



## TOWN OF ATLANTIC BEACH BOARD OF ZONING APPEALS MEETING

September 28, 2023 at 5 pm  
Atlantic Beach Community Center  
1010 32<sup>nd</sup> Avenue South, Atlantic Beach, SC 29582

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- I. Election of Chair and Vice-Chair
- II. Approval of 2023 Meeting Calendar
- III. New Business and Public Hearings
  - a. **VARIANCE CASE 1-2023:** Palmetto Architecture, LLC, on behalf of Owen and Angela Metts, request variances from the Land Management Ordinance for PIN 39201010078, located at 407 30th Avenue South, Atlantic Beach, SC 29582. Variance requested to reduce the minimum lot area necessary per multi-family unit and to increase the maximum impervious surface coverage area allowed within the MS1 District as defined within Section 5.3.420 and to reduce the parking requirements defined in Section 5.3.630.
  - b. **VARIANCE CASE 2-2023:** Leon Bailey, Jr, on behalf of himself and Bernita Bailey, request variances from the Land Management Ordinance for PIN 392014007, located at 3201 and 3203 South Ocean Blvd, Atlantic Beach, SC 29582. Variances requested from Proposed Lot 2-A to reduce the front and side setbacks and to eliminate the impervious surface maximum, maximum building coverage, and minimum open space requirements in the R2 Zoning District defined in Section 5.3.420 and to eliminate the accessory structure location requirements defined in Section 5.3.620A. Variance request to eliminate all Shore Protection requirements of Article VIII for PIN 392014007 for both proposed Lot 2-A and 2-B.
- IV. Public Input, non-agenda items
- V. Adjournment



**Town of Atlantic Beach**  
717 30<sup>th</sup> Avenue South  
Atlantic Beach, SC 29582  
Mailing Address: PO Box 5285  
North Myrtle Beach, SC 29597-5285  
Phone: 843 663-2284  
Fax: 843 663-0601

## Zoning Board of Appeals Meeting Schedule 2023

Pursuant to the Provision Act Number 593 of 1978 approved by Governor James B. Edwards on July 18, 1978, commonly called the "Freedom of Information Act". Notice of meetings.

- (A) All Public Bodies shall give written Public Notice of their regular Meetings at the beginning of each calendar year.
- (B) The Notice shall include the dates, time and place of such meeting; Subsection (c) of section of 9 Provides.
- (C) Written Public Notice shall include but not limited to posting a copy of the Notice at the principle office of the body holding the meeting or, if no office exists, at the building in which the meeting is to be held.

The following shall apply to the Town of Atlantic Beach, South Carolina:

**Thursday, September 28, 2023 @ 5:00 p.m. Atlantic Beach Community Center**

**Thursday, October 26, 2023 @ 5:00 p.m. Atlantic Beach Community Center**

**Thursday, November 30, 2023 @ 5:00 p.m. Atlantic Beach Community Center (Note: 4<sup>th</sup> Thursday is Thanksgiving)**

**Thursday, December 28, 2023 @ 5:00 p.m. Atlantic Beach Community Center (Note::Week after Christmas)**

The Atlantic Beach Community Center is located at 1010 32<sup>nd</sup> Avenue South, Atlantic Beach, SC 29582.

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

**Town Clerk**



## VARIANCE REVIEW SHEET

### Property Information

<b>Applicant</b>	Palmetto Architecture, LLC, agent
<b>Property Owner</b>	OAOA, LLC; Owen and Angela Metts
<b>(PIN) Parcel ID #'s</b>	39201010078
<b>Site Location</b>	407 30th Avenue South, Atlantic Beach, SC 29582 (LOT 39)

### Zoning District/Use Information

<b>Zoning District</b>	Main Street District 1 (MS1)		
<b>Proposed Use(s)</b>	Multifamily Bldg with 8 units, plus rental office	<b>Use(s) Allowed</b>	Yes
<b>Minimum Lot Size</b>	7,000 sq ft	<b>Actual Lot Size</b>	7476 sq ft
<b>Min. Lot Area for Per Dwelling Unit (Density)</b>	2,500 sq ft per multi-family unit	<b>Maximum Bldg Height</b>	55 ft and no more than 5 stories
<b>Minimum Setbacks</b>	20' front, 5' side, 15' rear (based on lot size less than 8,000 sq ft)		
<b>Minimum Parking</b>	1.5 per dwelling unit plus an additional .25 spaces for each additional bedroom above 1		

