



ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

WILLIAM F. LANE
General Counsel

TO: The Coastal Resources Commission

FROM: Christine A. Goebel, DEQ Assistant General Counsel *CA*

DATE: April 12, 2017 (for the April 26-27, 2017 CRC Meeting)

RE: **Variance Request by The Sanitary Fish Market & Restaurant, Inc.
(CRC-VR-17-02)**

Petitioner is The Sanitary Fish Market & Restaurant, Inc. (the "Sanitary"), (through Jeff Garner, Secretary and Registered Agent) which leases a portion of a lot owned by the Vernon Jackson Garner Jr. Trust located at 501 East Evans Street in Morehead City, Carteret County. Most of the site is located over the navigable waters of Harbor Channel, part of Bogue Sound in the urban waterfront area of Morehead City. The Sanitary takes up approximately half of the lot, and includes the large building which houses the restaurant and the deli, dock platforms around the building which provide outdoor seating, an electrical vault, a new roof over part of the outdoor dock platform area, and boat docks. Through a January 2017 CAMA Minor Permit application, Petitioner sought authorization to build a new set of stairs to connect the roof-covered dock area to the top of the roof to provide more seating for deli customers on the top of the new roof. On February 13, 2017, the Morehead City LPO denied Petitioner's CAMA Minor Permit application as the proposed development does not comply with 15A NCAC 7H .0209(g)(4)(B)(iii) which limits new structures built for non-water dependent purposes to single-story, unenclosed decks and boardwalks. Petitioner now seeks a variance in order to develop the access stairs and to convert the roof into a second-story use.

The following additional information is attached to this memorandum:

Attachment A: Relevant Rules
Attachment B: Stipulated Facts
Attachment C: Petitioner's Positions and Staff's Responses to Variance Criteria
Attachment D: Petitioner's Variance Request Materials
Attachment E: Stipulated Exhibits including powerpoint

cc(w/enc.): Merrie Jo Alcoke, Petitioner's Counsel, electronically
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically
Jeannie Drake, Morehead City CAMA LPO, electronically



RELEVANT STATUTES OR RULES**APPENDIX A****SECTION .0200 – THE ESTUARINE AND OCEAN SYSTEMS****15A NCAC 07H .0201 ESTUARINE AND OCEAN SYSTEM CATEGORIES**

Included within the estuarine and ocean system are the following AEC categories: estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines. Each of the AECs is either geographically within the estuary or, because of its location and nature, may significantly affect the estuarine and ocean system.

15A NCAC 07H .0202 SIGNIFICANCE OF THE SYSTEMS APPROACH IN ESTUARIES

The management program must embrace all characteristics, processes, and features of the whole system and not characterize individually any one component of an estuary. The AECs are interdependent and ultimately require management as a unit. Any alteration, however slight, in a given component of the estuarine and ocean system may result in unforeseen consequences in what may appear as totally unrelated areas of the estuary. For example, destruction of wetlands may have harmful effects on estuarine waters which are also areas within the public trust. As a unified system, changes in one AEC category may affect the function and use within another category.

15A NCAC 07H .0203 MANAGEMENT OBJECTIVE OF THE ESTUARINE AND OCEAN SYSTEM

It is the objective of the Coastal Resources Commission to conserve and manage estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines, as an interrelated group of AECs, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values and to ensure that development occurring within these AECs is compatible with natural characteristics so as to minimize the likelihood of significant loss of private property and public resources. Furthermore, it is the objective of the Coastal Resources Commission to protect present common law and statutory public rights of access to the lands and waters of the coastal area.

15A NCAC 07H .0204 AECS WITHIN THE ESTUARINE AND OCEAN SYSTEM

The following regulations in this Section define each AEC within the estuarine and ocean system, describe its significance, articulate the policies regarding development, and state the standards for development within each AEC.

15A NCAC 07H .0206 ESTUARINE WATERS

(a) Description. Estuarine waters are defined in G.S. 113A-113(b)(2) to include all the waters of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters. The boundaries between inland and coastal fishing waters are set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environment and Natural Resources and in the most current revision of the North Carolina Marine Fisheries Regulations for Coastal Waters, codified at 15A NCAC 3Q .0200.

(b) Significance. Estuarine waters are the dominant component and bonding element of the entire estuarine and ocean system, integrating aquatic influences from both the land and the sea. Estuaries are among the most productive natural environments of North Carolina. They support the valuable commercial and sports fisheries of the coastal area which are comprised of estuarine dependent

species such as menhaden, flounder, shrimp, crabs, and oysters. These species must spend all or some part of their life cycle within the estuarine waters to mature and reproduce. Of the 10 leading species in the commercial catch, all but one are dependent on the estuary.

This high productivity associated with the estuary results from its unique circulation patterns caused by tidal energy, fresh water flow, and shallow depth; nutrient trapping mechanisms; and protection to the many organisms. The circulation of estuarine waters transports nutrients, propels plankton, spreads seed stages of fish and shellfish, flushes wastes from animal and plant life, cleanses the system of pollutants, controls salinity, shifts sediments, and mixes the water to create a multitude of habitats. Some important features of the estuary include mud and sand flats, eel grass beds, salt marshes, submerged vegetation flats, clam and oyster beds, and important nursery areas.

Secondary benefits include the stimulation of the coastal economy from the spin off operations required to service commercial and sports fisheries, waterfowl hunting, marinas, boatyards, repairs and supplies, processing operations, and tourist related industries. In addition, there is considerable nonmonetary value associated with aesthetics, recreation, and education.

(c) Management Objective. To conserve and manage the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and ocean system.

(d) Use Standards. Suitable land/water uses shall be those consistent with the management objectives in this Rule. Highest priority of use shall be allocated to the conservation of estuarine waters and their vital components. Second priority of estuarine waters use shall be given to those types of development activities that require water access and use which cannot function elsewhere such as simple access channels; structures to prevent erosion; navigation channels; boat docks, marinas, piers, wharfs, and mooring pilings.

In every instance, the particular location, use, and design characteristics shall be in accord with the general use standards for coastal wetlands, estuarine waters, and public trust areas described in Rule .0208 of this Section.

15A NCAC 07H .0207 PUBLIC TRUST AREAS

(a) Description. Public trust areas are all waters of the Atlantic Ocean and the lands thereunder from the mean high water mark to the seaward limit of state jurisdiction; all natural bodies of water subject to measurable lunar tides and lands thereunder to the normal high water or normal water level; all navigable natural bodies of water and lands thereunder to the normal high water or normal water level as the case may be, except privately-owned lakes to which the public has no right of access; all water in artificially created bodies of water containing public fishing resources or other public resources which are accessible to the public by navigation from bodies of water in which the public has rights of navigation; and all waters in artificially created bodies of water in which the public has acquired rights by prescription, custom, usage, dedication, or any other means. In determining whether the public has acquired rights in artificially created bodies of water, the following factors shall be considered:

- (1) the use of the body of water by the public;
- (2) the length of time the public has used the area;
- (3) the value of public resources in the body of water;
- (4) whether the public resources in the body of water are mobile to the extent that they can move into

natural bodies of water;

- (5) whether the creation of the artificial body of water required permission from the state; and
- (6) the value of the body of water to the public for navigation from one public area to another public area.

(b) Significance. The public has rights in these areas, including navigation and recreation. In addition, these areas support commercial and sports fisheries, have aesthetic value, and are important resources for economic development.

(c) Management Objective. To protect public rights for navigation and recreation and to conserve and manage the public trust areas so as to safeguard and perpetuate their biological, economic and aesthetic value.

(d) Use Standards. Acceptable uses shall be those consistent with the management objectives in Paragraph (c) of this Rule. In the absence of overriding public benefit, any use which jeopardizes the capability of the waters to be used by the public for navigation or other public trust rights which the public may be found to have in these areas shall not be allowed. The development of navigational channels or drainage ditches, the use of bulkheads to prevent erosion, and the building of piers, wharfs, or marinas are examples of uses that may be acceptable within public trust areas, provided that such uses shall not be detrimental to the public trust rights and the biological and physical functions of the estuary. Projects which would directly or indirectly block or impair existing navigation channels, increase shoreline erosion, deposit spoils below normal high water, cause adverse water circulation patterns, violate water quality standards, or cause degradation of shellfish waters are considered incompatible with the management policies of public trust areas. In every instance, the particular location, use, and design characteristics shall be in accord with the general use standards for coastal wetlands, estuarine waters, and public trust areas.

15A NCAC 07H .0208 USE STANDARDS

(a) General Use Standards

(1) Uses which are not water dependent shall not be permitted in coastal wetlands, estuarine waters, and public trust areas. Restaurants, residences, apartments, motels, hotels, trailer parks, private roads, factories, and parking lots are examples of uses that are not water dependent. Uses that are water dependent include: utility crossings, wind energy facilities, docks, wharves, boat ramps, dredging, bridges and bridge approaches, revetments, bulkheads, culverts, groins, navigational aids, mooring pilings, navigational channels, access channels and drainage ditches;

(2) Before being granted a permit, the CRC or local permitting authority shall find that the applicant has complied with the following standards:

(A) The location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC (Rule .0203 of this subchapter) and shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas;

(B) Development shall comply with state and federal water and air quality

(C) Development shall not cause irreversible damage to documented archaeological or historic resources as identified by the N.C. Department of Cultural resources;

(D) Development shall not increase siltation;

(E) Development shall not create stagnant water bodies;

(F) Development shall be timed to avoid significant adverse impacts on life cycles of estuarine and ocean resources; and

(G) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.

(3) When the proposed development is in conflict with the general or specific use standards set forth in this Rule, the CRC may approve the development if the applicant can demonstrate that the activity associated with the proposed project will have public benefits as identified in the findings and goals of the Coastal Area Management Act, that the public benefits outweigh the long range adverse effects of the project, that there is no reasonable alternate site available for the project, and that all reasonable means and measures to mitigate adverse impacts of the project have been incorporated into the project design and shall be implemented at the applicant's expense. Measures taken to mitigate or minimize adverse impacts shall include actions that:

(A) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;

(B) restore the affected environment; or

(C) compensate for the adverse impacts by replacing or providing substitute resources.

(4) Primary nursery areas are those areas in the estuarine and ocean system where initial post larval development of finfish and crustaceans takes place. They are usually located in the uppermost sections of a system where populations are uniformly early juvenile stages. They are designated and described by the N.C. Marine Fisheries Commission (MFC) and by the N.C. Wildlife Resources Commission (WRC);

(5) Outstanding Resource Waters are those estuarine waters and public trust areas classified by the N.C. Environmental Management Commission (EMC). In those estuarine waters and public trust areas classified as ORW by the EMC no permit required by the Coastal Area Management Act shall be approved for any project which would be inconsistent with applicable use standards adopted by the CRC, EMC, or MFC for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the activity would, based on site specific information, degrade the water quality or outstanding resource values; and

(6) Beds of submerged aquatic vegetation (SAV) are those habitats in public trust and estuarine waters vegetated with one or more species of submergent vegetation. These vegetation beds occur in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In either case, the bed is defined by the Marine Fisheries Commission. Any rules relating to SAVs shall not apply to non-development control activities authorized by the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et seq.).

15A NCAC 07H .0209 COASTAL SHORELINES

(a) Description. The Coastal Shorelines category includes estuarine shorelines and public trust shorelines. Estuarine shorelines AEC are those non ocean shorelines extending from the normal high water level or normal water level along the estuarine waters, estuaries, sounds, bays, fresh and brackish waters, and public trust areas as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environment and Natural Resources [described in Rule .0206(a) of this Section] for a distance of 75 feet landward. For those estuarine shorelines

immediately contiguous to waters classified as Outstanding Resource Waters by the Environmental Management Commission, the estuarine shoreline AEC shall extend to 575 feet landward from the normal high water level or normal water level, unless the Coastal Resources Commission establishes the boundary at a greater or lesser extent following required public hearing(s) within the affected county or counties. Public trust shorelines AEC are those non-ocean shorelines immediately contiguous to public trust areas, as defined in Rule 07H .0207(a) of this Section, located inland of the dividing line between coastal fishing waters and inland fishing waters as set forth in that agreement and extending 30 feet landward of the normal high water level or normal water level.

(b) Significance. Development within coastal shorelines influences the quality of estuarine and ocean life and is subject to the damaging processes of shore front erosion and flooding. The coastal shorelines and wetlands contained within them serve as barriers against flood damage and control erosion between the estuary and the uplands. Coastal shorelines are the intersection of the upland and aquatic elements of the estuarine and ocean system, often integrating influences from both the land and the sea in wetland areas. Some of these wetlands are among the most productive natural environments of North Carolina and they support the functions of and habitat for many valuable commercial and sport fisheries of the coastal area. Many land-based activities influence the quality and productivity of estuarine waters. Some important features of the coastal shoreline include wetlands, flood plains, bluff shorelines, mud and sand flats, forested shorelines and other important habitat areas for fish and wildlife.

(c) Management Objective. The management objective is to ensure that shoreline development is compatible with the dynamic nature of coastal shorelines as well as the values and the management objectives of the estuarine and ocean system. Other objectives are to conserve and manage the important natural features of the estuarine and ocean system so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing these shorelines so as to maximize their benefits to the estuarine and ocean system and the people of North Carolina.

(d) Use Standards. Acceptable uses shall be those consistent with the management objectives in Paragraph (c) of this Rule. These uses shall be limited to those types of development activities that will not be detrimental to the public trust rights and the biological and physical functions of the estuarine and ocean system. Every effort shall be made by the permit applicant to avoid, mitigate or reduce adverse impacts of development to estuarine and coastal systems through the planning and design of the development project. In every instance, the particular location, use, and design characteristics shall comply with the general use and specific use standards for coastal shorelines, and where applicable, the general use and specific use standards for coastal wetlands, estuarine waters, and public trust areas described in Rule .0208 of this Section. Development shall be compatible with the following standards:

(1) All development projects, proposals, and designs shall preserve and not weaken or eliminate natural barriers to erosion including peat marshland, resistant clay shorelines, and cypress gum protective fringe areas adjacent to vulnerable shorelines.

(2) All development projects, proposals, and designs shall limit the construction of impervious surfaces and areas not allowing natural drainage to only so much as is necessary to adequately service the major purpose or use for which the lot is to be developed. Impervious surfaces shall not exceed 30 percent of the AEC area of the lot, unless the applicant can effectively demonstrate, through innovative design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. Redevelopment of areas exceeding the 30 percent

impervious surface limitation may be permitted if impervious areas are not increased and the applicant designs the project to comply with the intent of the rule to the maximum extent feasible.

(3) All development projects, proposals, and designs shall comply with the following mandatory standards of the North Carolina Sedimentation Pollution Control Act of 1973:

(A) All development projects, proposals, and designs shall provide for a buffer zone along the margin of the estuarine water which is sufficient to confine visible siltation within 25 percent of the buffer zone nearest the land disturbing development.

(B) No development project proposal or design shall permit an angle for graded slopes or fill which is greater than an angle which can be retained by vegetative cover or other erosion control devices or structures.

(C) All development projects, proposals, and designs which involve uncovering more than one acre of land shall plant a ground cover sufficient to restrain erosion within 30 working days of completion of the grading; provided that this shall not apply to clearing land for the purpose of forming a reservoir later to be inundated.

(4) Development shall not have a significant adverse impact on estuarine and ocean resources. Significant adverse impacts include development that would directly or indirectly impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water, or cause degradation of shellfish beds.

(5) Development shall not interfere with existing public rights of access to, or use of, navigable waters or public resources.

(6) No public facility shall be permitted if such a facility is likely to require public expenditures for maintenance and continued use, unless it can be shown that the public purpose served by the facility outweighs the required public expenditures for construction, maintenance, and continued use. For the purpose of this standard, "public facility" means a project that is paid for in any part by public funds.

(7) Development shall not cause irreversible damage to valuable, historic architectural or archaeological resources as documented by the local historic commission or the North Carolina Department of Cultural Resources.

(8) Established common law and statutory public rights of access to the public trust lands and waters in estuarine areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the intended use of the accessways.

(9) Within the AECs for shorelines contiguous to waters classified as Outstanding Resource Waters by the EMC, no CAMA permit shall be approved for any project which would be inconsistent with applicable use standards adopted by the CRC, EMC or MFC for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the activity would, based on site-specific information, degrade the water quality or outstanding resource values.

(10) Within the Coastal Shorelines category (estuarine and public trust shoreline AECs), new development shall be located a distance of 30 feet landward of the normal water level or normal high water level, with the exception of the following: **(omitted as not applicable to this Urban Waterfront)**

(g) Urban Waterfronts.

(1) Description. Urban Waterfronts are waterfront areas, not adjacent to Outstanding Resource Waters, in the Coastal Shorelines category that lie within the corporate limits of any municipality duly chartered within the 20 coastal counties of the state. In determining whether an area is an urban waterfront, the following criteria shall be met as of the effective date of this Rule:

(A) The area lies wholly within the corporate limits of a municipality; and

(B) the area has a central business district or similar commercial zoning classification where there is minimal undeveloped land, mixed land uses, and urban level services such as water, sewer, streets, solid waste management, roads, police and fire protection, or in an area with an industrial or similar zoning classification adjacent to a central business district.

(2) Significance. Urban waterfronts are recognized as having cultural, historical and economic significance for many coastal municipalities. Maritime traditions and longstanding development patterns make these areas suitable for maintaining or promoting dense development along the shore. With proper planning and stormwater management, these areas may continue to preserve local historical and aesthetic values while enhancing the economy.

(3) Management Objectives. To provide for the continued cultural, historical, aesthetic and economic benefits of urban waterfronts. Activities such as in-fill development, reuse and redevelopment facilitate efficient use of already urbanized areas and reduce development pressure on surrounding areas, in an effort to minimize the adverse cumulative environmental effects on estuarine and ocean systems. While recognizing that opportunities to preserve buffers are limited in highly developed urban areas, they are encouraged where practical.

