CITY OF SOUTHPORT
REGULAR BOARD OF ADJUSTMENT MEETING
October 22, 2024
Indian Trail Meeting Hall
113 W. Moore Street
4:30 p.m.
Meetings are open to the public. Please silence your cellular phones.
ETHICS STATEMENT:
"If any members know of any conflict of interest or the appearance of a conflict of interest concerning
matters on the agenda, please state at this time."

A. Call to Order

B. Pledge of Allegiance

C. Explanation of Quasi-Judicial Process

1. Quasi-Judicial Process

D. New Business

1. *Variance Request: 101 N Atlantic Ave*

E. Approval of Minutes

1. Minutes of the August 27, 2024 Board of Adjustment meeting

F. Adjourn

WHAT IS A QUASI-JUDICIAL HEARING?

A quasi-judicial hearing is a more formal type of hearing in which **the deciding board uses evidence, facts, and expert testimony** to make a decision. It is more like a court hearing. Evidence must be substantial, competent, and material. **Opinions, hearsay**, and **repetitive** testimony will be ruled out of order by the Chair.

SITUATIONS THAT REQUIRE A QUASI-JUDICIAL HEARING:

Special Use Permits: Permits issued to authorize development or land uses in a particular zoning district upon evidence establishing compliance with general and supplemental standards for that use. A special use permit assures that the development does not cause harm to the adjacent properties. The deciding board may place conditions on the use to help mitigate any possible negative impacts. One example would be requiring the business to stop using outdoor speakers by a certain time to help prevent disturbances to the neighbors.

Variances: Special circumstances in which a property owner requests to modify certain provisions of the ordinance. The modification must not be from a self-inflicted hardship and must be consistent with the spirit and intent of the ordinance. One example would be a reduction of setbacks for an accessory building because of a stream running through the backyard.

Appeals: Only actual official staff/board determination or action can be appealed. The appeal must be made by a person with standing. The Board may reverse or affirm the decision as a whole or in part. An example would be a resident appealing the denial of a permit to their property.

HOW IS A QUASI-JUDICIAL HEARING CONDUCTED?

Typically, the presentation of information will begin with city staff. The Board Chair will swear the presenters in, either together or one at a time. After staff presents their materials, the applicant and any representatives will provide testimony in favor of their request. Any members of the public that wish to speak may do so, but the Chair has the authority to ascertain whether they have standing and should be considered. After those opposed to the request have spoken, the applicant has the opportunity for rebuttal. The deciding Board can ask questions throughout the hearing of evidence. After all evidence has been presented, the Board Chair will close the comment period, and the Board can deliberate. The public hearing will be closed after deliberations, and the Board will make a determination.

WHAT HAPPENS NEXT?

After a decision has been made to grant a variance, special use permit, or an appeal, a final order is composed that lists all of the findings of fact and the conditions of approval. The final document will be signed by the applicant and the Board Chair and filed at the Register of Deeds office so that it is always tied to the property. The applicant receives a signed copy of the final document.

RELEVANT DEFINITIONS:

Quorum-the number of voting members that must be present to hold the hearing. Typically, this number is a simple majority of board members. According to the UDO, in Southport's case, a quorum is four members.

Witnesses-persons who present evidence under oath. The Board chair may subpoena witnesses. Cross-examination must be allowed.

Standing-any person/organization who has standing may appeal a decision. Standing typically refers to the owner of the property, the applicant for the permit, anyone who will suffer "special damages" as a result of the decision, a neighborhood association that would be affected, or the unit of government that has made the decision being appealed. Proximity, financial investment, etc., do not establish standing. Standing must be ruled on by the chair/board only.

Expert Testimony-architects, engineers, surveyors, appraisers, and other licensed land use professionals can provide evidence supporting their clients but cannot make legal arguments or cross-examine evidence.

Conflict of Interest-members of the Board may be disqualified from participating and voting if any of the following conditions are present:

1. Fixed opinion prior to the hearing
2. Undisclosed ex-parte communication (discussion outside of the meeting)
3. Close family, business, or other relationship with an affected person
4. Financial interest in the outcome

If an objection is made and the member refuses to recuse his/herself, the remaining Board members vote on recusal.

STAFF REPORT FOR
VARIANCE APPLICATION

APPLICATION SUMMARY	
Hearing Date	September 24, 2024 Board of Adjustment
Applicant	Brian Kelley, Kelley Construction Services
Property Owner	Jesse and Kara McPherson
Parcel ID:	237LG021
Parcel Acreage	0.14 acres or 5,940 SF
Zoning District	R-10

VARIANCE PROPOSAL

Brian Kelley, applicant for owners, Jesse and Kara McPherson requests a variance for relief from the Southport Unified Development Ordinance standards outlined in Table 3.2 Dimensional Requirements by Zoning District. The applicant request is to reduce the rear setback requirement to four (4) feet on a property with a depth of sixty-six (66) feet.

PROPERTY LOCATION AND DESCRIPTION

Subject property is located at 101 N Atlantic Avenue and can be further identified by Brunswick County Parcel ID 237LG021. The lot is on the corner of N. Atlantic Avenue and E. Moore Street. This is an R-10 zoned 5,940 square foot lot.

The home was built in 1970, prior to the first zoning ordinance of the City of Southport, which was adopted in 1972. No minimum lot sizes or building setbacks were formally enforced.

BRUNSWICK COUNTY 9/18/2024 1:45:28 PM

MCPHERSON JESSE P ETUX MCPHERSON KARA S

Return/Appeal Notes:

Parcel: 237LG021

101 N. ATLANTIC AVE SOUTHPORT 28461 SOUTHPORT

PLAT: UNIQ ID / 110071

37759750

ID NO: 209616833141

BRUNSWICK COUNTY (100), DOSHER HOSP TAX (100), SOUTHPORT (100), SOUTHPORT FIRE (400)

CARD NO. 1 of 1

Reval Year: 2023 Tax Year: 2024

L-90X66

1.0000 LT

SRC= Inspection

Appraised by 53 on 10/10/2022 404P OLD SOUTHPORT - SMITHVILLE

TW-03

CI-21 FR-14 EX- AT-

LAST ACTION 20221010

CONSTRUCTION DETAIL

Foundation - 4 Con Ftg/Crawl	5.00
Sub Floor System - 4 Plywd/Ptl bd	8.00
Exterior Walls - 10 Aluminum/Vinyl Siding	33.00
Exterior Walls - 21 Face Brick	0.00
Roofing Structure - 05 Mansard	8.00
Roofing Cover - 03 Composition Shingle	4.00
Interior Wall Construction - 4 Plywood Panel	19.00
Interior Wall Construction - 5 Drywall/Sheetrock	0.00
Interior Floor Cover - 08 Vinyl	7.00
Interior Floor Cover - 14 Carpet	0.00
Heating Fuel - 04 Electric	1.00
Heating Type - 09 Heat Pump Only	4.00
Air Conditioning Type - 03 Central	4.00
Bedrooms/Bathrooms/Half-Bathrooms 4/2/0	14.000
Bedrooms BAS - 4 FUS - 0 LL - 0	
Bathrooms BAS - 2 FUS - 0 LL - 0	
Half-Bathrooms BAS - 0 FUS - 0 LL - 0	
Office BAS - 0 FUS - 0 LL - 0	0
TOTAL POINT VALUE	107.000