### Variance Description

Section of LMO	Variance Request(s)
<b>Section 5.3.420</b> (1) Min Lot Area (2) Max Impervious Surface (3) Min Front Setbacks	(1) Reduce the minimum lot area required for multifamily development from 2,500 sq ft to 850 sq ft (2) Increase the Maximum Impervious Surface Limit from 60% to 70% (3) Reduce the front setback from 20' to 15' (4) Reduce the required parking from 15 spaces to 5 total spaces
<b>Section 5.3.630</b> (4) Min Parking Spaces	

### **Background/Site Description**

The applicant proposes to build a multi-family building with a small office space along the Town's main street corridor. The applicant is proposing 8 dwelling units, including 4 – two bedroom and 4 – three bedroom units. The site plan proposes to have 5 onsite parking spaces located on the ground floor. 30<sup>th</sup> Avenue does have public, on-street parking available. The site plan also proposes to have a small pool to the rear of the building. The property is a standard lot width and depth for 30<sup>th</sup> Avenue, which meets the minimum lot size requirements of the zoning district. As designed, it is proposed to have a 68.9% impervious surface coverage instead of the 60% maximum. It also proposes to have a 15' front setback, instead of the required 20' front setback. All other setbacks are designed to be met. There is an existing building on the property that is proposed to be removed if this variance is granted and the site constructed according to this request. The parking for an adjacent property currently encroaches onto this property.

### **Site Location**



Source: Horry County GIS Application



Source: Google Streetview

**Site Design** – See Included Application

**Ordinance and Analysis**

**From the Land Management Ordinance**  
**"5.2.401.3 Main Street 1.** The intent of this district is to provide and encourage a mixture of uses. Single uses are allowed to promote and ease infill development. Permitted uses include neighborhood scale (less than 20,000 [sq ft]) retail and offices uses as well as multi-family and transient residential uses. When mixed-use development is utilized in the same building or lot, residential uses shall be located to the rear or upper levels."

**Density:** While the Land Management Ordinance allows multifamily development within the MS1 District, the density standards require 2,500 sq ft of lot area per multi-family unit. As written, the Land Management Ordinance would require a combination of at least two standard sized lots to allow for any multifamily to be developed along its main street corridor. Even the combination of two standard sized lots would only yield 5 multifamily units under the current density standards. New single-family homes and duplexes are not permitted in the MS1 District. While the maximum building height allowed is 55 ft or 5 stories, only commercial and office uses would be permissible on this property due to the district's density requirements. Only a Planned Development District could potentially allow for the applicants' desired density.

**Impervious Surfaces:** The ordinance has a maximum impervious surface limit of 60%. This site, as designed, exceeds this requirement by 8.9%. The patio and pool to the rear of the proposed building results in this site not meeting the maximum limit.

**Front Setback:** The Ordinance requires a 20' front setback. The applicant has requested 15.' The current structure on this property and the structure on the adjacent property are currently located less than 15' feet from the front property line.

**Parking:** The Ordinance would require this development to have 15 parking spaces located on the property. This application proposes 5 spaces, less than one per unit. One handicapped space will be provided onsite.

**VARIANCE REVIEW CRITERIA**

The Board of Zoning Appeals shall utilize the following criteria to evaluate if strict application of the provisions of the Land Management Ordinance would result in an unnecessary hardship for applicant in accordance with Sec 6-29-800 of the SC Code of Laws. There may be multiple variance requests submitted per application. Each request shall be evaluated using this criteria.

(a) there are extraordinary and exceptional conditions pertaining to the particular piece of property.
(b) these conditions do not generally apply to other property in the vicinity.
(c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
(d) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.

***Proposed Order/Conditions***

**Should the Board decide that this variance(s) meet all review criteria, in accordance with Sec 6-29-800 of the SC Code of Laws, and grants approval of the variance(s), staff recommends the following conditions:**

- 1) All trash receptacles and/or dumpsters shall be stored underneath the building and not forward of the structure.