(4) Use Standards:

(A) The buffer requirement pursuant to Subparagraph (d)(10) of this Rule is not required for development within Urban Waterfronts that meets the following standards:

(i) The development must be consistent with the locally adopted land use plan;

(ii) Impervious surfaces shall not exceed 30 percent of the AEC area of the lot. Impervious surfaces may exceed 30 percent if the applicant can effectively demonstrate, through a stormwater management system design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. The stormwater management system shall be designed by an individual who meets any North Carolina occupational licensing requirements for the type of system proposed and approved during the permit application process. Redevelopment of areas exceeding the 30 percent impervious surface limitation may be permitted if impervious areas are not increased and the applicant designs the project to comply with the intent of the rule to the maximum extent feasible; and

(iii) The development shall meet all state stormwater management requirements as required by the NC Environmental Management Commission;

(B) Non-water dependent uses over estuarine waters, public trust waters and coastal wetlands may be allowed only within Urban Waterfronts as set out below.

(i) Existing structures over coastal wetlands, estuarine waters or public trust areas may be used for commercial non-water dependent purposes provided that the structure promotes, fosters, enhances or accommodates public benefit. Commercial, non-water dependent uses shall be limited to restaurants and retail services. Residential uses, lodging and new parking areas shall be prohibited.

(ii) For the purposes of this Rule, existing enclosed structures may be replaced and or expanded vertically provided that vertical expansion does not exceed the original footprint of the structure,

is limited to one additional story over the life of the structure and is consistent with local requirements or limitations.

(iii) New structures built for non-water dependent purposes are limited to pile-supported, single-story, unenclosed decks and boardwalks, and shall meet the following criteria:

- (I) The proposed development shall provide for enhanced public access to the shoreline;
- (II) Structures may be roofed but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind and shall be limited to a single story;
- (III) Structures shall be pile supported and require no filling of coastal wetlands, estuarine waters or public trust areas;
- (IV) Structures shall not extend more than 20 feet waterward of the normal high water level or normal water level;
- (V) Structures shall be elevated at least three feet over the wetland substrate as measured from the bottom of the decking;
- (VI) Structures shall have no more than six feet of any dimension extending over coastal wetlands;
- (VII) Structures shall not interfere with access to any riparian property and shall have a minimum setback of 15 feet between any part of the structure and the adjacent property owners' areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co applicants. Should the adjacent property be sold before construction of the structure commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development;
- (VIII) Structures shall be consistent with the US Army Corps of Engineers setbacks along federally authorized waterways;
- (IX) Structures shall have no significant adverse impacts on fishery resources, water quality or adjacent wetlands and there must be no reasonable alternative that would avoid wetlands. Significant adverse impacts include the development that would directly or indirectly impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water level, or cause degradation of shellfish beds;
- (X) Structures shall not degrade waters classified as SA or High Quality Waters or Outstanding Resource Waters as defined by the NC Environmental Management Commission;
- (XI) Structures shall not degrade Critical Habitat Areas or Primary Nursery Areas as defined by the NC Marine Fisheries Commission; and
- (XII) Structures shall not pose a threat to navigation.

STIPULATED FACTS**ATTACHMENT B****General**

1. Petitioner is Jeff Garner, owner of The Sanitary Fish Market and Restaurant, Inc. ("the Sanitary Restaurant" or "the restaurant") located at 501 Evans Street (the "Site") in Carteret County, North Carolina. Jeff Garner is the Secretary and Registered Agent of the Sanitary Restaurant, and his father Vernon Garner Jr. is the President, according to corporate records filed with the NC Secretary of State's Office, a copy of which is attached. Also attached is an agent authorization form from Vernon Garner Jr. of the Vernon Jackson Garner Jr. Trust to Jeff Garner.
2. The Sanitary is a family owned restaurant and local landmark on the Morehead City waterfront. First built in 1938, the restaurant has been operated continuously since that time by the Garner family.
3. The 1.2-acre parcel upon which the Sanitary and other structures are located has been owned by the Vernon Jackson Garner Jr. Trust since 2005 as evidenced by a deed recorded at Book 1144, Page 238 of the Carteret County Registry, a copy of which is provided. As shown on the Carteret County GIS parcel map, the parcel has approximately 491 linear feet of shoreline. The parcel measures between 103 and 108 feet in depth.
4. The Sanitary Restaurant and its associated docks and platforms are located over the public trust waters of Harbor Channel off Bogue Sound. A small island called Sugarloaf Island is located directly across from the restaurant and separates Harbor Channel from the Atlantic Intracoastal Waterway ("AIWW").
5. A seawall runs parallel to the Evans Street sidewalk and is the location of mean high water at this Site.
6. The waters of Harbor Channel and Bogue Sound are classified as SC Waters by the North Carolina Environmental Management Commission ("EMC") and are closed to the harvest of shellfish.
7. The Sanitary is located over the Public Trust and Estuarine Waters Areas of Environmental Concern ("AECs"), and the area of the Site landward of mean high water is within the Coastal Shorelines AEC.
8. Six additions to the building were completed between 1950 and 1968. By 1971, additional expansions increased seating to 650, about 100 seats more than the current configuration.
9. In December 1999, the Sanitary Restaurant replaced worn air compressors which were located on the roof with units that sit on a specialized rack on the roof, and then built a 24' by 24' enclosure around the new units on the roof which is anchored to load-bearing walls underneath. The enclosure had ten windows and a door but is not climate-controlled. On January 21, 2000, DCM issued a Notice of Violation to the Sanitary Restaurant for the development of the enclosure.

10. At the March 24, 2000 meeting of the Commission, it heard a declaratory ruling filed by the Sanitary Restaurant deciding whether the enclosure around the air compressors on the roof was “development” or not within the meaning of the Coastal Area Management Act (“CAMA”) definition found at N.C.G.S. 113A-103(5)a. In a written order attached, the Commission held that “as this enclosure is solely used for the purpose of sheltering air compressors and is not climate controlled . . . the Commission hereby determines that the enclosure is an accessory building, pursuant to N.C. Gen. Stat. 113A-105(5)(b)6.”

11. In 2016, Petitioner converted the fish market portion of the business to a deli called Sugarloaf Island Deli. The deli is accessed by a separate entrance from the Restaurant and is located in the north-east corner of the building.

12. The existing enclosed single-story restaurant and deli building measures approximately 14,688 square feet. The restaurant has a seating capacity of approximately 550, including inside seating and outside seating on the existing wrap-around dock platform. The deli has an outdoor seating capacity of approximately 48 and indoor seating for approximately 10 people, with a maximum occupancy outside set by the fire department of 81.

13. On April 7, 2016, the Town of Morehead City issued Petitioner Building Permit number 2016-0113 authorizing the development of a roof over an existing fixed dock platform, along with dock repairs. This roofed dock platform is located just east of the building near the deli and by the brick-enclosed electrical vault. A copy of the building permit is provided. The dock platform area under the new roof is used as an outdoor bar, as can be seen in the attached site photos.

14. The roof of the restaurant is not readily accessible, and is accessed through an interior storage room and up a set of stairs. The new roof is only accessible from the restaurant’s roof and they are separated by a wooden handrail approximately 42” in height. The wooden handrail was constructed by the fall of 2016.

15. The 2016 work included replacement of 25-foot and 30-foot support pilings and replacement of existing deck boards. An architectural parapet roof with a knee-wall was added to the façade on the main restaurant, as was a tiki-bar thatched roofed counter. The area of the covered deck is 20' by 50.' This work can be seen in the attached photos. The Town of Morehead City Building Inspector and LPO requested DCM Staff visit the site and determine if the work done in 2016 was consistent with the CAMA and the Commission’s rules. A site visit was conducted by DCM Staff and the Morehead City Building Inspector on June 6, 2016.

16. A CAMA permit was not required for improvements to the existing dock platform because the cost of the work was less than fifty percent of the value of the structure. DCM Staff determined that the new roof work was not “development” as long as a second-story use was not allowed and the new roof did not expand beyond the footprint of the existing dock platform. DCM Staff required Petitioner to restrict access from the existing roof to the new roof over the dock platform to prevent it from becoming a second-story use.

CAMA Minor Permit Application

17. On January 1, 2017, Petitioner applied to the Town of Morehead City's Local Permit Officer ("LPO") for a CAMA minor permit to construct slatted wooden stairs from the existing dock platform beside the deli to access the new roof. A copy of the CAMA minor permit application is provided.

18. The U.S. Army Corps of Engineers' representative indicated to DCM Staff that they did not require a Section 10 (of the Rivers and Harbors Act) Review for the proposed development even though the proposed development was over estuarine and public trust waters, as it was water already covered by existing development.

19. As required, Petitioner sent notice of the application to the two adjacent riparian property owners and to the public through onsite posting. Neither of the adjacent owners objected to the project. No public comments were received. One of the adjacent riparian property owners submitted a second form clarifying that he had no objection to the project. Copies of the adjacent riparian notices are provided.

20. The proposed stairs would measure 20' by 14', for a total area of 280 square feet. These stairs would be located over the existing uncovered dock platform which is over public trust and estuarine waters.

21. Petitioner proposes to connect the existing dock platform (part of which is open and part of which is covered) to the new roof so the new roof deck may be used by deli customers. The area of the new roof deck is 1,000 square feet.

22. On February 13, 2017, the Town's LPO denied Petitioner's application because the proposed development does not comply with 15A NCAC 7H .0209(g)(4)(B)(iii) which limits new structures built for non-water dependent purposes to pile-supported, single-story, unenclosed decks and boardwalks. A copy of the denial letter is provided.

23. The LPO's letter also cautioned Petitioner that the new structure is adjacent to an electrical vault, which is located next to the new roof-covered dock area, and which may restrict the use and occupancy of the second story deck or may require specific building requirements.

24. The electrical vault mentioned in the letter has been present since the early 1980's and is located on the same parcel as the Sanitary Restaurant. Petitioner addressed similar proximity concerns raised in 2016 related to the electrical vault when he made the deli repairs and improvements. If granted this variance, Petitioner must comply with the Town of Morehead City's requirements, all State building and fire codes, and Duke Energy's requirements.

Urban Waterfront Rules

25. The CRC adopted urban waterfront rules in 2001. The rules describe urban waterfronts as "waterfront areas, not adjacent to Outstanding Resource Waters, in the Coastal Shorelines category that lie within the corporate limits of any municipality duly chartered within the 20 coastal counties of the state." 15A NCAC 7H .0209(g)(1).
26. The Sanitary Restaurant is within the Town of Morehead City's designated Urban Waterfront as that term is defined in 15A NCAC 7H .0209(g)(1).
27. The management objectives for urban waterfronts recognize that "activities such as in-fill development, reuse and redevelopment facilitate efficient use of already urbanized areas and reduce development pressure on surrounding areas." 15A NCAC 7H.0209(g)(3). The urban waterfront rules expressly allow "non-water dependent uses over estuarine waters, public trust waters, and coastal wetlands" as long as such uses occur within designated "Urban Waterfront" areas and comply with the specific urban waterfront use standards in 15A NCAC 7H.0209(g)(4)(B).
28. The urban waterfront use standards in 15A NCAC 7H .0209(g)(4)(B) specifically provide that:
- (B) Non-water dependent uses over estuarine waters, public trust waters and coastal wetlands may be allowed only within designated Urban Waterfronts as set out below:
 - (i) Existing structures over coastal wetlands, estuarine waters or public trust areas may be used for non-water dependent purposes.
 - (ii) Existing enclosed structures may be expanded vertically provided that vertical expansion does not exceed the original footprint of the structure.
 - (iii) New structures built for non-water dependent purposes are limited to pile-supported, **single-story**, unenclosed decks and boardwalks"
29. The above-cited use standards distinguish between "existing structures" and "new structures" and apply different standards to each.
30. Petitioner's proposed development falls under the use standards for "new structures."
31. The use standards for new structures within urban waterfronts provide:
- (iii) New structures built for non-water dependent purposes are limited to pile-supported, **single-story**, unenclosed decks and boardwalks, and shall meet the following criteria:

- (I) The proposed development shall provide for enhanced public access to the shoreline;
- (II) Structures may be roofed but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind and shall be limited to a single story;
- (III) Structures shall be pile supported and require no filling of coastal wetlands, estuarine waters or public trust areas;
- (IV) Structures shall not extend more than 20 feet water ward of the normal high water level or normal water level;
- (V) Structures shall be elevated at least three feet over the wetland substrate as measured from the bottom of the decking;
- (VI) Structures shall have no more than six feet of any dimension extending over coastal wetlands;
- (VII) Structures shall not interfere with access to any riparian property and shall have a minimum setback of 15 feet between any part of the structure and the adjacent property owners' areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the structure commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development;
- (VIII) Structures shall be consistent with the US Army Corps of Engineers setbacks along federally authorized waterways;
- (IX) Structures shall have no significant adverse impacts on fishery resources, water quality or adjacent wetlands and there must be no reasonable alternative that would avoid wetlands. Significant adverse impacts include the development that would directly or indirectly impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils water ward of normal water level or normal high water level, or cause degradation of shellfish beds;
- (X) Structures shall not degrade waters classified as SA or High Quality Waters or Outstanding Resource Waters as defined by the NC Environmental Management Commission;
- (XI) Structures shall not degrade Critical Habitat Areas or Primary Nursery Areas as defined by the NC Marine Fisheries Commission; and,

(XII) Structures shall not pose a threat to navigation.

32. Petitioner stipulates that the proposed development is inconsistent with 15A NCAC 07H .0209(g)(4)(B)(iii) which limits new structures to pile-supported, single-story, unenclosed decks and boardwalks.

33. Except for the second-story proposed use, Petitioner's project is otherwise consistent with the relevant use standards outlined in criteria (I) and (III) through (XII) above.

34. Petitioner sent notice of the variance to the adjacent property owners as required by 15A NCAC 7J .0701(c)(7). Copies of these letters are provided.

35. Petitioner seeks a variance from the Commission of 15A NCAC 7H .0209(g)(4)(B)(iii) in order to construct the stairs and to use the new roof as a second-story use.

STIPULATED EXHIBITS

1. The Sanitary Fish Market and Restaurant, Inc. Secretary of State records
2. Agent authorization form from Vernon Jackson Garner, Jr. Trust to Jeff Garner
3. Petitioner's General Warranty Deed 1144/238
4. Carteret County Parcel overlain on GIS map
5. Commission's 2000 Final Agency Decision in declaratory ruling
6. Local Building Permit No. 2016-0113
7. CAMA Minor Permit Application with site plan drawings
8. Adjacent Riparian Notice and responses/clarification of no objection
9. February 13, 2017 Denial Letter
10. Proof of Notice of the Variance Request to Adjacent Owners
11. Photographs/Powerpoint

PETITIONER'S and STAFF'S POSITIONS**ATTACHMENT C**

I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? If so, the petitioner must identify the hardships.

Petitioner's Position: Yes.

Strict application of the relevant urban waterfront rule causes Petitioner an unnecessary hardship. Petitioner is a local business owner trying to remain relevant and profitable in the competitive and constantly changing restaurant business. There are unique challenges to running a restaurant over 75 years old. Tastes change, and while other restaurants come and go, Petitioner must keep up with the competition while preserving the historic aspects of the restaurant that define it. The Sanitary is an important part of the Morehead City community and a tourist attraction for the East Coast.

Petitioner responded to market demands by converting the historic fish market to a deli, which has proven very popular. The hardship Petitioner faces is that the deli has space for only two tables. Petitioner needs additional space for his deli customers and therefore requests permission to add stairs and use the existing rooftop deck beside the deli. It causes Petitioner unnecessary hardship not to use this space because Petitioner has few options to expand capacity, as further addressed in the next factor below. Here, the stairs and the use of the existing roof deck will not add any new impervious surface or otherwise adversely affect the adjacent waters. Because the purpose of the rule will still be met, Petitioner's hardship is unnecessary.

Staff's Position: No.

Strict application of the Urban Waterfront rules does not cause Petitioner an unnecessary hardship. The Urban Waterfront rules recognize that in the central business districts of waterfront municipalities, there is often existing development which is of cultural, historical and economic importance, and that these areas are suitable for maintaining or promoting dense development along the shore. (See 15A NCAC 7H .0209(g)(2)). For these reasons, the Urban Waterfront rules provide exceptions to both the Commission's 30' Buffer Rule and the limitations on non-water dependent uses over Public Trust Waters.

The Commission's Urban Waterfront rules allow certain existing structures associated with restaurants and retail services to be replaced within the original footprint and expanded up to one-story within that footprint, as long as there is a "public benefit." (See 15A NCAC 7H .0209(g)(4)(B)(i)) After the rule was adopted in 1999, any new non-water-dependent structures were limited to "pile-supported, single-story, unenclosed decks and boardwalks" and had to meet 12 specific requirements in the rules. (See 15A NCAC 7H .0209(g)(4)(B)(iii)(I-XII)).

Petitioner focuses on the fact that the Sanitary is an important part of the Morehead City waterfront, notes that it has had to respond to the changing industry and uses in the Morehead City waterfront, and asks for a second-story use on top of the existing roof deck, which was constructed in 2016. As noted in the stipulated facts, this Site was used historically as a fish market and restaurant, but Petitioner recently chose to convert the fish market use into a deli. Petitioner also

converted the outside dock area adjacent to the deli to customer seating and an outdoor bar, covered by the recently constructed roof. This single-story use (under the new roof) already provides an additional area for deli customers and bar patrons to sit in the shade and enjoy a view of the water while eating at the Petitioner's restaurant, bar, or deli.

