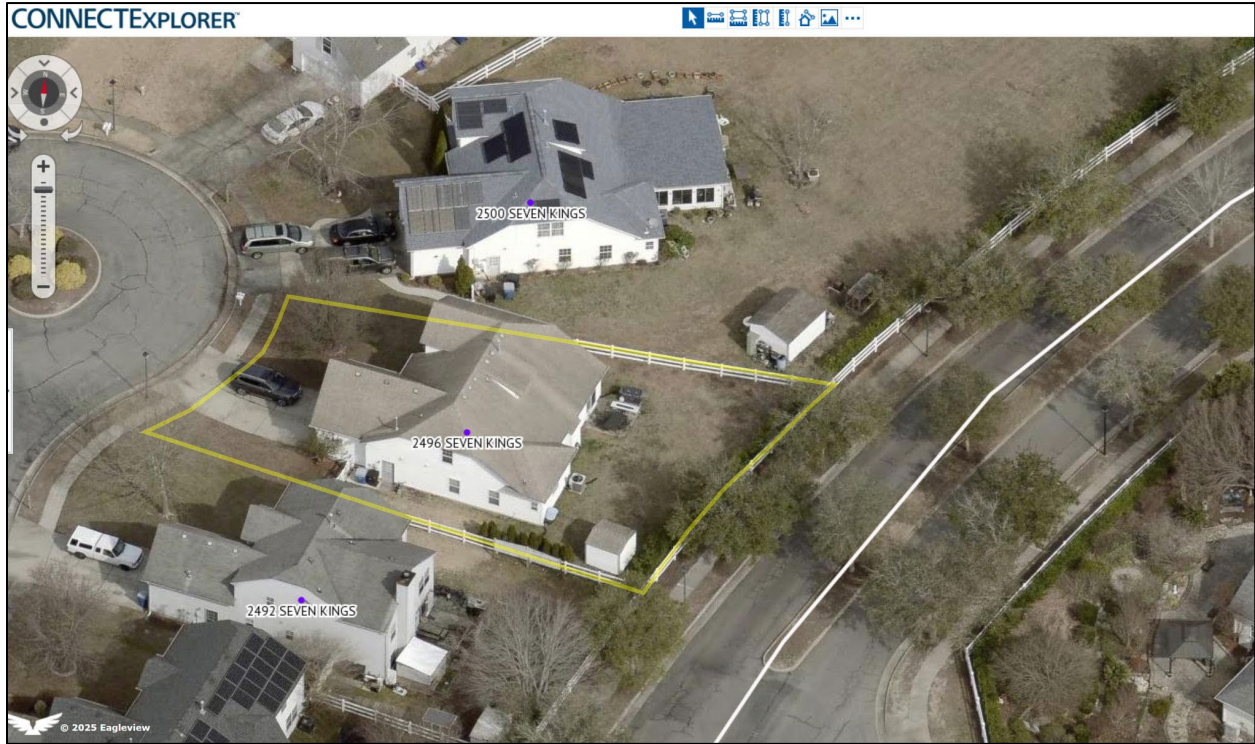
LOCATION MAPS:



AERIAL:



AERIAL (DETAIL):

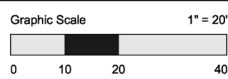
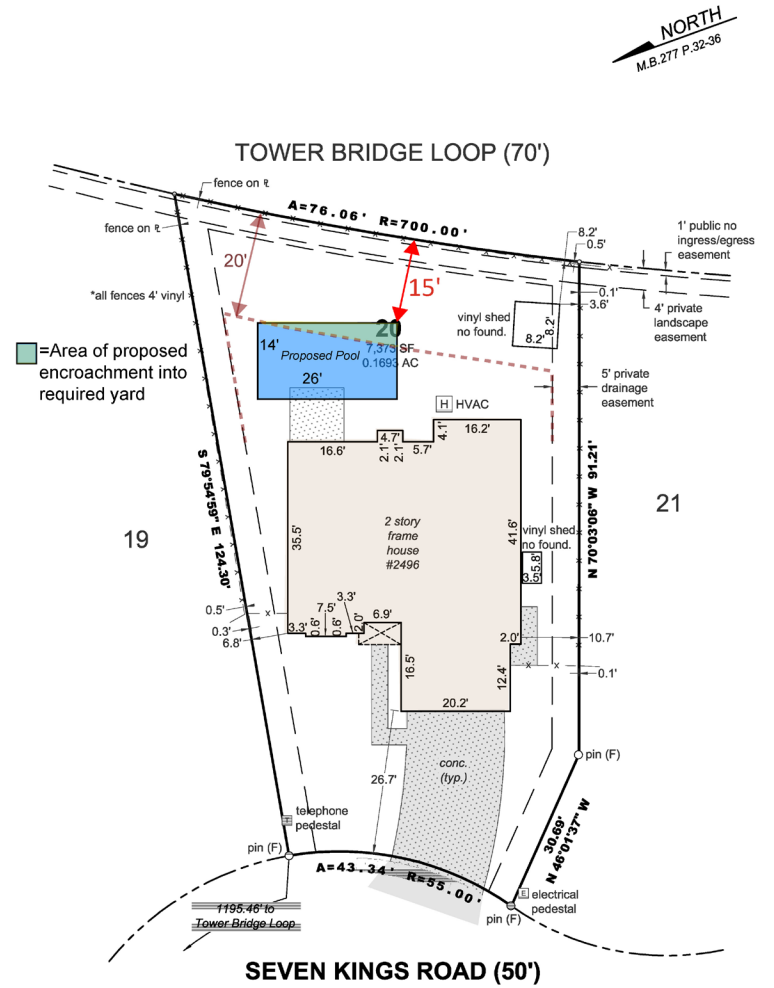


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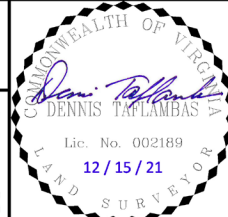


SITE PLAN (EXHIBIT A):

1. The land boundary survey shown hereon is based on a current field survey performed on December 13, 2021 and in combination with the plat(s) and / or deed(s) referenced herein. This survey was prepared without the benefit of a title report and is intended to only show easements that are described on the plat of record unless otherwise noted.
2. This property does not fall within a Special Flood Hazard Area as shown on the FEMA NFIP FIRM for the city of Virginia Beach, Virginia. Community Panel Number: 515531 0118 F Dated: May 4, 2009 This property falls within flood zone(s): X

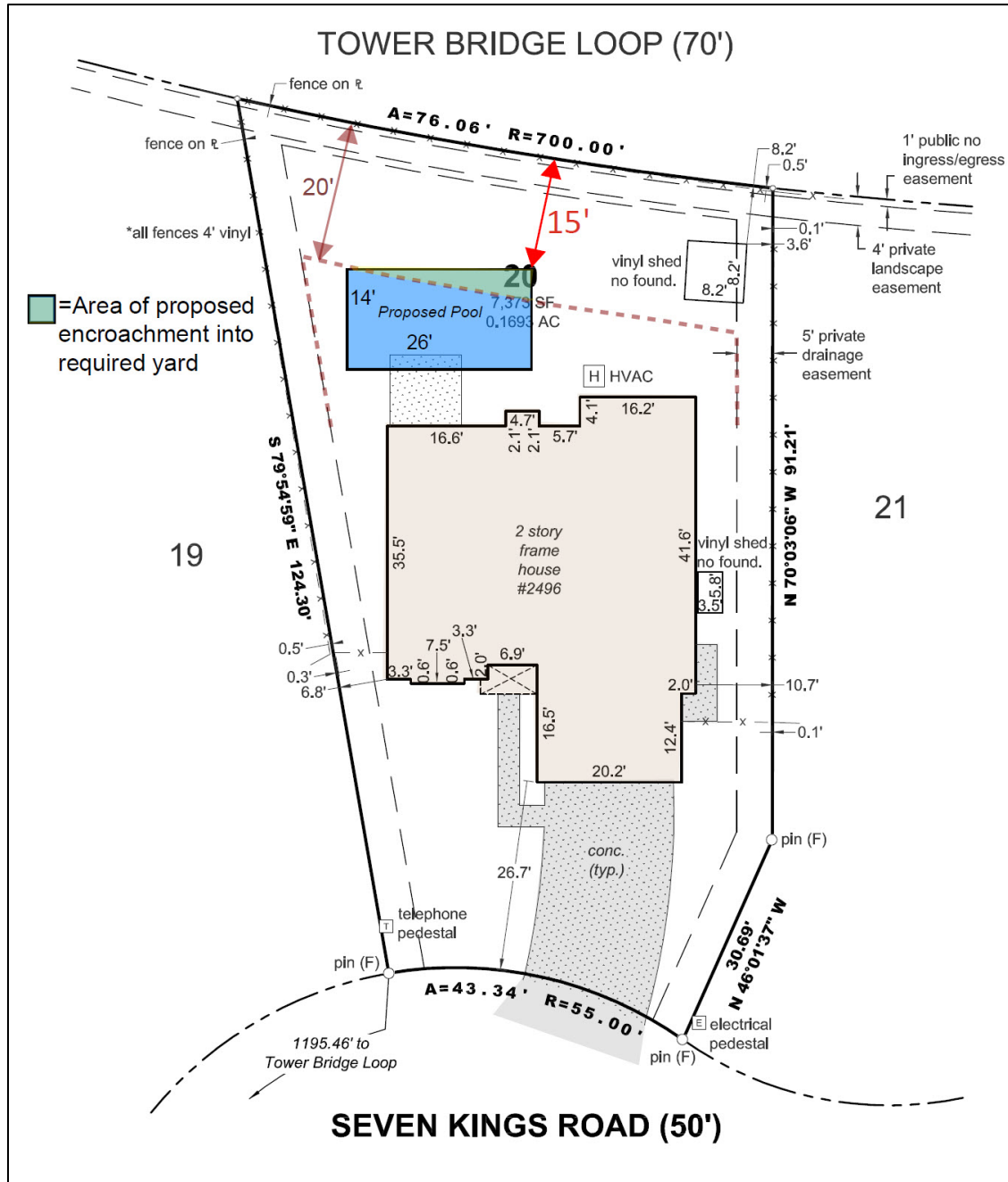


DKT Associates
LAND SURVEYORS
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Fax (757) 588-5880 dktassociates@gmail.com



PHYSICAL SURVEY			
Lot 20			
Castleton At London Bridge			
Village 'F'			
(M.B.277 P.32-36)			
Virginia Beach, Virginia		December 15, 2021	
For: Luis & Sara Ramirez			
Job Number	25287	Drawing Scale	1" = 20'
Field Book	368/10	Paper Size	Legal
Field Crew	PE	Revised	--
Drawn By	JSB	Sheet	1 of 1
Reviewed	RGB		

SITE PLAN DETAIL (EXHIBIT A):



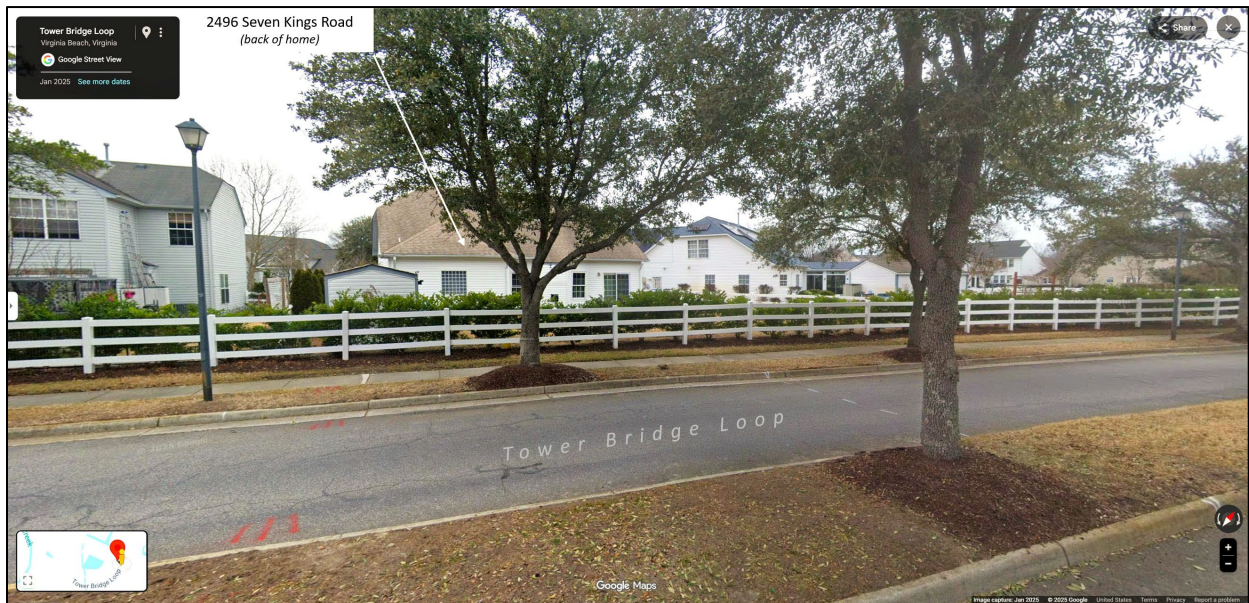
PHOTOGRAPHS:




PHOTOGRAPHS:



PHOTOGRAPHS:



DISCLOSURE STATEMENT:

	CITY OF VIRGINIA BEACH	<h2 style="margin: 0;">Disclosure Statement</h2>												
<p><i>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.</i></p>														
SECTION 1: APPLICANT DISCLOSURE														
<p>APPLICANT INFORMATION</p> <p>Applicant Name: as listed on application <u>Sara Ramirez</u></p> <p>Is Applicant also the Owner of the subject property? Yes <input type="radio"/> No <input checked="" type="radio"/></p> <p><i>If no, Property Owner must complete SECTION 2: PROPERTY OWNER DISCLOSURE (page 3).</i></p> <p>Does Applicant have a Representative? Yes <input type="radio"/> No <input checked="" type="radio"/></p> <p><i>If yes, name Representative: _____</i></p> <p>Is Applicant a corporation, partnership, firm, business, trust or unincorporated business? Yes <input type="radio"/> No <input checked="" type="radio"/></p> <p><i>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.)</i></p> <div style="border: 1px solid black; height: 30px; margin-top: 5px;"></div> <p>Does the subject property have a proposed or pending purchaser? Yes <input type="radio"/> No <input checked="" type="radio"/></p> <p><i>If yes, name proposed or pending purchaser: _____</i></p> <p>KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE</p> <p>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 <input type="radio"/> No <input checked="" type="radio"/></p> <p><i>If yes, name the official or employee, and describe the nature of their interest.</i></p> <div style="border: 1px solid black; height: 30px; margin-top: 5px;"></div> <p>APPLICANT SERVICES DISCLOSURE</p> <p>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.)</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"><thead><tr><th style="width: 40%;">SERVICE</th><th style="width: 10%;">YES</th><th style="width: 10%;">NO</th><th style="width: 40%;">SERVICE PROVIDER <small>(Name entity and/or individual)</small></th></tr></thead><tbody><tr><td>Financing (mortgage, deeds of trust, cross-collateralization, etc.)</td><td style="text-align: center;"><input type="radio"/></td><td style="text-align: center;"><input checked="" type="radio"/></td><td></td></tr><tr><td>Real Estate Broker/Agent/Realtor</td><td style="text-align: center;"><input type="radio"/></td><td style="text-align: center;"><input checked="" type="radio"/></td><td></td></tr></tbody></table>			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"/>	
SERVICE	YES	NO	SERVICE PROVIDER <small>(Name entity and/or individual)</small>											
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Real Estate Broker/Agent/Realtor	<input type="radio"/>	<input checked="" type="radio"/>												
<div style="display: flex; justify-content: space-between;">Disclosure Statement rev. May-2024page 1 of 3</div>														

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 type="radio"/>	<input checked="" type="radio"/>	
Construction Contractor	<input checked="" type="radio"/>	<input type="radio"/>	The Pool Guyz
Engineer/Surveyor/Agent	<input type="radio"/>	<input checked="" type="radio"/>	
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.

Sara Ramirez
Applicant Name (Print)


Applicant Signature

10/02/2025
Date

¹ "Parent-subsidary 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-subsidary 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): 12/12/2025

Wilissa Blair-Miller
Staff Name (Print)

Wilissa Blair-Miller
Staff Signature

Digitally signed by Wilissa Blair-Miller
Date: 2025.12.12 08:44:06 -05'00'

12/12/2025
Date



CASE: 2025-BZA-00084 - AtlantiCoast Development, LLC.

HEARING DATE: January 7, 2026

TO: Chairman, Board of Zoning Appeals

FROM: Wilissa Blair-Miller, Planner III

ADDRESS ASSOCIATED WITH VARIANCE REQUEST:

100 Butts Lane (Temporary Address)

REPRESENTATIVE:

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

VARIANCE REQUEST(S) (ABBREVIATED):

Variances to the required yards for a proposed single-family dwelling.

VARIANCE REQUEST(S) (DETAILED):

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

FRONT YARD (NORTHWEST): A front yard setback variance to 25 feet instead of 30 feet as required for the construction of a single-family dwelling.