BUILDING ADJUSTMENTS

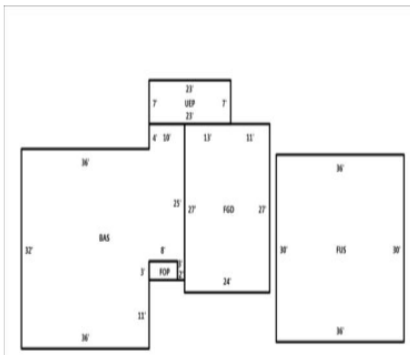
Market/Design	14	.45	1.4500
Quality	3	AVERAGE	1.0000
Size	Size	SIZE	0.8600
Construction Factor	05	1.00	1.0000
TOTAL ADJUSTMENT FACTOR			1.250
TOTAL QUALITY INDEX			134

MARKET VALUE

USE	MOD	Eff. Area	QUAL	BASE RATE	RCN	EYB	AYB
01	01	2,762	134	160.80	447130	1993	1970

TYPE: SINGLE FAMILY RESIDENTIAL SFR CONSTRUCTION

STYLE: 3 - 2.0 Stories



Click on image to enlarge

DEPRECIATION

Standard	0.28000
% GOOD	72.0

CORRELATION OF VALUE

CREDENCE TO	MARKET
DEPR. BUILDING VALUE - CARD	321,930
DEPR. OB/XF VALUE - CARD	2,720
MARKET LAND VALUE - CARD	260,820
TOTAL MARKET VALUE - CARD	585,470
TOTAL APPRAISED VALUE - CARD	585,470
TOTAL APPRAISED VALUE - PARCEL	585,470
TOTAL PRESENT USE VALUE - PARCEL	0
TOTAL VALUE DEFERRED - PARCEL	0
TOTAL TAXABLE VALUE - PARCEL $	585,470

PERMIT

CODE	DATE	NOTE	NUMBER	AMOUNT

ROUT: WTRSHD:

SALES DATA

OFF. RECORD BOOK	PAGE	DATE MO	YR	DEED TYPE	Q/U	V/I	INDICATE SALES PRICE
03161	0378	5	2011	SL	Q	I	225000
01441	0132	3	2001	WD	U	V	0

HEATED AREA 2,458

NOTES

07ST#50194

SUBAREA

TYPE	GS AREA	%	RPL CS
BAS	1,378	100	221582
FGD	648	050	52099
FOP	24	030	1126
FUS	1,080	090	156298
UEP	161	050	13025
FIREPLACE	2 - 1 Story Single		3,000
SUBAREA TOTALS	3,291		647,130

CODE	DESCRIPTION	COUNT	LTH	WTH	UNITS	UNIT PRICE	ORIG % COND	BLDG#	AYB	EYB	ANN DEP RATE	OVR	% COND	OB/XF DEPR. VALUE
32	FENCING		0	0	117	14.00	0		2018	2018	53		85	1392
85	STORAGE/UTILITY		14	12	168	20.00	0		2000	2000	53		31	1042
22	CONCRETE PAVING		0	0	320	4.50	0		1985	1985	53		20	288
TOTAL OB/XF VALUE														2,722

BUILDING DIMENSIONS FGD=W11W13S27E24N27Area:648;UEP=N7W23S7E23Area:161;BAS=W10S4W36S32E36N11N3E8S3E2N25Area:1378;FOP=E8N3W8S3Area:24;FUS=S30E36N30W36Area:1080;TotalArea:3291

LAND INFORMATION

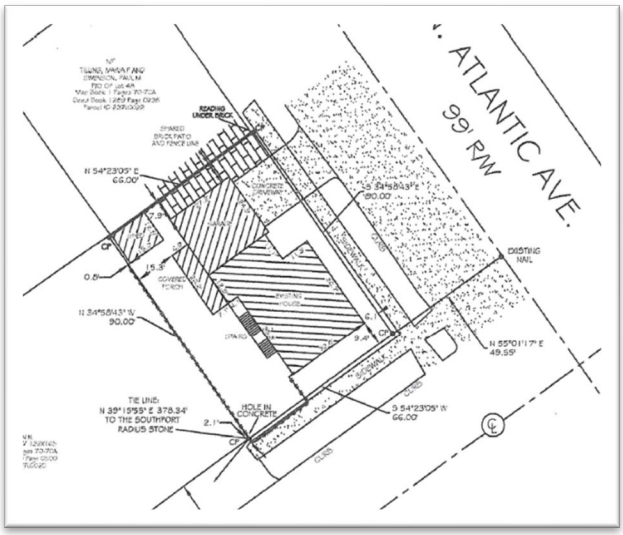
HIGHEST AND BEST USE	USE CODE	LOCAL ZONING	FRONTAGE	DEPTH	DEPTH / SIZE	LND MOD	COND FACT	OTHER ADJUSTMENTS AND NOTES RF AC LC TO OT	ROAD TYPE	LAND UNIT PRICE	TOTAL LAND UNITS	UNT TYP	TOTAL ADJST	ADJUSTED UNIT PRICE	LAND VALUE	OVERRIDE VALUE	LAND NOTES
SFR	0100	R10	90	66	0.6900	2	1.0000		PS	4,200.00	90.000	FF	0.690	2,898.00	260820		
TOTAL MARKET LAND DATA																260,820	
TOTAL PRESENT USE DATA																	