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**PUBLIC HEARING**  
**VARIANCE REQUEST**  
September 28, 2023 5pm  
Community Center  
1010 32nd Ave

407 30th Ave South  
Variance Case #-2023  
Owen Metts  
Posted on Property 9-12-2023



### VARIANCE APPLICATION

(PIN) Parcel ID #'s	392-01-01-0078		
Zoning District			
Area (sq. ft. or acres)	0.16 Acres		
Property Address or Description	Lot 39 30th Avenue South		
Current Use of Property	Commercial		
Brief description of the Variance requested	1. 5.3.420 Min. Lot area per MF unit from 2,500 SF to 850 SF 2. 5.3.420 Max Impervious from 60% to 70% 3. 5.3.630 Parking from 1.5 spaces per unit + .25 / bedroom over 1 to a total of 5 spaces including rental office. SETBACKS: Reduce front Set Back Requirement from 20 feet to 15 feet		

**Ownership Information:** (include all owners. If necessary, add additional pages)

Name:	O.A.O.A. LLC -Owen & Angela Metts		
Address:	PO BOX 628		
City:	WILMINGTON	State:	NC Zip: 28401
Phone:	██████████	Email address:	██████████

**Agent Information:** (if applicable)

Name:	Palmetto Architecture, LLC		
Address:	1323 Hidden Harbor Rd		
City:	Myrtle Beach	State:	SC Zip: 29577
Phone:	██████████	Email address:	██████████

**Office Use Only:**

Date Submitted	Site Plan	Application Fee
Received By	Advertisement Date	Advertisement Cost
Adj Addresses Provided	Mailout Date	Mailout Cost
Signs Needed	Properly Posted Date	Sign Cost
PINS Verified	Check-In Mtg Date	Total Fees
Ownership Verified	BZA Mtg Date	Date fees paid
Request(s) Verifiea		Receipt No.



**VARIANCE REVIEW CRITERIA**

A variance may be granted if the Board of Zoning Appeals concludes that strict application of the provisions of the Land Management Ordinance would result in an unnecessary hardship. The following review criteria are defined by Sec 6-29-800 of the SC Code of Laws.

Answer **AND** explain the following questions: (Use a separate piece of paper if needed)

Are there extraordinary and exceptional conditions pertaining to this particular piece of property?

The lot is in a prime location for multifamily development but limited by the lot shape to only (5) parking spaces including a handicap space. The building will require a commercial elevator which reduces the available area for any additional parking.

Do the above stated conditions only apply to the subject property and do not generally apply to other properties in the vicinity?

The Town of Atlantic Beach is seeking to lessen the parking requirements to allow for this type of development. It is the town's intent to allow this type of development on other similar lots in this area.

Because of these conditions, would the application of the ordinance to the subject property effectively prohibit or unreasonably restrict the utilization of the property?

Would the approval of the variance cause a substantial detriment to adjacent properties or the public good, and will the character of the district not be harmed by the granting of the variance?

The variance should stimulate similar development in the area advancing the public good. The variance will allow for the removal of a blighted building and bring new beautiful architecture and landscaping to the area.

### CERTIFICATION AND SIGNATURE PAGE

- Applicant/Agent hereby certifies that the information provided in this application is correct and there are no covenants or deed restrictions in place that would prohibit this request
- Applicant/Agent hereby certifies that they understand that variance may only be granted for requested relief from Articles IV-IX of the Land Management Ordinance and that all other development requirements must be met.
- Applicant/Agent hereby certifies that they understand that future subdivision or plat combination may render any variance granted null and void.
- Applicant/Agent hereby certifies that it understands that if the Board of Zoning Appeals grants a variance that it may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare

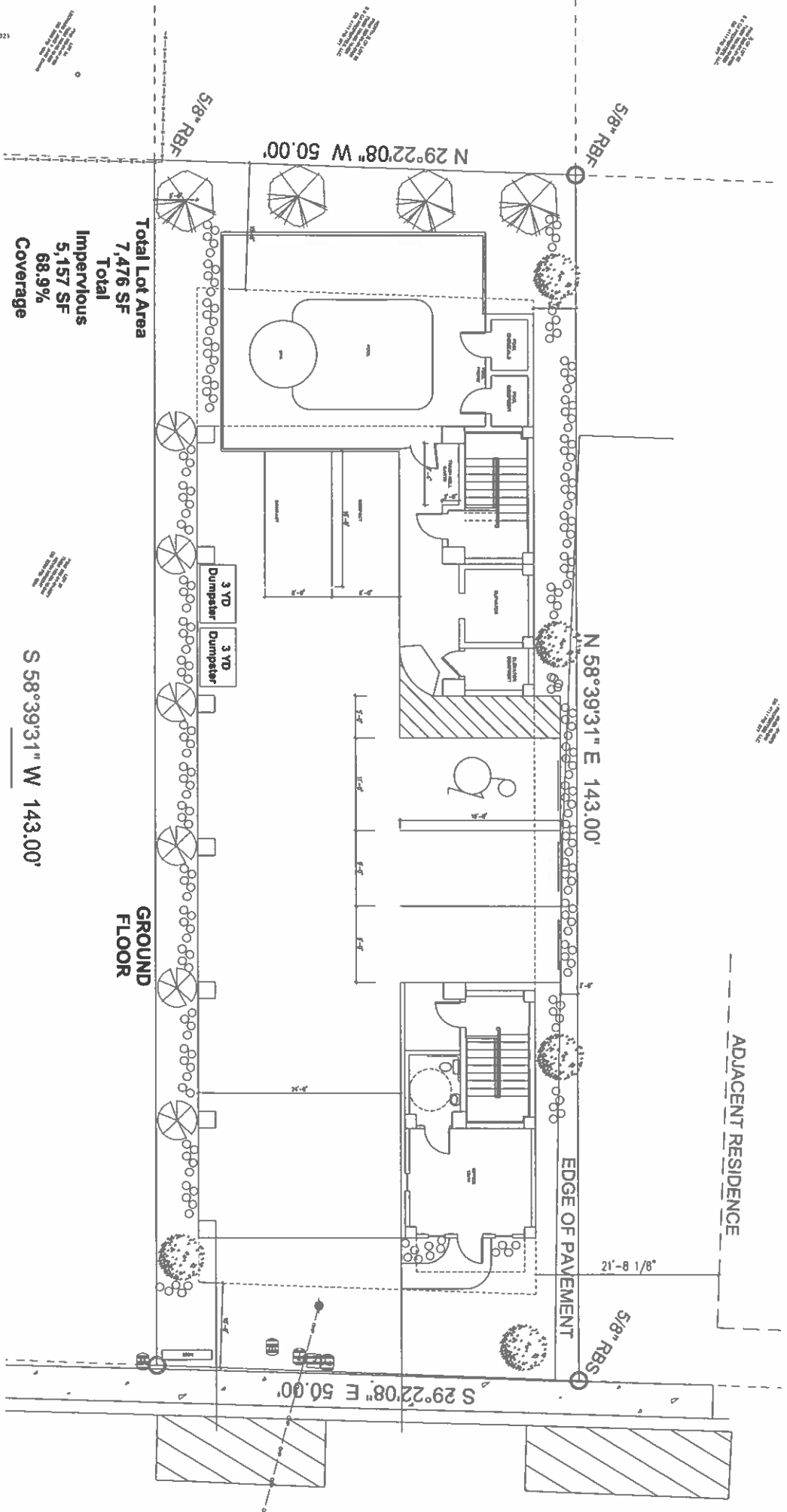
**Signature Blocks.**

Owners (Print Name) _____ _____ _____ _____ _____ _____		
Corporation / Partnership (if applicable) <b>C.N.O.A., LLC</b> Print Corporation/Partnership Name (If in LLC or Corp. name provide authorization to sign)		
By _____ _____ Print Name	_____ _____ Signature	_____ _____ Date

**Designation of Agent (if applicable):**

I hereby designate the person listed below as my agent to act on my behalf for the purpose of filing this application for a variance and to perform all related duties.

Robert (Print) _____ Print Name	Robin Roberts _____ Signature of Agent	_____ _____ Date
_____ _____ Print Name	_____ _____ Signature of Applicant	_____ _____ Date



Total Lot Area  
7,476 SF  
Total  
Impervious  
5,157 SF  
68.9%  
Coverage

S 58°39'31" W 143.00'