SIDE YARD ADJACENT TO A STREET (NORTHEAST – LONGSTREET AVENUE): A side corner setback variance to 10 feet instead of 30 feet as required for the construction of a single-family dwelling.

REAR YARD (SOUTHEAST): A rear yard setback variance to 15 feet instead of 20 feet as required for the construction of a single-family dwelling.

GEOGRAPHIC PARCEL INFORMATION NUMBERS (GPIN):

2417-53-6650

LOT AREA:

- 3,067 square feet (.07 acres) (per plat)

AICUZ:

APZ II, greater than 75 decibels (acoustical performance standards of construction are required in accordance with Appendix I, Section 5 of the City Code)

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:

- Vacant Lot
- R-7.5 (Residential District)
- Not in a Strategic Growth Area

NOTE: The property is located within the Historic Seatack Suburban Focus Area. The November 20, 2018, adopted revision to the City's Comprehensive Plan includes recommendations that residential building designs within this area are visually interesting and provide memorable character, among others. Given the constraints of the subject property, the submitted rendering of the proposed home and landscaping appears to fulfill this recommendation.

SURROUNDING LAND USES/ZONING DISTRICTS:

- North: Residential (single-family), 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:

- N/A (Vacant Lot)

EXTENT OF PROJECT:**New single-family dwelling** (variance requested)

Proposed new home located 25 feet from the front property line and 10 feet from the side corner property line instead of 30 feet each as required; and 15 feet from the rear property line instead of 20 feet as required.

BACKGROUND INFORMATION:

According to City records, the existing property was created by plat and properly recorded with the land records office on June 24th, 1926. The original parcel was 50 feet wide, 93 feet deep, and contained 4,650 square feet in area. On December 21, 1982, a deed was recorded conveying 12.5 feet by 93 feet of property abutting Longstreet Avenue and 11.21 feet by 50 feet of property abutting Butts Lane to the City of Virginia Beach (deed book 2231 at page 1218). This reduced the subject lot area to 3,067 square feet, the lot width to 37.64 feet, and the lot depth to 81.79 feet.

The applicant is requesting to reduce the required front, side corner, and rear yards in order to construct a new single-family dwelling on the vacant subject property.

This century-old corner parcel sits at the intersections of Butts Lane and Longstreet Avenue. While modern corner parcels within the subject zoning district require a minimum of 7,500 square feet of lot area and 85 feet of lot width, this property is legally nonconforming to such requirements due to its age and the noted 1982 land take by the City. Moreover, it must be stressed that the original subject property was not only nonconforming to modern lot dimensional requirements, but such deficiencies were exacerbated by the 1982 land reduction.

Based on the current size and width of the subject property, a building area of only 2.5 feet by 31.79 feet is available after applying all required yard widths, which is an insufficient amount of space to construct a single-family dwelling.

KEY CONSIDERATIONS:

- The strict application of the ordinance seems to unreasonably restrict the utilization of the property.
- The need for the requested variances does not appear to be generally shared by other properties.
- The granting of the variance would certainly alleviate a hardship due to 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

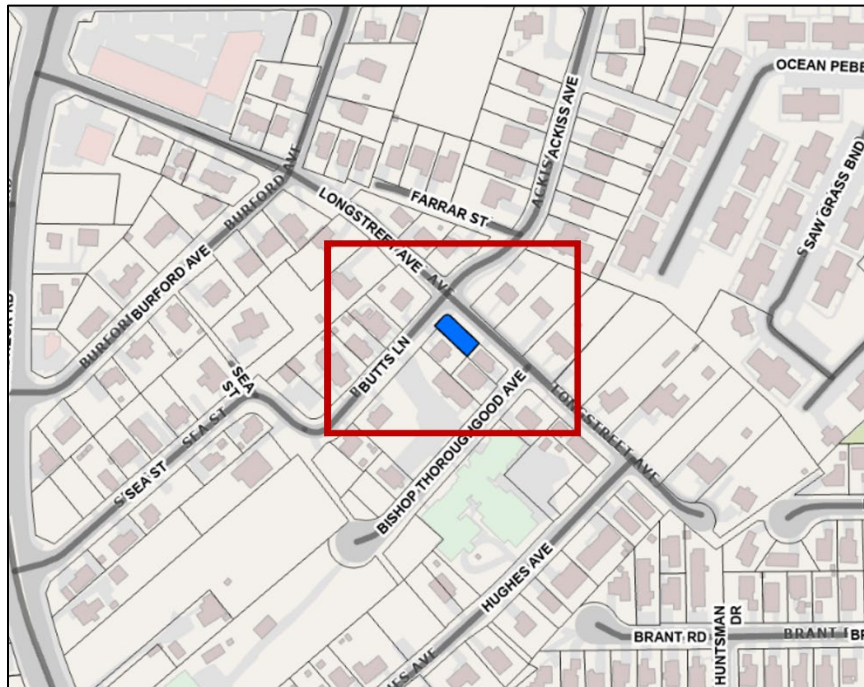
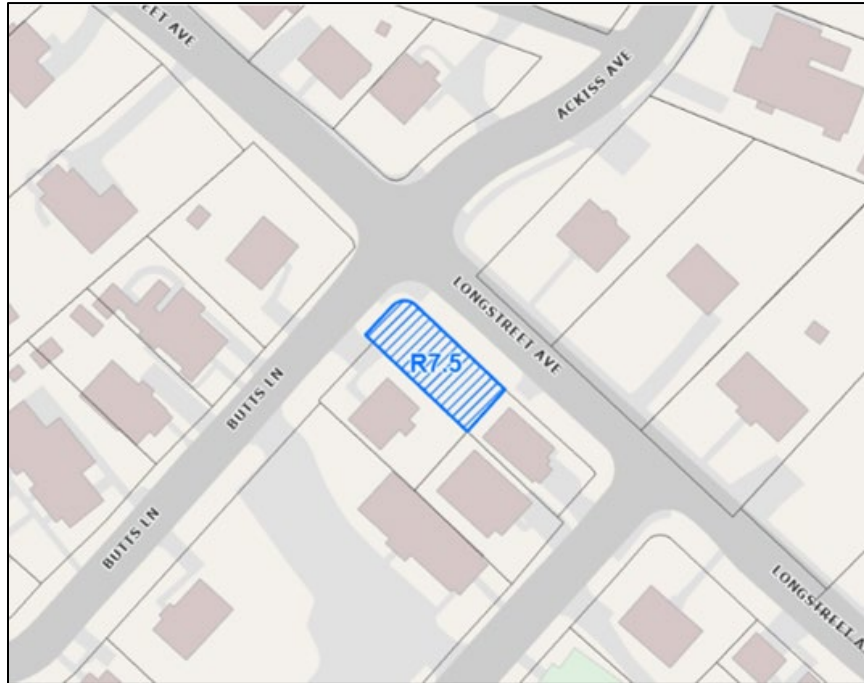
APPLICANT STATED HARDSHIP:

"The subject property was a platted lot and in existence prior to the adoption by Princess Anne County of its first Subdivision and Zoning Ordinance. Application of the subsequently adopted setbacks in the currently applicable R-7.5 Zoning District would constitute a taking of the property and is unassailably a legally recognized undue hardship. It is also a hardship upon which the Virginia Beach Board of Zoning Appeals based the granting of the same variances for the home on the adjacent property to the south (101 Erie Avenue) on October 15, 2003. Evidence to support all four (4) findings listed in Section 15.2-2309 of the Code of Virginia support this application."

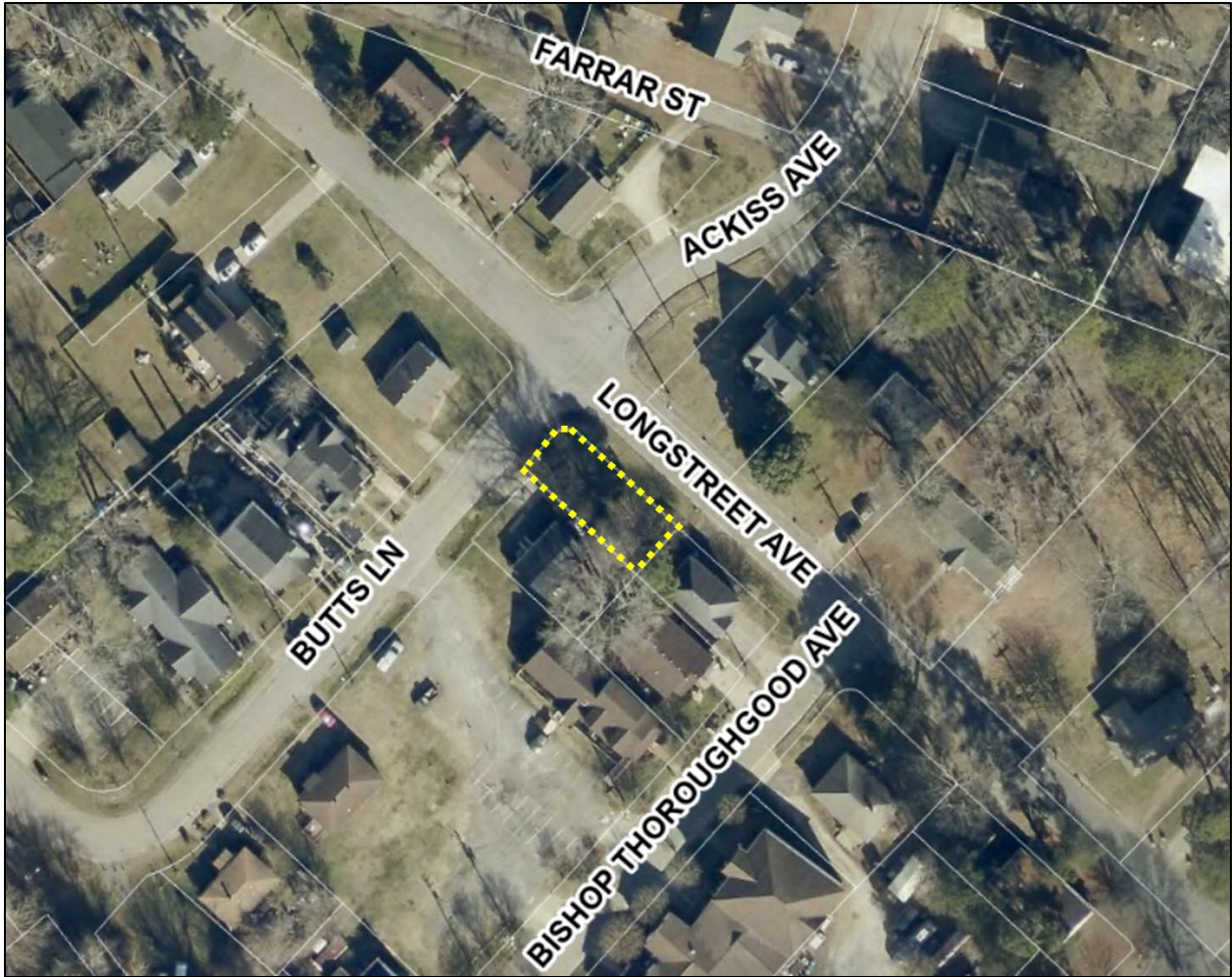
RECOMMENDED CONDITIONS IF APPROVED:

1. The proposed improvements shall be constructed in substantial conformance to the marked submitted exhibit titled, “BZA Variance Site Plan of Part of Lot 9, Plan of Douglas Park,” dated November 5, 2025, and prepared by Rouse-Sirine Associates, LTD (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 grant the Zoning Administrator 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 untitled rendering (shown as *Rendering* 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 rendering, which may include considerations based on compliance with the *Public Works Design Standards Manual*.
3. 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 shown, on the approved exhibit (i.e., *Exhibit A*). Approval of this application does not annul, interfere with, or invalidate such claims.
4. All applicable permits shall be obtained from the City of Virginia Beach Planning Department and/or any other relevant authority.

LOCATION MAPS:



AERIAL:



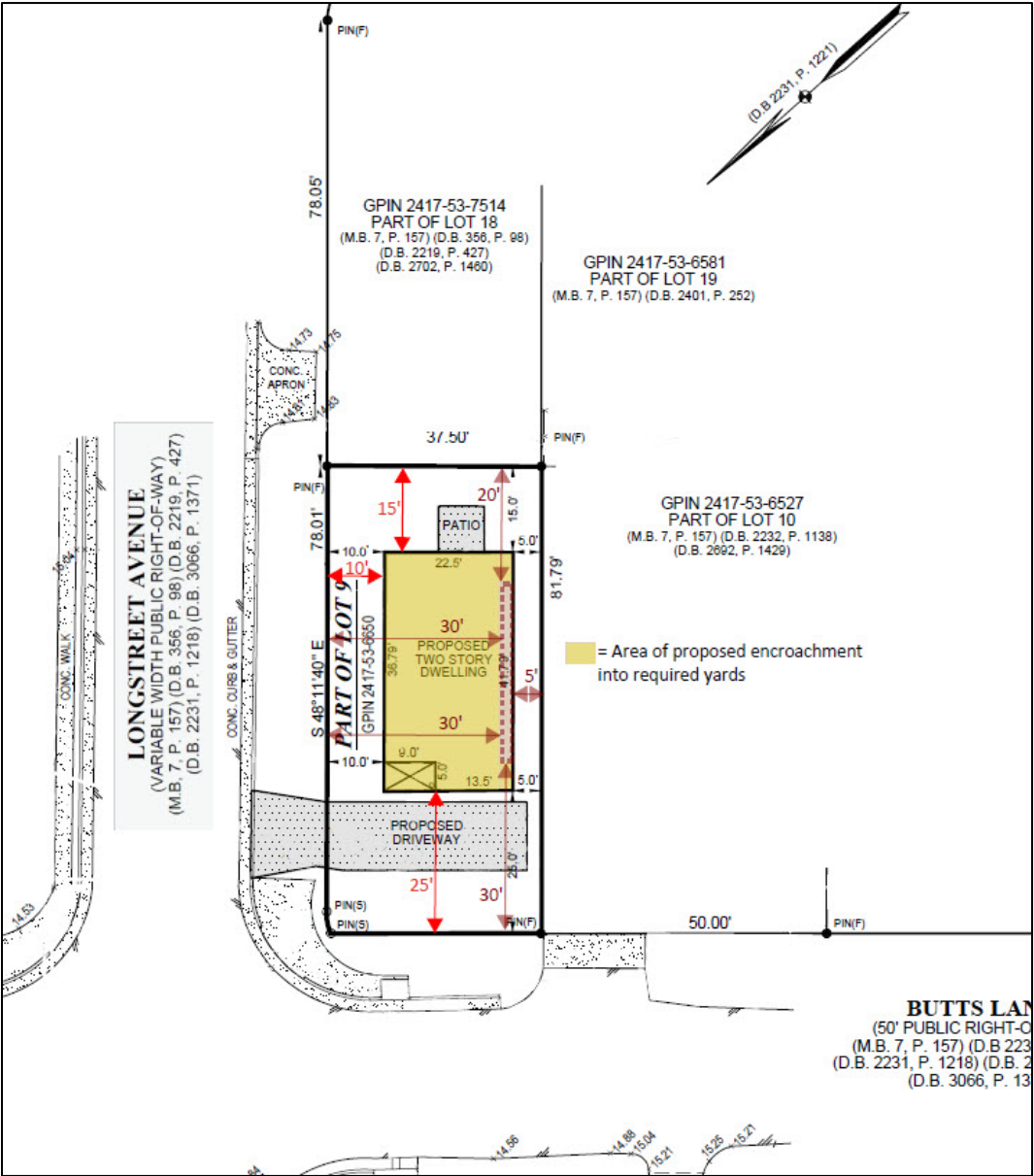
AERIAL (DETAIL):



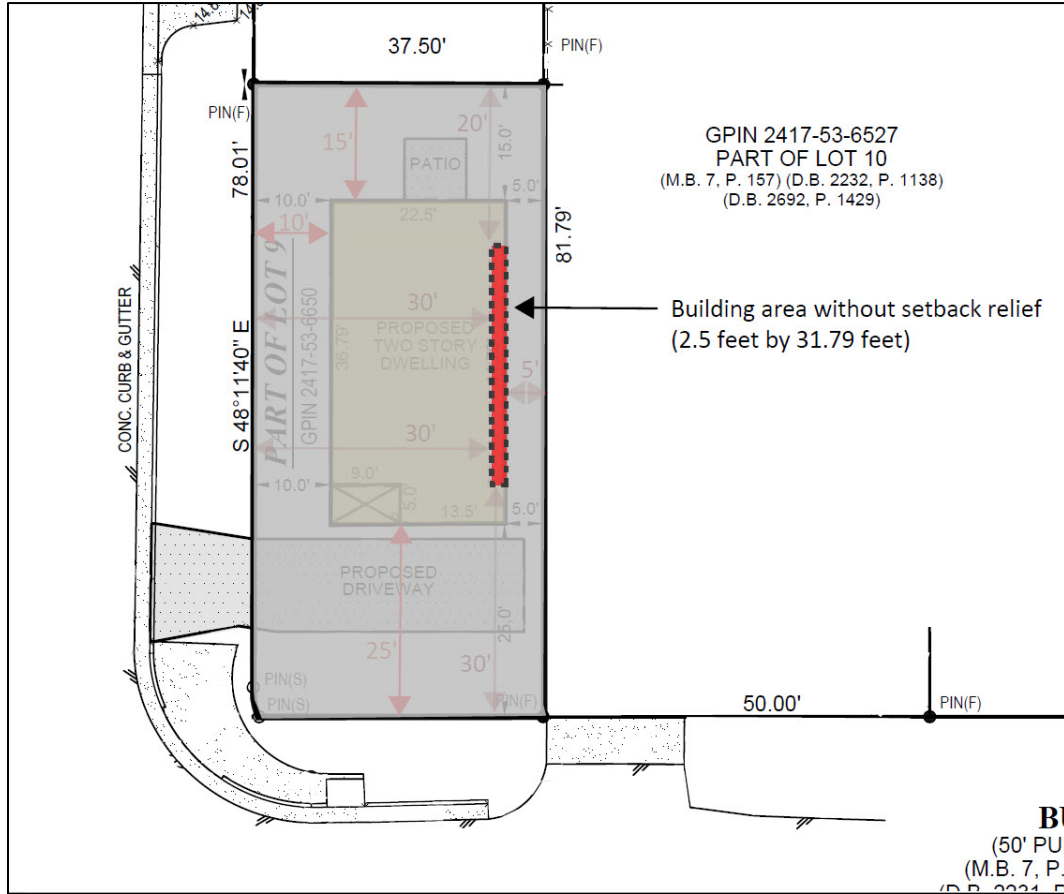
8 | 2025-BZA-00084



SITE PLAN DETAIL (EXHIBIT A):



BUILDING AREA WITHOUT RELIEF:



PHOTOGRAPHS:



PHOTOGRAPHS:



PHOTOGRAPHS:



RENDERING:



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: AtlantiCoast Development LLC, a Virginia limited liability company
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- subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach list if necessary.)