VAR-24-02 Staff Report BOA 9-24-24

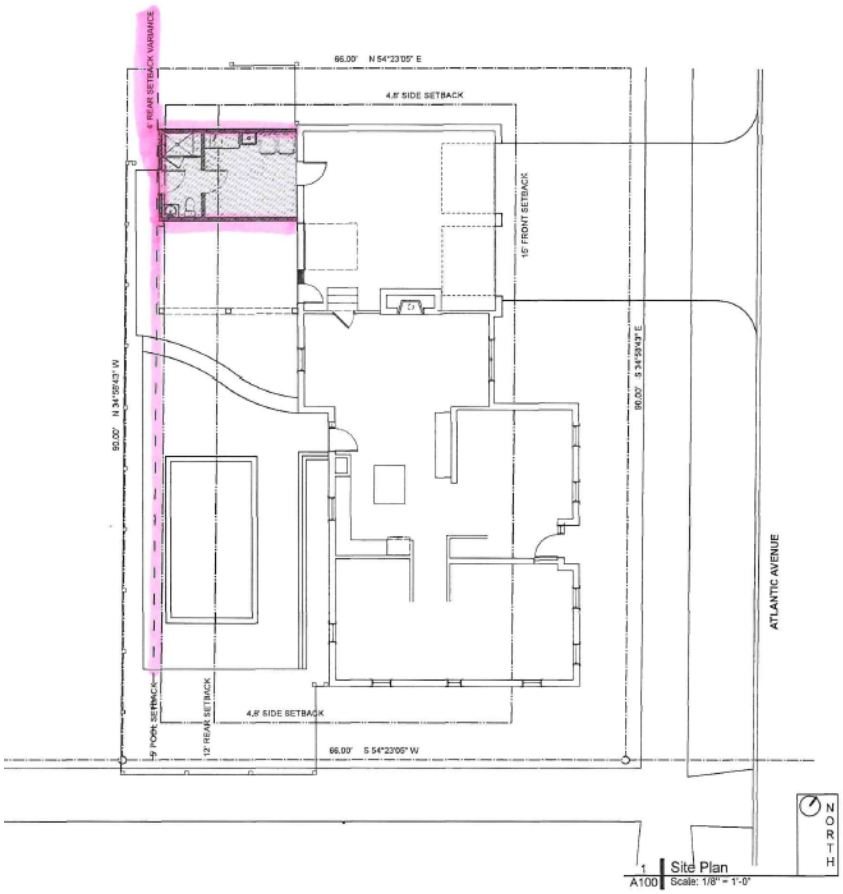
VARIANCE DESCRIPTION

The variance request is for a rear yard setback reduction on a property with a depth of sixty-six (66) feet. Specifically, the applicant is requesting a setback of four (4) feet for the rear yard to accommodate the addition of a laundry room and full bath. Full surveys and drawings are attached to this report.

The unified development ordinance (UDO) allows for a reduction of side and rear setbacks for nonconforming lots of record. The allowable reduced rear setback for this lot is twelve (12) feet and reduced side yard setbacks are five (5) feet.



Existing Conditions



Proposed Addition with Reduced Setback

APPLICANT'S JUSTIFICATION FOR VARIANCE

The applicant's statements indicate that there is a site condition hardship, due to the size of the lot. Further, it states the conditions are peculiar to the property and the hardship does not result from actions taken by the property owners.

Detailed justifications for each criterion outlined in the general statues are found within the application attached to this report.

VARIANCE PROCEDURE

The variance request is a quasi-judicial decision so it must be conducted in a way to ensure procedural and substantive due process. Anyone wanting to provide testimony must be sworn in. As a quasi-judicial hearing the decision makers must be fair and impartial, and you must base your decision only on the competent evidence you receive. If anyone has a direct or potential financial interest in this proposed project, they should recuse themselves. A 4/5th majority vote is required for a variance. Conditions can be applied but they must be proportional and directly applicable to the variance situation. In other words, they should be

designed in such a way to assist the applicant to come into better and closer conformance with the City's zoning regulations. All evidence and testimony heard is substantive and competent in nature. Each case is decided on a case-by-case basis. The decision must be based on the specific site and not the owner or other locations they may own. The Board of Adjustment is to look at the circumstances of the property, not the circumstances of the property owner.

General Statute (GS) 160A-388. (d) codifies the evaluative criteria the Board of Adjustment finds to be met when deciding a variance request. The four standards are:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

These requirements from the General Statutes must be the standards utilized when hearing and deciding on variance cases. If approval is granted, the variance application needs to comply with all 4 criteria outlined above.

Before granting a variance, the Board of Adjustment must take a separate vote and vote affirmatively (by a 4/5 majority) on each of the four (4) required findings stated above. Findings of fact are an accepted record of the exhibits, evidence presented, and a formal recording of the decision made at the hearing. The motion to adopt the findings of fact can be made in conjunction with the motion to approve or deny the application or as a separate motion afterwards. A motion to make an affirmative finding on each of the 4 criteria requirements shall include a statement of the specific reasons or facts supporting each motion. A motion to deny a variance may be made on the basis that any 1 or more of the 4 criteria set forth are not satisfied or that the application is incomplete and shall include a statement of the specific reasons or facts that support it.

BOARD OF ADJUSTMENT: FINDING OF FACTS AND CONCLUSION OF LAW

The Chairman will now guide the Board through the following motions, which have been distributed in advance of the hearing:

VAR-24-02 Staff Report BOA 9-24-24

Motion 1: "Unnecessary hardship *would/would not* result from a strict application of the ordinance. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property"

[There should be some factual explanation by the Board for its decision on this motion.]

Finding of Fact:

_____

Motion 2: "The hardship *results/does not result* from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance"

[Note: If the application does not meet conditions and specifications, it must be denied.]

Finding of Fact:

_____

Motion 3: "The hardship *did/did not* result from actions taken by the applicant or property owner. The act of purchasing property with knowledge that circumstances exist that might justify a variance shall not be considered as a self-created hardship"

[There should be some factual explanation by the Board for its decision on this motion.]

Finding of Fact:

_____

Motion 4: "The requested variance is *consistent/not consistent* with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice achieved."

[There should be some factual explanation by the Board for its decision on this motion.]

Finding of Fact:

_____

Motion 5: Based on the findings of fact and the evidence presented, the Board of Adjustment:

☐ Recommends denial of the variance application based on the following: _____

_____

_____

_____

☐ Recommends approval of the variance application with conditions, including the following: _____

_____

_____

_____

☐ Recommends approval of the variance application with no conditions.

The final decision of the Board will be reduced to writing. A copy will be recorded with the Register of Deeds for Brunswick County.

Attachments:
Application
Survey
Site Plan

I, WILLIAM W. DELANEY II, P.L.S. CERTIFY TO ONE OF THE FOLLOWING:

- ☐ THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
- ☒ THAT THE SURVEY IS OF AN EXISTING PARCEL OF LAND.
- ☐ THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS RECOMBINATION OF EXISTING PARCELS, A COURT ORDERED SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION.