While the Commission's Urban Waterfront rules acknowledge the need for in-fill development, reuse and redevelopment in urban areas, in this case, Petitioner has already availed himself of that ability in converting the fish house to a deli and to developing the outdoor area adjacent to the fish house into additional covered seating. Petitioner's alleged hardship is a result of seating allocation decisions within the available space on the Site. If Petitioner has maxed out seating space for the deli, customers can utilize the existing first-story seating on the Site. Additionally, Petitioner could take advantage of the Commission's Urban Waterfront rules to provide additional seating above the building that houses the restaurant and deli, and which already is accessible via an existing set of stairs, but has chosen not to utilize that portion of the existing property. Therefore, any hardship to Petitioner is not unnecessary, as the Commission's Urban Waterfront rules establish a reasonable limitation on commercial uses over navigable public trust waters. Requesting a new second-story use, in addition to the redevelopment and reconfiguration already undertaken by Petitioner, is beyond the expanded uses afforded by the Commission.

II. Do such hardships result from conditions peculiar to the petitioner's property, such as location, size, or topography of the property? Explain.

Petitioner's Position: Yes.

The hardships result from conditions peculiar to Petitioners' property. First, the property's size is peculiar. The parcel measures 491 feet along the water, 103 feet deep on the east side, and 108 feet deep on the west side. Shaped like a rectangle, the property is almost five times as long as it is wide. Second, the property's location within the waters of Harbor Channel is also peculiar. The property extends on the landward side to the sidewalk with no setbacks. Petitioner cannot expand landward due to the sidewalk, nor can Petitioner expand waterward due to CRC rules. His only option for meeting the demands of the growing deli business is to expand vertically. The hardship of not being able to accommodate more customers results from the long and very narrow shape of the property and the location of the property between the water and the sidewalk, unique conditions that pre-date CAMA.

Staff's Position: No.

Staff contends that any hardships which may exist do not result from conditions peculiar to Petitioner's property. The physical limitations of this parcel have existed for a long time, and after maximizing the use of most areas allowed to be developed under various land use regulations, Petitioner now wants to add additional seating area to the site through this variance request for a new second-story use. The cause of any hardships is Petitioner's desired use of the property, and not based on peculiarities of the size, topography or location of the property. Further, Staff disagrees with Petitioner's assertion that the long but narrow parcel causes Petitioner's hardship, where the parcel houses not only Petitioner's restaurant and deli, but the Ruddy Duck restaurant and the Beaufort Olive Oil Co. The Sanitary takes up over half of the area of the entire parcel

described and provides seating for over 600 guests, not counting additional seating that could be added by adding a second-story use to the restaurant/deli building, which would be allowed under the Commission's Urban Waterfront rules.

III. Do the hardships result from the actions taken by the Petitioner? Explain.

Petitioner's Position: No.

Petitioner has taken no actions that cause the hardships. Although Petitioner has applied for a project that conflicts with the rule, Petitioner has applied for development that promotes in-fill and minimizes impacts to the adjacent resource.

Staff's Position: Yes.

Petitioner's own actions have created any hardship alleged by Petitioner. Petitioner appears to allege that the hardship is that his deli customers do not have seating other than the ten seats currently available inside the deli portion of the building. However, this argument seems to ignore the indoor and outdoor seating for over 600 guests located in and around the Sanitary, including the new outdoor area east of the building was also recently improved from its past fish house use and is now an outdoor seating area with a bar, much of it roof-covered. Additionally, Petitioner could take advantage of the Commission's Urban Waterfront rule to provide additional seating above the Sanitary Restaurant by adding an additional story, but has chosen not to utilize that portion of the existing property. Petitioner has squeezed seating into all available first floor areas on the site (for the restaurant, the deli and the bar), and is causing any hardship by choosing to seek this variance from the Commission's long-standing one-story use restriction on the existing dock over navigable water instead of accommodating the need for additional seating above the adjacent Sanitary Restaurant building to better accommodate deli customers or by reallocating the existing seating on the Site.

V. Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

Petitioner's Position: Yes.

The variance will be consistent with the **spirit, purpose and intent** of the Commission's rules. The Sanitary Restaurant is located in the heart of Morehead City's urban waterfront and has "cultural, historical, and economic significance" as contemplated by the CRC's rules. 15A NCAC 7H .0208(g)(2). The rules provide that "[m]aritime traditions and longstanding development patterns make these areas suitable for maintaining or promoting dense development along the shore." Petitioner's proposed development is consistent with this rule because it promotes density within an existing commercial use and will preserve local historical and aesthetic values while enhancing the economy.

The management objectives for urban waterfronts favor "in-fill development, reuse, and redevelopment" as proposed by Petitioner, as such activities "reduce development pressure on surrounding areas" thus minimizing "adverse cumulative environmental effects on estuarine and

ocean systems." 15A NCAC 7H .0208(g)(3). The variance will be consistent with the spirit, purpose, and intent of the urban waterfront rules because Petitioner's project involves in-fill and does not increase cumulative adverse effects on the environment.

The variance will also be consistent with the spirit, purpose and intent of the Commission's rules applicable to public trust and estuarine waters, the primary AEC's affected by the proposed development. The management objective for the estuarine and ocean system provides: "It is the objective of the Coastal Resources Commission to conserve and manage estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines, as an interrelated group of AECs, so as to safeguard and perpetrate their biological, social, economic, and aesthetic values and to ensure that development occurring within these AECs is compatible with natural characteristics so as to minimize the likelihood of significant loss of private property and public resources. Furthermore, it is the objective of the Coastal Resources Commission to protect present common law and statutory public rights of access to the lands and waters of the coastal area." 15A NCAC 7H .0203.

The proposed variance meets these management objectives because aside from the second story issue, the project meets all other relevant use standards designed to protect the resource. Specifically, as required by 15A NCAC 7H .0208(g)(4)(B)(iii), the project will provide enhanced public access to the shoreline (I); requires no filling of wetlands or waters (III); will not extend more than 20 feet waterward of normal high water (IV); will not impact coastal wetlands (V-VI); will not interfere with access to any riparian property (VII); will not impact Army Corps of Engineers setbacks along federally authorized waterways (VIII); will have no significant adverse impact on fishery resources, water quality, or wetlands (IX); will not degrade water quality (X); will not degrade Critical Habitat Areas or Primary Nursery Areas (XI); and will pose no threat to navigation (XII).

Allowing Petitioner to build stairs and use the rooftop deck promotes in-fill while not causing additional impacts to the adjacent (SC) waters. It meets the spirit, purpose and intent of both the urban waterfront rules and the management objectives for public trust and estuarine waters.

Public safety and welfare will be secured by this variance because Petitioner's project will allow more people to access the shoreline, one goal of the urban waterfront rules. Safety will be secured by compliance with all local building and fire codes.

Substantial justice will be preserved by this variance because Petitioner may use an area of the property already "developed," promoting density in an urbanized area while avoiding increased adverse impacts to the adjacent waters. The CRC's rules are not a one-size-fits-all solution to managing coastal resources. In cases like this, justice requires that an exception be made where strict application of the rules causes an unnecessary hardship and the Commission can be satisfied that the overall purposes of the rules will still be achieved.

For the reasons stated above, granting Petitioner the requested variance will be consistent with all four (4) of the criteria stated in N.C. Gen Stat. § 113A-120.1 and in NCAC 7J .0700. Petitioner respectfully requests that the Commission issue a variance in accordance the permit application.

Staff's Position: No.

Staff contends that the requested variance to build the stairs and allow a second-story use on the 2016 roof located on the existing dock over navigable, public trust waters would not be within the spirit, purpose and intent of the Commission's limitations on non-water dependent uses, and the Commission's existing exceptions found in the Urban Waterfront rules. The Commission's rules generally limiting non-water dependent uses over public trust waters, but allow exceptions to this limitation through the Urban Waterfront rules. These rules recognize urban waterfront areas as having "cultural, historical, and economic significance" and are "suitable for maintaining and promoting dense development." 15A NCAC 0209(g)(2).

In this case, Petitioner has already availed itself of the Urban Waterfront rules in order to redevelop the Site and construct a new roof over the existing dock platform area and convert its use from a fish house to a deli and restaurant/bar/deli customer covered seating. The Urban Waterfront rules limit new uses to single-story unenclosed decks and boardwalks. Uses existing at the time the Urban Waterfront rules were enacted could be vertically expanded by one more story. See 15A NCAC 7H .0209(g)(4)(B)(ii) and (g)(4)(B)(iii). The rules further prohibit the enclosure of new deck structures by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind, presumably to prevent the blocking of the view of the water by the public on land. See 15A NCAC 7H .0209(g)(4)(B)(iii)(II). Staff believes that a second-story use on a newly constructed roof exceeds the reasonable limitations found in the Commission's Urban Waterfront rules (already an exception to the Commission's limitations on non-water dependent uses over Public Trust Waters) [15A NCAC 7H .0208(a)(1)]. Therefore, a variance would not be within the spirit, purpose and intent of the Urban Waterfront's reasonable limitations on adding additional use.

Staff agrees that local and State building codes and Duke Energy rules will help ensure that public safety and welfare will be secured if this variance were granted.

Substantial justice will not be preserved by granting this variance where Petitioner has already redeveloped the commercial uses and added additional seating under the existing regulations which limit use of docks over public trust waters within an Urban Waterfront to single-story use. Petitioner now wishes to increase customer seating space by adding a second-story use to a new structure over Public Trust Waters, instead of adding a second-story use to the restaurant/deli building which is allowed by rule and without a variance. Additionally, such a variance would not preserve substantial justice as it would be unfair to all other businesses in Urban Waterfront areas who develop a new use and limit their use to single-story use per the regulations. Staff have significant concerns about other businesses seeking variances for new second-story uses (or more) in the Morehead City Urban Waterfront district in order to compete with Petitioner's increased use, as well as requests from businesses in other Urban Waterfront districts along the coast. Of particular concern to Staff is the cumulative impacts new second-story uses in Urban Waterfront along the coast might have. While the Commission's Urban Waterfront exception recognizes the need for in-fill development, reuse and redevelopment, it limits this use to single-story use (or one additional story for existing enclosed structures) so as to limit new structures over Public Trust Waters.

**ATTACHMENT D:
PETITIONER'S VARIANCE REQUEST MATERIALS**



MEREDITH JO ALCOKE, Attorney at Law

1001 College Court (28562)
Post Office Box 867
New Bern, NC 28563-0867

P: 252.672.5507
P: 252.572.5477
MJAalcoke@wardandsmith.com

March 15, 2017

VIA EMAIL
ORIGINAL VIA U.S. MAIL

Mr. Braxton Davis
Director, Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

RE: Petitioner Sanitary Fishmarket and Restaurant
CAMA Variance Request Form
Our File 700648-00007

Dear Mr. Davis:

We represent Petitioner Sanitary Fishmarket and Restaurant (the "Sanitary") in its endeavor to obtain a variance to undertake the construction of a set of outdoor stairs on its property located at 501 Evans Street, Morehead City, North Carolina. The Sanitary intends to build stairs to lead to an existing second story deck. In this regard and on the Sanitary's behalf, we are submitting the enclosed original Variance Petition together with supporting documents. We respectfully request that this variance request be scheduled for the April meeting of the Coastal Resources Commission in Manteo, North Carolina. Please let us know if there is anything else you need from us to ensure this matter will be heard as requested.

Thank you for your consideration of this matter.

Yours truly,

A handwritten signature in black ink that reads 'Meredith Jo Alcoke'. The signature is fluid and cursive, with the first name 'Meredith' being the most prominent part.

Meredith Jo Alcoke

ND: 4816-8952-7876, v. 1

Enclosures

cc: Sanitary Fishmarket and Restaurant (w/encs.)
Attorney General's Office (w/encs.)

ASHEVILLE

GREENVILLE

NEW BERN

RALEIGH

WILMINGTON

www.wardandsmith.com

CAMA VARIANCE REQUEST FORM

DCM FORM 11

DCM FILE No.:

17-02

PETITIONER'S NAME Jeff GarnerCOUNTY WHERE THE DEVELOPMENT IS PROPOSED Carteret

Pursuant to N.C.G.S. § 113A-120.1 and 15A N.C.A.C. 07J .0700 *et seq.*, the above named Petitioner hereby applies to the Coastal Resources Commission (CRC) for a variance.

VARIANCE HEARING PROCEDURES

A variance petition will be considered by the CRC at a regularly scheduled meeting, heard in chronological order based upon the date of receipt of a complete petition. 15A N.C.A.C. 07J .0701(e). A complete variance petition, as described below, must be *received* by the Division of Coastal Management (DCM) a minimum of six (6) weeks in advance of the first day of a regularly scheduled CRC meeting to be eligible for consideration by the CRC at that meeting. 15A N.C.A.C. 07J .0701(e). The final set of stipulated facts must be agreed to at least four (4) weeks prior to the first day of a regularly scheduled meeting. 15A N.C.A.C. 07J .0701(e). The dates of CRC meetings can be found at DCM's website: www.nccoastalmanagement.net

If there are controverted facts that are significant in determining the propriety of a variance, or if the Commission determines that more facts are necessary, the facts will be determined in an administrative hearing. 15A N.C.A.C. 07J .0701(b).

VARIANCE CRITERIA

The petitioner has the burden of convincing the CRC that it meets the following criteria:

- (a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.
- (b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.
- (c) Do the hardships result from actions taken by the petitioner? Explain.
- (d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

Please make your written arguments that Petitioner meets these criteria on a separate piece of paper. The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as a variance hearing before the Commission. These opinions note that the practice of professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written or oral argument, may be considered the practice of law. Before you proceed with this variance request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.

For this variance request to be complete, the petitioner must provide the information listed below. The undersigned petitioner verifies that this variance request is complete and includes:

- The name and location of the development as identified on the permit application;
- A copy of the permit decision for the development in question;
- A copy of the deed to the property on which the proposed development would be located;
- A complete description of the proposed development including a site plan;
- A stipulation that the proposed development is inconsistent with the rule at issue;
- Proof that notice was sent to adjacent owners and objectors*, as required by 15A N.C.A.C. 07J .0701(c)(7);
- Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.
- This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

**Please contact DCM or the local permit officer for a full list of comments received on your permit application. Please note, for CAMA Major Permits, the complete permit file is kept in the DCM Morehead City Office.*

Due to the above information and pursuant to statute, the undersigned hereby requests a variance.


Signature of Petitioner or Attorney

March 15, 2017
Date

Meredith Jo Alcock
Printed Name of Petitioner or Attorney

mialcock@wardandsmith.com
Email address of Petitioner or Attorney

Post Office Box 867
Mailing Address

252.672.5400
Telephone Number of Petitioner or Attorney

New Bern, NC 28563-0867
City State Zip

252.672.5477
Fax Number of Petitioner or Attorney

DELIVERY OF THIS HEARING REQUEST

This variance petition must be received by the Division of Coastal Management at least six (6) weeks before the first day of the regularly scheduled Commission meeting at which it is heard. A copy of this request must also be sent to the Attorney General's Office, Environmental Division. 15A N.C.A.C. 07J .0701(e).

Contact Information for DCM:

Contact Information for Attorney General's Office:

By mail, express mail or hand delivery:
Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

By mail:
Environmental Division
9001 Mail Service Center
Raleigh, NC 27699-9001

By Fax:
(252) 247-3330

By express mail:
Environmental Division
114 W. Edenton Street
Raleigh, NC 27603

By Email:
Check DCM website for the email address of the current DCM Director
www.nccoastalmanagement.net

By Fax:
(919) 716-6767

PETITIONER MEETS THE FOUR VARIANCE CRITERIA

I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? If so, the petitioner must identify the hardships.

Petitioner's Position: Yes.

Strict application of the relevant urban waterfront rule causes Petitioner an unnecessary hardship. Petitioner is a local business owner trying to remain relevant and profitable in the competitive and constantly changing restaurant business. There are unique challenges to running a restaurant over 75 years old. Tastes change, and while other restaurants come and go, Petitioner must keep up with the competition while preserving the historic aspects of the restaurant that define it. The Sanitary is an important part of the Morehead City community and a tourist attraction for the East Coast.

Petitioner responded to market demands by converting the historic fish market to a deli, which has proven very popular. The hardship Petitioner faces is that the deli has space for only two tables. Petitioner needs additional space for his deli customers and therefore requests permission to add stairs and use the existing rooftop deck beside the deli. It causes Petitioner unnecessary hardship not to use this space because Petitioner has few options to expand capacity, as further addressed in the next factor below. Here, the stairs and the use of the existing roof deck will not add any new impervious surface or otherwise adversely affect the adjacent waters. Because the purpose of the rule will still be met, Petitioner's hardship is unnecessary.

II. Do such hardships result from conditions peculiar to the petitioner's property, such as location, size, or topography of the property? Explain.

Petitioner's Position: Yes.

The hardships result from conditions peculiar to Petitioners' property. First, the property's size is peculiar. The parcel measures 491 feet along the water, 103 feet deep on the east side, and 108 feet deep on the west side. Shaped like a rectangle, the property is almost five times as long as it is wide. Second, the property's location within the waters of Harbor Channel is also peculiar. The property extends on the landward side to the sidewalk with no setbacks.

Petitioner cannot expand landward due to the sidewalk, nor can Petitioner expand waterward due to CRC rules. His only option for meeting the demands of the growing deli business is to expand vertically. The hardship of not being able to accommodate more customers results from the long and very narrow shape of the property and the location of the property between the water and the sidewalk, unique conditions that pre-date CAMA.

III. Do the hardships result from the actions taken by the Petitioner?

Explain.

Petitioner's Position: No.

Petitioner has taken no actions that cause the hardships. Although Petitioner has applied for a project that conflicts with the rule, Petitioner has applied for development that promotes in-fill and minimizes impacts to the adjacent resource.

V. Will the variance requested by the petitioner

(1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

Petitioner's Position: Yes.