Nicholas W. Hames, Sole Member

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 (Name entity and/or individual)
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"/>	

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 type="radio"/>	<input checked="" type="radio"/>	
Construction Contractor	<input checked="" type="radio"/>	<input type="radio"/>	Geroge Alcaraz, CSM, LLC
Engineer/Surveyor/Agent	<input checked="" type="radio"/>	<input type="radio"/>	Jeffrey D. Williams, Rouse-Sirine & Associates, Ltd.
Legal Services	<input checked="" type="radio"/>	<input type="radio"/>	R. Edward Bourdon, Jr., 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.

Nicholas W. Hames, Member

Applicant Name (Print)

Nicholas Hames

Applicant Signature

10/29/2025

Date

¹ "Parent-subsidary 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-subsidary 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): 12-12-2025

Wilissa Blair-Miller

Staff Name (Print)

Wilissa Blair-Miller

Staff Signature

12-12-2025

Date



CASE: 2025-BZA-00090 - Joseph Malony
HEARING DATE: January 7, 2026
TO: Chairman, Board of Zoning Appeals
FROM: Wilissa Blair-Miller, Planner III

ADDRESS ASSOCIATED WITH VARIANCE REQUEST:

2332 Greenwell Road

REPRESENTATIVE:

Scott Westfall

VARIANCE REQUEST(S) (ABBREVIATED):

A variance to the required yard for a one-story shed

VARIANCE REQUEST(S) (DETAILED):

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

SIDE YARD (NORTH): A side yard setback variance to 5 feet instead of 10 feet as required for a one-story shed.

GEOGRAPHIC PARCEL INFORMATION NUMBERS (GPIN):

1479-59-8216

LOT AREA:

- 10,593 square feet (.24 acres) (per survey)

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 1983)
- R-10(SD) (Residential District) (Shore Drive Overlay)
- Not in a Strategic Growth Area

SURROUNDING LAND USES/ZONING DISTRICTS:

- North: Residential (single-family), R-10(SD)
- South: Residential (single-family), R-10(SD)
- East: Residential (single-family), R-10(SD)
- West: Northampton Boulevard

EXISTING CONDITIONS:

- Existing Shed (10.2 feet by 24 feet): 46 feet from front property line (west)
- Existing Shed (10.2 feet by 24 feet): 5 feet from side property line (north)
- Existing Shed (10.2 feet by 24 feet): 41 feet from rear property line (east)

EXTENT OF PROJECT:

Proposed expansion to existing shed (variance requested)

Proposed expansion to an existing 161.16 square foot shed. The proposed 8-foot by 10.2-foot expansion would result in a 242.76 square foot one-story shed positioned 5 feet from the side property line instead of 10 feet as required.

BACKGROUND INFORMATION:

According to City records, the existing home was constructed in 1983. At the time of construction, the subject property was located within an R5 zoning district. In 1988, the R5 district was renamed to R-10, which is the current designation.

The applicant would like to expand an existing shed on the subject property that presently encroaches into the 10-foot required yard.

According to *Connect Explorer* satellite imagery and *Google Street View* imagery, the existing one-story shed appears to have been at the subject location since at least 2005, but it has likely been on site longer. Nevertheless, because the shed is over 150 square feet in size, albeit only slightly at 161.16 square feet, a 10-foot side yard has been required for the structure since the property's development in 1983. Additionally, no applicable City taxes have been paid associated with the existing shed, so it does not appear to enjoy legal nonconformity status or vested rights in accordance with Section 15.2-2307 of the Code of Virginia. In other words, the existing 161 square foot shed should have originally been placed at least 10 feet from the subject side property line instead of its present 5-foot distance.

The applicant would like to expand the existing shed with a proposed 10.2-foot by 8-foot addition, while maintaining the current 5-foot encroachment into the required side yard. This additional 81.6 square feet would increase the overall square footage of the subject structure to 242.76 square feet.

It is recognized that the shape of the subject property boundaries and positioning of the existing home are slightly atypical; however, these matters do not arguably prevent the placement of multiple small sheds on the property that are 150 square feet or less in size, as such smaller sheds enjoy a required yard of only 5 feet from the side and rear property lines.

KEY CONSIDERATIONS:

- While debatable, the strict application of the ordinance does not seem to unreasonably restrict the utilization of the property since smaller sheds may be placed on the lot at the applicant's desired distance from the side property line.
- The requested variance seems to be generally shared by other properties.
- Because the City Zoning Ordinance was modified on November 27, 2001, to allow smaller sheds to be located as close as 5 feet to certain side and rear property lines, the requested variance appears to be contrary to the purpose of the ordinance.
- Any expansions to the already improperly located existing shed would seemingly be contrary to the purpose of the ordinance.
- While slightly unusual, the position of the existing home and shape of the lot do not appear to prevent the applicant from placing accessory storage units on the property.

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

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

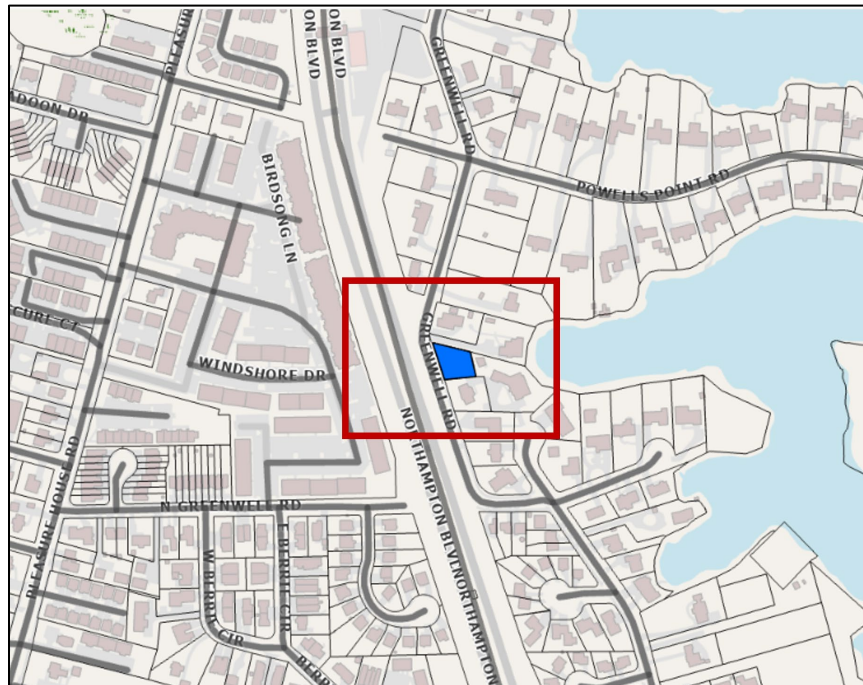
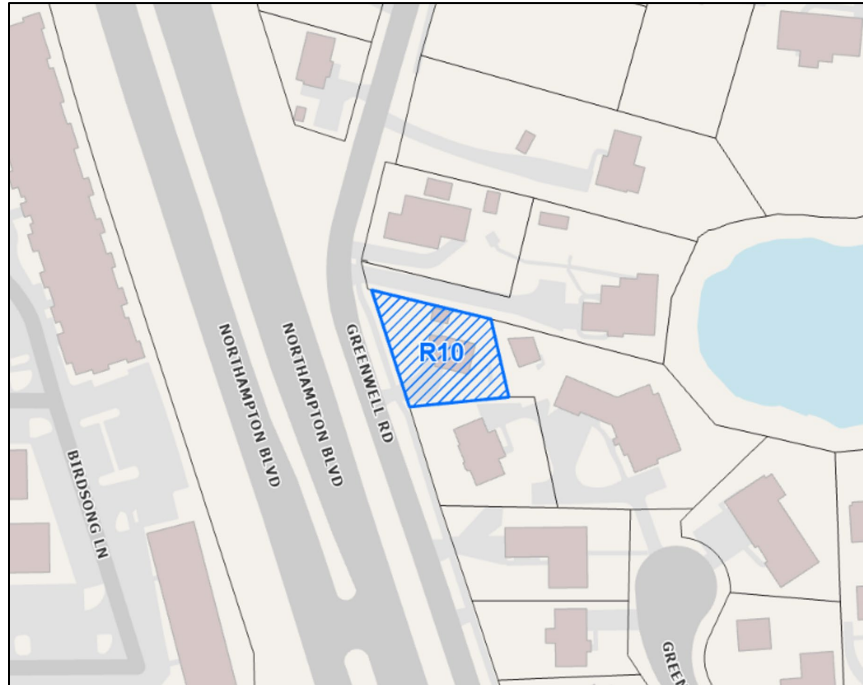
APPLICANT STATED HARDSHIP:

"Due to shape and dimensions of the rear yard, adhering to the 10 foot setback does not allow sufficient room for passage between home and reasonable size width accessory shed. Additionally, it would interfere with drainage or utilities near the main house. The shape and layout of this property create a practical difficulty that prevents the placement of a standard sized storage shed in full compliance with the 1-foot side yard setback requirement. The distance between the side property line and the principal dwelling is approximately 29 feet. If the 10-foot setback was maintained, only 8-9 feet of space would remain between the shed and home. This limited space is insufficient for safe access and maintenance, and it conflicts with existing utility and drainage features located within approximately three feet of the house, including both electrical and gas. There are no alternative locations in the yard that can reasonably accommodate a shed of this standard size without conflicting with other physical constraints, including deck, patio, and existing yard features. The hardship is not self-created, as the lots configuration and existing utility placements were established prior to the current owner's request. The proposed shed will be placed on non-permanent blocks and will not be affixed to a foundation. The structure will be used solely for residential storage and will not negatively impact adjacent properties, public health, or safety. The requested reduction to a 5-foot setback maintains sufficient separation from the property line to allow drainage, access, and visual compatibility with neighboring homes. Granting this variance would allow for reasonable use of the property consistent with the intent of the zoning ordinance, without altering the character of the neighborhood or impairing the purpose of the setback regulations. The request meets the intent of the Virginia State Code 15.2-2309 (A)(2), as it seeks relief from a regulation that causes an unnecessary hardship due to unique property conditions not shared by other nearby lots. The requested variance will enable the placement of a standard, code-compliant accessory structure in a location that balances functionality, safety, and neighborhood character."

RECOMMENDED CONDITIONS IF APPROVED:

1. The proposed improvements shall be constructed in substantial conformance to the marked submitted exhibit titled, "Physical Survey for Joseph L. Maloney, Lot D-2," dated October 23, 2025, and prepared by Colliers Engineering and Design (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 grant the Zoning Administrator the right to interpret substantial conformance with the Board approved plan.
2. The subject one-story accessory structure (i.e., subject shed) shall meet all City Zoning Ordinance requirements pertaining to use.
3. The subject one-story accessory structure (i.e., subject shed) shall not exceed the height of the principal structure.
4. The subject one-story accessory structure (i.e., subject shed), in combination with any other applicable accessory buildings on the subject property, shall not exceed the maximum permissible square footage of floor area allowed by the City Zoning Ordinance.
5. Approval is only for the life of the subject accessory structure (i.e., shed). The Zoning Administrator is authorized to determine the meaning of 'life of the subject accessory structure.'
6. The applicant, or any future owner of the subject property, shall maintain the subject accessory structure (i.e. 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. 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.
8. 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.
9. 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:



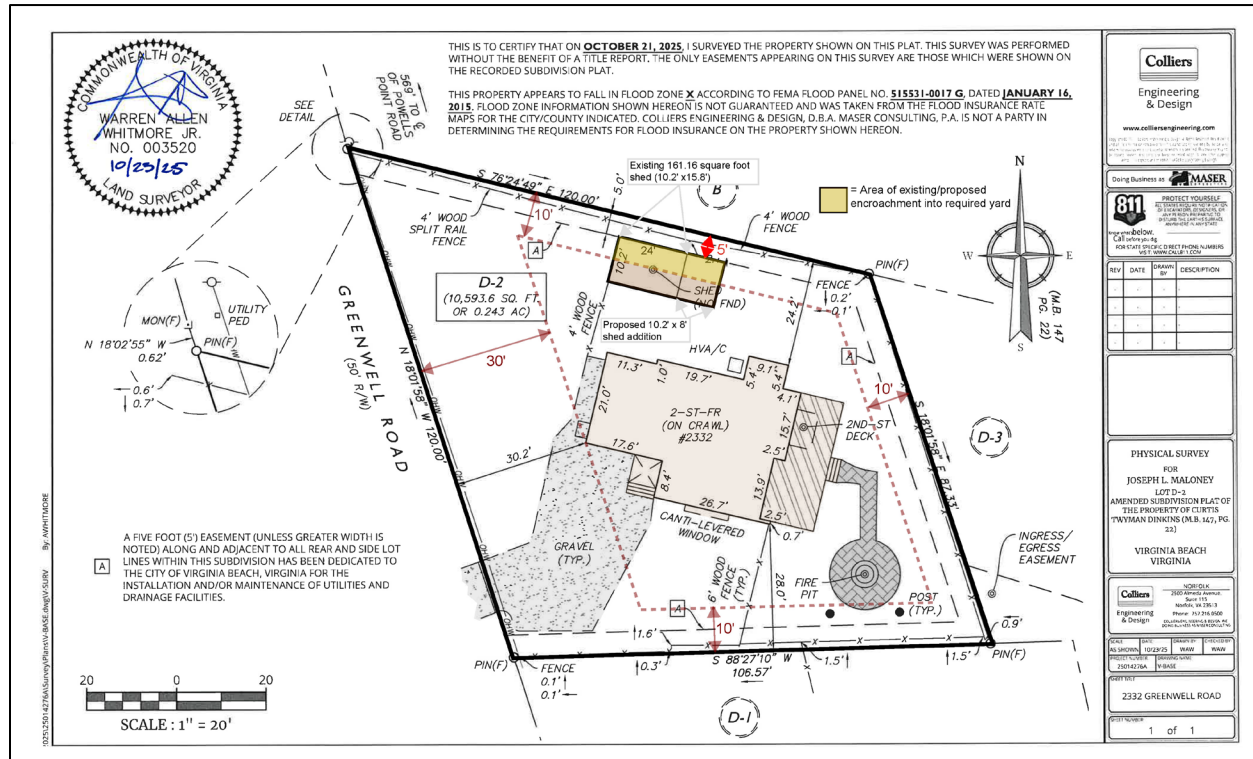
AERIAL (DETAIL):