NORTH CAROLINA FIRM F-1147 LAND SURVEYING BRUNSWICK COUNTY

PROFESSIONAL LAND SURVEYOR L-2973

NORTH CAROLINA BRUNSWICK COUNTY

I, WILLIAM W. DELANEY II, P.L.S. CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 3161 AT PAGE 0378 IN BRUNSWICK COUNTY REGISTER OF DEEDS OFFICE); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK ____ AT PAGE ____; THAT THE RATIO OF PRECISION AS CALCULATED BY COMPUTER IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 27 DAY OF MAY A.D. 2024

PROFESSIONAL LAND SURVEYOR L-2973

N.C. GRID NAD 1983/2011 NAVD 1988

N/F TILLING, MARIA F AND SWENSON, PAUL M P/O OF Lot 48 Map Book 1 Pages 70-70A Deed Book 1269 Page 0236 Parcel ID 237LG022

N/F UNITED STATES PARCEL SERVICE US POST OFFICE Deed Book 0421 Page 0230 Parcel ID 237LG025

N/F MANN JOHN R. P/O Lots 46&47 122X165 Map Book 1 Pages 70-70A Deed Book,5170 Page 0500 Parcel ID 237LG020

N/F EPISCOPAL DIOCESE OF EAST CAROLINA ETALS 1/2 OF Lot 45 Map Book 1 Page 70A Deed Book 4409 Page 0877 Parcel ID 237LG019

READING UNDER BRICK

SHARED BRICK PATIO AND FENCE LINE

N 54°23'05" E 66.00'

S 34°58'43" E 90.00'

N 34°58'43" W 90.00'

N 55°01'17" E 49.55'

S 54°23'05" W 66.00'

EXISTING NAIL

HOLE IN CONCRETE

TIE LINE: N 39°15'55" E 378.34' TO THE SOUTHPORT RADIUS STONE

133.31' S 54°15'00" W

49.5'

49.5'

N. ATLANTIC AVE. 99' RW

E. MOORE ST. 99' RW

CONCRETE DRIVEWAY

GARAGE

SHED

COVERED PORCH

EXISTING HOUSE

STAIRS

SIDEWALK

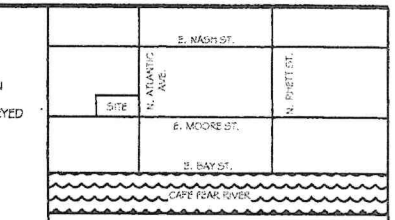
CURBS

CP

ERB

0 20 40 60

NOTES:
1. THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, RIGHT-OF-WAY, COVENANTS, RESTRICTIONS, AND CONDITIONS OF RECORD AFFECTING SAID PREMISES.
2. A TITLE SEARCH WAS NOT PERFORMED ON THE PARCELS SHOWN. THIS PLAT IS NOT A GUARANTEE OF TITLE.



VICINITY MAP - NOT TO SCALE

Surveyed and Mapped By

Tide Water Land Surveying
P.O. Box 11506
802 North Howe Street
Southport, North Carolina 28461
Phone: 910-457-9580
twlandsurveying@aol.com

NOTES:
1. NO GEODETIC MONUMENT WAS FOUND WITHIN 2000'.
2. SURVEY DATE: MARCH 25, 2024.
3. PLAT SCALE: 1" = 20'.
4. ALL DISTANCES ARE HORIZONTAL GROUND.
5. THE LAND SHOWN ON THIS PLAT IS IN A FLOOD HAZARD AREA X ACCORDING TO FIRM MAP #3720209600K.
6. ZONED: R1O.
7. E.R.B.=EXISTING RE-BAR.
8. E.I.P. =EXISTING IRON PIPE.
9. I.S.S. =IRON STAKE SET.
10. C.P. = CALC POINT.
11. E.I.P.P. = EXISTING IRON PINCH PIPE.
12. E.C.M. = EXISTING CONCRETE MONUMENT.

101 N. Atlantic Ave.
P/O OF Lot 48
Map Book 1 Pages 70-70A
Deed Book 3161 Page 0378
Parcel ID #237LG021

5939.63 Sq. Ft.
0.14 Acres

Surveyed and Mapped for:

Jesse P. McPherson

and wife,

Kara S. McPherson

City of Southport
Smithville Township
Brunswick County
State of North Carolina

DWG/RCRD: 101 N ATLANTIC AVE | Drawn by:

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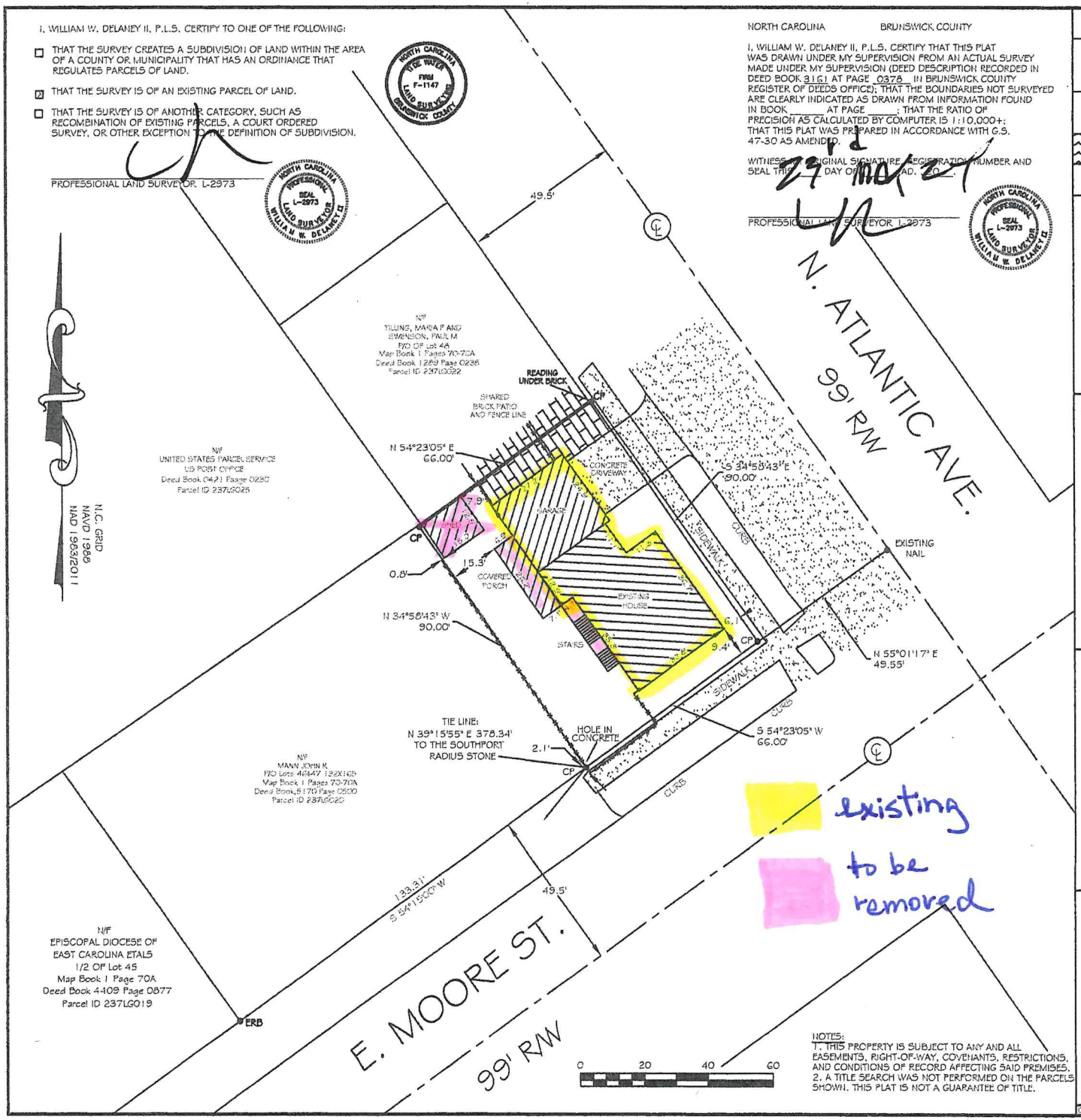
WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 29 DAY OF MAY, A.D. 2024.