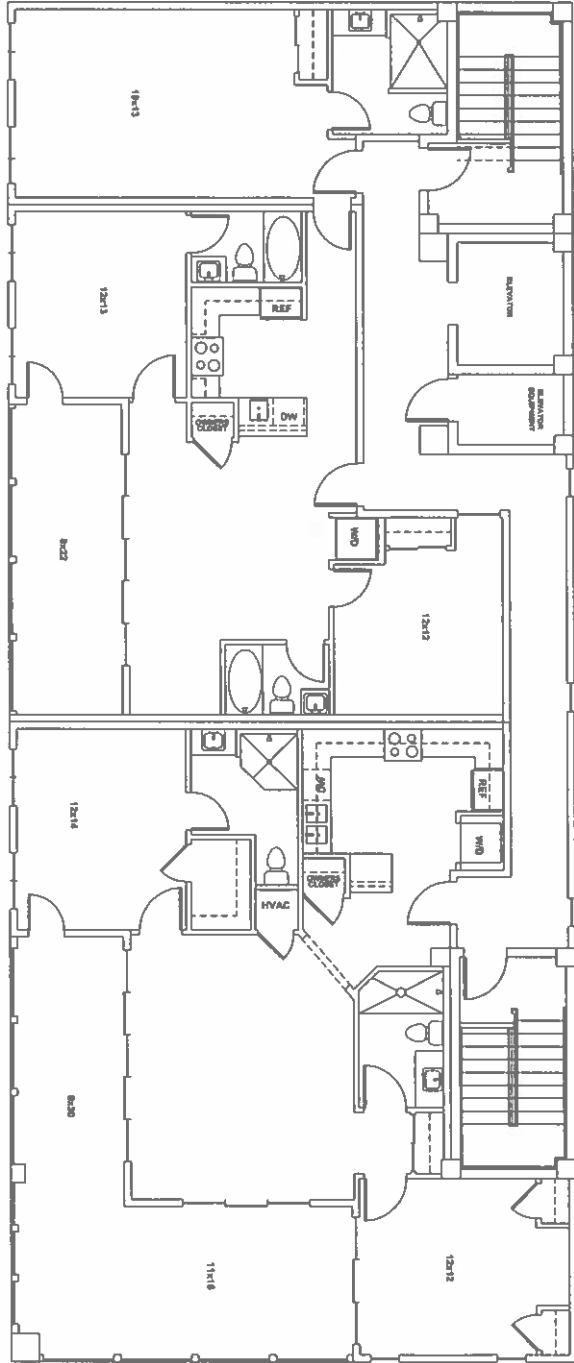
GROUND  
FLOOR

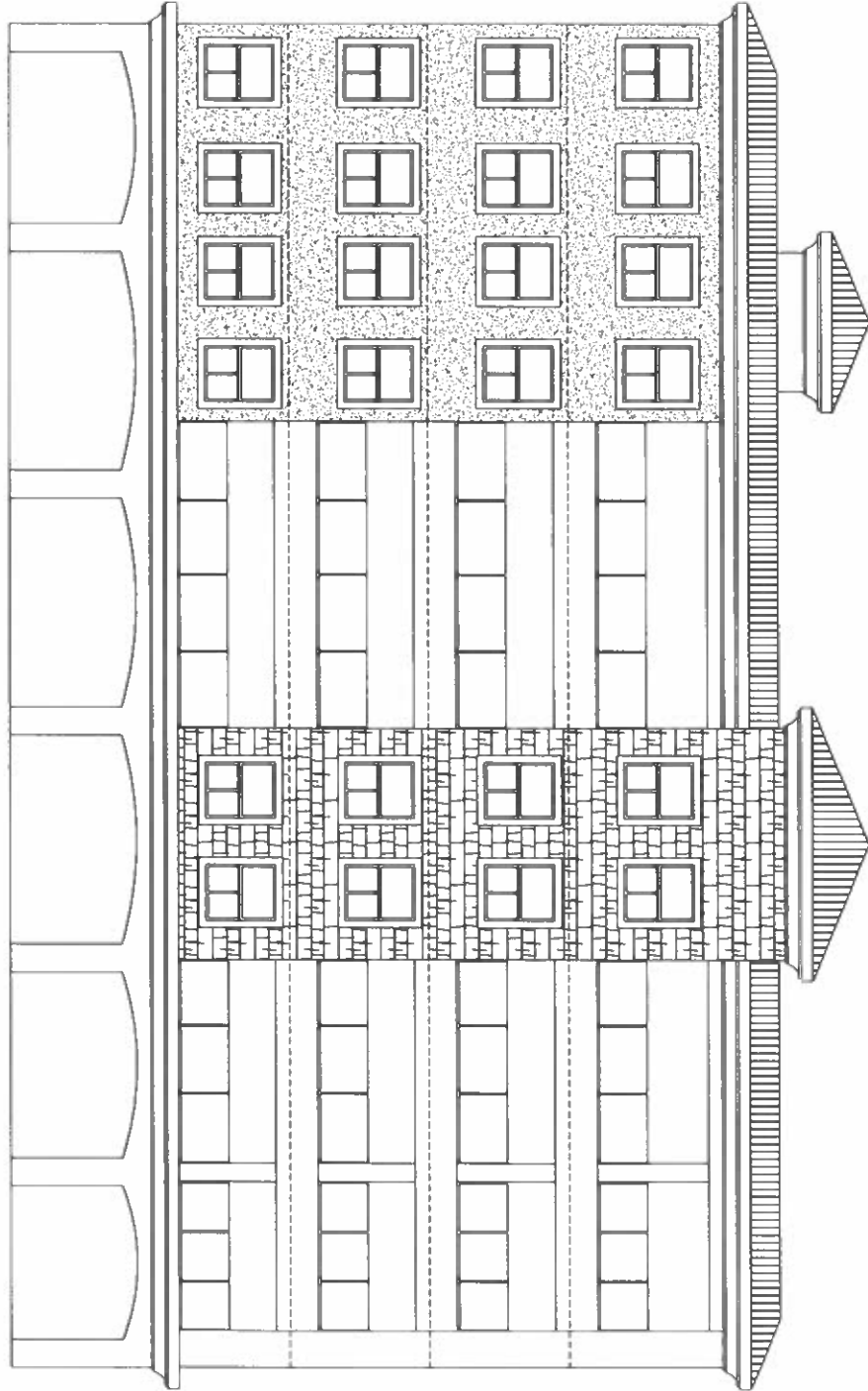
ADJACENT RESIDENCE

EDGE OF PAVEMENT

21'-8 1/8"

3,850 SF





3,850 SF  
19,250 SF  
Total



## VARIANCE REVIEW SHEET

### Property Information

<b>Applicant</b>	Leon Bailey, Jr
<b>Property Owner</b>	Leon Bailey, Jr and Bernita Bailey
<b>(PIN) Parcel ID #'s</b>	392014007
<b>Site Location</b>	3201 and 3203 South Ocean Blvd, Atlantic Beach, SC 29582

### Zoning District/Use Information

<b>Zoning District</b>	Residential (R2)		
<b>Proposed Use(s)</b>	Single Family Residential	<b>Use(s) Allowed</b>	Yes
<b>Minimum Lot Size</b>	6,000 sq f	<b>Actual Lot Size</b>	12,959 sq ft
<b>Min. Lot Area for Per Dwelling Unit (Density)</b>	6,000 sq ft, single-family detached	<b>Maximum Bldg Height</b>	45' and no more than 3 stories
<b>Minimum Setbacks</b>	25' front, 5' side, and 5' rear (however, shore protection requires a 20' rear setback with no impervious surfaces within it)		
<b>Max Building Coverage</b>	40%	<b>Max Impervious Surface</b>	40%
<b>Minimum Open Space</b>	55%	<b>Min Accessory Structure Setback</b>	5'

### Variance Description

Section of LMO	Variance Request(s)