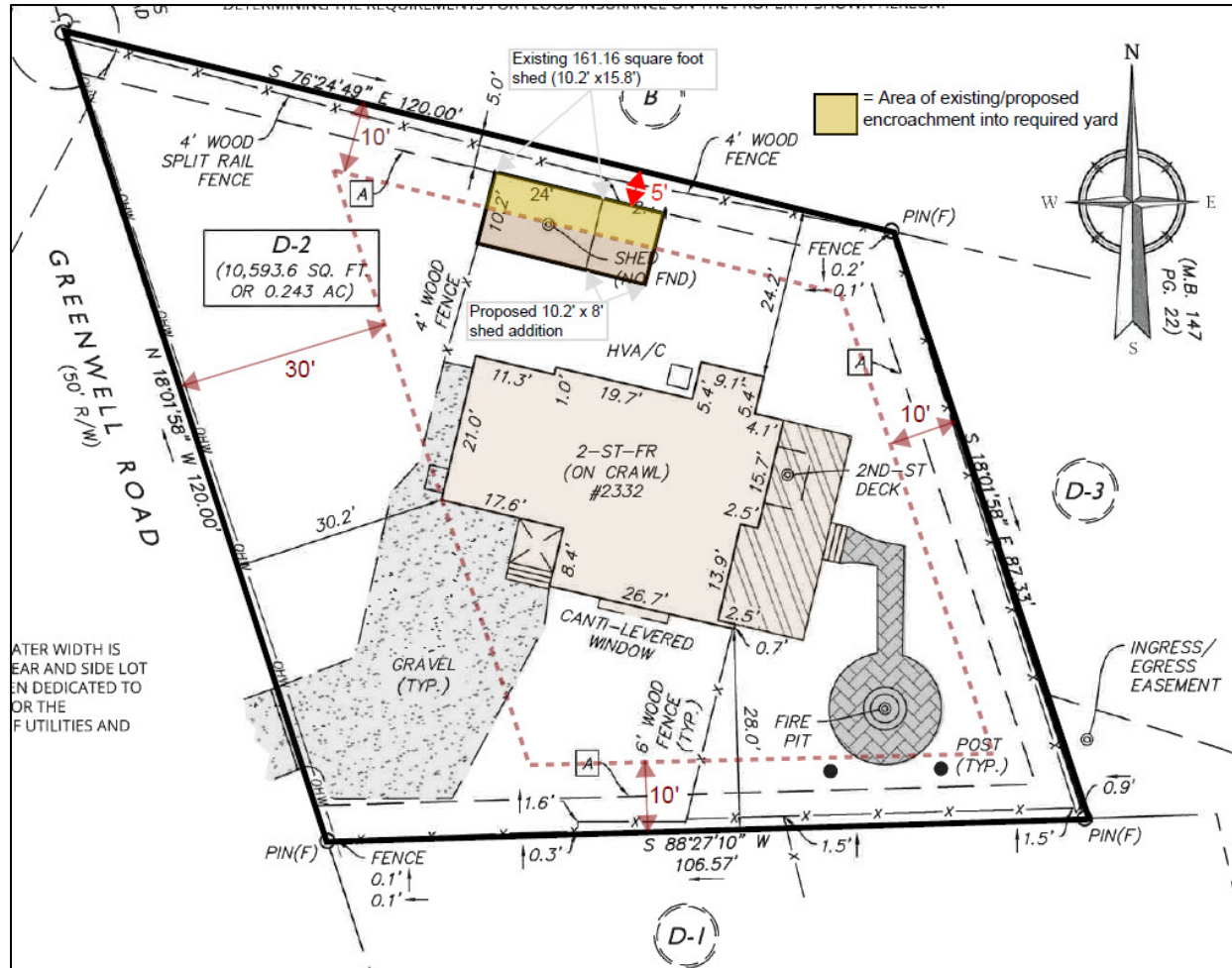
AERIAL (DETAIL):



SITE PLAN (EXHIBIT A):



SITE PLAN DETAIL (EXHIBIT A):



PHOTOGRAPHS:




PHOTOGRAPHS:



PHOTOGRAPHS:



DISCLOSURE STATEMENT:

	CITY OF VIRGINIA BEACH	<h2 style="margin: 0;">Disclosure Statement</h2>												
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SECTION 1: APPLICANT DISCLOSURE														
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<table border="1" style="width: 100%; border-collapse: collapse;"><thead><tr><th style="width: 40%;">SERVICE</th><th style="width: 10%;">YES</th><th style="width: 10%;">NO</th><th style="width: 40%;">SERVICE PROVIDER <small>(Name entity and/or individual)</small></th></tr></thead><tbody><tr><td>Financing (mortgage, deeds of trust, cross-collateralization, etc.)</td><td style="text-align: center;"><input type="radio"/></td><td style="text-align: center;"><input checked="" type="radio"/></td><td style="border: 1px solid black; height: 20px;"></td></tr><tr><td>Real Estate Broker/Agent/Realtor</td><td style="text-align: center;"><input type="radio"/></td><td style="text-align: center;"><input checked="" type="radio"/></td><td style="border: 1px solid black; height: 20px;"></td></tr></tbody></table>			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"/>	
SERVICE	YES	NO	SERVICE PROVIDER <small>(Name entity and/or individual)</small>											
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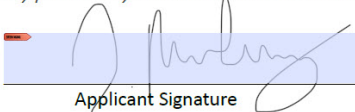
DISCLOSURE STATEMENT:

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 type="radio"/>	<input checked="" type="radio"/>	
Construction Contractor	<input type="radio"/>	<input checked="" type="radio"/>	
Engineer/Surveyor/Agent	<input type="radio"/>	<input checked="" type="radio"/>	
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.

Joseph L. Maloney		12/12/2025
Applicant Name (Print)	Applicant Signature	Date

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FOR CITY USE ONLY:

No changes as of (date): 12-15-2025

Wilissa Blair-Miller	Wilissa Blair-Miller	12-15.-2025
Staff Name (Print)	Staff Signature	Date

Digitally signed by Wilissa Blair-Miller
Date: 2025.12.15 08:54:56 -05'00'



CASE: 2025-BZA-00091 - Anthony P Nero Trust

HEARING DATE: January 7, 2026

TO: Chairman, Board of Zoning Appeals

FROM: Wilissa Blair-Miller

ADDRESS ASSOCIATED WITH VARIANCE REQUEST:

6408A Ocean Front Avenue (unit 'A' designation recently added to City records)

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 a proposed building addition and existing accessory structure.

VARIANCE REQUEST(S) (DETAILED):

The following variances are requested pursuant to Article 5, Section 502(b1) and Article 5, Section 506 of the City Zoning Ordinance:

SIDE YARD (SOUTH): A side yard setback variance to 7 feet instead of 10 feet as required for an addition to an existing single-family dwelling.

SIDE YARD (SOUTH): A side yard setback variance to 0 feet instead of 5 feet as required for an existing shed.

IMPERVIOUS COVER: A variance to permit 91.7 percent of impervious cover instead of 60 percent as allowed.

GEOGRAPHIC PARCEL INFORMATION NUMBERS (GPIN):

2419-73-7482

LOT AREA:

- 8,000 square feet (.18 acres) (per submitted 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):

April 4, 1973 (granted)

A variance to a 3-foot side yard setback (north) to enclose a second story porch (Board specifically conditioned that the granted variance was only applicable to the subject area above the first floor).

SUBDIVISION ADMINISTRATION COMMENTS:

On December 3, the City Subdivision Administrator provided the following comments:

The subject property consists of two separate parcels - Lot 2 and the western 10' of lot 1, Block 19, Section E Plat of Cape Henry (MB 1, PG 8). The parcels were created prior to the adoption of the Princess Anne County subdivision ordinance. I was only able to find DB 1142, P 692 in the chain of title. It is recommended that a resubdivision plat be submitted for review, approval, and recordation to vacate the property line between the two parcels.

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

- Two single-family dwellings (both built in 1940)

Note: It must be recognized that the subject structure was originally constructed and used as a garage apartment; however, based on the current use allowances in the subject zoning district, the Zoning Administrator recently determined that the structure now falls within the single-family dwelling use category instead of the garage apartment use category.

- R-5R(NE) (Residential 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 renderings associated with the proposed subject improvements, it appears such recommendations will be met.

SURROUNDING LAND USES/ZONING DISTRICTS:

- North: Residential (duplex), R-5R(NE)
- South: Residential (single-family), R-5R(NE)
- East: Unimproved street (Ocean Avenue) and Beach/Atlantic Ocean
- West: Residential (duplex), R-5R(NE)

EXISTING CONDITIONS (SUBJECT DWELLING):

- Dwelling: 22.6 feet from the north property line
- Dwelling: 7.04 feet from the south property line
- Dwelling: 30.08 feet from the west property line
- Dwelling: Greater than 20 feet from the east property line

EXTENT OF PROJECT:**Building addition and existing shed** (variance requested)

Proposed building addition located 7 feet from the southern property line and an existing shed located less than 1-foot from southern property line. The existing impervious surface is presently 92 percent instead of 60 percent, with a reduction to 91.3 percent proposed.

BACKGROUND INFORMATION:

According to City records, the subject building was constructed in 1940, which is well before the Borough of Virginia Beach/Princess Anne County zoning regulations were originally adopted.

The applicant would like to construct a two-story addition onto the western side of the existing subject unit, with such construction aligning with the southernmost wall of the structure (i.e., the wall running east/west presently located 7.04 feet from the southern property line). To put it another way, the proposed addition would be located the same distance from the southern property line as the existing building.

It must be noted that the subject dwelling presently encroaches into the required side yard (south). This is due to the age of the structure, which was built before the first zoning regulations were adopted. Therefore, the subject building is a nonconforming structure relating to its present encroachment into the required side yard (south).

In addition to the proposed building expansion, the applicant would also like a variance to allow an existing 26 square foot shed to remain .7 feet from the southern property line instead of 5 feet as required. City staff are unclear when the shed was placed on the property, but it should be noted that a required yard of 5 feet or more has been mandatory for such structures since the 1950s.

Last, the applicant would like a variance to the maximum allowable percentage of impervious cover on the property. Currently, the subject lot contains 92 percent impervious cover; however, the applicant is proposing to remove some existing impervious material to compensate for the

proposed building addition. In fact, the submitted exhibit notes a reduction in total on-site impervious cover by .7 percent.

As noted in the applicant's submitted *Hardship Statement*, 1,000 square feet of the subject property is used as a private roadway for ingress/egress associated with the subject parcel (Lot 2), the northern parcel (Lot 1), and the southern parcel (Lot 3). When calculating the percentage of impervious cover of the subject lot outside the boundaries of the private roadway, a result of 79.5 percent is revealed, which is 12.5 percent less than the current 92 percent overall coverage.

It must be disclosed that impervious cover percentage was not regulated by the zoning ordinance in the R-5R district until November 27, 2001. As a result, if the current percentage of impervious cover on the subject property were in place before such date, the excess above the threshold would be legally nonconforming. Notwithstanding, a lack of verifiable evidence to prove nonconformity status pertaining to the existing impervious cover percentage prompted this request.

KEY CONSIDERATIONS:

- The proposed building addition would align with the existing nonconforming structure.
- The encroachment request related to the existing shed is a matter seemingly shared by other nearby properties and those throughout the City.
- The encroachment request relating to the existing shed appears to be contrary to the City Zoning Ordinance.

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

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

APPLICANT STATED HARDSHIP:

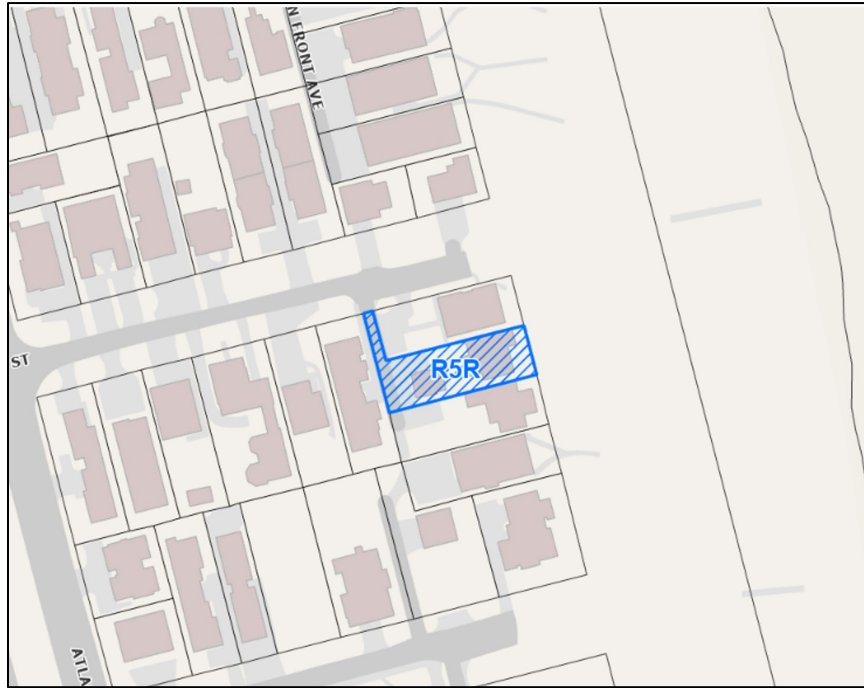
"The impervious surface onsite all predates the adoption about 20 years ago of the sixty percent (60%) limit in the R-5R District. That limit was adopted in part due to concern with stormwater ponding/flooding in some areas of the North End, but not the largely permeable sandy soil along the easternmost Ocean Front lots. It was also adopted as a tool to try and scale back the redevelopment of existing interior lots with new duplexes. As a grandfathered legally non-conforming developed property with ninety-two percent (92%) of impervious surface, this circumstance alone represents a hardship. In addition, the lot is technically a flag-lot which contains a shared 10' x 100' driveway from 65th Street encumbered by an ingress/egress easement benefitting the adjacent home to the south. This 1,000 square feet of impervious surface is essentially an alley providing essential access to both the applicant's home and the neighboring home to the south. The BZA has recognized that bulldozing the dunes on the east side of these Ocean Front lots to create the platted, unimproved street access is not in anyone's best interest and these easement accesses created many decades ago and long before any impervious surface limits were considered should be recognized as a hardship. The characterization of the 300 square feet of the swimming pool full of water as an impervious surface is of questionable logic, especially in this area of porous sandy soil. The Applicant has agreed to remove one hundred eight (108) square feet of existing impervious surface. The existing impervious surface calculation includes 652 square feet of wood deck above sand and 511 square feet of pavers with sand below and the applicant has agreed to remove 108 square feet of existing impervious surface. 1300 square feet of the legally existing non-conforming impervious surface (shared driveway and pool) should be eliminated from the impervious surface "charge" against this property which when coupled with the fact that the proposal itself reduces the impervious surface onsite by 58 square feet brings the percentage of impervious surface down to seventy-eight and nine tenths percent (78.9%). Down from the existing 7361 square feet to 6321 square feet. When this limitation on impervious surface was initially adopted the percentage determination of impervious surface was tied to the regulations in the CBPA ordinance which gave a thirty-five percent (35%) reduction in impervious surface for wood decks with appropriate underdeck treatments which promoted permeability. The same is true with respect to giving credit for permeable paver systems. If those reductions were applied to the subject property, the existing impervious surface covered by the wood deck and pavers would receive a thirty-five percent (35%) credit/reduction of 407 square feet (6321 SF – 407 SF = 5914 SF). This would reduce the net impervious surface down to 73.9% which is within the common range of existing non-conforming impervious percentages at the North End for single family homes and duplexes."

RECOMMENDED CONDITIONS IF APPROVED:

1. The proposed improvements shall be constructed in substantial conformance to the marked submitted exhibit titled, "BZA Exhibit of Lot 2 and the Western 10 feet of Lot 1; Cape Henry," dated August 20, 2025, and December 11, 2025, 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 grant the Zoning Administrator the right to interpret substantial conformance with the Board approved plan.
2. The proposed improvements shall be constructed in substantial conformance to the undated and untitled renderings shown in the *Renderings* section of 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.
3. The subject Lots (i.e., Lot 2 and the Western 10 feet of Lot 1, Block 19) shall be resubdivided through the vacation of the existing property boundary presently separating existing Lot 2 from existing Western 10 feet of Lot 1. 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 HVAC unit located .5 feet from the southern property line shall either be moved to meet minimum City Zoning Ordinance requirements 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. The applicant, or any future owner of the subject property, shall maintain the subject accessory structure (i.e. 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.'
6. 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.

7. 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.
8. 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.