The variance will be consistent with the spirit, purpose and intent of the Commission's rules. The Sanitary Restaurant is located in the heart of Morehead City's urban waterfront and has "cultural, historical, and economic significance" as contemplated by the CRC's rules. 15A NCAC 7H .0208(g)(2). The rules provide that "[in]aritime traditions and longstanding development patterns make these areas suitable for maintaining or promoting dense development along the shore." Petitioner's proposed development is consistent with this rule because it promotes density within an existing commercial use and will preserve local historical and aesthetic values while enhancing the economy.

The management objectives for urban waterfronts favor "in-fill development, reuse, and redevelopment" as proposed by Petitioner, as such activities "reduce development pressure on surrounding areas" thus minimizing "adverse cumulative environmental effects on

estuarine and ocean systems." 15A NCAC 7H .0208(g)(3). The variance will be consistent with the spirit, purpose, and intent of the urban waterfront rules because Petitioner's project involves in-fill and does not increase cumulative adverse effects on the environment.

The variance will also be consistent with the spirit, purpose and intent of the Commission's rules applicable to public trust and estuarine waters, the primary AEC's affected by the proposed development. The management objective for the estuarine and ocean system provides: "It is the objective of the Coastal Resources Commission to conserve and manage estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines, as an interrelated group of AECs, so as to safeguard and perpetrate their biological, social, economic, and aesthetic values and to ensure that development occurring within these AECs is compatible with natural characteristics so as to minimize the likelihood of significant loss of private property and public resources. Furthermore, it is the objective of the Coastal Resources Commission to protect present common law and statutory public rights of access to the lands and waters of the coastal area." 15A NCAC 7H .0203.

The proposed variance meets these management objectives because aside from the second story issue, the project meets all other relevant use standards designed to protect the resource. Specifically, as required by 15A NCAC 7H .0208(g)(4)(B)(iii), the project will provide enhanced public access to the shoreline (I); requires no filling of wetlands or waters (III); will not extend more than 20 feet waterward of normal high water (IV); will not impact coastal wetlands (V-VI); will not interfere with access to any riparian property (VII); will not impact Army Corps of Engineers setbacks along federally authorized waterways (VIII); will have no significant adverse impact on fishery resources, water quality, or wetlands (IX); will not degrade water quality (X); will not degrade Critical Habitat Areas or Primary Nursery Areas (XI); and will pose no threat to navigation (XII).

Allowing Petitioner to build stairs and use the rooftop deck promotes in-fill while not causing additional impacts to the adjacent (SC) waters. It meets the spirit, purpose and intent of both the urban waterfront rules and the management objectives for public trust and estuarine waters.

Public safety and welfare will be secured by this variance because Petitioner's project will allow more people to access the shoreline, one goal of the urban waterfront rules. Safety will be secured by compliance with all local building and fire codes.

Substantial justice will be preserved by this variance because Petitioner may use an area of the property already "developed," promoting density in an urbanized area while avoiding increased adverse impacts to the adjacent waters. The CRC's rules are not a one-size-fits-all solution to managing coastal resources. In cases like this, justice requires that an exception be made where strict application of the rules causes an unnecessary hardship and the Commission can be satisfied that the overall purposes of the rules will still be achieved.

For the reasons stated above, granting Petitioner the requested variance will be consistent with all four (4) of the criteria stated in N.C. Gen Stat. § 113A-120.1 and in NCAC 7J .0700. Petitioner respectfully requests that the Commission issue a variance in accordance the permit application.

700648-00007

ND: 4829-6486-7653, v. 2

**ATTACHMENT E:
STIPULATED EXHIBITS INCLUDING POWERPOINT**



Elaine F. Marshall
Secretary

North Carolina

DEPARTMENT OF THE
SECRETARY OF STATE

PO Box 29622 Raleigh, NC 27626-0622 (919)807-2000

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Corporate Names

Legal: Sanitary Fish Market & Restaurant,
Inc.

Business Corporation Information

SosId: 0129241
Status: Current-Active
Annual Report Status: Current
Citizenship: Domestic
Date Formed: 12/20/1979
Fiscal Month: December
Registered Agent: [Garner, Jeffrey G](#)

Corporate Addresses

Mailing: 501 Evans St PO Box 38
Morehead City, NC 28557-
0000
Principal Office: 501 Evans St PO Box 38
Morehead City, NC 28557-
0000
Reg Office: 501 Evans St PO Box 38
Morehead City, NC 28557-
0000
Reg Mailing: PO Box 38
28557, NC 28557

Officers

Secretary: Jeffrey G Garner
PO Box 38
Morehead City NC 28557-
0000
Treasurer: Lisa L. Garner
501 Evans St., P.O. Box 38
Morehead City NC 28557
President: Vernon Garner
501 Evans St PO Box 38
Morehead City NC 28557-
0000

Stock

Class: Common Class A Voting
Shares: 100000
Par Value: 1
Class: Common Class B Non
Voting
Shares: 10000000

AGENT AUTHORIZATION FOR CAMA PERMIT APPLICATION

Name of Property Owner Requesting Permit: Vernon J. Garner Jr

Mailing Address: 219 Deep Bay Dr
Newport, NC 28570

Phone Number: 252 723 7923

Email Address: tedgarner74@gmail.com

I certify that I have authorized Jeff Garner,
Agent / Contractor

to act on my behalf, for the purpose of applying for and obtaining all CAMA permits
necessary for the following proposed development: Sugarloaf Island
Deli

at my property located at _____,
in Carteret County.

*I furthermore certify that I am authorized to grant, and do in fact grant permission to
Division of Coastal Management staff, the Local Permit Officer and their agents to enter
on the aforementioned lands in connection with evaluating information related to this
permit application.*

Property Owner Information:
[Signature]
Signature

Vernon J. Garner Jr
Print or Type Name

Resident
Title

3.31.17
Date

This certification is valid through ____/____/____

NORTH CAROLINA, CARTERET COUNTY
This instrument and this certificate are duly filed at
the date and time and in the Book and Page shown
on the first page hereof.

Melanie Arthur 8R
CARTERET COUNTY
NA Date 11/21/2005 Time 13:44:00
BR 1144238 Page 1 of 8

Melanie Arthur, Register of Deeds
[Signature]
Assistant Register of Deeds

Prepared by L. Patton Mason, Attorney, Morehead City, NC

NORTH CAROLINA
CARTERET COUNTY

Parcel No. 6336.03.43.7367000
Parcel No. 6386.10.37.1027000
Parcel No. 6336.03.42.7303000
Parcel No. 6386.20.80.5623000
Parcel No. 6386.20.81.3018000
Parcel No. 6386.20.81.5047000
Parcel No. 6386.20.80.2884000

THIS DEED, Made this 21st day of November, 2005, by Vernon J. Garner, Jr. of Carteret County, and State of North Carolina, party of the first part, to the Vernon Jackson Garner, Jr. Living Trust, of 501 Evans Street, Morehead City, Carteret County and State of North Carolina 28557, party of the second part;

W I T N E S S E T H

That the party of the first part in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable considerations to him paid by the party of the second part, has bargained and sold, and by these presents does grant, bargain, sell and convey to said party of the second part, its successors and assigns, certain tracts or parcels of land in Carteret County, State of North Carolina and being more particularly described as follows:

BOOK 1144 PAGE 238

Ⓢ

Tract 1

Being all of Lots Number 4 and 14 as shown on a map entitled "Map of Deep Bay" made by Sam J. Morris, Jr., Consulting Engineer, dated May 2, 1974, recorded in Map Book 13, Page 9, Carteret County Registry.

Tract 2

Being all of Lot 3, Wayne See Subdivision Section III, of record in Map Book 26, at Page 659, Carteret County Registry.

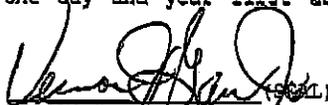
Tract 3

All those certain tracts or parcels of land located in the Town of Morehead City and more particularly described on "Exhibit A" attached hereto and made a part hereof.

To it, the party of the second part, its successors and assigns in fee simple forever.

And the said party of the first part for himself and his heirs, executors and administrators, covenants with said party of the second part, its heirs and assigns, that he is seized of said premises in fee and has the right to convey the same in fee simple; that the same are free and clear from all encumbrances and that he does hereby forever warrant and will forever defend the said title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the said party of the first part has hereunto set his hand and seal, the day and year first above written.


VERNON J. CARVER, JR. (SEAL)

BOOK 1144 PAGE 238

NORTH CAROLINA
CARTERET COUNTY

I, Iva A. Spell, Notary Public, do hereby certify that
Vernon J. Garner, Jr. personally appeared before me this day
and acknowledged the due execution of the foregoing Deed.

Witness my hand and notarial seal, this 21st day of
November, 2005.

Iva A. Spell
Notary Public

My Commission Expires: July 27, 2007



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EXHIBIT "A"

Lying and being in the Town of Morehead City, Carteret County, North Carolina, and being:

1. Being all of Lot No. 2, in Square or Block No. 5, said lot fronting 50 feet on Evans Street and running back between parallel side lines 100 feet, including in this conveyance all riparian rights attached to said lot, and all improvements thereon situated, particularly including the "T. Duffy Wade Fish House" located on said lot, and also that certain cafe immediately in front of said Lot No. 2, Square No. 5, on the South side of Evans Street, South of the seawall, and extending to the waters of Bogue Sound or Morehead Harbor and particularly including in this conveyance all articles of fixtures, furniture and equipment now located within or on said cafe building, and including the building itself.

This being the same land conveyed to J. L. Seamon and Vernon Jackson Garner by deed from W. P. Freeman and wife, Vallie H. Freeman, dated 28 May 1942, of record in Book 98, page 372, Carteret County Registry; and deed dated November 12, 1943, of record in Book 102, page 134.

2. Lot No. 1, in Square or Block No. 5, and also lot on south side of seawall, immediately opposite Lot 1, Square 5, each lot fronting 50 feet on Evans Street, north and south sides, with all improvements and structures thereon, and all riparian and littoral rights incident thereto, in accordance with official map of said town as registered in Carteret County Registry.

This being the same land conveyed to J. L. Seamon and V. J. (Ted) Garner by deed from

BOOK 1144 PAGE 238

Willie P. Peace et al, dated 1 March 1944, of record in Book 103, page 276, Carteret County Registry.

3. Being known and designated as all of Lots 3 and 13, in Square or Block 5, according to the official map and plan of said Town as recorded in Map Book 1, page 139, Carteret County Registry, together with the block walls situate on the North, East and South sides, together with all riparian and littoral rights incident to Lot 3, Block 5, and particularly all land, water, docks, riparian and littoral rights south of Evans Street, and particularly as defined in the agreement with the Town of Morehead City as recorded in Book 18, at page 118, Carteret County Registry.

This being the same land conveyed to J. L. Seamon, Sr., et ux, et al, from L. D. Gore et ux, dated 27 March 1962, of record in Book 227, page 605, Carteret County Registry.

4. In the Town of Morehead City and being Lot 12, Block 5, of the Town of Morehead City, according to the official plan thereof recorded in Map Book 1, page 139, Office of the Register of Deeds of Carteret County, North Carolina.

This being the same land conveyed to J. L. Seamon, Sr., et al, by deed from Alvin E. Wade et ux, dated 29 March 1963, of record in Book 238, page 115, Carteret County Registry.

5. All and singular that certain lot or parcel of land situate in the city of Morehead City, adjoining the lot of S. A. Chalk (formerly of James B. Blades) or the alleyway separating said lot from said lot of S. A. Chalk, and being part of Lot #10, Square 3, as laid out on the plan of the town site of the Shepard Point Land Company for the Town of Morehead City, to which plan reference is made, and as laid out on said plan beginning on the south side of the street running along the line of the Atlantic and North Carolina Railroad, at a point which is 50 feet east of what is known on said plan as Fifth Street and being the northeast corner of the lot laid down on said plan as Lot #9; and running thence eastwardly along with and parallel with said street and said railroad 50 feet; thence southwardly parallel with the said street called "Fifth Street" one half the distance to the street called Evans Street (being the street running along the waterfront); thence northwardly (westwardly) parallel with said Evans Street 50 feet; thence a direct line to the beginning, it being a part of the lot of land conveyed to Owen H. Guin and wife, Pattie R. Guin by William B. Blades and wife by deed dated 2 July 1911 and recorded in the office of the Register of Deeds of Carteret County in Book 13, page 170, and being the same property as shown in that deed of Mrs. Pattie R. Guin, widow of Owen H. Guin, to Mrs. Lena Meredith (now Mrs. Lena M. Jarvis) under deed of October 22, 1930, and recorded in Book 69, page 138, Carteret County Registry and being the same property conveyed to Lillian English Robinson by deed from Lena M. Jarvis

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dated October 24, 1944, of record in Book 103, page 549, Carteret County Registry.

This being the same lands conveyed to J. L. Seamon, Sr. et al by deed from Lillian English Robinson and husband, Justin Robinson, dated 15 March 1966, of record in Book 273, page 252, Carteret County Registry.

6. Beginning at the southeast corner of the intersection of 5th and Arendell Streets, the northwest corner of Lot #9, in Square #3; thence southwardly with the east line of 5th Street to the waters of Bogue Sound, Harbor line; thence straight line with the waters of the Sound, or harbor line, 50 feet; thence northwardly and parallel 5th Street to the north side of Evans Street, the southeast corner of Lot #7 and the southwest corner of Lot #6, Square #3; thence eastwardly with north side of Evans Street 4 1/2 feet; thence northwardly and parallel 5th Street 125 feet, an iron stake; thence westwardly and parallel Evans Street 4 1/2 feet to an iron stake; thence northwardly and parallel 5th Street 125 feet to south side of Arendell Street; then with south side of Arendell Street 50 feet to the beginning; Excepting that portion of Evans Street across said premises; being all of Lot 9, western part of Lot 8, all of Lot 7, and western 4 1/2 feet of lot 6, Square 3, and the area south of the seawall immediately opposite Lot 7, Square 3; acquired by Ivey Blades Robinson by descent from her father, Wm. B. Blades, and devise from her mother, Amanda C. Blades, and from Sheriff of Carteret County, as appears of record in Book 81, page 335, and from J. F. Lyon et ux as appears recorded in Book 108, page 119, and deed from R. E. Whitehurst, Commissioner, filed for registration July 22, 1946, all Carteret County Registry, and being the same property conveyed to Clyde A. Douglass and wife, Mary A. Douglass, by Ivy Blades Robinson and husband, C. O. Robinson, as appears in Book 109 of Deeds, on page 514, in the Registry of Carteret County, which said deed is dated the 24th day of July 1946.

This being the same lands conveyed to J. L. Seamon, Sr. et al, by deed from Clyde A. Douglass et ux, dated April, 1966, of record in Book 275, page 132, Carteret County Registry.

7. Part of Lots 6 and 8, in Square 3, and property opposite thereto south of breakwater or seawall on Evans Street: Beginning at a point in the east line of Lot 8, Square 3, which is 125 feet southwardly from the northeast corner of Lot 10, Square 3, the southeast corner of lot sold by Guion to Meredith (Oct. 22, 1930, Book 69, page 138); thence westwardly and parallel Evans Street 4 1/2 feet to the northeast corner of tract conveyed by Lyon et ux to Ivey Blades Robinson (Book 108, page 119); thence southwardly and parallel 5th Street to the north line of Evans Street; thence westwardly with the north side of Evans Street 4 1/2 feet to the southwest corner of Lot 6 and southeast corner of Lot 7, Square 3; thence southwardly and parallel 5th Street to the waters of Bogue Sound (bulkhead or seawall); thence eastwardly with the waters of

BOOK 1111 Page 238

Bogue Sound (bulkhead or seawall) 50 feet; thence northwardly and parallel 5th Street (extended) to the beginning, excluding Evans Street (cf. Book 103, page 142 and Book 108, page 119), Carteret County Registry; with all improvements thereon and all riparian and littoral rights appurtenant or incident, being the same property conveyed to Clyde A. Douglass and wife, Mary A. Douglass, by J. F. Lyon and wife, Sara F. Lyon, by deed recorded in Book 125 of Deeds, page 419, in the Registry of Carteret County, which said deed bears date of December 17, 1949.

This being the same lands conveyed to J. L. Seamon, Sr. et al by deed from Clyde A. Douglass and wife, Mary A. Douglass, dated April 1966, of record in Book 275, page 135, Carteret County Registry.

8. Being all of Lots 14, 15 and 16, Square 5, in accordance with the official plan or map of said Town as same is of record in Carteret County Registry.

This being the same land conveyed to J. L. Seamon, Sr. et al by deed from Robert A. Alston et al, Trustees, dated 19 December 1966, of record in Book 283, page 489, Carteret County Registry.

9. Parts of Lots 4, 5 and 6, Block 5, of the Town of Morehead City according to the official plan thereof recorded in Map Book 1, page 139, Office of the Register of Deeds of Carteret County, and the area between said lots and the navigable waters of Bogue Sound, described by metes and bounds as follows:

Beginning at a point in the dividing line between Lots 3 and 4, Block 5, of the map aforesaid, said point being N 5-45 E 1 foot along the dividing line between Lots 3 and 4, Block 5, from the north line of Evans Street; runs thence N 84-15 W in a line parallel with and 1 foot north of the north line of Evans Street 145 feet to a point; thence S 5-45 W, crossing Evans Street, to the navigable waters of Bogue Sound; thence in an eastwardly direction along the navigable waters of Bogue Sound to the point where the southwardly extension of the dividing line between Lots 3 and 4, Block 5, as aforesaid, intersects the navigable waters of Bogue Sound; and thence N 5-45 E, crossing Evans Street, to and along the dividing line between Lots 3 and 4, Block 5, as aforesaid, to the point of beginning; together with all riparian and littoral rights and easement, appurtenant thereto as contemplated by the instrument recorded the 20th day of July, 1914, in Book 18, page 118, office of the Register of Deeds of Carteret County and otherwise.

This conveyance is subject to reservations as set forth in deed to J. L. Seamon, Sr. et al from Thomas D. Eure et ux, dated 27 July 1962, of record in Book 231, page 339, Carteret County Registry.