PROFESSIONAL LAND SURVEYOR, L-2973



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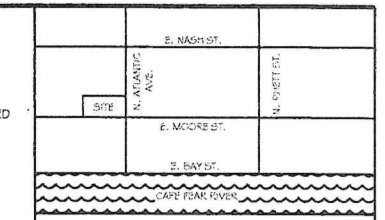

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101
N. Atlantic Ave.
P/O OF Lot 48
Map Book 1 Pages 70-70A
Deed Book 3161 Page 0378
Parcel ID #237LG021

5939.63 Sq. Ft.
0.14 Acres

Surveyed and Mapped for:

Jesse P. McPherson

and wife,

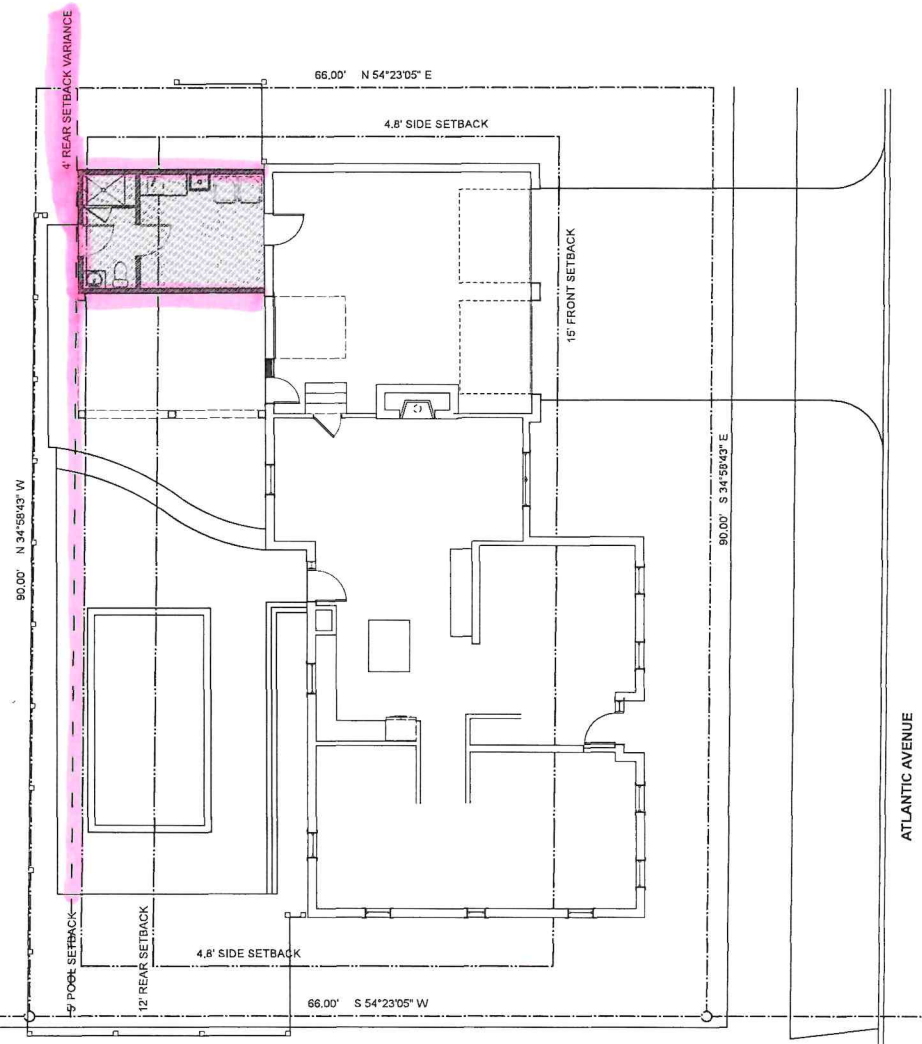
Kara S. McPherson

City of Southport
Smithville Township
Brunswick County
State of North Carolina

DWGRECORD: 101 N ATLANTIC AVE | Drawn by:

NOT TO SCALE

NOT TO SCALE



1 A100 Site Plan
Scale: 1/8" = 1'-0"

Site Notes

1. PROPERTY ZONED R-10
   SOUTHPORT, NORTH CAROLINA
   SETBACKS - FRONT 25' (60% - 15')
   SIDE 8' (60% - 4.8')
   REAR 20' (60% - 12')
   SOUTHPORT ALLOWS NONCONFORMING LOTS IN THE R-10 DISTRICT SETBACK PROPORTIONATE TO THE LOT. THE CURRENT LOT IS 5,940 SF (MIN LOT SIZE 10,000) ALLOWING 40% REDUCTION
2. MAXIMUM HEIGHT - 40 FEET
3. SITE INFORMATION TAKEN FROM SURVEYED AND MAPPED FOR JESSIE P MCPHERSON AND WIFE KARA S MCPHERSON BY WILLIAM W DELANEY PLS DATED MAY 23, 2024 . ALL SETBACKS TO BE VERIFIED AND ESTABLISHED DURING CONSTRUCTION