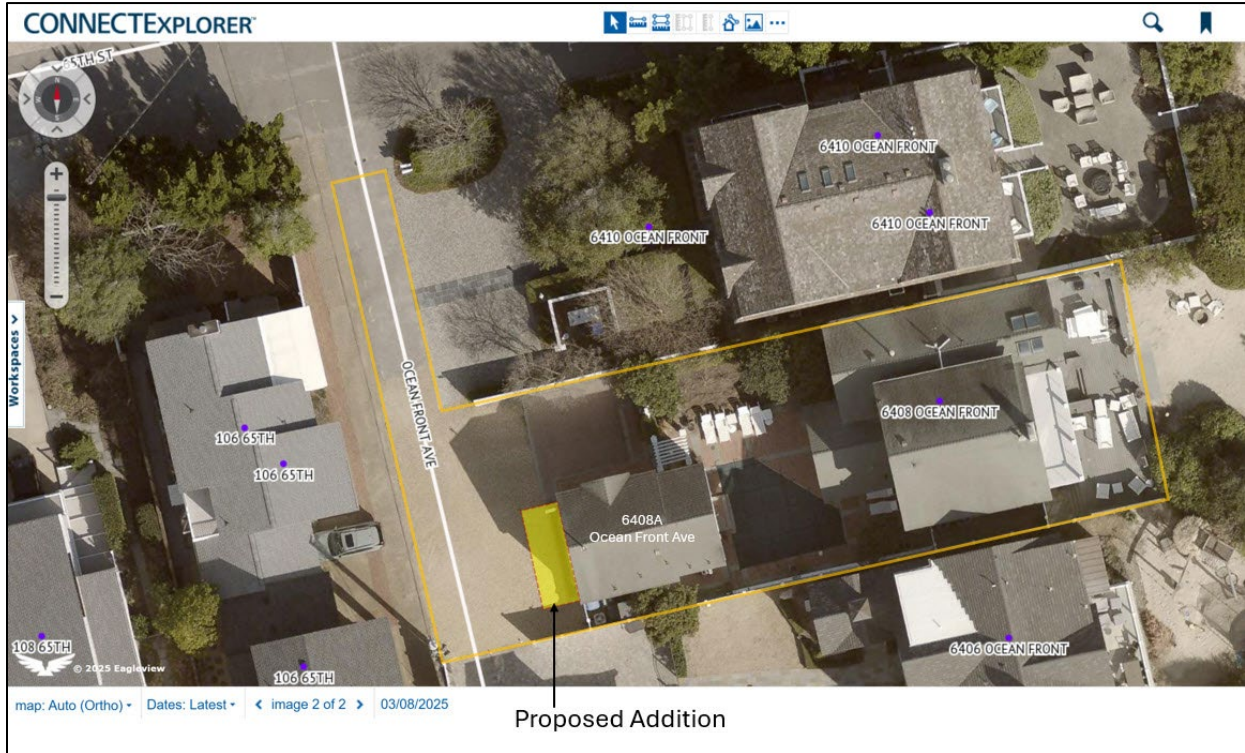
LOCATION MAPS:



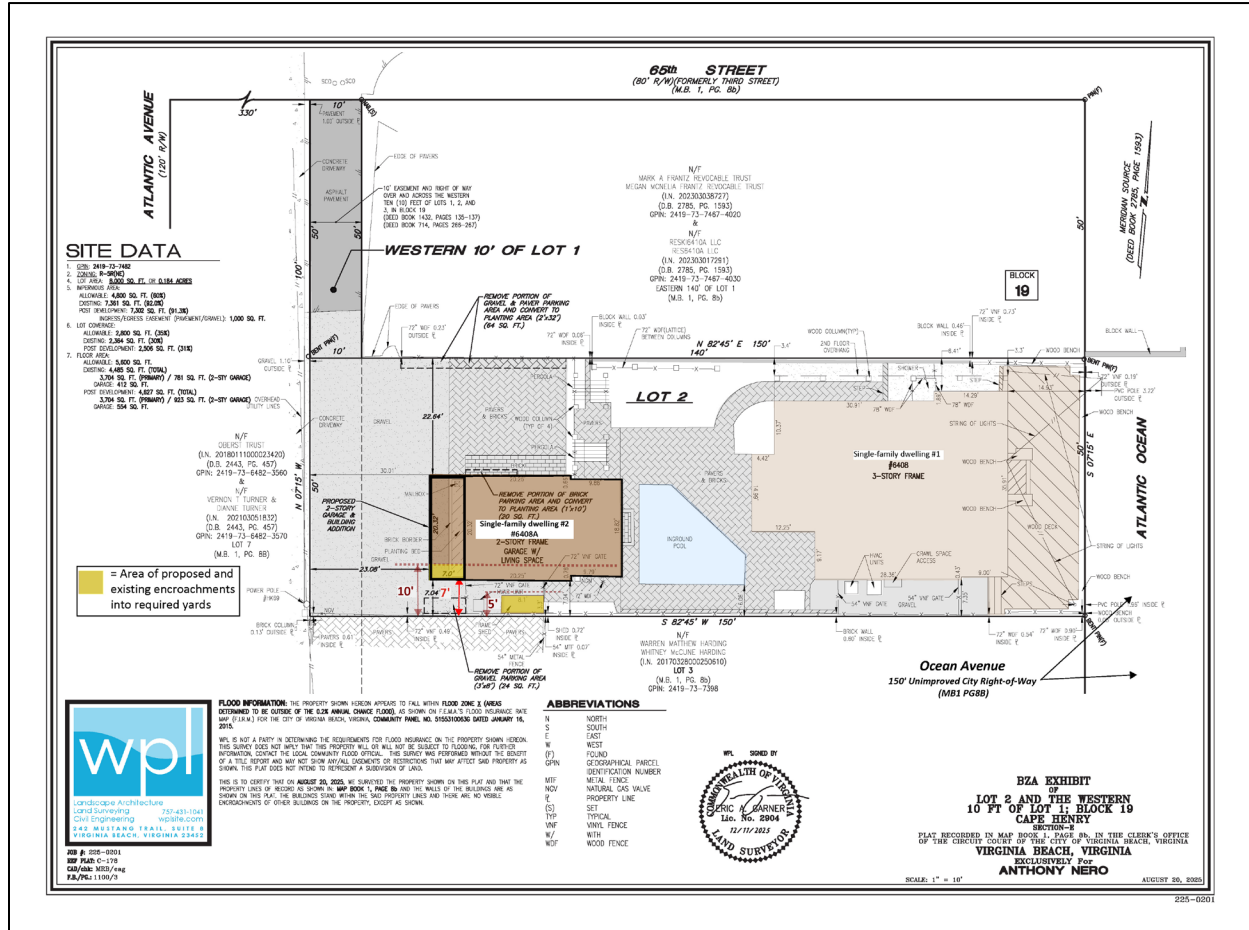
AERIAL:



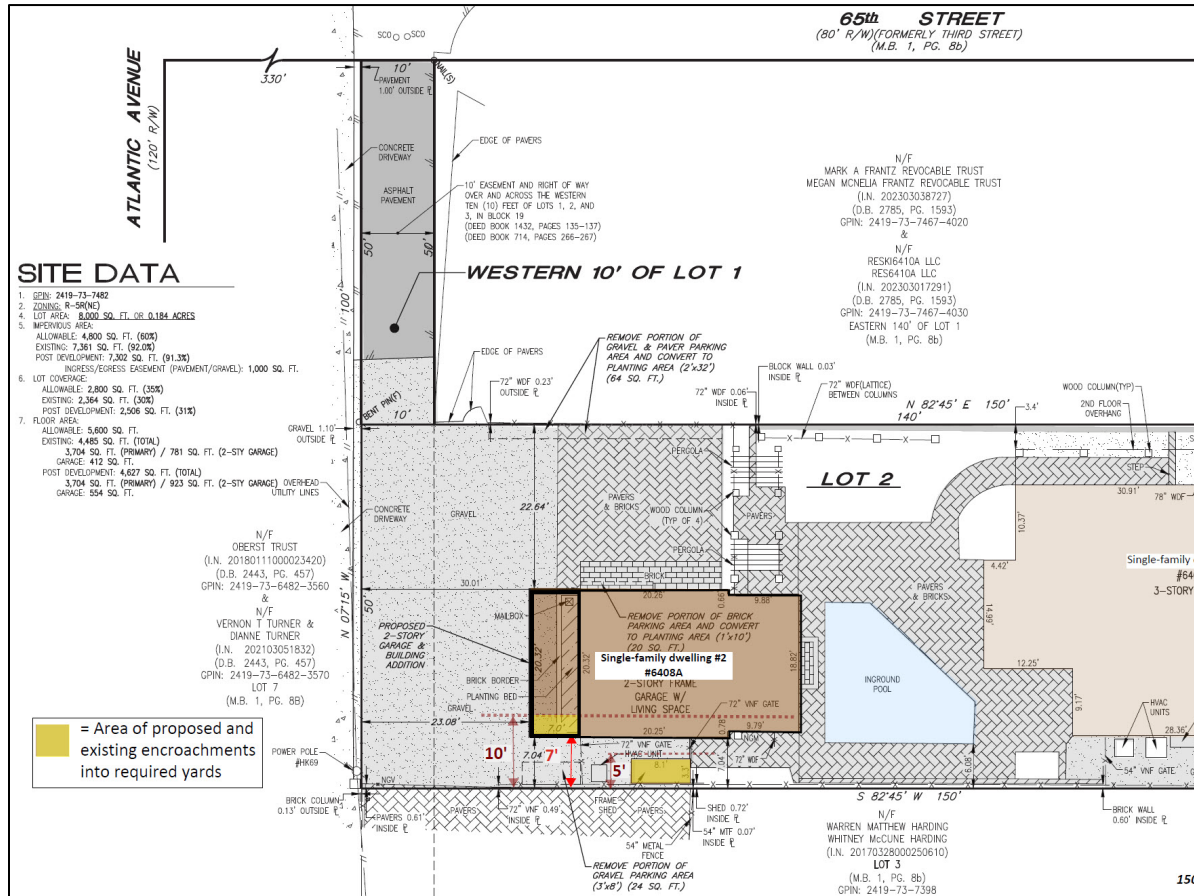
AERIAL (DETAIL):



SITE PLAN (EXHIBIT A):



SITE PLAN DETAIL (EXHIBIT A):



PHOTOGRAPHS:




PHOTOGRAPHS:



RENDERING:



DISCLOSURE STATEMENT:

	CITY OF VIRGINIA BEACH	<h1>Disclosure Statement</h1>	
<p>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.</p>			
SECTION 1: APPLICANT DISCLOSURE			
APPLICANT INFORMATION			
Applicant Name: <u>Anthony P. Nero, Trustee of the Anthony P. Nero Trust dated November 2, 2022, as amended as listed on application</u>			
Is Applicant also the Owner of the subject property? Yes <input checked="" type="radio"/> No <input type="radio"/>			
<i>If no, Property Owner must complete SECTION 2: PROPERTY OWNER DISCLOSURE (page 3).</i>			
Does Applicant have a Representative? Yes <input checked="" type="radio"/> No <input type="radio"/>			
<i>If yes, name Representative:</i> <u>R. Edward Bourdon, Jr., Esq.</u>			
Is Applicant a corporation, partnership, firm, business, trust or unincorporated business? Yes <input checked="" type="radio"/> No <input type="radio"/>			
<i>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.)</i>			
<u>Anthony P. Nero, Trustee</u>			
Does the subject property have a proposed or pending purchaser? Yes <input type="radio"/> No <input checked="" type="radio"/>			
<i>If yes, name proposed or pending purchaser:</i> _____			
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 <input type="radio"/> No <input checked="" type="radio"/>			
<i>If yes, name the official or employee, and describe the nature of their interest.</i>			
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"/>	Bank of America, N.A.
Real Estate Broker/Agent/Realtor	<input type="radio"/>	<input checked="" type="radio"/>	

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

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 W. Johnson, Residential Designs, Ltd.
Construction Contractor	<input checked="" type="radio"/>	<input type="radio"/>	Hannah Clay, VB Homes
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.

Anthony P. Nero, Trustee

Applicant Name (Print)



Applicant Signature

10/31/25

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): 12-12-2025

Wilissa Blair-Miller

Staff Name (Print)



Staff Signature

12-12-2025

Date

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CASE: 2025-BZA-00092 - Beco Construction, Inc.

HEARING DATE: January 7, 2026

TO: Chairman, Board of Zoning Appeals

FROM: Wilissa Blair-Miller, Planner III

ADDRESS ASSOCIATED WITH VARIANCE REQUEST:

3400 Arctic Avenue

REPRESENTATIVE:

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

VARIANCE REQUEST(S) (ABBREVIATED):

A variance to the maximum allowable height and variances to the required yards, for a proposed three dwelling unit multi-family building.

VARIANCE REQUEST(S) (DETAILED):

The following variances are requested pursuant to Article 6, Section 602(d) and Article 6, Section 604(b) of the City Zoning Ordinance:

FRONT YARD (SOUTH - 34TH STREET): A front yard setback variance to 20 feet instead of 30 feet as required for the construction of a three-unit multi-family building.

SIDE YARD ADJACENT TO STREET (EAST - ARCTIC AVENUE): A side corner yard setback variance to 10 feet instead of 30 feet as required for the construction of a three-unit multi-family building.

HEIGHT: A height variance to 48.25 feet instead of 45 feet as allowed for the construction of a three-unit multi-family building.

GEOGRAPHIC PARCEL INFORMATION NUMBERS (GPIN):

2418-93-4153

LOT AREA:

7,000 square feet (.16 acres) (per survey)

AICUZ:

75-75 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, DENSITY, STRATEGIC GROWTH AREA:

- Vacant Land (previously two buildings with multiple dwelling units) (now demolished buildings constructed in unknown year)
- A-24 (Apartment District)
- Allowable Density: 3 dwelling units

Calculation:

43,560 (one acre) ÷ 24 (allowable dwelling units per acre) = 1815

7000 (lot size) ÷ 1815 = 3.8 (allowable dwelling units on 7,000 square foot A-24 lot)

- Proposed Density: 3 dwelling units
- Not in a Strategic Growth Area

SURROUNDING LAND USES/ZONING DISTRICTS:

- North: Residential Use (single-family, cottage, multi-family), A-12
- South: Residential Use (duplex), A-12
- East: Residential Use (multi-family), A-36
- West: Residential Use (townhomes), A-24

EXISTING CONDITIONS:

- N/A (dwellings demolished)

EXTENT OF PROJECT:

Three-unit multi-family dwelling building (variance requested)

Proposed townhouse style multi-family dwelling units located 20 feet from the front property line (34th Street) and 10 feet from the side corner property line (Arctic Avenue).

BACKGROUND INFORMATION:

According to City records, the subject property was created and recorded by plat in 1916, which is well before the first zoning and subdivision regulations were adopted by the Borough of Virginia Beach/Princess Anne County (Lot 1, Block 109, M3, M.B. 5 at Pg 151).

The applicant would like to construct a three-unit multi-family building on the subject property. The building would sit 20 feet from the front property line abutting 34th Street and 10 feet from the side corner property line abutting Arctic Avenue. In addition, the height of the structure is proposed to be 48.25 feet instead of 45 feet as allowed.

When comparing the long-standing subject property to modern A-24 multi-family use corner lots, it quickly becomes apparent that the parcel is significantly deficient in both width and overall area. To be clear, modern corner parcels are currently required to contain at least 110 feet of width and 20,000 square feet of overall area; however, the subject property contains only 50 feet of width and 7,000 square feet of overall area. In other words, the subject parcel is deficient by 60 feet of lot width and 13,000 square feet of lot area. As a result, the property is legally nonconforming to present-day lot width and area requirements.

Currently, the subject zoning district requires a minimum 30-foot side yard adjacent to a street and a minimum 10-foot interior side yard. Combined, these two required unobstructed yards account for 80% of the width of the subject lot (i.e., 40 feet of the existing 50-foot-wide lot). This leaves only 10 feet of buildable lot width on the subject property. Accordingly, setback relief seems warranted.

It should be underscored that Section 105(g) of the City Zoning Ordinance clearly permits the proposed conforming principal use (i.e., the proposed multi-family dwelling) on the subject property by affirming that any conforming principal or accessory use may be located on any lot created prior to the effective date of the ordinance, regardless of the size or dimensions of such lot, provided that other requirements of the ordinance are met.

Because the applicant is requesting a height variance in addition to the proposed required yard encroachments, a grade elevation analysis of the subject property was completed by City staff. This analysis revealed clear topographic challenges associated with the parcel. For instance, existing spot elevations shown on the submitted physical survey note an existing height of 10.06 feet above sea level at the 34th Street edge of pavement and 22.8 feet above sea level 48 feet north of the street (see page 11 for details). This equals a current slope of 26.5%, which is undeniably steep.* Moreover, the subject proposal includes an expansion of 34th Street, which places the ultimate edge of street pavement roughly 11 feet closer to the subject property line. Such street expansion requires a slight drop of .22 feet in elevation at the curb for proper stormwater runoff (i.e., 9.84 feet above sea level verses the previous 10.06 feet – see page 12 for details). Such matter increases the previously noted slope from 26.5% to 35%, which is tremendously steep; however, such slope would become even more extreme once the proposed building placement is accounted for.** Nevertheless, the *2022 City of Virginia Beach Public Works Design Standards Manual* requires driveway entrances (a.k.a., driveway aprons) to have slopes no greater than 8% (Chapter 3, Section 3.9(A)(1)). This means a driveway apron placed within the

proposed 10-foot wide area between newly expanded 34th Street and the subject property line is limited to a elevation rise of .8 feet.^{***} To address these topography challenges, the applicant is proposing to ‘carve out,’ for lack of a better term, a portion of the hillside to create a properly sloped off-street parking area and basement style garage used for access into the southern unit. While doing so would produce a building height of 48.25 feet at the southern end of the structure, it must be stressed that the balance of the building would remain well below the 45-foot height limit. In short, the proposed height variance of 3.25 feet is arguably reasonable given the current terrain of the subject property.

** Formula for slope: Rise ÷ Run x 100 = Percent of Slope, or 12.74ft rise ÷ 48ft run x 100 = 26.5%*

*** Formula for slope: Rise ÷ Run x 100 = Percent of Slope, or 12.96ft rise ÷ 37ft run x 100 = 35%*

**** Formula for slope: Rise ÷ Run x 100 = Percent of Slope, or .8ft rise ÷ 10ft run x 100 = 8%*

KEY CONSIDERATIONS:

- The granting of the variance would seemingly alleviate a hardship due to a physical condition relating to the subject property.
- Based on the legally nonconforming width and area associated with the parcel, the strict application of the ordinance appears to unreasonably restrict the utilization of the subject property.
- It could be argued that the requested relief is not generally shared by other 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:

“The degree of non-conformity of the subject parcel’s width and size is a significant hardship which is present on other properties in this Sea Pines section of the Oceanfront and the requested 20-foot setback from 34th Street is the prevalent street front setback in the area, with some structures setback less than 20’ from 34th Street.