BOOK 1144

PAGE 23

5

10. Lying and being in the Town of Morehead City, Carteret County, North Carolina, and being a tract of land consisting of Lots 4, 5, part of Lot 6, part of Lot 7, and certain adjacent areas in Block 5 according to the official map or plan of the Town of Morehead City, and being further described as follows, to wit:

Beginning at a point in Lot 7, Block 5, Morehead City, which point of beginning is located S 84-15 E 28.80 feet and then N 04-45 E 1.0 feet from the northeast corner of Evans Street and South Sixth Street; runs thence from said point of beginning N 04-45 E 36.0 feet; thence N 64-15 E 4.67 feet; thence N 05-45 E 6.09 feet; thence S 84-15 E 38.94 feet; thence N 05-45 E 54.49 feet to the north line of Lot No. 6; thence S 84-15 E 31.87 feet; thence N 05-45 E 32.60 feet; thence S 84-15 E 55.0 feet; thence N 05-45 E 9.80 feet; thence S 84-15 E 50 feet; thence S 05-45 W 142.4 feet to the north line of Evans Street; thence with said street line N 84-15 W 145.0 feet, thence N 05-45 E 1.0 feet, thence N 84-15 W 36.20 feet to the point of beginning.

Together with and including all improvements and fixtures located upon the above described premises.

11. Beginning at a point in the south right of way line of Evans Street which point is located S 84-15 E 65.0 feet from the intersection of the south right of way line of Evans Street and a southwardly extension of the east line of Sixth Street and running thence S 5-45 W to the highwater mark of Bogue Sound, running thence a generally eastwardly direction along the highwater mark of Bogue Sound to a point formed by the intersection of the highwater mark of Bogue Sound and a S 5-45 W extension of the east line of Lot 6, Block 3, running thence N 5-45 E to the south right of way line of Evans Street and running thence along the south right of way line of Evans Street N 84-15 W to the point of beginning. Together with and including all riparian and littoral rights and all improvements located thereon or extending therefrom, including but not limited to all docks, bulkheads, wharves, piers, pilings and buildings.

12. There is also conveyed all right, title and interest held by the parties of the first part herein in that tract of land described as follows: Beginning at the southeast corner of Lot 13, Block 5; running thence S 5-45 W to the northeast corner of Lot 3, Block 5; running thence westwardly along the north line of Lot 3, to the northwest corner of said Lot 3; running thence N 5-45 E to the southwest corner of Lot 13, Block 5, and running thence along the south line of said Lot 13 a generally eastwardly direction to the point of beginning.

BOOK 11064 PAGE 38



- Address Points ●
- Parcels - Updated 03-15-2017 □
- Centerlines —
- NC Railroad Right of Way □
- County Boundary □
- Other County <all other values>
- Cart ●
- PIN ●
- Acreage
- Parcel Dimensions
- Lot Number

<u>TOWNSHIP</u> 1351	<u>FIRE DISTRICT</u> 1351	<u>OBJECTID</u> 56907
<u>PDOT</u> 3845	<u>CONDO NUMBER</u> 3845	<u>MOTHER</u> 0
<u>PRID</u> 13013C0406	<u>PIN15</u> 638620803845000	<u>OWNER</u> GARNER,VERNON JACKSON JR TRUST
<u>DEED BOOK</u> 1144	<u>DEED PAGE</u> 238	<u>CURRENT DEED DATE</u> 0

<u>TOWNSHIP</u> 1351	<u>FIRE DISTRICT</u> 	<u>OBJECTID</u> 56907
<u>PDOT</u> 3845	<u>CONDO NUMBER</u> 	<u>MOTHER</u> 0
<u>PRID</u> 13013C0406	<u>PIN15</u> 638620803845000	<u>OWNER</u> GARNER,VERNON JACKSON JR TRUST
<u>DEED BOOK</u> 1144	<u>DEED PAGE</u> 238	<u>CURRENT DEED DATE</u> 0
<u>SALE PRICE</u> 0	<u>LAND VALUE</u> 945997	<u>STRUCTURE VALUE</u> 955492
<u>OTHER VALUE</u> 118103	<u>YEAR CONDO BUILT</u> 0	<u>MAILING ADDRESS HOUSE NUMBER</u>
<u>MAILING ADDRESS DIRECTION</u> 	<u>MAILING ADDRESS STREET</u> 	<u>MAILING ADDRESS CITY</u> MOREHEAD CITY
<u>MAILING ADDRESS STATE</u> NC	<u>MAILING ADDRESS ZIP</u> 28557	<u>MAILING ADDRESS PO BOX</u> PO BOX 38
<u>CITY LIMIT</u> MOREHEAD CITY	<u>NEIGHBORHOOD CODE</u> 510001	<u>RESCUE DISTRICT</u>
<u>LEGAL DESCRIPTION</u> WATERFRONT EVANS ST - MOREHEAD	<u>TOTAL ACRES</u> 1.189	<u>YEAR BUILT</u> 1945
<u>TOTAL SQUARE FEET</u> 1444	<u>ROLL TYPE</u> R	<u>BATHROOMS</u> 1
<u>BEDROOMS</u> 0	<u>HOUSE NUMBER (7 Digits)</u> 0000000	<u>STREET NAME</u>
<u>STREET TYPE</u> 	<u>APT #</u> 	<u>CITY</u>
<u>TOTAL VALUE</u> 2019592	<u>PLAT BOOK</u> 0	<u>PLAT PAGE</u> 0
<u>District</u> 1351	<u>aicuz</u> 	<u>RISK LEVEL</u>
<u>NOISE LEVEL</u> 		

The information displayed by this website is prepared for the inventory of real property found within this jurisdiction and is compiled from recorded deeds, plats, and other public records and data. Users of this information are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this site. Carteret County assumes no legal responsibility for the information contained on this site. Carteret County does not guarantee that the data and map services will be available to users without interruption or error. Furthermore, Carteret County may modify or remove map services and access methods at will.

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

BEFORE THE NORTH CAROLINA
COASTAL RESOURCES COMMISSION

IN THE MATTER OF:)
PETITION FOR DECLARATORY)
RULING BY SANITARY FISH)
MARKET AND RESTAURANT, INC.)

DECLARATORY RULING

Pursuant to Gen. Stat. § 150B-4 and 15A NCAC 7J .0603, the Chairman of the Coastal Resources Commission determined to allow the Petitioner's request for a declaratory ruling before the Coastal Resources Commission in the above-captioned matter. The subject of the request was to determine whether a 576 square foot structure built on the roof of the Sanitary Fish Market and Restaurant, Inc. on the Morehead City waterfront is an "accessory building" such that it is excluded from the definition of "development" pursuant to N.C. Gen. Stat. § 113A-103(5)(b)6., or whether that the structure does not otherwise constitute "development" within the meaning of N.C. Gen. Stat. § 113A-103(5)a.

This matter was heard on oral arguments and stipulated facts at the regularly scheduled meeting of the North Carolina Coastal Resources Commission (hereinafter CRC) on March 24, 2000, in Atlantic Beach, North Carolina pursuant to N.C. Gen. Stat. § 113A-120.1 and 15A NCAC 7J.0700, et seq. Assistant Attorney General Meredith Jo Alcoke appeared for the Department of Environment and Natural Resources, Division of Coastal Management; Petitioner was represented by Frank H. Sheffield, Jr., Ward and Smith, P.A..

Upon consideration of the stipulated facts, the record documents and the arguments of the parties, the CRC adopts the following:

STIPULATED FINDINGS OF FACT

1. Petitioner, The Sanitary Fish Market and Restaurant, Inc. (hereinafter referred to as "the Sanitary" or "the restaurant"), is a well-established Morehead City waterfront restaurant located at 501 Evans Street, Morehead City, Carteret County, North Carolina 28577.
2. The Sanitary is located over the Public Trust Areas and Estuarine Waters of Harbor Channel off Bogue Sound, which are designated Areas of Environmental Concern (AECs).
3. The Sanitary is considered a non-conforming structure which is inconsistent with current Coastal Resources Commission Rules.
4. Air compressors which support the restaurant's air conditioning and refrigeration system are located at the rear of the building on the roof.
5. In December, 1999, the Sanitary removed five worn air compressors and replaced them with three new units by mounting them on a specialized compressor rack.
6. The Sanitary built an enclosure around the equipment which is 24' x 24' (or 576 square feet).
 - a. The second story room is anchored to load bearing walls underneath it, securely affixing the structure to the restaurant building.
 - b. The room has ten windows and a door but is not climate-controlled.
 - c. Currently, no adverse environmental impacts are associated with the presence of the equipment room.
7. On January 21, 2000, Ms. T. Barrett, Field Representative for the North Carolina Department of Environment and Natural Resources, Division of Coastal Management, issued a Notice of Violation to the Sanitary's owner for construction of the 576 square foot structure

described in Paragraph 6.

8. The Notice of Violation alleges that the Sanitary undertook Major Development in violation of the Coastal Area Management Act (CAMA). According to N.C. Gen. Stat. § 113A-118, no person may undertake Major Development in a designated AEC without first obtaining a permit from the Coastal Resources Commission.

9. The Notice of Violation ordered removal of the structure in accordance with a Restoration Plan and Agreement, but also provided that the Division of Coastal Management "would not object to a box-type cover or similar enclosure to protect the recently installed equipment on the roof of the restaurant."

10. The Notice of Violation informed the Sanitary's owner that failure to remove the structure could result in a penalty of \$2,500.00 per day.

11. The Division alleges that the structure constitutes "development" within the meaning of N.C. Gen. Stat. § 113A-103(5)a. requiring a CAMA major development permit.

12. The Sanitary alleges the structure constitutes an "accessory building" pursuant to N.C. Gen. Stat. § 113A-105(5)(b)6., and is consequently exempt from CAMA permitting requirements.

13. In the alternative, the Sanitary alleges that the structure does not constitute "development" within the meaning of N.C. Gen. Stat. § 113A-103(5)a. and is consequently exempt from CAMA permitting requirements.

CONCLUSIONS OF LAW

1. The CRC has jurisdiction over the parties and the subject matter.
2. The parties have been correctly designated and there is no question of misjoinder

or nonjoinder of parties.

3. All notices for the proceeding were adequate and proper.

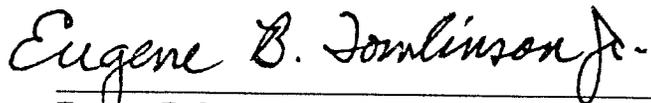
4. As this enclosure is solely used for the purpose of sheltering air compressors and is not climate controlled, as stated in Stipulated Findings of Fact numbers 5 and 6, the Commission hereby determines that the enclosure is an accessory building, pursuant to N.C. Gen. Stat. § 113A-105(5)(b)6.

5. This ruling is based on the stipulated facts presented to the Commission and is hereby issued expressly upon condition that the enclosure's uses or dimensions are not expanded beyond those represented to the Commission in the stipulated facts above.

ORDER

THEREFORE, the petition for declaratory ruling that the 576 square foot structure built on the roof of the Sanitary Fish Market and Restaurant, Inc. on the Morehead City waterfront is GRANTED and the Commission determines that the enclosure is an "accessory building" such that it is excluded from the definition of "development" pursuant to N.C. Gen. Stat. § 113A-103(5)(b)6.

This the 11th day of May, 2000.



Eugene B. Tomlinson, Jr., Chairman
Coastal Resources Commission

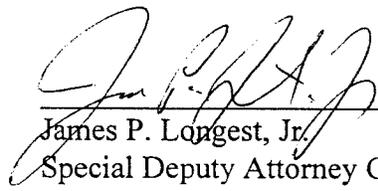
ep-39812

CERTIFICATE OF SERVICE

This is to certify that I have caused the foregoing Declaratory Ruling to be served upon the Petitioner by depositing a copy thereof in the U.S. Postal Service with sufficient postage for delivery by first class mail and addressed to:

Frank H. Sheffield, Jr.
Ward & Smith, P.A.
1001 College Court
Post Office Box 867
New Bern, NC 28563

This the 11th day of May, 2000.



James P. Longest, Jr.
Special Deputy Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602-0629
(919) 716-6954

ep/39667

Building Permit

TOWN OF MOREHEAD CITY

Carteret, North Carolina

Inspections & Planning Department

706 Arendell Street, Morehead City, North Carolina 28557

(252)726-6848



Building Permit Number: 2016-0113

ADDRESS: **501 EVANS STREET**

PARCEL NO.: **638620802884000**

ZONING: **DB**

OWNER/OCC: **VERNON JACKSON GARNER JR. TRUST**

PO BOX 38

MOREHEAD CITY NC 28557

PERMIT DATE: **04/07/2016**

PERMIT TYPE: **COMM.ALTERATION**

FEE: **\$115.00**

PROJECT: **DOCK & ROOF REPAIRS**

EST. COST: **\$15,000**

STRUCTURE: **COMMERCIAL**

FLOOD PLAIN: **YES**

CONTRACTOR: **BOGUE BANKS MARINE CONST.: DEREK S SMITH: 65969**

Condensor units are considered an accessory use and must be a minimum of five (5) feet from the side or rear property line in accordance with Article 14-3.1 of the Unified Development Ordinance.

Eaves shall be allowed to project into a minimum required yard no more than twenty-four (24) inches.

Please call 726-6848 ext. 125 to schedule inspections. A one day notice is required.

Notify this office of any changes to the contractor or sub-contractors being used.

FILE COPY

OWNER/AGENT SIGNATURE: _____

APPROVED BY: _____

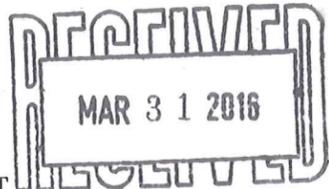
Building Inspector

DATE: **04/07/2016**

2016-0113



2016
line 4036



150 049

TOWN OF MOREHEAD CITY
COMMERCIAL APPLICATION FOR BUILDING PERMIT

Date: 3/30/16
Owner: Jeff Garner
(Name)
(Mailing Address, City, State, Zip) PO Box 38 Morehead City NC 28557
E-mail Address:
(Work Phone) 241-2185 Jeff *
(Home Phone)

Construction Site Address: 501 Evans St.

General: Bogue Banks Marine Const. (252) 725-0985
(Contractor Name) (Phone)
Morehead 28557 111 O Turners Dairy Rd (License # or N/A) 659469
(Mailing Address, City, State, Zip)
E-mail Address: bbmc71@hotmail.com

Electrical: (Contractor Name) (Phone)
(Mailing Address, City, State, Zip) (License # or N/A)
E-mail Address:

Plumbing: (Contractor Name) (Phone)
(Mailing Address, City, State, Zip) (License # or N/A)
E-mail Address:

Water Treatment: (Contractor Name) (Phone)
(Softener) (Mailing Address, City, State, Zip) (License # or N/A)
E-mail Address:

Mechanical: (Contractor Name) (Phone)
(Mailing Address, City, State, Zip) (License # or N/A)
E-mail Address:

Fuel Piping: (Contractor Name) (Phone)
(Natural Gas) (Mailing Address, City, State, Zip) (License # or N/A)
E-mail Address:

Insulation: (Contractor Name) (Phone)
(Mailing Address, City, State, Zip)
E-mail Address:



TOWN OF MOREHEAD CITY
COMMERCIAL APPLICATION FOR BUILDING PERMIT

Refrigeration Piping _____
(Contractor Name) N/A (Phone) _____

(Mailing Address, City, State, Zip) _____ (License # or N/A) _____
E-mail Address: _____

Fire Sprinkler: _____
(Contractor Name) N/A (Phone) _____

(Mailing Address, City, State, Zip) _____ (License # or N/A) _____
E-mail Address: _____

1) Explanation of Construction:
Rebuild of Deck & Cover proposed
rebuild Repairing Deck + Adding Roof

2) SM Initial here if the proposed improvements requested within this application are within the existing footprint of that which currently exists (e.g. no roofline extension, no structural addition, etc.).

3) If Construction is: Renovation: Repair: _____ Total \$ Value of Construction: 15,000.00
Work will include: Building: _____ Electrical: _____ Plumbing: _____ Mechanical: _____

4) If Construction is: Addition: _____ New Construction: _____ Total \$ Value of Construction: _____
Number of Stories: _____ Height (from average grade): _____
Overall Dimensions of Construction Area: _____
Square Footage Information (of area to be built):

1st floor 1000 square feet

2nd floor _____ square feet

Other N/A square feet

Total heated area to be added: 0 square feet

Accessory Areas: Garage _____ square feet

Porch _____ square feet

Porch _____ square feet

Deck 1000 square feet Repairs

Other _____ square feet

Total accessory area to be added: _____ square feet



TOWN OF MOREHEAD CITY
COMMERCIAL APPLICATION FOR BUILDING PERMIT

- 5) Total footprint area covered by roof (including new and existing) 1000 sf
- 6) Property is located in flood zone: _____
(Flood elevation certificate is due 21 days from time first floor elevation is established: ___ Yes ___ No)
- 7) Copy of septic tank permit is _____ attached; or septic tank permit _____ not applicable.
- 8) Water line size from meter: _____ Sewer line size: _____
- 9) Height of building (from average grade to highest point of structure): _____
- 10) Any additional information included with application: _____

I hereby certify that all information in this application is correct and all work will comply with the State Building Code and all other applicable State and local laws and ordinances and regulations. The Inspection Department will be notified of any changes in the approved plans and specifications for the project permitted herein.