Graphic Legend

PROPERTY LINE

SETBACK LINE

NEW ADDITION

McPherson Renovation

101 North Atlantic Avenue
Southport, NC 28461

August 12, 2024

REVISIONS

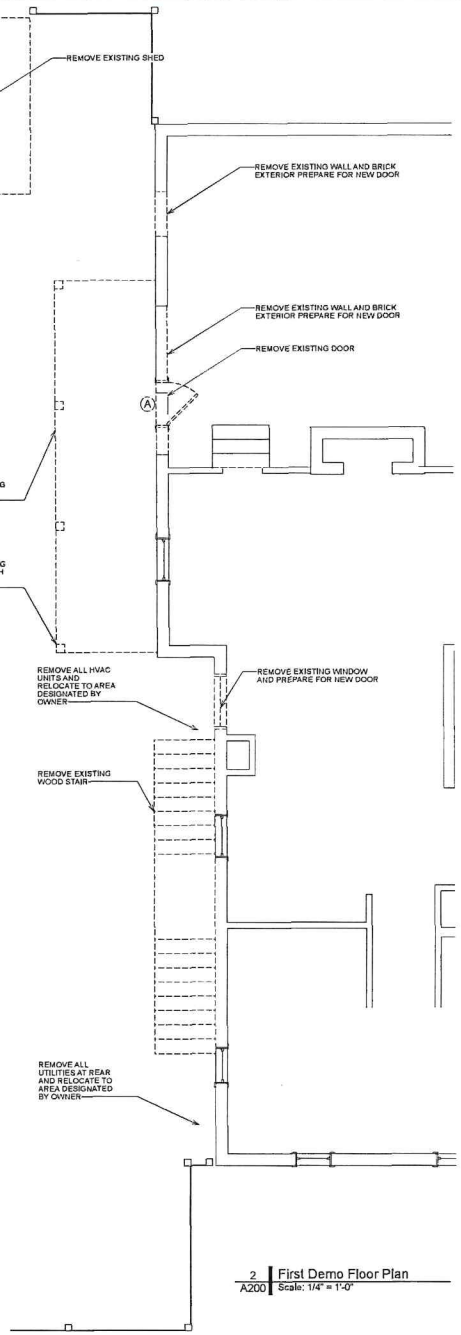
DAVID C. BAILY
11169
8/12/24
REGISTERED ARCHITECT
NORTH CAROLINA

EAIL ARCHITECTURE PLLC
53911
REGISTERED ARCHITECTURAL COMPANY
NORTH CAROLINA

Site Plan

A100

NOT TO SCALE



2 A200 First Demo Floor Plan
Scale: 1/4" = 1'-0"

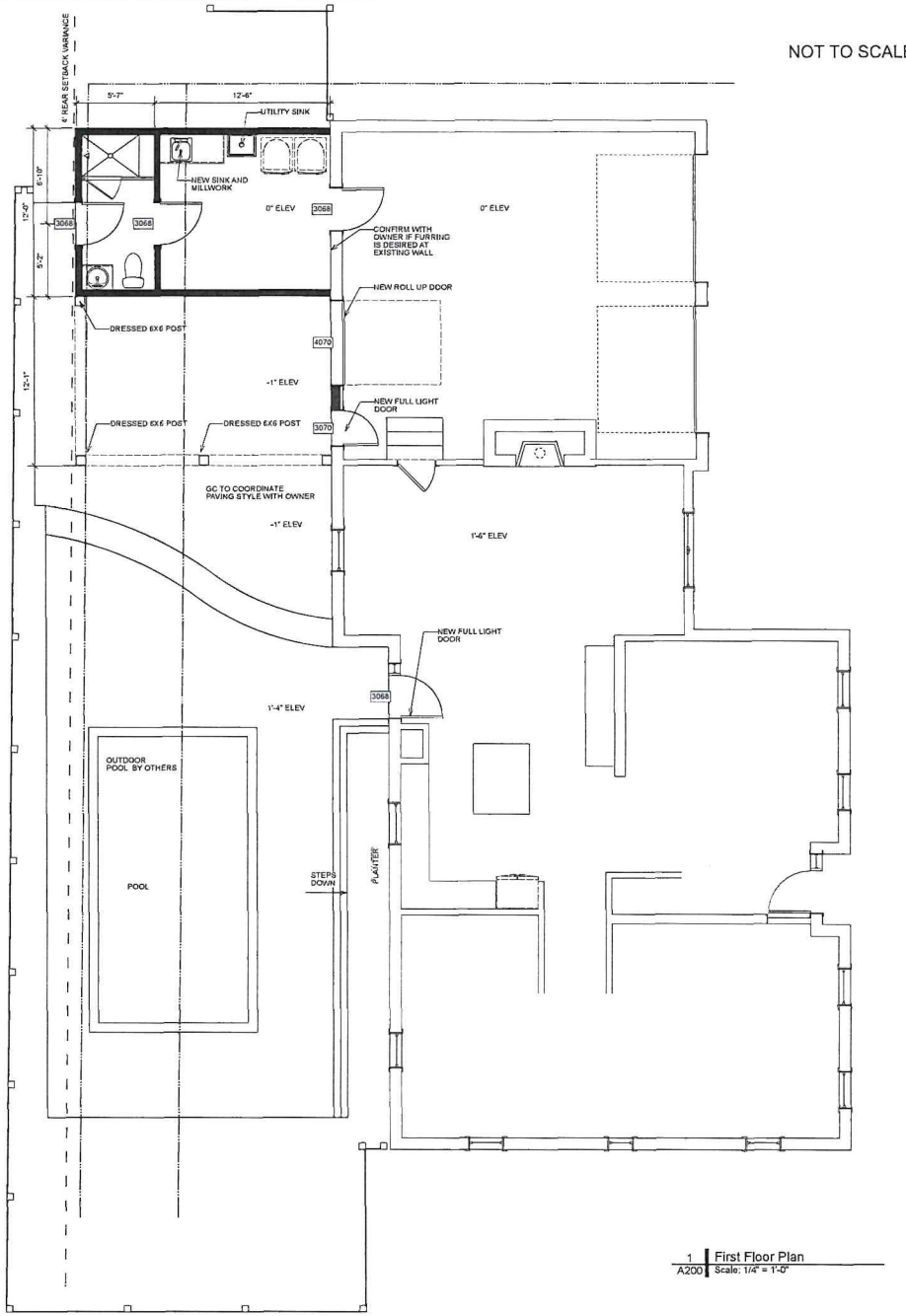
Graphic Legend

- EXISTING WALL
- NEW WALL
- ITEM TO BE REMOVED (DEMO ONLY)
- 3068 DOOR SIZE WXH
- 2038 WINDOW SIZE WXH

Construction Notes

1. THE CONTRACTOR IS TO FIELD VERIFY ALL DIMENSIONS AND REPORT ANY DISCREPANCIES TO THE ARCHITECT.
2. ALL DIMENSIONS ARE TO FRAMING UNLESS NOTED OTHERWISE.
3. THE CONTRACTOR SHALL PROVIDE ALL BLOCKING REQUIRED TO ANCHOR ALL WALL OR CEILING MOUNTED ITEMS INCLUDING BUT NOT LIMITED TO CASEWORK, MILLWORK, DOORSTOPS, AND EQUIPMENT.
4. THE CONTRACTOR SHALL CONFIRM AND COORDINATE ALL MECHANICAL, ELECTRICAL, AND PLUMBING ITEMS.
5. MAIN HOUSE EXTERIOR WALLS TO BE 2x4 (UNO)
6. INTERIOR WALLS TO BE 2x4 (UNO)
7. VERIFY REQUIRED EGRESS WINDOWS MEET EGRESS w/ WINDOW MANUFACTURER
8. ANY ROOF HAVING A 4:12 ROOF PITCH OR LESS TO HAVE 2 LAYERS OF ROOFING FELT INSTALLED
9. CEILING INSULATION TO BE R38
10. WALL INSULATION TO BE A R19
11. FLOOR INSULATION TO BE R19
12. ALL DOORS THAT ARE NOT DIMENSIONED TO THE CENTER LINE ARE EITHER CENTERED OR 6" OFF NEAREST WALL
13. PROVIDE STUD CLUSTERS @ ENDS OF EACH BEAM
14. HVAC SYSTEM PIPING TO HAVE R3 INSUL.
15. MAX RISER HEIGHT IS 7-3/4", MIN TREAD DEPTH IS 10"
16. WATER HEATER, TYPE AND LOCATION PER HOMEOWNER