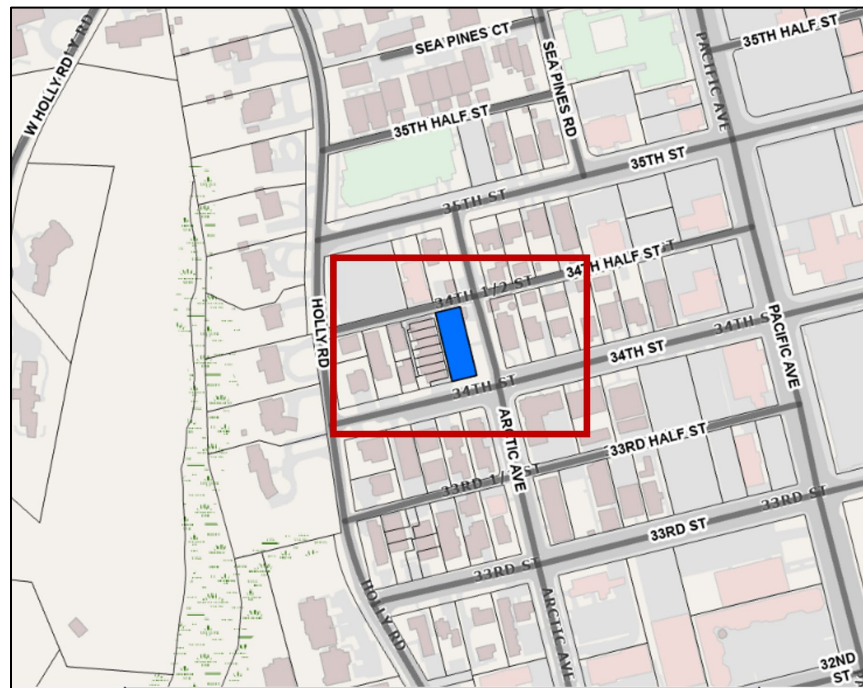
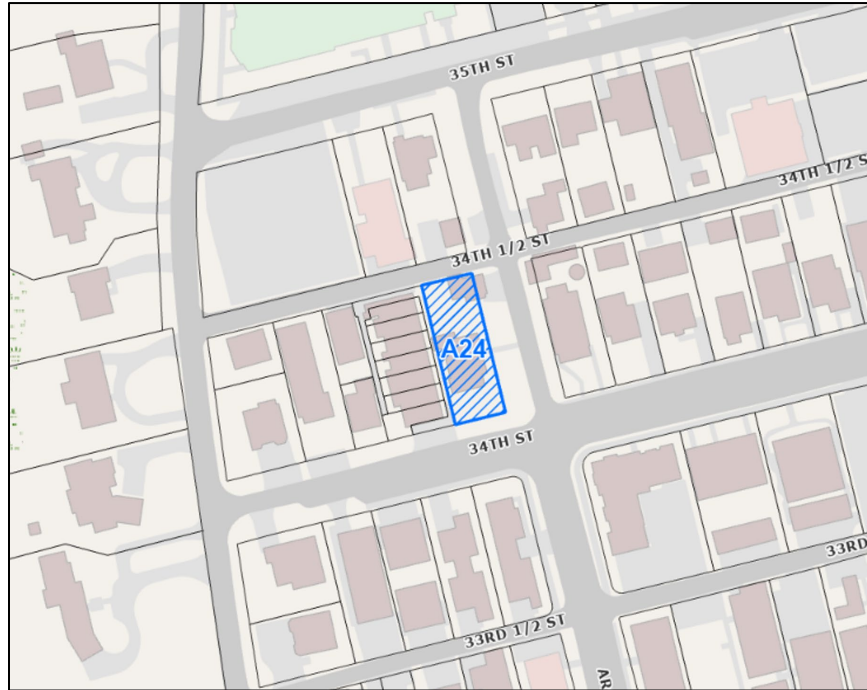
The existing development on this property for over half a century that was recently removed was located partially within the Arctic Avenue right of way and partially 9.68’ from the Arctic Avenue right of way. Application of the 30-foot side yard setback from Arctic Avenue would only permit a 10’ wide buildable area on this non-conforming site.

The redevelopment of this property will require the applicant to make significant right of way improvements to both Arctic Avenue and 34th Street. The widening of 34th Street and providing for stormwater runoff from the pavement section only increases the hardship. The grade at the driveway apron will be less than 10’ above sea level; the grade at the front property line is over 16 feet. The grade elevation at the 20’ setback is between 21.8’ and 22.2’. This steep grade change necessitates use of a basement garage in order to provide onsite parking as required and a garage for the southern Unit A. The building is only 39 feet in height on a level grade. The hardship is clearly and simply the severe topographic challenge of the existing 34th Street pavement elevation to the lots grade elevation. When measured 6 feet from the foundation everywhere around the building except the driveway from 34th Street and the terraces on either side of that driveway, the building will be less than 40 feet in height.”

RECOMMENDED CONDITIONS IF APPROVED:

1. The proposed improvements shall be constructed in substantial conformance to the marked submitted exhibit titled, “Arctic Avenue Conceptual Development Plan,” dated June 21, 2024/October 31, 2025, 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 grant the Zoning Administrator the right to interpret substantial conformance with the Board approved plan.
2. The proposed improvements shall be constructed in substantial conformance to the submitted untitled and undated renderings shown in the *Renderings* section of 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.
3. 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.
4. 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:



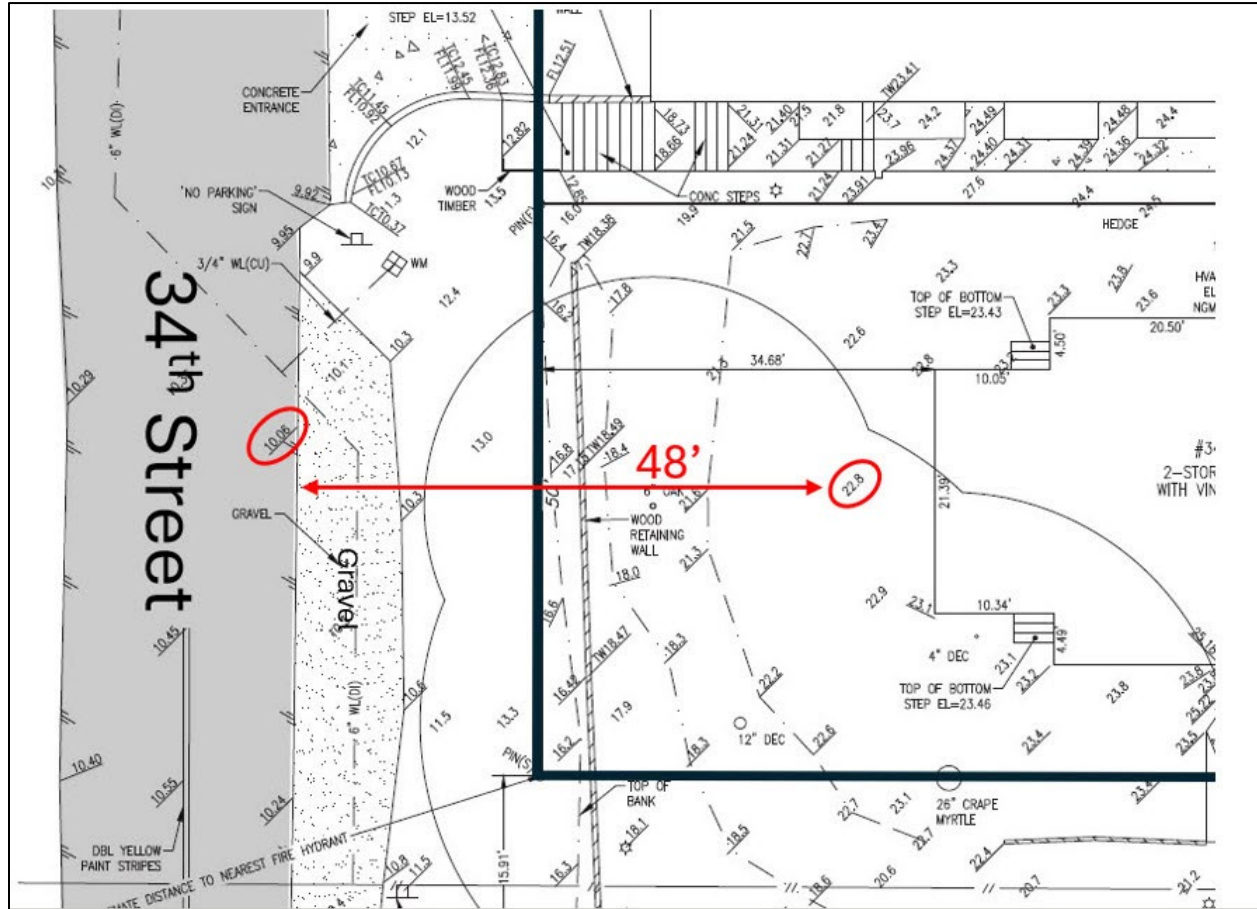
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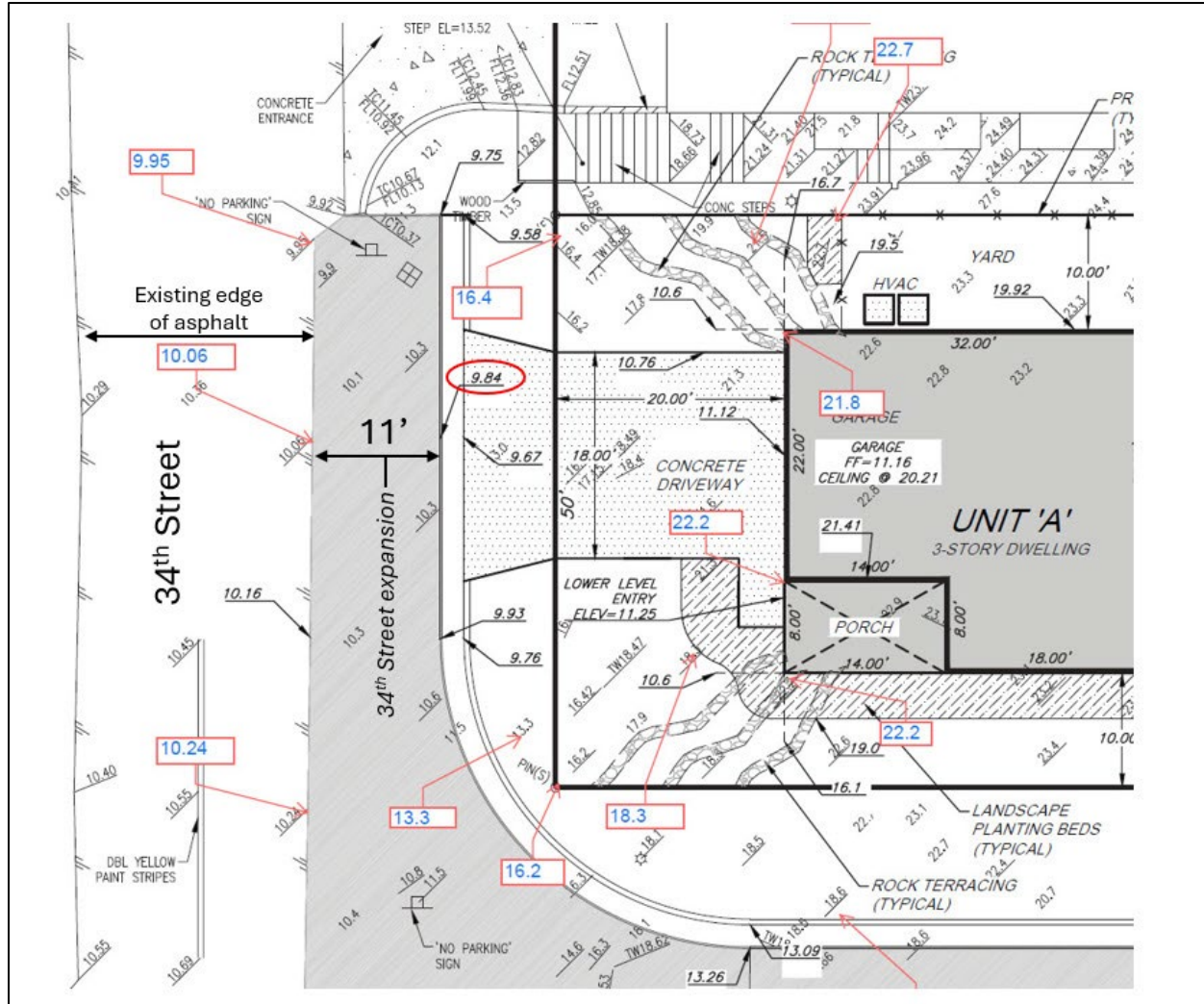
TOPOGRAPHY (BASIC MAP):



TOPOGRAPHY (EXISTING / SOUTHERMOST AREA OF LOT):

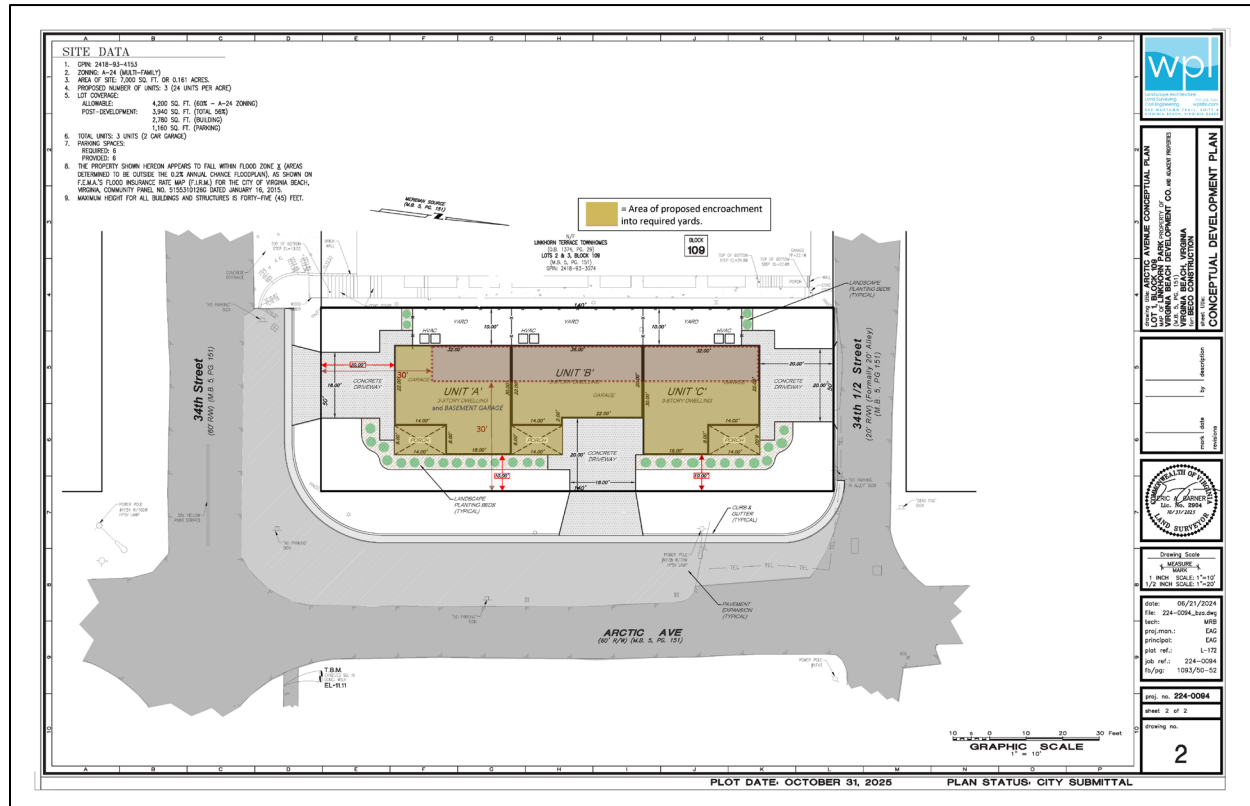


TOPOGRAPHY (34TH STREET EXPANSION):