Date 3/30/16

[Signature]
(Owner/Agent Signature)

Jeff Garner
(Printed Name)

Below to be completed by Staff:

Property Information: (to be completed by staff) Data Entry By: Jeanie Date: 3/31/16
 Tax Parcel # 6386 2080 2884 Zoning District DB City limits: Inside X Outside _____
 Flood Zone: AE8(9) Structure Value: \$ 882,002
 CAMA required (yes/no) (no) If yes, CAMA permit #: see attached email from Heather Styron

Zoning Review:

Setbacks: front 0 side 0 rear 0 corner lot (yes/no) (no) Any encroachments in setback no
 Lot size: N/A Maximum lot coverage allowed N/A Lot coverage after permit issued N/A
 DMCRA (yes/no) (no) Zoning Official Signature: Jeanie Drake Date: 3/31/16



TOWN OF MOREHEAD CITY
COMMERCIAL APPLICATION FOR BUILDING PERMIT

AFFIDAVIT OF WORKERS' COMPENSATION COVERAGE
N.C.G.S. 87-14

The undersigned applicant for a Building Permit, being the
Bogue Banks Marine Construction → Sanitary Fish
Contractor (PRINTED NAME) Market & Rest.
Devt Smith → Jeff Garner
Owner (PRINTED NAME)
Kim Smith / Jeff Garner → Jeff Garner
Officer/Agent of the Contractor or Owner (PRINTED NAME)

do hereby aver under penalties of perjury that the person(s), firm(s), or corporation(s) performing the work set forth in the permit:

has / have three (3) or more employees and have obtained workers' compensation insurance to cover them,

has / have one or more subcontractor(s) and have obtained workers' compensation insurance covering them,

has / have one or more subcontractor(s) who has / have their own policy of workers' compensation covering themselves,

has / have not more than two (2) employees and no subcontractors,

while working on this project for which this permit is sought. It is understood that the Inspection Department issuing the permit may require certificates of coverage of workers' compensation insurance prior to issuance of the permit and at any time during the permitted work from any person, firm, or corporation carrying out the work.

Firm Name: Bogue Banks Marine Construction

By: Jeff Garner

Title: VP

Date: 3/30/16

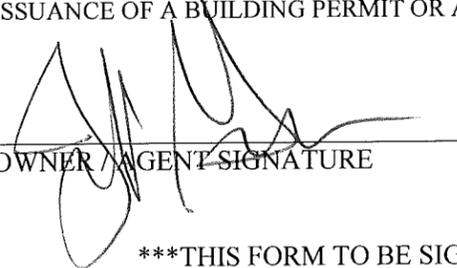


TOWN OF MOREHEAD CITY
COMMERCIAL APPLICATION FOR BUILDING PERMIT

CHECKLIST FOR NEW COMMERCIAL PROJECTS

- 1 - DISCUSS PROPOSAL WITH THE **PLANNING AND INSPECTIONS DEPARTMENT (P&I)**
726-6848 EXTENSION 121, 119, or 140
- 2 - FOR "FOOD SERVICE" ESTABLISHMENTS - SUBMIT PLANS, DRAWINGS, SPECIFICATIONS TO
CARTERET COUNTY HEALTH DEPARTMENT FOR APPROVAL IN WRITING
728-8499
- 3 - IN AREAS WITHOUT CITY WATER OR WITHOUT CITY SEWER, CONTACT THE **CARTERET COUNTY
HEALTH DEPARTMENT** FOR APPROVAL IN WRITING
728-8499
- 4 - SUBMIT COMPLETED APPLICATION, PLANS, DRAWINGS, AND SPECIFICATIONS TO **P&I**
726-6848 EXTENSION 125
- 5 - OBTAIN INFORMATION WITH REGARDS TO TAP & IMPACT FEES FROM **PUBLIC UTILITIES**
726-6848 EXTENSION 122 OR 132
- 6 - OBTAIN INFORMATION ABOUT SIDEWALKS & DRIVEWAY PERMITS FROM **PUBLIC WORKS**
726-6848 EXTENSION 122 OR 132

THIS IS TO CERTIFY THAT I HAVE READ AND UNDERSTAND THESE REQUIREMENTS AND FULLY UNDERSTAND ALL REQUIREMENTS GIVEN TO ME BY THE APPROPRIATE DEPARTMENTS. I FURTHER UNDERSTAND THAT FAILURE TO COMPLY WITH THESE REQUIREMENTS MAY CAUSE A DELAY IN THE ISSUANCE OF A BUILDING PERMIT OR A DELAY IN THE OPENING OF MY ESTABLISHMENT.


OWNER / AGENT SIGNATURE


PRINTED NAME

THIS FORM TO BE SIGNED AND RETURNED TO THE INSPECTION DEPARTMENT WITH COMPLETED CONSTRUCTION PACKET



MOREHEAD CITY
PLANNING & INSPECTIONS DEPARTMENT
706 ARENDELL STREET
MOREHEAD CITY, NC 28557
TEL (252)726-6848 ext 125
FAX (252) 726-2267

COMMERCIAL APPLICATION FOR BUILDING PERMIT
MEMORANDUM

TO: Applicants

SUBJECT: Application Procedures

You will need to submit a completed and signed application form along with the following information:

1. Two (2) sets of building plans (sealed by an engineer, if required by Building Code);
2. Completed Appendix B for new projects, not renovations.
3. (a) A site plan or survey (**drawn to scale**), indicating placement of proposed new construction and all other existing structures located on the lot (to include, but not limited to, fireplaces, steps, condensing units, etc.) must be attached and include the following:

_____ show all property lines with dimensions	_____ show proposed structure with dimensions
_____ label distance to all property lines from existing and proposed structures	_____ label road front, rear, and sides
_____ show easements, if applicable	_____ location of driveway/access
_____ flood zone must be labeled on site plan	_____ septic tank/drain lines, if applicable
	_____ square footage of lot must be shown (not acreage)

The site has to be checked for zoning (setbacks and maximum lot coverage).
- (b) Indicate the current location of electric meter and any overhead electric lines;
- (c) An interior floor plan if any walls are being relocated or added. All rooms must be labeled.
4. A copy of well permit and septic tank permit or a Development Application, if applicable.
5. CAMA permit, if applicable.
6. Check Lien Agent Requirements and attach two copies, if required.
7. Downtown Morehead City Revitalization Association review, if located East of 14th Street
They can be contacted at 808-0440, 1001 Arendell Street.

Dmccra
WJA
WJA

Failure to provide ALL of the above-required information will result in the return of the application.

The application must be left with the secretary and will be reviewed by Staff. Results of the plan review will be forwarded to the designer of record for revisions or clarifications. Once received, a follow-up review is conducted and, if approved, the permit will be issued. The total turnaround time varies, but generally takes two to four weeks.

You will be contacted when the permit is ready for pick-up; no money is accepted until permit is issued.

Substantial Improvement Worksheet for Floodplain Construction

(for reconstruction, rehabilitation, addition, or other improvements, and repair of damage from any cause)

Property Owner: Vernon Jackson Garner Jr. Trust
 Address: PO Box 38, Morehead City, NC 28557
 Permit No.: _____
 Location: 501 Evans St., M.C. (Sanitary Restaurant)
 Description of Improvements: Dock Repairs and Roof Addition over existing dock

Present Market Value of structure ONLY (market appraisal or adjusted assessed value, BEFORE Improvement, or if damaged, before the damage occurred), not including land value:

\$ 882,000

Cost of Improvement -

Actual cost of the construction** (see items to include/exclude)

\$ 15,000

Include volunteer labor and donated supplies.

Ratio = $\frac{\text{Cost of Improvement (or Cost to Repair)}}{\text{Market Value}} \times 100$

1.7 %

+25,000
+ 5,800
5.19%

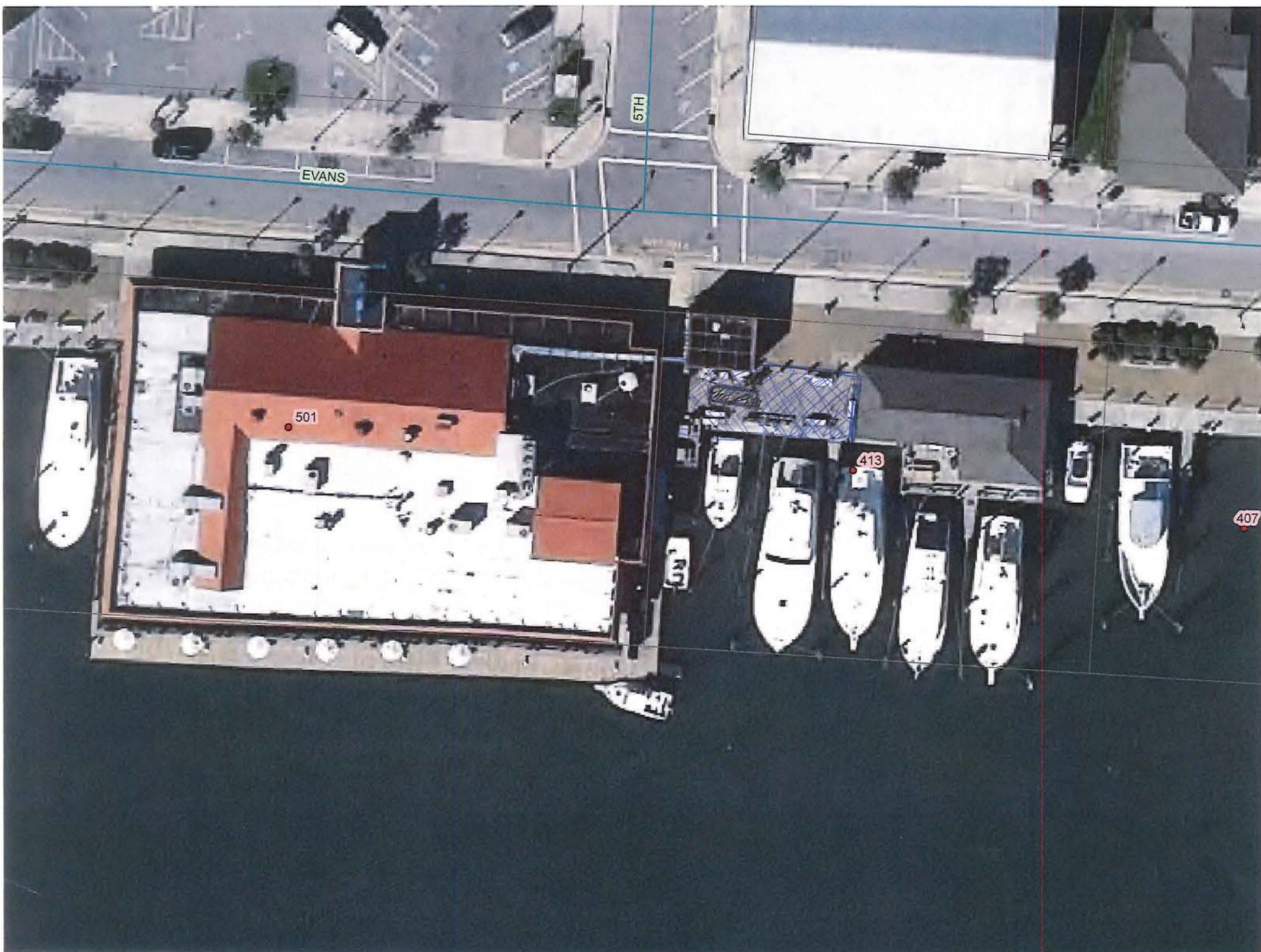
If ratio is 50 percent or greater (Substantial Improvement), entire structure including the existing building must be elevated to the base flood elevation (BFE) and all other aspects brought into compliance.

Important Notes:

1. Review cost estimates to ensure that all appropriate costs are included or excluded.
2. If a residential pre-FIRM building is determined to be substantially improved, it must be elevated to or above the BFE. If a non-residential pre-FIRM building is substantially improved, it must be elevated or dry floodproofed to the BFE.
3. Proposals to repair damage from any cause must be analyzed using the formula shown above.
4. Any proposed improvements or repairs to a post-FIRM building must be evaluated to ensure that the improvements or repairs comply with floodplain management regulations and to ensure that the improvements or repairs do not alter any aspect of the building that would make it non-compliant.
5. Alterations to and repairs of designated historic structures may be granted a variance or be exempt under the substantial improvement definition) provided the work will not preclude continued designation as a "historic structure."
6. Any costs associated with directly correcting health, sanitary, and safety code violations may be excluded from the cost of improvement. The violation must have been officially cited prior to submission of the permit application.

Determination completed by: Jarvis Drake
 Date: 3/31/16

2016-0009 Interior Reno. Issued: 1/12/16 Final Open \$ 25,000-
 SP16-0049 Adding Sprinkler Heads Issued: 4/14/16 Open \$ 5,800-



Jeannie Drake

From: Styron, Heather M. <heather.m.styron@ncdenr.gov>
Sent: Thursday, March 31, 2016 11:21 AM
To: Jeannie Drake
Subject: RE: 501 Evans Street - Sanitary Restaurant

Hey Jeannie,

As long as the dock repair is less than 50 percent of the total structural framing members (stringers, girders, pilings and joists) and the roof area is over the existing platform etc. and does not allow for second story use, then a CAMA permit would not be required. Please let me know if you need anything else ☺

Heather

From: Jeannie Drake [mailto:Jeannie.Drake@moreheadcitync.org]
Sent: Thursday, March 31, 2016 10:02 AM
To: Styron, Heather M. <heather.m.styron@ncdenr.gov>
Subject: 501 Evans Street - Sanitary Restaurant

Good morning, Heather –

Jeff Garner dropped off an application for dock repairs and a roof addition over the existing dock at 501 Evans Street, Morehead City (The Sanitary Restaurant). I just need confirmation from you that a CAMA permit is not required.

Thank you - Jeannie

*Jeannie Drake
Code Enforcement Officer
706 Arendell Street
Morehead City, NC 28557
252-726-6848 x138
Jeannie.drake@moreheadcitync.org*

Line # 4036
"2016"



FEE SHEET

Town of Morehead City
706 Arendell St.
Morehead City, NC 28557

Tel: (252) 726-6848 ext. 132
Fax: (252) 726-2267

DATE: April 7, 2016

SITE ADDRESS: 501 Evans Street (Dook & Roof Repairs)

NAME: Jeff Garner

PUBLIC UTILITIES DEPARTMENT

IMPACT FEES: WATER (code 341)
\$ 0

SEWER (code 340)
\$ 0

WATER TAP: \$ 0
(code 1100)

SEWER TAP: \$ 0
(code 870)

DEPOSIT: \$ 0
(code 440 override to 61-2500-000)

SERVICE FEE: \$ 0

THE FEES SHOWN ARE BASED ON THE INFORMATION GIVEN TO THE TOWN OF MOREHEAD CITY AT THE TIME THE BUILDING PERMIT WAS APPLIED FOR. IN THE EVENT THERE ARE ANY CHANGES IN SIZE OR FUNCTION OF THE BUILDING OR THE CONNECTIONS TO THE TOWN'S SYSTEM, THERE MAY BE CHANGES TO THE FEES REQUIRED, EITHER UP OR DOWN.

EXTENSION FEES:
(code 158)

WATER : \$ 0

SEWER: \$ 0

PUBLIC WORKS DEPARTMENT

SIDEWALK FEE: \$ 0
(code 420 override to 10-3451-840)

TOTAL FEES: \$ 0

WATER LINE SIZE	IN-TOWN TAP FEES	UTILITY DEPOSIT FEE
3/4 inch	\$ 700.00	\$ 100.00
1 inch	\$ 900.00	\$ 140.00
Greater than 1 inch will be done at actual cost plus 15%. See Public Utilities Director		

Sam Collins Duriddy
Public Utilities/Public Works Department

[Signature]
Contractor/Owner/Agent

Memorandum

To: Dykeman Baily, Fire Marshal
Robert Davis, Chief Building Inspector
Bernette Morris, Police Chief
Graham Strother, Assistant Public Services

From: Ethan Brogden, Code Enforcement Officer

Date: March 31, 2016

Re: 501 Evans Street / Repairing Dock & Adding Roof

Please review the revised plans located on the plan review table in the Inspectors office and **Email your comments back to me by 04/07/2016**. Thank you.

If you have any questions, please let me know. Thank you.

cc: Linda Staab, Planning Director
Sandi Watkins, Planner
Jeannie Drake, Code Enforcement Officer
John Varner, Building Inspector
Meredith Dillon, Planning/Inspections Assistant
Jamie Fulk, Fire Chief
Bobby Stephens, Assistant Fire Marshal
Daniel Williams, Public Services Director
Derek Williams, Water & Sewer Supervisor

MOREHEAD CITY
NORTH CAROLINA

COUNCIL
Harvey N. Walker, Jr., Mayor Pro Tem
George W. Ballou
Demus L. Thompson
William F. Taylor
Diane C. Warrender

706 Arendell Street
Morehead City, North Carolina 28557-4234
TEL (252) 726-6848
FAX (252) 726-2267
www.moreheadcity.nc.gov



David S. Whitlow
City Manager

DATE: 04/07/2016
TO: Jeff Garner
PO Box 38
Morehead City, NC 28557
yellowfin57@gmail.com
FROM: Ethan Brogden, Code Enforcement Officer
RE: 501 Evans Street (Sanitary) / Dock Repairs & Roof

A PLAN REVIEW HAS BEEN CONDUCTED FOR THE ABOVE PROJECT AND THE FOLLOWING INFORMATION IS REQUESTED:

Zoning (Plan reviewed by Ethan Brogden, Zoning Enforcement 726-6848, ext. 119 ethan.brogden@moreheadcitync.org):

- 1. No comment at this time.

Fire Department (Plan reviewed by, Dykeman Baily, Fire Marshal, 726-5040 ext. 3 dykeman.bailey@moreheadcitync.org):

- 1. Ensure a fire extinguisher with a minimum rating of 3A-40BC is located within 75-foot travel distance of the repaired docks.

Plan review fees: \$25.00 Account # 28-3434-410 Central Collection Code 240

Public Services (Plan reviewed by Graham Strother, Assistant Public Services Director, 726-6848, ext. 120 graham.strother@moreheadcitync.org):

- 1. No comment at this time.