NOT TO SCALE



1 A200 First Floor Plan
Scale: 1/4" = 1'-0"

BALL ARCHITECTURE

McPherson Renovation
101 North Atlantic Avenue
Southport, NC 28461

August 12, 2024

REVISIONS

DAVID C. BALL 11169 8/12/24 REGISTERED ARCHITECT NORTH CAROLINA

BALL ARCHITECTURE, PLLC 53911 REGISTERED ARCHITECTURAL CORPORATION NORTH CAROLINA

First Floor Plan

A200

Variance Application

City of Southport, North Carolina

1029 N. Howe St, Southport NC 28461
www.southportnc.org

Planning & Inspections
Phone 910-457-7961 Fax 910-457-7957

For Staff Use Only

Application No. VAR-24-02 Receipt No. _____

FEE: $ 750.00 CK# 2470 Date Received: 8/20/24 JO

APPLICANT / APPELLANT INFORMATION

Applicant's Name: Kelley Construction Services, LLC **Phone:** 910-477-7711

Mailing Address: 4015 Airport Road SE

City: Southport **State:** NC **Zip Code:** 28461

Email: Brian@kelley-con.com

PROPERTY (Location/identification information for property to which variance request refers):

Name of Owner: Jesse and Kara McPherson

Address of property: 101 N Atlantic Ave **City:** Southport

State: NC **Zip Code:** 28461 **Phone:** 910-279-4710

Tax Parcel ID: 237LG021 **Zoning District Classification:** R-10

Subdivision Name: Southport **Section:** _____ **Lot #:** _____

Current Use of Property: Primary Dwelling

VARIANCE APPLICATION (COMPLETE THE FOLLOWING):

I, Kelley Construction Services, LLC, the Applicant, hereby **submit a VARIANCE Application** for review and consideration of the Board of Adjustments requesting a Variance be granted from the City of Southport Ordinances as described below:

General Statement of Request (include property/project description and relevant Ordinance Code Sections):

The McPherson family whose property that sits at 101 N. Atlantic Ave, in downtown Southport, would like to build an addition off the back of their garage. Current setbacks do not allow for them to build they addition they need. Presently, there is no suitable location for a laundry room in the house, so the laundry is done in a shed in the backyard. Section 3.9.A.2 of the UDO has Table 3.2 that defines the minimum rear setback as 20', with the adjusted size of the property from Section 3.9.B.1 the current rear setback is 12". We are requesting a varience to lower this setback to 4'. This addition would serve a dual purpose. It will add a laundry area that can be accessed without going outside, and will add an extra bathroom for elderly parents whom are expected to move into the garage and struggle with stairs.

VARIENCE JUSTIFICATION STATEMENT(S)

a. What are the unnecessary hardships that would result from carrying out the strict letter of the Ordinance? It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The lot size is very small - 5,939.63 sqft.

Without the variance, the McPhersons wont be able to build the addition they need.

b. How does the hardship result from conditions that are peculiar to the property, such as location, size, or topography? Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

By the way the house is positioned on the lot, and originally designed, it is difficult to add an addition that works well with the layout of the home, looks aesthetically pleasing and is consistent with the architecture of the neighborhood.

c. Show that the hardship does not result from the actions of the Applicant or property owner.

The McPhersons are trying to live with and modify an existing dwelling to meet current living standards (interior laundry room). They are not the original owners or builders, and the proposed addition provides them with function that doesnot exist within the current dwelling.

d. Describe how the requested variance is consistent with the spirit, purpose and intent of the Southport Unified Development Ordinance, such that public safety is secured and substantial justice achieved.

Section 1.7 states the ordinances shall be held... "for the promotion of the public safety, health, convenience, prosperity and general welfare." The McPhersons having to go outside to do laundry at night, or certain times of year does not promote safety, health or convenience. Allowing a family to have interior laundry space does promote prosperity and general welfare.

CERTIFICATION OF APPLICATION / APPELLIANT:

I, Kelley Construction Services, LLC, Applicant / Appellant, hereby certify that all the information presented by me in this application is true and accurate to the best of my knowledge, information, and belief.

Signature of Applicant: Brian Kelley (Brian Kelley) Date: 8/1/24

COUNTY OF: Brunswick STATE OF: North Carolina

ACKNOWLEDGEMENT

The above applicant, Brian Kelley (Kelley Construction) signed before me, on this, the 1st day of August, 2024.

L. Marie Galloway

NOTARY PUBLIC

10.11.2027

COMMISSION EXPIRATION

L. Marie Galloway
Notary Public, North Carolina
Brunswick County
My Commission Expires
October 11, 2027

For Staff Use Only

Application No. _____

APPLICANT'S CERTIFICATION OF OWNER CONSENT

I, Jesse McPherson, hereby consent to this application as the [X property owner and/or as the _____ official representative(s)] of the property owner, specific to the property located at 101 N. Atlantic Ave, Southport NC 28461 (address), and identified with a Tax Parcel I.D. Number of _____.

Signature of Applicant: _____ Date: 8/1/24

COUNTY OF: Brunswick STATE OF: NC

ACKNOWLEDGEMENT

The above property owner and/or his official representative, Jesse P McPherson, signed before me, on this, the 1st day of August, 20 24.

L. Marie Galloway — 10.11.2027

NOTARY PUBLIC — COMMISSION EXPIRATION

L. Marie Galloway
Notary Public, North Carolina
Brunswick County
My Commission Expires
October 11, 2027

For Staff Use Only

Application No. _____

Table 3.2: Dimensional Requirements by Zoning District						
Zoning District	Minimum Lot Size (square feet)	Minimum Lot Width (feet)	Minimum Front Setback (feet)	Minimum Rear Setback (feet)	Minimum Side Setback [1] (feet)	Maximum Height Limit (feet)
R-10	10,000	75	25	20	8	40
R-20	20,000	100	40	25	12	40
MF	13,750	100	25	20	8	40
MH	5,000	50	20	20	4	40
PUD	Section 4.15	Section 4.15	Section 4.15	Section 4.15	Section 4.15	40
O/I	12,000	70	25	15	10	40
CBD	0	0	0	0	0	40
BD	0	0	0	10	0	40
HC	10,000	75	25	20	8	40
LI	10,000	75	25	20	8	50
HI	43,560	100	25	25	15	100
OS	None	None	None	None	None	None

1. Where any side yard is provided, though not required, the same shall be not less than four (4) feet.

B. SETBACK EXCEPTIONS AND ENCROACHMENTS

1. Nonconforming lots which are located in the R-10 district may be granted rear and side yard setbacks proportionate to the size of the lot. Example: If a 10,000 square foot lot is required and the lot is 6,000 square feet, a 40 percent reduction is allowed.