<b>Section 5.3.420</b> (1) Min Front Setbacks (2) Side Setbacks (3) Max Impervious Surface (4) Max Building Coverage (5) Min Open Space	<b>Proposed Lot 2-A</b> (1) Reduce the minimum front setback from 25' to 18' (2) Reduce side setbacks from 5' to 0.5' (3) Eliminate the Maximum Impervious Surface Limit (4) Eliminate the Maximum Building Coverage Limit (5) Eliminate the Minimum Open Space Requirement
<b>Section 5.3.620A</b> (6) Accessory Structure	<b>Proposed Lot 2-A</b> (6) Eliminate the Accessory Structure Location Requirements
<b>Article VIII. Shore Protection</b> (7) All Requirements	<b>Proposed Lot 2-A and 2-B</b> (7) Eliminate All Requirements of Article VIII.

**Background/Site Description**

The applicant is proposing to subdivide their property into two lots. There is an existing home located on proposed lot 2-A. It does not currently meet the front setback requirements of the district or the accessory structure setbacks of the ordinance. It also does not meet the Shore Protection requirements; however, the site does meet the SCDHEC-OCRM baseline and setback requirements. If subdivided, proposed lot 2-A will also not meet the side setback, impervious surface, open space, and maximum lot coverage requirements of the R-2 District.

Proposed Lot 2-B has its own address assigned to it. The applicant is proposing to develop this site as a single-family residential lot. It is only seeking a variance from the Shore Protection requirements for this proposed lot.