Inspections (Plan reviewed by Robert Davis, Chief Building Inspector, 726-6848, ext. 143 robert.davis@moreheadcitync.org):

- 1. No comment at this time.

Police Department (Plan reviewed by Bernette Morris, Chief MHCPD, 726-3131, bernette.morris@moreheadcitync.org):

- 1. No comment at this time.

UPON RECEIPT OF THE REQUESTED INFORMATION, A FOLLOW-UP PLAN REVIEW WILL BE CONDUCTED.

Inspection Detail List

ID# PR108870\BD007525 **Location** 501 EVANS STREET
Permit # 2016-0113 **Entered** 04/07/2016 **Permit Date** 04/07/2016
Owner/Occ. Owner **Name** VERNON JACKSON GARNER JR. TRUST **Phone** 252-241-2185
Contractor BOGUE BANKS MARINE CONST.: DEREK S SMITH: 65969 **Structure** COMMERCIAL
Electrician
Plumber
Mechanical
Other **Fee Paid** 04/11/2016

Permit Type COMM.ALTERATION **Project** DOCK & ROOF REPAIRS **Est. Cost** \$15,000
Setbacks: **Lot#/Subd.** **Stories** 1
Front N/A **Rear** N/A **Dimensions** **Flood Zone** AE8(9)
Right N/A **Left** N/A **District** DB **Heated S.F.** 14688 **Unheated S.F.** 3049 **Crawl Space S.F.**

Detail	Scheduled Insp. Time	Inspected	Time	Result	Who
FRAMING	08/25/2016	08/25/2016		PASSED	RD
FINAL	11/09/2016	11/09/2017		FAILED	RD
FINAL	02/16/2017 PM	02/16/2017		PASSED	RD
FINAL FIRE	02/16/2017	02/16/2017		PASSED	DB

Inspection Count 4

Past Notes

Notes EB FOR RD

SEE EMAIL FROM HEATHER STYRON INDICATING THAT A CAMA PERMIT WOULD NOT BE REQUIRED BECAUSE THE ROOF AREA IS OVER AN EXISTING PLATFORM. JD

11/9/16: open j box covers on south deck.
 need to add exit on east side of bar.
 add exit sign east side of bar.

Sanitary Restaurant / Sugarleaf Island Deli

3/1/16

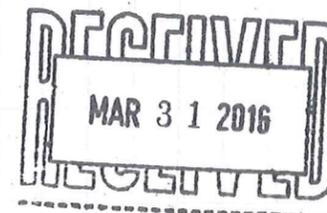
Dock/Deck Proposal

cross section

"REVIEWED FOR CODE COMPLIANCE"

TOWN OF MOREHEAD CITY

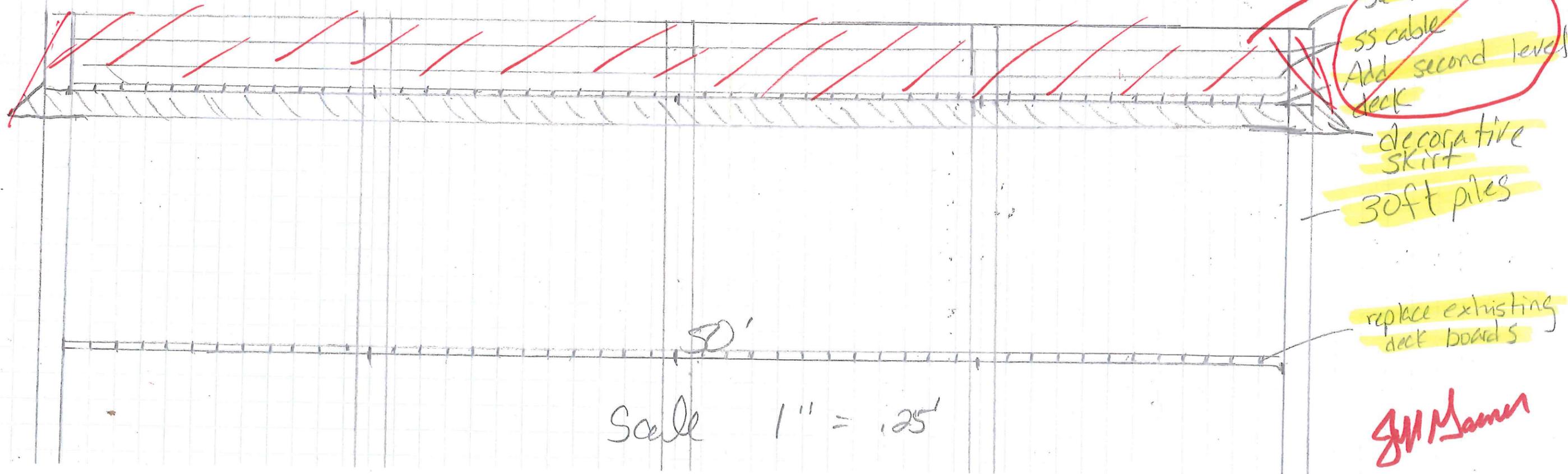
FILE COPY



Proposed rubber roofing

JJ.

omit second level deck



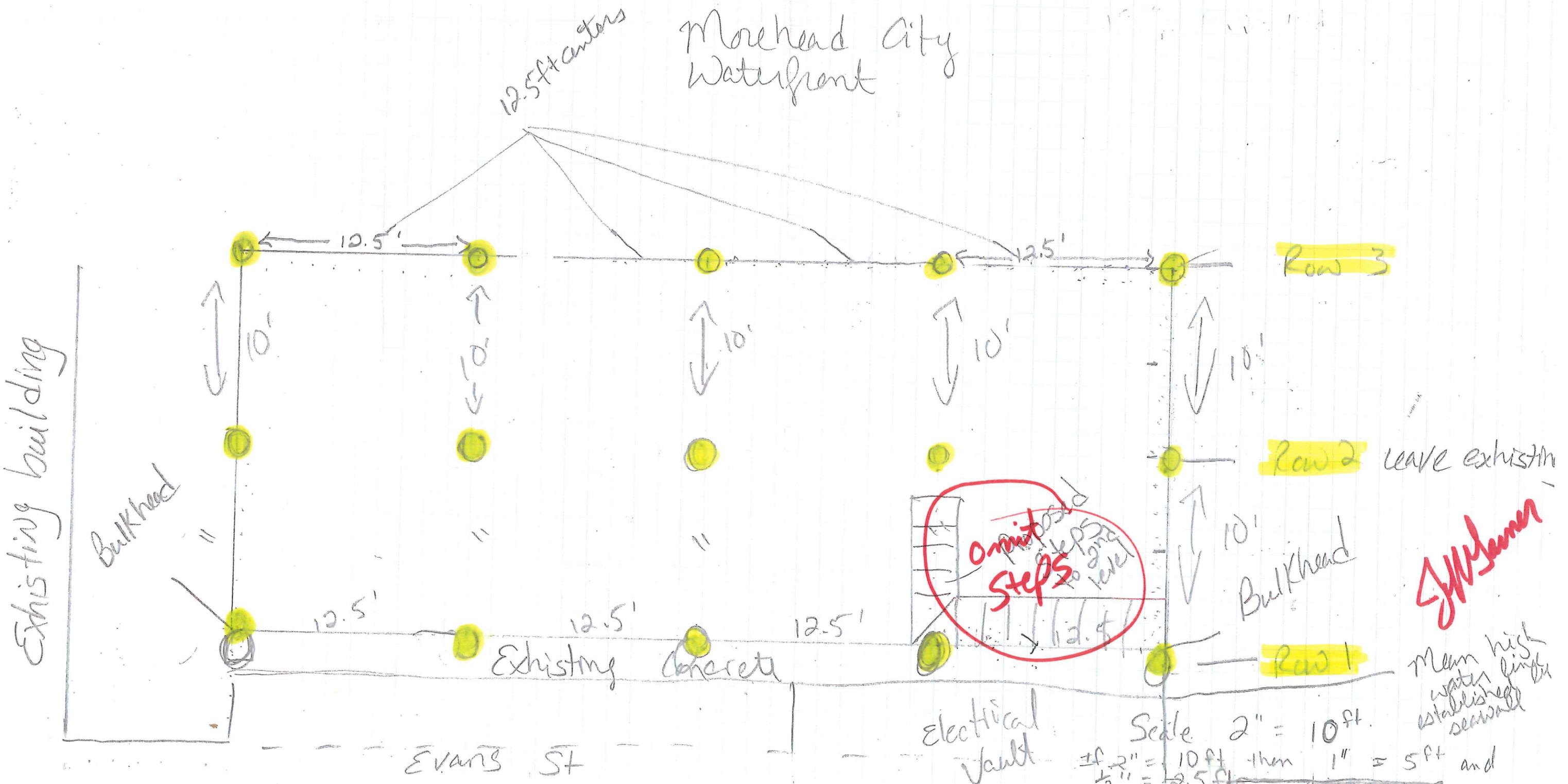
JM Mamer

Sugarloaf Island Deli/Sanitary 3/1/16 Pier/Dock Proposal

We propose 25' piles for row 1 and 30' piles for rows 2 & 3.

- Row 1 25' piles
- Row 2 leave existing
- Row 3 30' piles

● = Proposed New Piling



RECEIVED
FEB 08 2017

065

17-06

APPLICATION FOR
CAMA MINOR
DEVELOPMENT
PERMIT



In 1974, the North Carolina General Assembly passed the Coastal Area Management Act (CAMA) and set the stage for guiding development in fragile and productive areas that border the state's sounds and oceanfront. Along with requiring special care by those who build and develop, the General Assembly directed the Coastal Resources Commission (CRC) to implement clear regulations that minimize the burden on the applicant.

This application for a minor development permit under CAMA is part of the Commission's effort to meet the spirit and intent of the General Assembly. It has been designed to be straightforward and require no more time or effort than necessary from the applicant. Please go over this folder with the Local Permit Officer (LPO) for the locality in which you plan to build to be certain that you understand what information he or she needs before you apply.

Under CAMA regulations, the minor permit is to be issued within 25 days once a complete application is in hand. Often less time is needed if the project is simple. The process generally takes about 18 days. You can speed the approval process by making certain that your application is complete and signed, that your drawing meets the specifications given inside and that your application fee is attached.

Other permits are sometimes required for development in the coastal area. While these are not CAMA-related, we urge you to check with the Local Permit Officer to determine which of these you may need. A list is included on page two of this folder.

We appreciate your cooperation with the North Carolina Coastal Management Program and your willingness to build in a way that protects the resources of our beautiful and productive coast.

Coastal Resources Commission
Division of Coastal Management

APPLICATION: *Sanitary - Shell Shaver*

LOCALITY: *Beaufort & Spearhead City*

PERMIT ISSUED USING
STATIC LINE EXCEPTION?
YES NO

Locality Town of Morehead City Permit Number 17-06

Ocean Hazard _____ Estuarine Shoreline X ORW Shoreline _____ Public Trust Shoreline _____ Other _____

(For official use only)

GENERAL INFORMATION

LAND OWNER

Name Vernon Jackson Garner Jr. & Sanitary Fish Market & Restaurant
Address 501 Evans St.
City Morehead State NC Zip 28557 Phone (252) 247-3111
Email yellowfin57@gmail.com

AUTHORIZED AGENT

Name Jeff Garner
Address PO Box 38
City Morehead State NC Zip 28557 Phone (252) 241-2185
Email yellowfin57@gmail.com

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 501 Evans St. (Sanitary Restaurant)

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) Build steps over existing deck for upstairs/2nd str

SIZE OF LOT/PARCEL: 20 x 14' square feet N/A acres

PROPOSED USE: Residential (Single-family Multi-family) Commercial/Industrial Other

COMPLETE EITHER (1) OR (2) BELOW (Contact your Local Permit Officer if you are not sure which AEC applies to your property):

(1) OCEAN HAZARD AECs: TOTAL FLOOR AREA OF PROPOSED STRUCTURE: 280 square feet (includes air conditioned living space, parking elevated above ground level, non-conditioned space elevated above ground level but excluding non-load-bearing attic space)

(2) COASTAL SHORELINE AECs: SIZE OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT UPON SURFACES: 20 x 30' square feet (includes the area of the roof/drip line of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC. Attach your calculations with the project drawing.)

STATE STORMWATER MANAGEMENT PERMIT: Is the project located in an area subject to a State Stormwater Management Permit issued by the NC Division of Water Quality?
YES _____ NO ✓

If yes, list the total built upon area/impervious surface allowed for your lot or parcel: N/A square feet.

OTHER PERMITS MAY BE REQUIRED: The activity you are planning may require permits other than the CAMA minor development permit, including, but not limited to: Drinking Water Well, Septic Tank (or other sanitary waste treatment system), Building, Electrical, Plumbing, Heating and Air Conditioning, Insulation and Energy Conservation, FIA Certification, Sand Dune, Sediment Control, Subdivision Approval, Mobile Home Park Approval, Highway Connection, and others. Check with your Local Permit Officer for more information.

STATEMENT OF OWNERSHIP:

I, the undersigned, an applicant for a CAMA minor development permit, being either the owner of property in an AEC or a person authorized to act as an agent for purposes of applying for a CAMA minor development permit, certify that the person listed as landowner on this application has a significant interest in the real property described therein. This interest can be described as: (check one)

an owner or record title, Title is vested in _____, see Deed Book _____ page _____ in the _____ County Registry of Deeds.

an owner by virtue of inheritance. Applicant is an heir to the estate of _____; probate was in _____ County.

if other interest, such as written contract or lease, explain below or use a separate sheet & attach to this application.

I Jeff Garner own Sanitary Fish Market & Restaurant and lease from
NOTIFICATION OF ADJACENT PROPERTY OWNERS: *vernon Jackson Garner SR, my dad*
I furthermore certify that the following persons are owners of properties adjoining this property. I affirm that I have given *JS*
ACTUAL NOTICE to each of them concerning my intent to develop this property and to apply for a CAMA permit.

- | (Name) | (Address) |
|------------------------------------|---|
| (1) <i>Camp Seagull / Seafarer</i> | <i>(Boys & Girls Club) Gary Brown</i> |
| (2) <i>Jack Waterfront BAR</i> | <i>Jeff McCann</i> |
| (3) _____ | _____ |
| (4) _____ | _____ |

ACKNOWLEDGEMENTS:

I, the undersigned, acknowledge that the land owner is aware that the proposed development is planned for an area which may be susceptible to erosion and/or flooding. I acknowledge that the Local Permit Officer has explained to me the particular hazard problems associated with this lot. This explanation was accompanied by recommendations concerning stabilization and floodproofing techniques.

I furthermore certify that I am authorized to grant, and do in fact grant, permission to Division of Coastal Management staff, the Local Permit Officer and their agents to enter on the aforementioned lands in connection with evaluating information related to this permit application.

Jeff Garner

This the 1st day of Jan, 2017

Landowner or person authorized to act as his/her agent for purpose of filing a CAMA permit application

This application includes: general information (this form), a site drawing as described on the back of this application, the ownership statement, the Ocean Hazard AEC Notice where necessary, a check for \$100.00 made payable to the locality, and any information as may be provided orally by the applicant. The details of the application as described by these sources are incorporated without reference in any permit which may be issued. Deviation from these details will constitute a violation of any permit. Any person developing in an AEC without permit is subject to civil, criminal and administrative action.

068
SITE DRAWING/APPLICATION CHECKLIST

Please make sure your site drawing includes the following information required for a CAMA minor development permit. The Local Permit Officer will help you, if requested.

PHYSICAL DIMENSIONS

- Label roads
- Label highways right-of-ways
- Label local setback lines
- Label any and all structures and driveways currently existing on property
- Label adjacent waterbody

PHYSICAL CHARACTERISTICS

- Draw and label normal high water line (contact LPO for assistance)
- Draw location of on-site wastewater system

If you will be working in the ocean hazard area:

- Draw and label dune ridges (include spot elevations)
- Draw and label toe of dunes
- Identify and locate first line of stable vegetation (contact LPO for assistance)
- Draw and label erosion setback line (contact LPO for assistance)
- Draw and label topographical features (optional)

If you will be working in a coastal shoreline area:

- Show the roof overhang as a dotted line around the structure
- Draw and label landward limit of AEC
- Draw and label all wetland lines (contact LPO for assistance)
- Draw and label the 30-foot buffer line

DEVELOPMENT PLANS

- Draw and label all proposed structures
- Draw and label areas that will be disturbed and/or landscaped
- Note size of piling and depth to be placed in ground
- Draw and label all areas to be paved or graveled
- Show all areas to be disturbed
- Show landscaping

NOTE TO APPLICANT

Have you:

- completed all blanks and/or indicated if not applicable?
- notified and listed adjacent property owners?
- included your site drawing?
- signed and dated the application?
- enclosed the \$100.00 fee?
- completed an AEC Hazard Notice, if necessary? (Must be signed by the property owner)

FOR STAFF USE

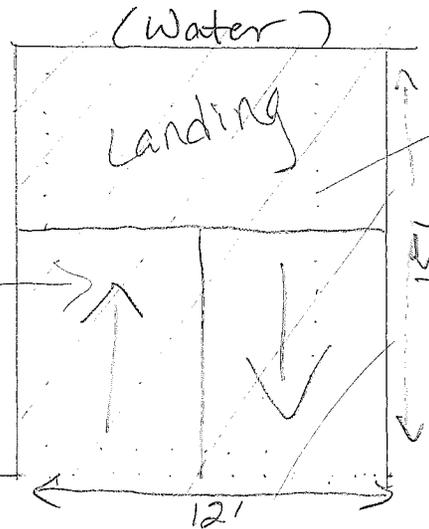
Site Notice Posted Final Inspection Fee Received \$100.00 ck #38100

Site Inspections

Date of Action: Issued Exempted Denied Appeal Deadline (20 days from permit action)

Boat (water) Slips

proposed steps to access ~~at~~ existing roof



existing

Breezeway to floating dock

Existing non water dependant deck w/ roof

sidewalk

Evans Street ↓

electrical vault

501 Evans St. Sanitary Restaurant Deck

CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

Jan 1, 2017
Date

Jeff McCann (Jacks)
Name of Adjacent Riparian Property Owner

501 Evans St.
Address
Marched City NC 28557
City, State Zip

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I am applying for a CAMA Minor permit to
Build steps over existing deck on 2nd story deck
on my property at 501 Evans St. for use for deli.
in Carteret County, which is adjacent to your property. A copy of the application and project
drawing is attached/enclosed for your review.