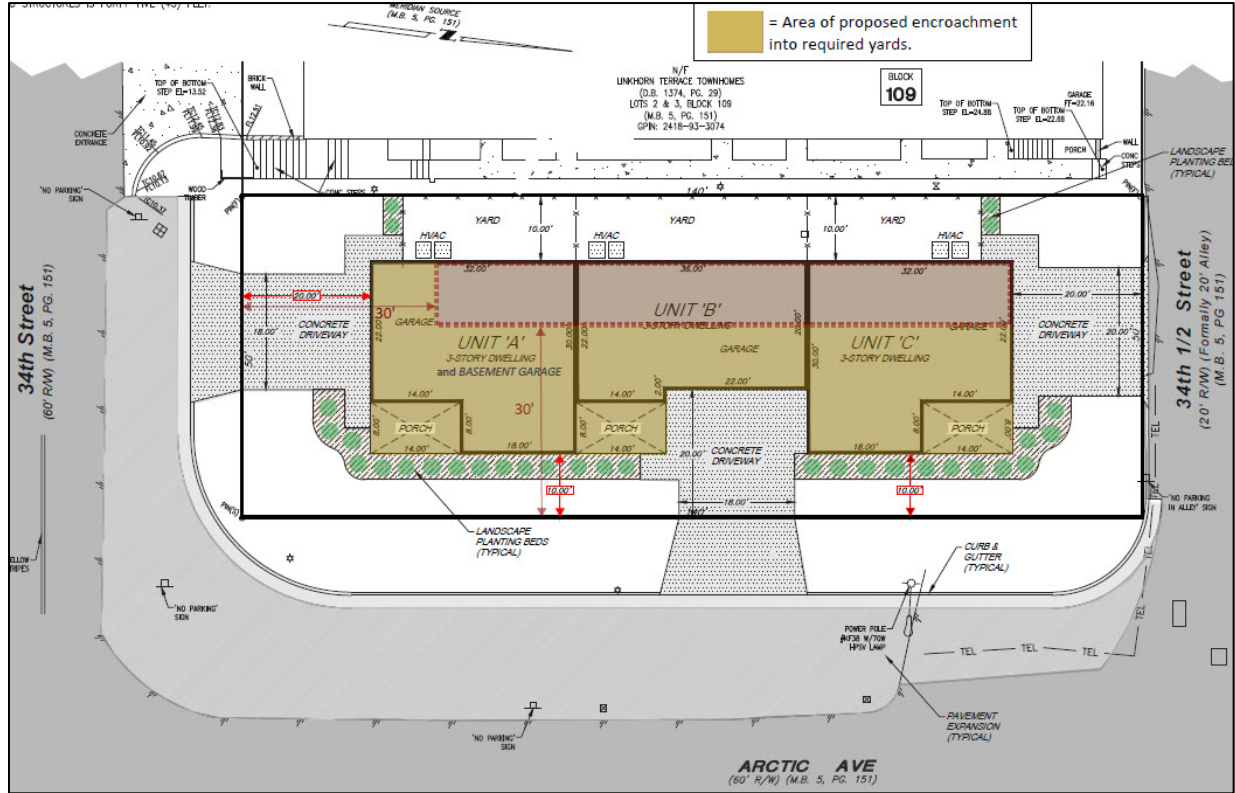


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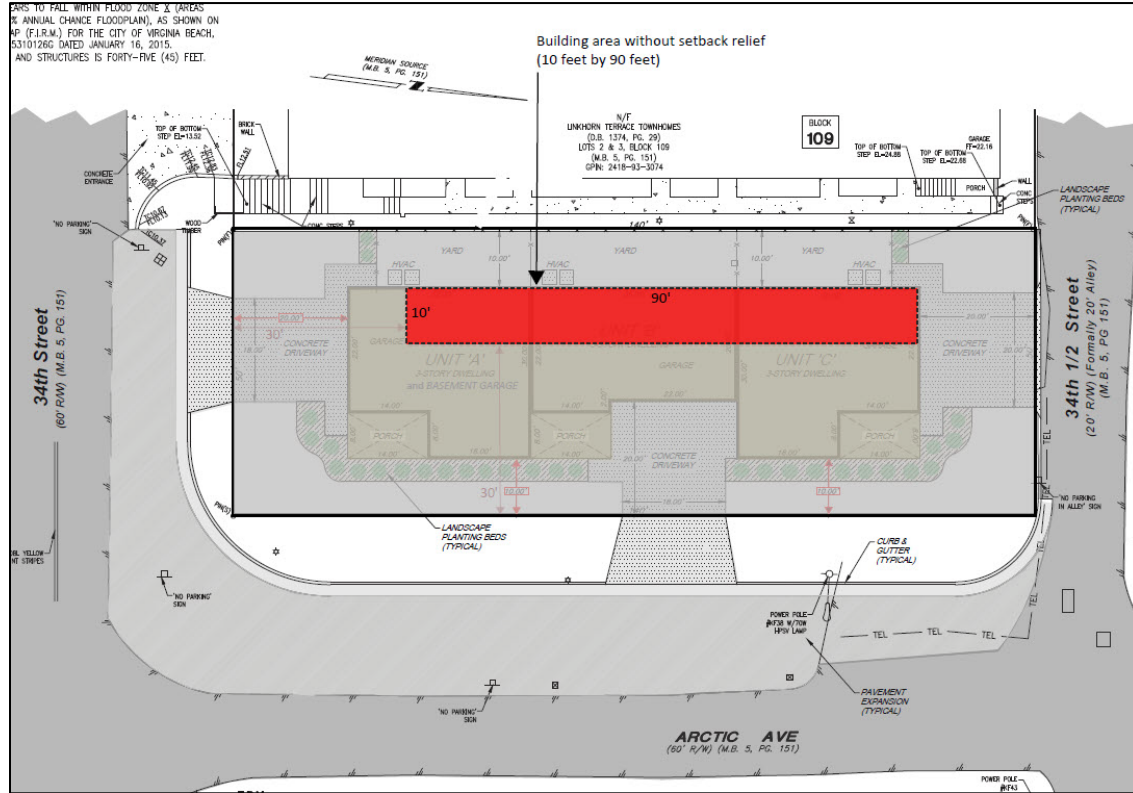
SITE PLAN (EXHIBIT A):



SITE PLAN DETAIL (EXHIBIT A):



BUILDING AREA WITHOUT SETBACK RELIEF:



PHOTOGRAPHS:



PHOTOGRAPHS:



PHOTOGRAPHS:



PHOTOGRAPHS:



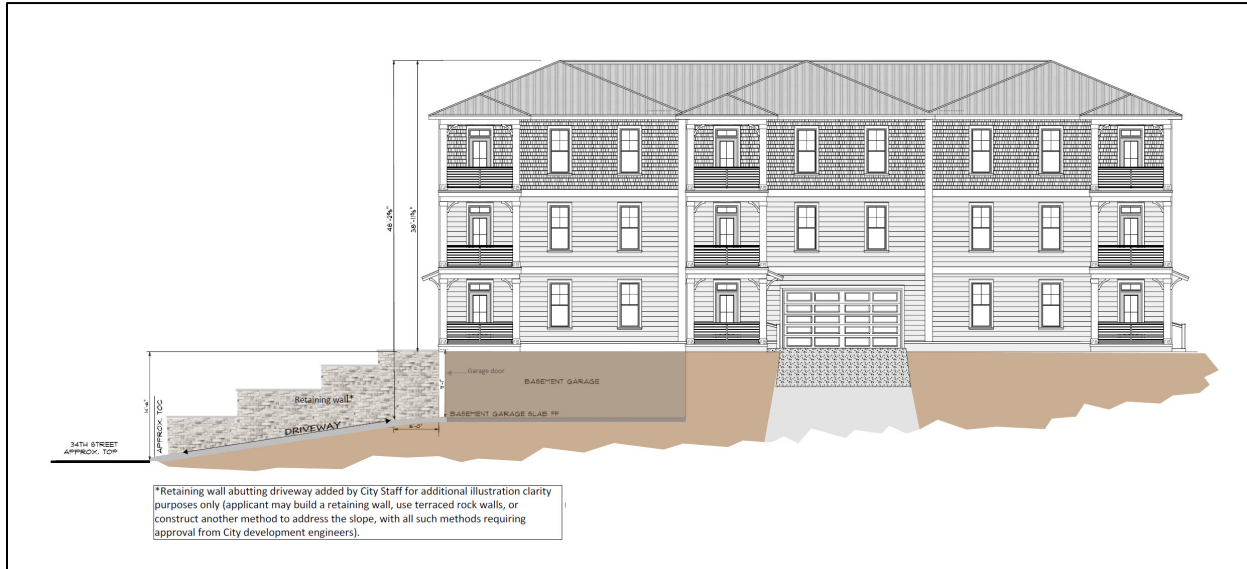
RENDERINGS:



RENDERINGS:



RENDERINGS *(retaining wall and ground/earth added by City staff for further clarity):*



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 Beco Construction, Inc., a Virginia corporation

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.)

Corey B. Cutright, President; Eric G. Olson, Vice President/Secretary/Treasurer

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 (Name entity and/or individual)
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"/>	

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 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 Boudon, Jr. & Howard R. Sykes, Jr., Sykes, Boudon, 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 Olson

Eric Olson

10/31/2025

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): 12-12-2025

Wilissa Blair-Miller

Staff Name (Print)

Wilissa Blair-Miller

Staff Signature

12-12-2025

Date

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CASE: 2025-BZA-00093 - Alexander Flowe

HEARING DATE: January 7, 2026

TO: Chairman, Board of Zoning Appeals

FROM: Wilissa Blair-Miller, Planner III

ADDRESS ASSOCIATED WITH VARIANCE REQUEST:

2109 St. Marshall Street

REPRESENTATIVE:

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

VARIANCE REQUEST(S) (ABBREVIATED):

Variances to the required yards for an existing gazebo with chimney.

VARIANCE REQUEST(S) (DETAILED):

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

FRONT YARD (EAST - ABUTTING CALYPSO LANE): A front yard setback variance to 25 feet instead of 30 feet as required for an existing accessory building (gazebo).

FRONT YARD (EAST - ABUTTING CALYPSO LANE): A front yard setback to variance to 22 feet instead of 28 feet as required for an existing fireplace/chimney.

SIDE YARD (SOUTH): A side yard setback to variance to 7 feet instead of 10 feet as required for an existing accessory building (gazebo with fireplace/chimney).

GEOGRAPHIC PARCEL INFORMATION NUMBERS (GPIN):

2408-32-7656

LOT AREA:

- 10,166 square feet (.23 acres) (per city records)

AICUZ:

70-75 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 6

PREVIOUS BOARD OF ZONING APPEALS VARIANCE(S):

None found

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

- Single-family (built in 1983)
- R-10 (Residential District)
- Not in a Strategic Growth Area

SURROUNDING LAND USES/ZONING DISTRICTS:

- North: Residential (single-family), R-10
- South: Residential (single-family), R-10
- East: Residential (single-family), R-10
- West: Residential (single-family), R-10

EXISTING CONDITIONS:

- Gazebo with chimney: 22.8 feet from the front property line (east)
- Gazebo with chimney: 7.5 feet from the side property line (south)
- Gazebo with chimney: greater than 10 feet from the rear property line (west)
- Gazebo with chimney: greater than 30 feet from the side corner property line (north)

EXTENT OF PROJECT:

Existing gazebo with chimney (variance requested)

Proposed gazebo and chimney located 7 feet from the southern property line instead of 10 feet as required, 25 feet from the property line abutting Calypso Lane instead of 30 feet (gazebo), and 22 feet from the property line abutting Calypso Lane instead of 28 as required (chimney).

BACKGROUND INFORMATION:

According to City records, the property was originally developed in 1983. At that time, the subject lot was located within an R5 zoning district. In 1988, the R5 zoning district was renamed to R-10, which is the current designation.

The applicant would like to retain a recently constructed 193 square foot gazebo with fireplace/chimney installed 7 feet from the southern property line instead of 10 feet as required, 25 feet from the property line abutting Calypso Lane instead of 30 feet (gazebo), and 22 feet from the property line abutting Calypso Lane instead of 28 as required (chimney).

It is City staff's understanding that the subject gazebo with fireplace/chimney was constructed on the property in October of 2025, albeit not completely. According to details found in the submitted variance application, the applicant relied on their hired contractor to ensure the structure was built in accordance with all zoning and building regulations. In fact, the applicant's variance submittal notes they did not realize there was a zoning issue until the City issued a notice of violation relating to the matter.

Below is an apparent brief timeline of events relating to the City issued violation notice:

- October 27th, 2025- The Permits and Inspections Division of the City Planning Department received a complaint from a concerned citizen regarding "construction going on in the backyard, possible outdoor kitchen."
- October 28th, 2025- A building inspector assigned to the Permits and Inspections Division of the City Planning Department visited the subject site and later entered the following inspection comments in the electronic complaint file associated with the noted address:
 - "Posted notice of violation taped to front door. No one home. Gave 3 days to obtain permits for backyard structure with electric and fireplace."
- Unknown date- Staff spoke to the applicant over the telephone. The applicant was encouraged to discuss ways to bring the structure into compliance with their contractor.
- November 3, 2025- This Board of Zoning Appeals variance request was submitted to the City Planning Department.

While it is certainly recognized that the applicant relied in good faith that their chosen contractor would ensure all City requirements associated with the subject structure were met, it is also recognized that the need for this variance is arguably contrary to the zoning ordinance and seems to be generally shared by other nearby properties. It could also be argued that the burden of correcting this matter falls on the contractor.

It appears that a 12-foot by 15-foot gazebo could be placed 30 feet from the property line abutting Calypso Lane while staying roughly 6.8 feet from the first entry step into the existing swimming pool (for details, please see alternative location illustration on page 11 of this report). Additionally, because the zoning ordinance allows chimneys to encroach up to two feet into the required yard, the chimney could be placed 28 feet from the property line abutting Calypso Lane.

KEY CONSIDERATIONS:

- The need for the variance is arguably contrary to the zoning ordinance.
- The need for the variance appears to be generally shared by other properties.
- The strict application of the ordinance does not seem to unreasonably restrict the utilization of the property, as the lot may still accommodate the subject structure in accordance with minimum requirements of the City Zoning Ordinance.
- The physical condition of the subject property does not seem to prevent a gazebo and outdoor fireplace/chimney from being constructed in accordance with minimum zoning requirements.
- The hardship was seemingly caused by the applicant's contractor, who should arguably correct the matter by bringing the subject structure into minimum compliance with the City Zoning Ordinance.

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

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

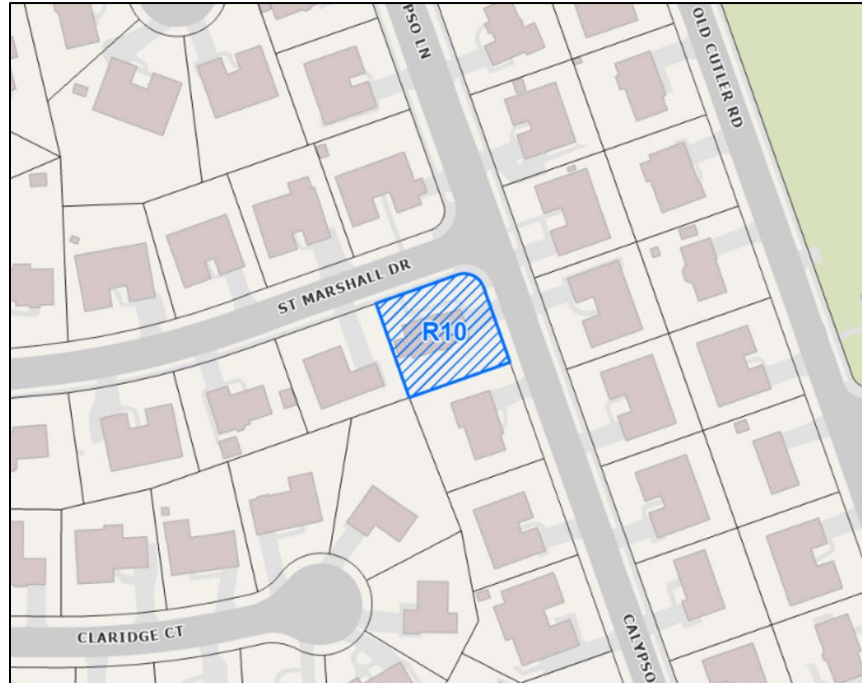
APPLICANT'S STATED HARDSHIP *(written in third person):*

"The applicant did not know the design was in violation of city rules and was relying on the contractor to know the law, seek applicable permits, and ensure zoning was eligible. Having already paid significant money for the project (\$20K+), and including additional purchases for structure accessories (\$6K+), the applicant is now left with an incomplete project after 2 months of lost utility of the family's backyard. While moving the structure has been considered, after violation notice, unfortunately the applicant has a large pool that really prevents shifting the structure to meet the 30-foot offset. The move would leave less than 4 feet of walkable space between the pool steps and the structure posts. The applicant is concerned of safety issues with 2 young children (5-year-old boy and 2-year-old girl) with such little space and even a risk of structure impact next to a body of water. All neighbors surrounding the applicant are friends very familiar with the project and excited for the build and the look it brings to our small area of the neighborhood. In fact, one neighbor located at 2104 Saint Marshall Drive (Virginia Beach, VA, 23454) already had a variance approved for a larger than normal fence to be approved on the property with less offset than current applicant is seeking."