**Site Location**



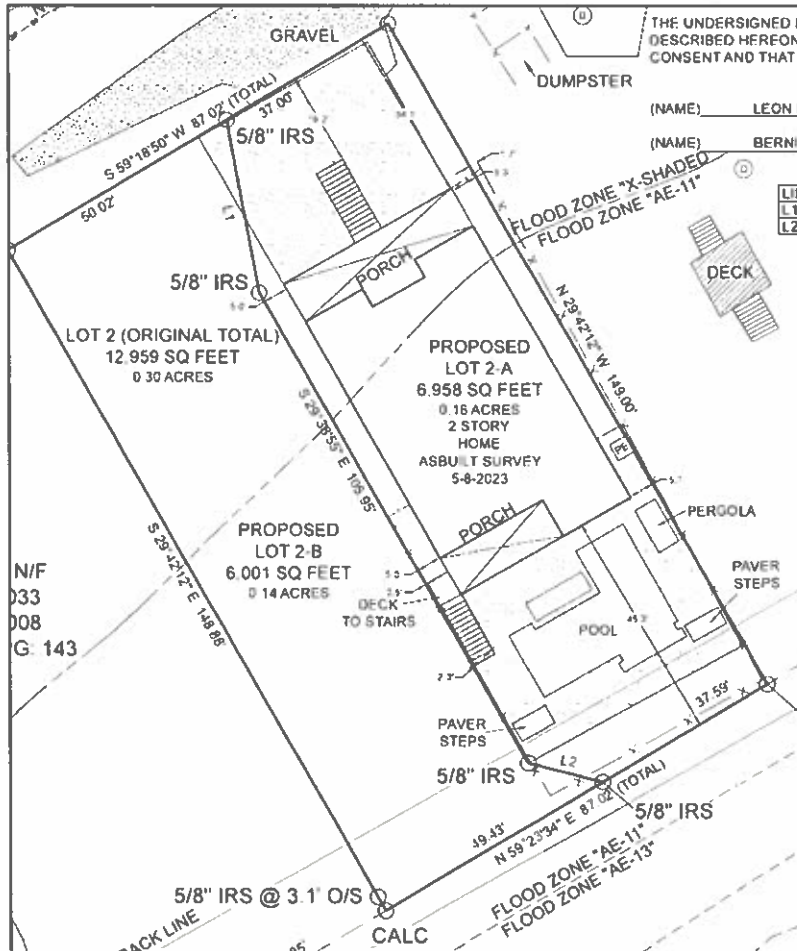
Source: Horry County GIS Application



Existing home on proposed Lot 2-A

Photo Source: Elliot Beach Rentals

### Proposed Lot Layout (not for recording)





### **Ordinance and Analysis**

#### **From the Land Management Ordinance**

**"5.2.401.2 Residential (R2).** *The intent of this district is to preserve and protect the character of Atlantic Beach neighborhoods. Residential uses range from single family detached to multi-family at densities that are compatible with existing housing. This district may provide for innovative design including, but not limited to, zero-lot-line development. Select non-residential uses may be allowed in this district provided such uses are complementary and do not create nuisances to residential enjoyment."*

**Existing Non-Conformities.** The front setback, accessory structures, and pool and patio to the rear of the home are all legal, non-conforming. They will not be required to be removed if this variance is not granted; however, if a variance is not granted, it will hinder the ability to subdivide the property. Having a non-conformity could also hinder the future sale of the property.

#### **Maximum Impervious Surface, Maximum Building Coverage, and Minimum Open Space.**

The Ordinance currently limits development in the R2 district to 40% of the lot and that 55% of a lot has to remain open space. This limits the ability to have a paved driveway if a building meets its maximum building coverage. Most existing developed R2 lots could not meet these requirements.

**Side Setback:** If subdivided, Lot 2-A would have a 0.5 side setback from Lot 2-B. This is to ensure the stairs on the rear of the structure do not have to be removed or relocated. If developed, the structure on Lot 2-B would still need to meet building code separation requirements.

**Shore Protection.** The Ordinance requires a 20' rear setback for all properties along the beachfront. This setback is more restrictive than SCDHEC-OCRM. It also does not allow for impervious surfaces, including patios or pools.

**VARIANCE REVIEW CRITERIA**

The Board of Zoning Appeals shall utilize the following criteria to evaluate if strict application of the provisions of the Land Management Ordinance would result in an unnecessary hardship for applicant in accordance with Sec 6-29-800 of the SC Code of Laws. There may be multiple variance requests submitted per application. Each request shall be evaluated using this criteria.

(a) there are extraordinary and exceptional conditions pertaining to the particular piece of property.
(b) these conditions do not generally apply to other property in the vicinity.
(c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
(d) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.

***Proposed Order/Conditions***

**Should the Board decide that this variance(s) meet all review criteria, in accordance with Sec 6-29-800 of the SC Code of Laws, and grants approval of the variance(s), staff recommends the following conditions:**

- 1) A shared parking easement shall be recorded with the subdivision plat for Lot 2-A and 2-B.