If you have no objections to the proposed activity, please mark the appropriate statement below and return to me as soon as possible. If no comments are received within 10 days of receipt of this notice, it will be considered that you have no comments or objections regarding this project.

If you have objections or comments, please mark the appropriate statement below and send your correspondence to:
(LOCAL PERMIT OFFICER, NAME OF LOCAL GOVERNMENT, MAILING ADDRESS CITY, STATE, ZIP CODE)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (LOCAL PERMIT OFFICER) at (PHONE NUMBER), or by email at: (LPO EMAIL).

Sincerely,

Jeff Garner
Property Owner's Name

(252) 241-2185
Telephone Number

Address City State Zip

I have no objection to the project described in this correspondence.
 I have objection(s) to the project described in this correspondence.

Kerri C
Adjacent Riparian Signature

2-8-17
Date

Kerri McCann
Print or Type Name

252-422-8853
Telephone Number

Address City State Zip

CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

Gary Brown (Camp Seafull)
Name of Adjacent Riparian Property Owner

Jan 1, 2017
Date

Moahad City NC 28557
Address
City, State Zip

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I am applying for a CAMA Minor permit to Build steps over existing deck on my property at 501 Evans St. in Carteret County, which is adjacent to your property. A copy of the application and 2nd story deck use for deli project drawing is attached/enclosed for your review.

If you have no objections to the proposed activity, please mark the appropriate statement below and return to me as soon as possible. If no comments are received within 10 days of receipt of this notice, it will be considered that you have no comments or objections regarding this project.

If you have objections or comments, please mark the appropriate statement below and send your correspondence to: (LOCAL PERMIT OFFICER, NAME OF LOCAL GOVERNMENT, MAILING ADDRESS CITY, STATE, ZIP CODE)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (LOCAL PERMIT OFFICER) at (PHONE NUMBER), or by email at: (LPO EMAIL).

Sincerely,

Jeff Garner
Property Owner's Name

(252) 241-2185
Telephone Number

Address City State Zip

- I have no objection to the project described in this correspondence.
- I have objection(s) to the project described in this correspondence.

Gary Brown YMCA
Adjacent Riparian Signature

Feb 8, 2017
Date

Gary D. Brown
Print or Type Name

252-671-6113
Telephone Number

Address City State Zip

CERTIFIED MAIL, RETURN RECEIPT REQUESTED or HAND DELIVERED

Camp Seagull/ Seafarer (YMCA) 2/24/17
 Name of Adjacent Riparian Property Owner Date
571 Evans St Agent Gary Brown
 Address Marched City NC 28557
 City, State Zip

To Whom It May Concern:

This correspondence is to notify you as a riparian property owner that I am applying for a CAMA Minor permit to
Utilize second story of existing Seagull Island
 on my property at 571 Evans St Delly and interpret
 in Carteret County, which is adjacent to your property. A copy of the application and project steps for
 drawing is attached/enclosed for your review. access

If you have no objections to the proposed activity, please mark the appropriate statement below and return to me as soon as possible. If no comments are received within 10 days of receipt of this notice, it will be considered that you have no comments or objections regarding this project.

If you have objections or comments, please mark the appropriate statement below and send your correspondence to: (LOCAL PERMIT OFFICER, NAME OF LOCAL GOVERNMENT, MAILING ADDRESS CITY, STATE, ZIP CODE)

If you have any questions about the project, please do not hesitate to contact me at my address/number listed below, or contact (LOCAL PERMIT OFFICER) at (PHONE NUMBER), or by email at: (LPO EMAIL).

Sincerely,

Jeff Garner (agent) (252) 241-2185
 Property Owner's Name Telephone Number

Address City State Zip

I have no objection to the project described in this correspondence.
 I have objection(s) to the project described in this correspondence.

Gary D. Brown YMCA 2/25/17
 Adjacent Riparian Signature Date
GARRY D. BROWN YMCA (252) 671-6113
 Print or Type Name Telephone Number

Address City State Zip

MOREHEAD CITY
NORTH CAROLINA

Gerald A. Jones, Jr., Mayor

David S. Whitlow
City Manager**COUNCIL**William F. Taylor, Mayor Pro Tem
George W. Ballou
Demus L. Thompson
Harvey N. Walker, Jr.
Diane C. Weirander706 Arendell Street
Morehead City, North Carolina 28557-4234
TEL (252) 726-6848
FAX (252) 726-2267
www.moreheadcitync.org

February 13, 2017.

CERTIFIED MAIL - 7016 1370 0002 3221 9099**RETURN RECEIPT REQUESTED**Vernon Jackson Garner Jr. Trust
c/o Jeff Garner
P.O. Box 38
Morehead City, NC 28557**RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT**
APPLICATION NUMBER- 17-06
PROJECT ADDRESS- 501 Evans Street, Morehead City, NC 28557

Dear Mr. Garner:

After reviewing your application in conjunction with the development standards required by the Coastal Area Management Act (CAMA) and our locally adopted Land Use Plan and Ordinances, it is my determination that no permit may be granted for the project which you have proposed.

This decision is based on my findings that your request violates NCGS 113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines. You have applied to convert the existing parapet roof over an existing wooden platform into a second-story non-water dependent deck and to add steps to access the second-story deck over estuarine waters within an Urban Waterfront which is inconsistent with NCAC 15A 07H.209(g)(B)(iii), which limits new structures built for non-water dependent purposes to be limited to pile supported, single-story, unenclosed decks and boardwalks.

Also, keep in mind that this structure is immediately adjacent to an electrical vault. This may restrict the use and occupancy of the 2nd story deck and/or you may be required to meet specific building requirements.

Should you wish to appeal my decision to the Coastal Resources Commission or request a variance from that group, please contact me so I can provide you with the proper forms and any other information you may require. The Division of Coastal Management Morehead City Headquarters Office must receive appeal notices within twenty (20) days of the date of this letter in order to be considered.

Respectfully yours,

Jeannie Drake, LPO
Town of Morehead City
706 Arendell Street
Morehead City, NC 28557cc: Roy Brownlow, District Manager & Compliance Coordinator, DCM
Heather Styron, Field Representative, DCM

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jeffrey McCann
 Sacks Waterfront Bar
 513 Evans Street
 Morehead City, NC
 28557



9590 9402 2090 6132 2159 28

7015 1520 0001 2899 0952

700648-7 KSR / SUB

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) Jeffrey McCann
 C. Date of Delivery 3/11/17

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Insured Mail Restricted Delivery (over \$500)
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

WT 135

Domestic Return Receipt

USPS TRACKING #



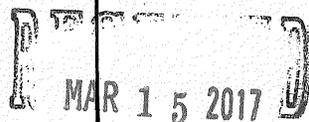
9590 9402 2090 6132 2159 28



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•



WARD & SMITH, P.A.
1001 COLLEGE COURT (29562)
P.O. BOX 887
NEW BERN, NC 28563-0887

BY:

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Garry D. Brown
 Agent for YMCA/Camp Seagull
 Seafarer
 1925 Craig St
 Raleigh, NC 27608



9590 9402 2090 6132 2159 11

7015 1520 0001 2899 0945

700648-7 KSRJLB

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Garry D. Brown*

Agent

Addressee

B. Received by (Printed Name)

Garry D. Brown

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Return Receipt for Merchandise

Signature Confirmation™

Signature Confirmation Restricted Delivery

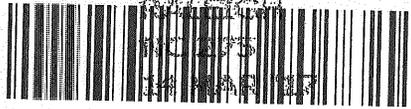
Delivery Restricted Delivery all

Insured Mail Restricted Delivery (over \$500)

WT 136

Domestic Return Receipt

USPS TRACKING#



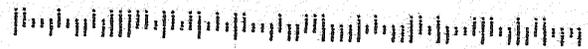
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 2090 6132 2159 11

**United States
Postal Service**
MA 16 2017

• Sender: Please print your name, address, and ZIP+4® in this box•

WARD & SMITH, P.A.
1001 COLLEGE COURT (28562)
P.O. BOX 867
NEW BERN, NC 28563-0867





The Sanitary Fish Market & Restaurant
(CRC-VR-17-02) Variance Request

April 26, 2017

Department of Environmental Quality



The Sanitary Restaurant Variance Request

501 Evans Street, Morehead City, Carteret County



Legend

- DC Feature 1
- Island
- Morehead City
- ↓ The Sanitary Restaurant

Vicinity Map

Sanitary Restaurant
501 Evans St
Morehead City
Carteret County



The Sanitary Restaurant

Sugarloaf Island

Yacht Basin

Morehead City

The Sanitary Restaurant Variance Request

Carteret County GIS Parcel Map



Ruddy Duck Restaurant

Beaufort Olive Oil Co.

Atlantic Bay Mortgage

Sanitary Restaurant Variance Request

2017 aerial



Sanitary Restaurant Variance Request

June 2016, Looking East



Support Poles for vault wall (not constructed in this photo)

Electrical vault below

New Roof Area over Existing Dock Platform Below

Sanitary Restaurant Variance Request **083**

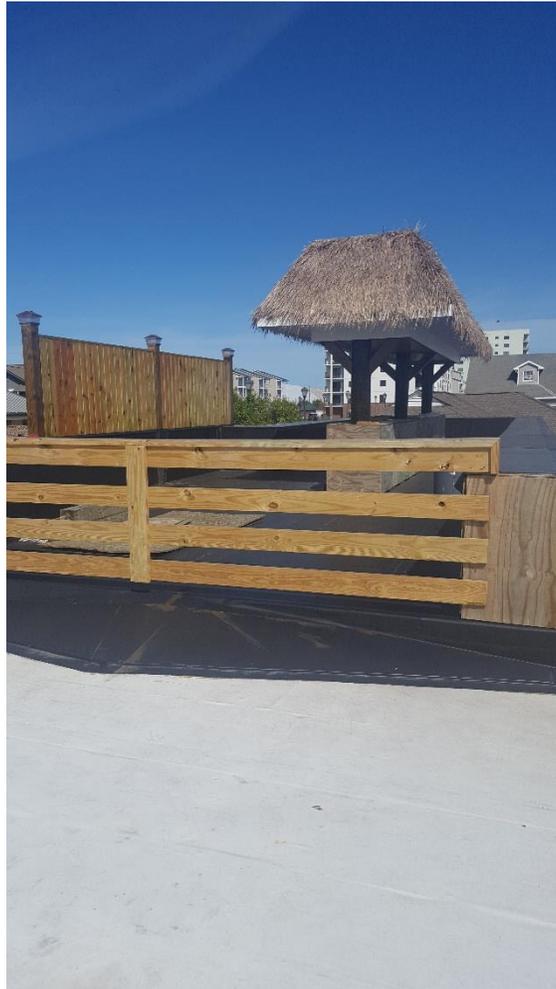
June 2016

Looking North



Sanitary Restaurant Variance Request

Wooden handrail separating the old roof and the new roof,
Taken April 10, 2017 by DCM Staff



085

Sanitary Restaurant Variance Request

Street View Looking South

03/31/2017

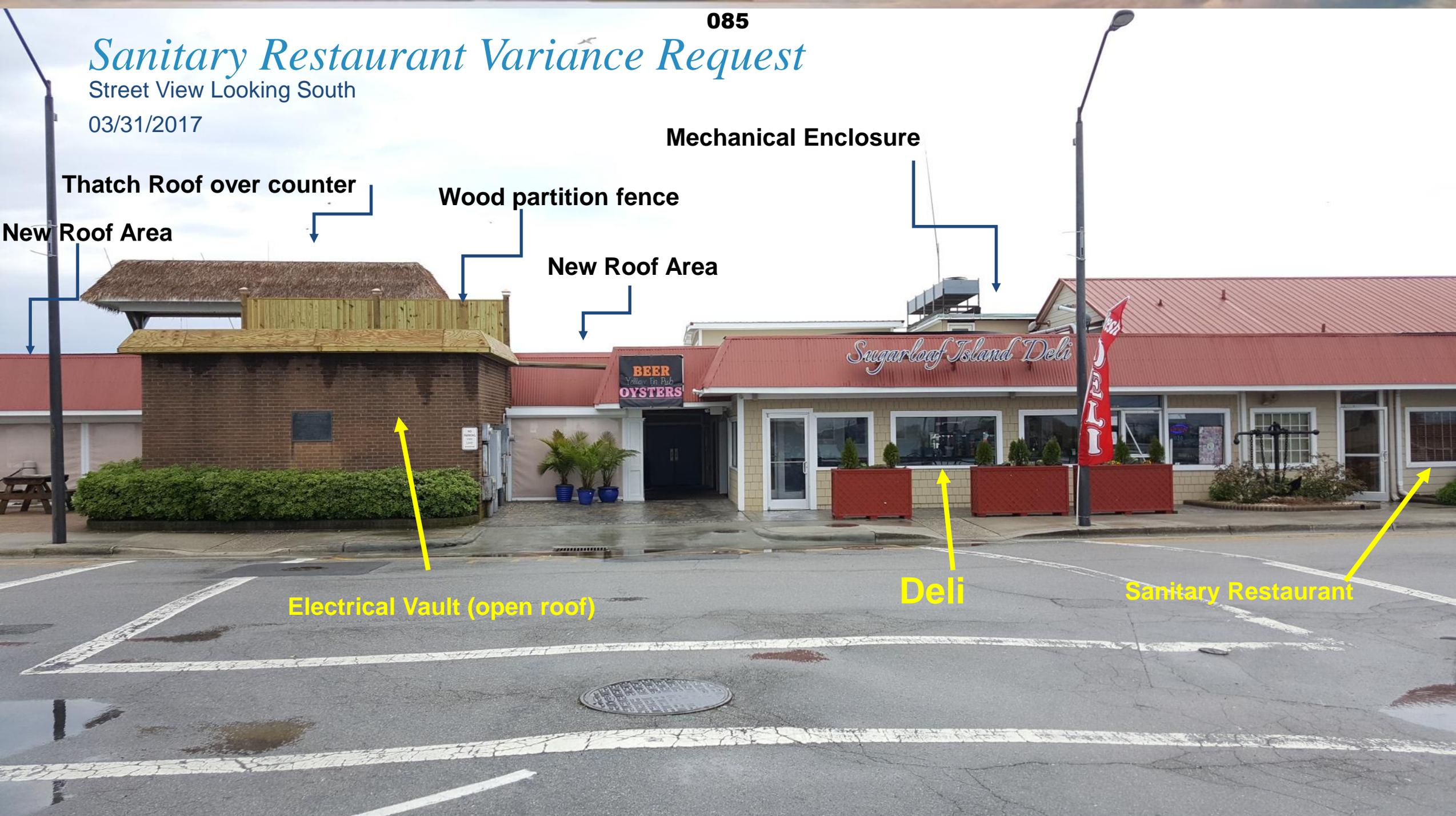
Mechanical Enclosure

Thatch Roof over counter

Wood partition fence

New Roof Area

New Roof Area



Electrical Vault (open roof)

Deli

Sanitary Restaurant

View from Evans St.
looking Southeast

03/31/2017

086

New Roof Area

New Wood Partition Fence/Wall

Thatch Roof over Counter

Beaufort Olive Oil Co.

Electrical Vault (open roof)

Deli

Sugarloaf Island



087

New Roof

Wood partition fence/wall

Electrical Vault

Photo Taken 03/31/2017



088

New Roof

Existing Dock Platform

Photo Taken 03/31/2017



089

New Roof

Thatched "Tiki" Roof over counter

Existing Dock Platform

Check-In For
Overnight Docking
(Free Daytime)

Photo Taken 03/31/2017



**Existing Dock Platform
Looking North
Photo Taken 03/31/2017**





Existing Dock Platform

Looking East

Photo taken 03/31/2017



The Sanitary Restaurant Variance Request



Inside the Deli Looking West
Photo taken 03/31/2017



Sanitary Restaurant Variance Request

Petitioner's Photos (Aerial Looking West)

Photo taken 2010



North 



Sanitary Restaurant Variance Request

Petitioner's Photos



North side of Sanitary
Restaurant looking East
2015 Photo



Sanitary Restaurant Variance Request

Petitioner's Photos



View of attached Deli on East side of the Sanitary Restaurant. View is from Evans St. looking South.



Sanitary Restaurant Variance Request

Petitioner's Photos



View of existing dock platform area on south side of the Sanitary Restaurant
2015 Photo

Sanitary Restaurant Variance Request

Petitioner's Photos



View of the inside seating area
of the Sanitary Restaurant
2015 Photo



Sanitary Restaurant Variance Request

Petitioner's Photos

2017 Photo



Sanitary Restaurant Variance Request

Petitioner's Photos

2015 Photo



Sanitary Restaurant Variance Request

Petitioner's Photos

1950 Photo



Sanitary Restaurant Variance Request

VARIANCE CRITERIA 15A NCAC 07J.0703 (f)

-to grant a variance, the Commission must affirmatively find each of the following factors listed in G.S. 113A-120.1(a).

- (A) that unnecessary hardships would result from strict application of the development rules, standards, or orders issued by the Commission;
- (B) that such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property;
- (C) that such hardships did not result from actions taken by the petitioner; and
- (D) that the requested variance is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will preserve substantial justice.