RECOMMENDED CONDITIONS IF APPROVED:

1. The proposed improvements shall be constructed in substantial conformance to the marked submitted exhibit titled, *Physical Survey of Lot 4, Block , Replat of Lots 1-5, Block J, of Subdivision of Great Neck Meadows J, Section 3, Part 1A*, dated November 11, 2025, and prepared by Rouse-Sirine associates, LTD (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 grant the Zoning Administrator the right to interpret substantial conformance with the Board approved plan.
2. The subject gazebo and chimney must remain in good repair at all times or otherwise be brought into full compliance with the City Zoning Ordinance. For this condition, the definition of *good repair* shall be determined by the City Zoning Administrator.
3. The existing 8.2-foot by 16.2-foot shed, which is located adjacent to the western property line, shall either be moved to meet minimum City Zoning Ordinance requirements or removed from the subject property. This shall occur within six months of this Board action.
4. The subject improvements (i.e., gazebo) shall not be enclosed. For this condition, the term *enclosed* does not include traditional insect screening; however, it does include permanent windows and doors, framed walls, masonry walls, or removable windows and doors, also referenced by one popular brand name, EZE Breeze.
5. Approval is only for the life of the subject accessory structure (i.e., gazebo with chimney). The Zoning Administrator shall determine the meaning of 'life of the subject accessory structure.'
6. 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.
7. 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.
8. All applicable permits or approvals associated with the subject improvements shall be obtained from the City of Virginia Beach Planning Department and/or any other relevant authority.

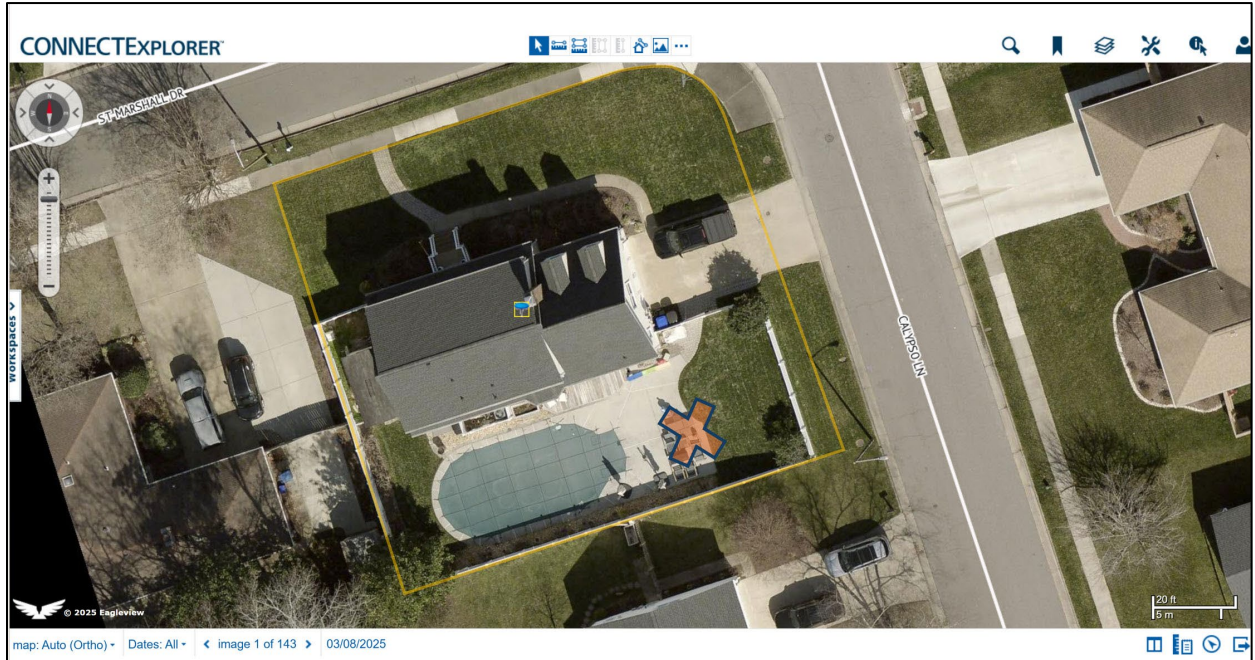
LOCATION MAPS:



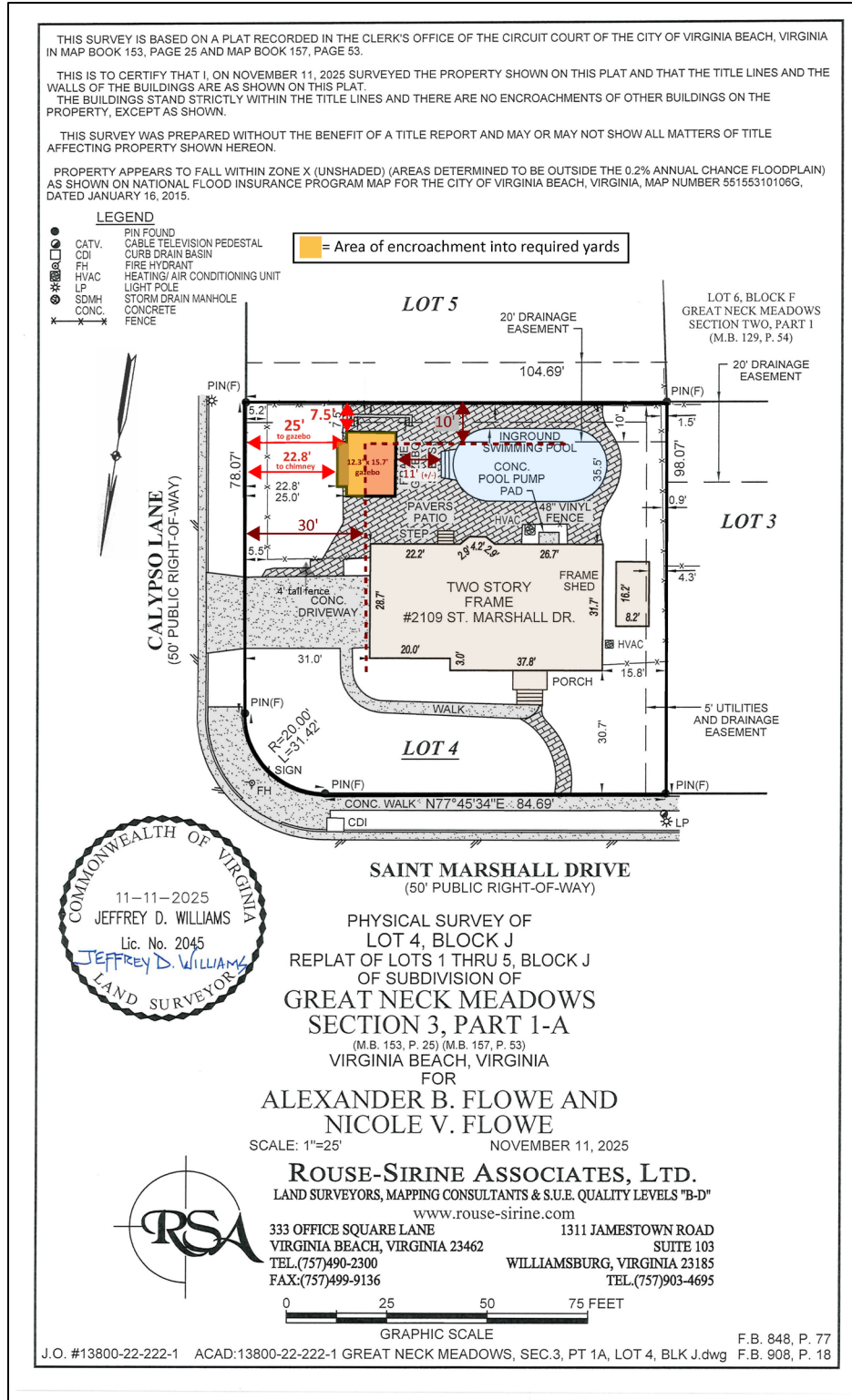
AERIAL:



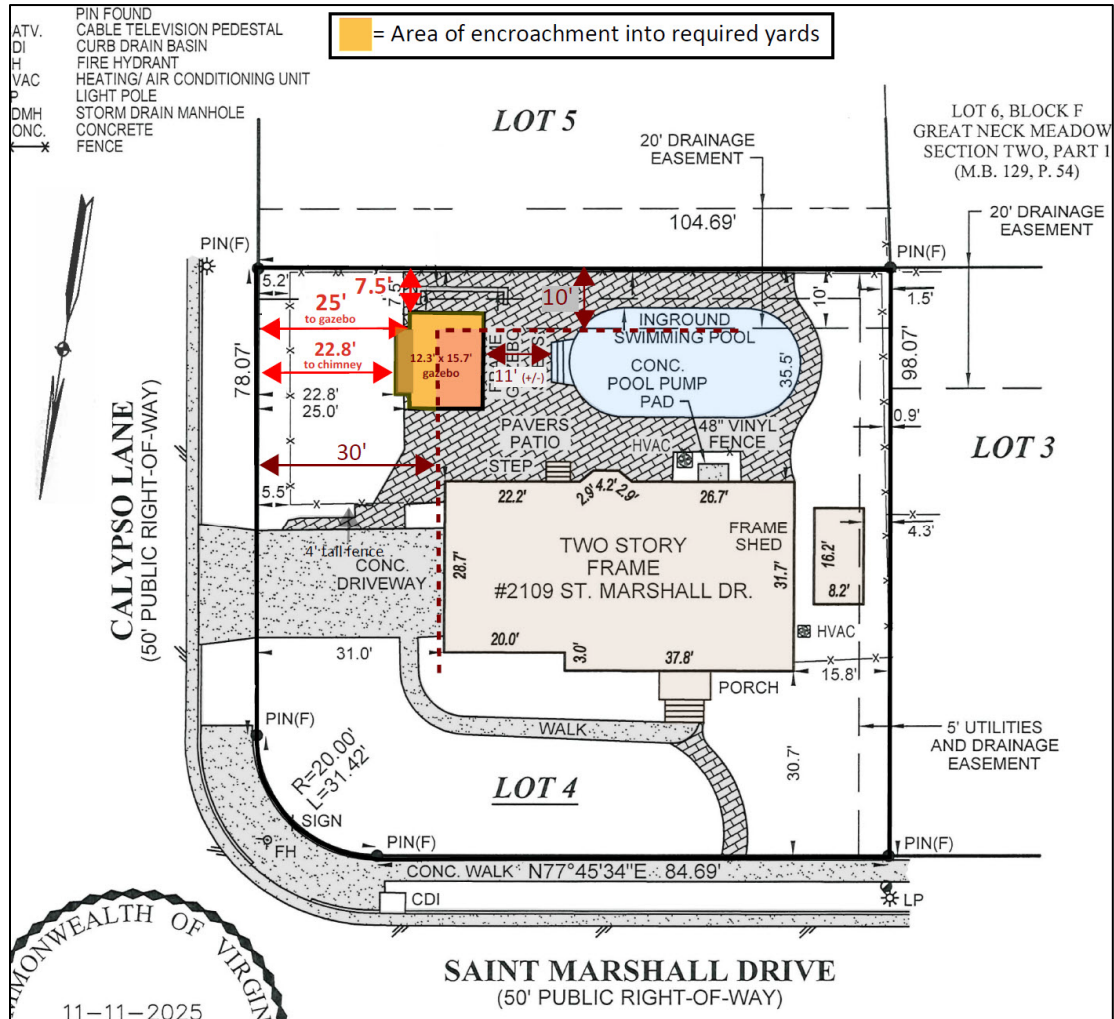
AERIAL (DETAIL):



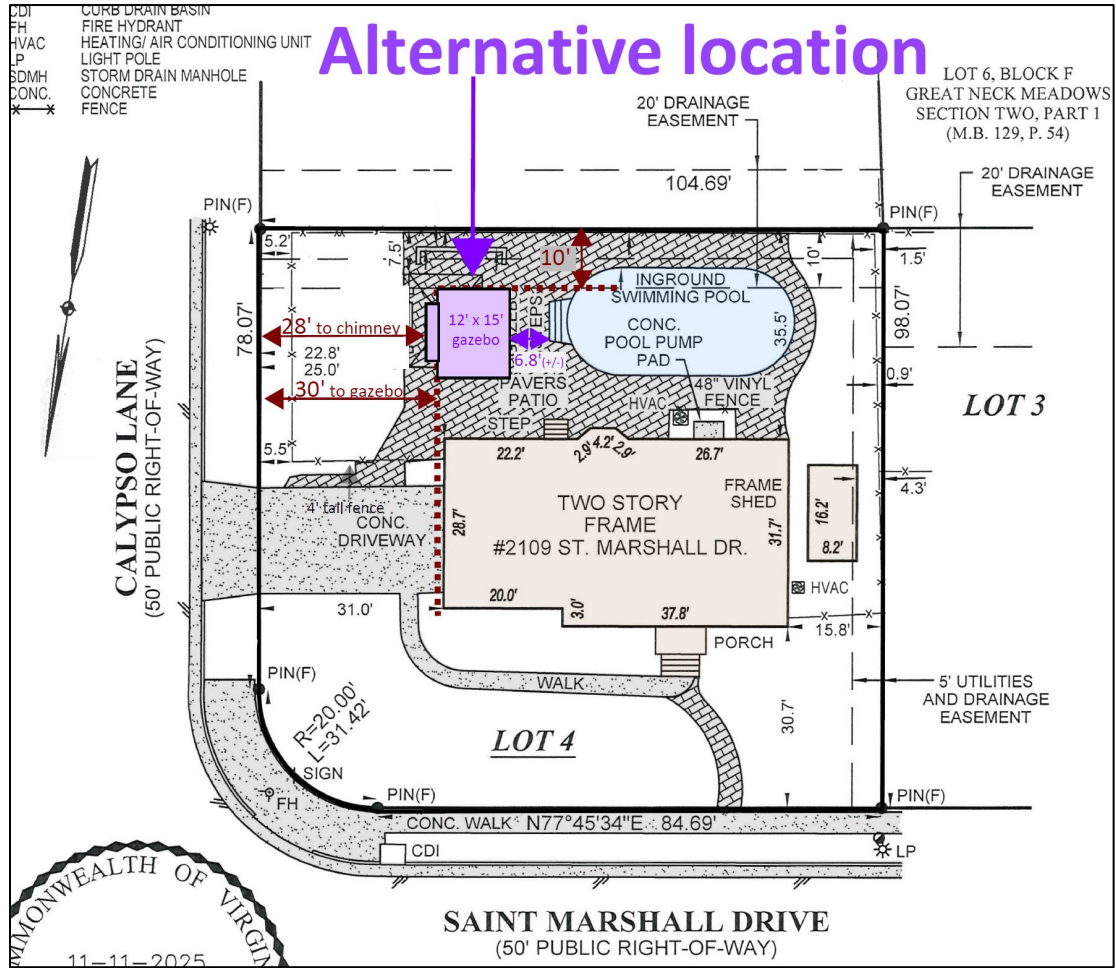
SITE PLAN (EXHIBIT A):



SITE PLAN DETAIL (EXHIBIT A):



ALTERNATIVE LOCATION (COMPLIANT WITH REQUIRED YARDS):



PHOTOGRAPHS:



PHOTOGRAPHS:




PHOTOGRAPHS:



PHOTOGRAPHS:



DISCLOSURE STATEMENT:

	CITY OF VIRGINIA BEACH	<h2>Disclosure Statement</h2>	
<p><i>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.</i></p>			
SECTION 1: APPLICANT DISCLOSURE			
APPLICANT INFORMATION			
Applicant Name: as listed on application <u>Alexander Flowe</u>			
Is Applicant also the Owner of the subject property? Yes <input checked="" type="radio"/> No <input type="radio"/>			
<i>If no, Property Owner must complete SECTION 2: PROPERTY OWNER DISCLOSURE (page 3).</i>			
Does Applicant have a Representative? Yes <input checked="" type="radio"/> No <input type="radio"/>			
<i>If yes, name Representative:</i> <u>Eddie Bourdon</u>			
Is Applicant a corporation, partnership, firm, business, trust or unincorporated business? Yes <input type="radio"/> No <input checked="" type="radio"/>			
<i>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.)</i>			
Does the subject property have a proposed or pending purchaser? Yes <input type="radio"/> No <input checked="" type="radio"/>			
<i>If yes, name proposed or pending purchaser:</i> _____			
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 <input type="radio"/> No <input checked="" type="radio"/>			
<i>If yes, name the official or employee, and describe the nature of their interest.</i>			
APPLICANT SERVICES DISCLOSURE			
READ: <i>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.)</i>			
SERVICE	YES	NO	SERVICE PROVIDER <small>(Name entity and/or individual)</small>
Financing (mortgage, deeds of trust, cross-collateralization, etc.)	<input checked="" type="radio"/>	<input type="radio"/>	Wells Fargo Bank, N.A.
Real Estate Broker/Agent/Realtor	<input type="radio"/>	<input checked="" type="radio"/>	

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

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"/>	AGC Hardscapes
Construction Contractor	<input checked="" type="radio"/>	<input type="radio"/>	AGC Hardscapes
Engineer/Surveyor/Agent	<input checked="" type="radio"/>	<input type="radio"/>	Rouse-Sirine Associates, LTD
Legal Services	<input checked="" type="radio"/>	<input type="radio"/>	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.

Alexander Flowe
Applicant Name (Print)


Applicant Signature

11/3/2025
Date

¹ "Parent-subsidary 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-subsidary 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): 12-12-2025

Wilissa Blair-Miller
Staff Name (Print)


Staff Signature

12-12-2025
Date

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