1.7 INTERPRETATION AND CONFLICT

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this ordinance to interfere with, abrogate, or annul any easements or covenants between parties; provided, however, that where this ordinance imposes a greater restriction upon land development, the use of land or buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this ordinance shall govern.

CITY OF SOUTHPORT
BOARD OF ADJUSTMENT MINUTES
113 W. MOORE STREET
August 27, 2024
4:30 PM

Present: Chairman Pete Haislip, Josh Cline McGee, Harley Lemons and Tuck Masker
Staff Present: City Planner Maureen Meehan, City Clerk Noah Saldo
Others Present: City Attorney Brady Herman, Board of Adjustment Attorney Ray DiGuiseppe, Attorney Gregory Kleva, Jack and Jaime Pederson, Donald Halbert, Deacon Pam Hayes, Sue Hodgin.

A. Chairman Haislip called the meeting to order at 4:30 PM.

B. Chairman Haislip led the Pledge of Allegiance.

C. Chairman Haislip reviewed the quasi-judicial process with the public.

D. Hearings and Requests

1. **Appeal of an Administrative Decision-Violation (1010 Bussells Turn)**

Chairman Haislip recused himself from hearing the appeal.
It was determined that Josh Cline McGee would serve as acting chairman for this appeal.
City Planner Meehan was sworn in and presented a request for appeal by Jamie and Jackson Pederson. The applicants were issued a written notice of violation to Unified Development Ordinance Section 3.18 Tree Protection and Landscape Preservation. Specifically, the violation is for Section 3.18.I.1 Lot Clearing and Preparation, which states that no alteration of vegetation, trees, or landscape material in excess of three (3) inches DBH shall occur on a lot or building site prior to the issuance of a zoning or tree impact permit.
The property owners submitted a building permit for a single-family home on a vacant property located at 1010 Bussels Turn SE on April 4, 2024. Upon reviewing the application, staff determined that clearing and grading of the subject lot occurred prior to the building permit. The building inspector and code enforcement officer visited the site. The attached photos were taken on that site visit.
A notice of violation was sent to the property owner on April 12, 2024, citing UDO Section 3.18.I.1 and UDO Section 3.18.I.4.
The requirement of acquiring a permit for clearing a residential lot is found in Section 3.18.I.1 LOT CLEARING AND PREPARATION
1. No alteration of vegetation, trees, or landscape material in excess of three (3) inches DBH shall occur on a lot or building site prior to the issuance of a zoning or tree impact permit. Some clearing of understory trees and shrubs may be required to prepare a site for survey, inspection by governmental agencies as part of any permitting process, or to stake the proposed building site
The fines for clearing a residential lot without a permit are outlined in Section 3.18.I.4 LOT CLEARING AND PREPARATION
4. In the event that a lot has been cleared without obtaining all proper permits from the city and the UDO Administrator is unable to determine the exact number of trees which have been removed in violation of this ordinance, a civil penalty shall be

levied under this subsection as
follows:
a) If the property is located within a residential district, the offender shall be subject to a civil penalty in the amount of $1.00 for each square foot of the total size of the lot that was cleared (not based on the lot area cleared). In addition, the offender shall be required to plant two (2) replacement canopy trees per 10,000 sf or fraction thereof.
After reviewing aerial photography and using GIS to calculate the square feet of the lot that was cleared based on the Unified Development Ordinance calculation the civil penalty for the violation was $23,522.40.
City Attorney Brady Herman spoke on behalf of staff's code enforcement action.
City Attorney called Southport code enforcement officer Derek Mabe to testify who was sworn in to testify to his code enforcement actions.
City Attorney Brady Herman called City Planner Maureen Meehan who was sworn in to testify on the adoption of the ordinances under question in this case. City Planner Meehan also testified on the Southport extra territorial jurisdiction.
Attorney Gregory Kleva presented arguments on behalf of his clients Jack and Jaime Pederson.
Jaime Pederson was sworn in to testify to their appeal.
Mr. Masker made a motion to affirm the determination of the code enforcement officer and modify the penalty as follows: Reduce the penalty to $5,000 and require the planting of five 3-inch hardwood canopy trees for mitigation within 60 days. If the owner does not accept the modification the full determination and fine shall be upheld. The appellant shall have until September 12th to respond to the modification and the appellant submits to the jurisdiction of the City of Southport for the enforcement of the order. Seconded by Mr. Lemons, **Unanimous Vote; motion carried.**

Special Use Permit Request: COLUMBARIUM (205 E Moore Street)
City Planner Meehan presented:
SPECIAL USE APPLICATION – COLUMBARIUM
St Phillips Episcopal Church, the applicant for owner, the Episcopal Diocese of East Carolina, requests a special use permit to install a columbarium. Section 3.5 – Table 3.1 Table of Uses requires a special use permit with standards for cemeteries and mausoleums in the R-10 zoning district. Where, permitted, a cemetery or mausoleum may be allowed as an accessory use to churches and synagogues.
Staff find that the application is complete, and the applicant has met all the special use standards.
Donald Halbert with St. Phillips was sworn in to testify to their application.
Deacon Pam Hayes of St. Phillips was sworn in to testify to their application.
Mr. Lemons made a motion to close the public hearing, Seconded by Mr. Masker. **Unanimous Vote; motion carried.**
Motion 1: Mr. Lemons made a motion that the use **will not** materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved. Mr. McGee Seconded. **Unanimous vote; motion carried.**
Motion 2: Mr. Lemons made a motion that the use meets all required conditions and specifications, seconded by Mr. McGee. **Unanimous vote; motion carried.**
Motion 3: Mr. McGee made a motion that the use will not adversely affect the use or any physical attribute of adjoining or abutting property or that the use is a public necessity, seconded by Mr. Masker. **Unanimous vote; motion carried.**
Motion 4: Mr. Lemons made a motion that the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the City of Southport Comprehensive Plan, seconded by Mr. Masker. **Unanimous vote; motion carried.**
Motion 5: Mr. McGee made a motion based on the findings of fact and the evidence presented, the Board of Adjustment recommends approval of the special use permit, seconded by Mr. Lemons. **Unanimous vote; motion carried.**

E. Approval of Minutes

Mr. Lemons made a motion to approve the July 30, 2024, Board of Adjustment meeting minutes, Seconded by Mr. Masker. **Unanimous vote; motion carried.**

F. Adjourn

Mr. McGee made a motion to adjourn, seconded by Mr. Masker. **Unanimous vote; motion carried** at 7:13 PM.