  
**PUBLIC HEARING**  
**VARIANCE REQUEST**  
September 28, 2023 5pm  
September Center  
1010 32nd Ave

1010 32nd Ave  
South Ocean Blvd  
Variance Case 1-2023  
9-12-2023  
Posted on 10/10/23

Last Revised: 03/2023  
 Case Number:  
 \_\_\_\_\_

### VARIANCE APPLICATION

(PIN) Parcel ID #'s	3920140007		
Zoning District	R-2		
Area (sq. ft. or acres)	.3		
Property Address or Description	3201 South Ocean Blvd , Atlantic Beach , Sc 29582 3203 South Ocean Blvd , Atlantic Beach, SC 29582		
Current Use of Property	Single Family		
Brief description of the Variance requested	<ul style="list-style-type: none"> <li>● Variances to the front and side setbacks, impervious surface maximum, open space minimum, and possibly the maximum building coverage for the R2 District as defined in <b>Section 5.3.420</b> of the Land Management Ordinance.           <ul style="list-style-type: none"> <li>○ Front setback reduction from 25' to <u>18</u> feet (stairs are 18.2' from front property line)</li> <li>○ Side setback reduction from 5' to <u>.5</u> feet (stairs are .5 ft from proposed property line)</li> <li>○ Increase in impervious surface to have no maximum.</li> <li>○ Increase in maximum building to have no maximum.</li> <li>○ Change the open space minimum to have no open space minimum.</li> <li>○ Shore protection line variance req. for 3201 + 3203</li> </ul> </li> </ul>		

	<ul style="list-style-type: none"> <li>• Variance to the <b>Section 5.3.620A</b> regarding the location of accessory structures. This section of code indicates that accessory structures (including the mechanical equipment for the pool and pergola) "shall not be placed closer than 5' from any rear or side property line and shall be located on the same lot as the main use or building." The pool equipment and pergola are located closer than 5 feet to the side property line. <i>The request is a complete Variance from the accessory structure setback requirement</i></li> <li>• Variance request to <b>Sections 5.3.801; 5.3.802; 5.3.804; 5.3.805</b></li> </ul>
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**Ownership Information:** (include all owners. If necessary, add additional pages)

Name: Leon Bailey and Bernita Bailey		
Address: 14307 Derby Ridge Rd		
City: Bowie	State: MD	Zip: 20721
Phone: [REDACTED]	Email address: [REDACTED]	

**Agent Information:** (if applicable)

Name:		
Address:		
City:	State:	Zip:
Phone:	Email address:	

**Office Use Only:**

Date Submitted		Site Plan		Application Fee	
Received By		Advertisement Date		Advertisement Cost	
Adj Addresses Provided		Mailout Date		Mailout Cost	
Signs Needed		Property Posted Date		Sign Cost	
PINS Verified		Check In Mtg Date		Total Fees	

Ownership Verified		BZA Mtg Date		Date fees paid	
Request(s) Verified				Receipt No.	

Last Revised: 03/2023

Case Number: \_\_\_\_\_

**VARIANCE REVIEW CRITERIA**

A variance may be granted if the Board of Zoning Appeals concludes that strict application of the provisions of the Land Management Ordinance would result in an unnecessary hardship. The following review criteria are defined by Sec 6-29-800 of the SC Code of Laws.

Answer **AND** explain the following questions: (Use a separate piece of paper if needed)

<p>Are there extraordinary and exceptional conditions pertaining to this particular piece of property?</p> <p>When we purchased this lot it had two addresses recorded 3201 + 3203 which gave us the impression that these were originally two separate lots.</p>
<p>Do the above stated conditions only apply to the subject property and do not generally apply to other properties in the vicinity?</p> <p>Yes.</p>
<p>Because of these conditions, would the application of the ordinance to the subject property effectively prohibit or unreasonably restrict the utilization of the property?</p> <p>No.</p>
<p>Would the approval of the variance cause a substantial detriment to adjacent properties or the public good, and will the character of the district not be harmed by the granting of the variance?</p> <p>No.</p>





### CERTIFICATION AND SIGNATURE PAGE

- Applicant/Agent hereby certifies that the information provided in this application is correct and there are no covenants or deed restrictions in place that would prohibit this request.  Applicant/Agent hereby certifies that they understand that variance may only be granted for requested relief from Articles IV-IX of the Land Management Ordinance and that all other development requirements must be met.
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- Applicant/Agent hereby certifies that it understands that if the Board of Zoning Appeals grants a variance that it may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

**Signature Blocks:**

**Owners** (include all owners. If necessary, add additional pages)

LEON BAILEY JR	8/25/23	Bernita Bailey
Print Name	Signature Date	
	8/25/23	
Print Name	Signature Date	Corporation / Partnership (if applicable)

Print Corporation/Partnership Name (If in LLC or Corp. name, provide authorization to sign)

By \_\_\_\_\_  
Print Name Signature