



TOWN OF KILL DEVIL HILLS
Land Where Flight Began

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the Town of Kill Devil Hills Zoning Board of Adjustment has scheduled a regular meeting for Tuesday, October 24, 2017 at 6:00 p.m., in the Meeting Room of the Administration Building, 102 Town Hall Drive, off Colington Road.

AGENDA

Call to Order and Roll Call

Approval of the Minutes of December 20, 2016 and July 25, 2017

Old Business

New Business

1. Smith, Michael G. & Green, Deborah H. – 106 East Third Street, Parcel Number: 002734000, Pin Number: 988406378800 – Variance from Chapter 153, *Zoning*, §153.082(2)(c) *Exceptions* / §153.181(A) *Setbacks* / §153.161(A)(3),(B)(3),(C) *Setbacks*

Adjournment

All citizens are cordially invited to attend.

Posted this 2nd day of October 2017.

James Michael O'Dell
Administrative Specialist

Copies to: Zoning Board of Adjustment members in their meeting materials; Mayor & Board of Commissioners; Town Manager; all Town bulletin boards; KDH Sunshine List including all local news media; KDH Electronic Distribution List; website, social media; file

Minutes of the December 20, 2016 Meeting of the Kill Devil Hills Zoning Board of Adjustment (ZBOA) held at 6:00 p.m. in the Meeting Room of the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present: Vice-Chairman Bill Donahue, Michael Lowack, Kevin Cox, Toni Dorn and Ronald Seidman

Members Absent: None

Others Present: Meredith B. Guns, Director of Planning and Inspections; Jay Wheless, Attorney for the ZBOA; Pam Riddick, Clerk to the ZBOA/Administrative Specialist; Jason Self, Alternate Member; Harriet Banner, Deputy Town Clerk/Administrative Assistant, Michael O'Dell, Administrative Specialist; and Rachel Herrmann, Office Assistant

Call to Order and Roll Call

At 6:00 p.m. Vice-Chairman Bill Donahue called this meeting of the Kill Devil Hills Board of Adjustment to order and welcomed all present. The secretary was called upon to conduct the Roll Call and five members of the Board of Adjustment present, constituting a quorum.

Approval of the Minutes of April 5, 2016

Mike Lowack made a motion to approve the minutes of the April 5, 2016 meeting, as presented. Kevin Cox seconded that motion and approval was unanimous, 5-0.

Vice-Chairman Donahue stated that this is the first ZBOA meeting since the death of Chairman Richard Baer; that Mr. Baer was a great asset to Town and would be sorely missed; and that it was hard to try and fill Mr. Baer's seat.

New Business

1. **Edward R. and Sharon C. Lenz – 2000 North Virginia Dare Trail, Lot 58, Miles Clark Subdivision – Variance from Chapter 153, Zoning, § 153.078(A) – Access to US 158/Croatan Highway and NC 12/Virginia Dare Trail**

Meredith B. Guns and Phillip Lenz were sworn in by Vice-Chairman Donahue. Attorney Elizabeth Robbins, representative of the applicant, was not sworn in as she was only summarizing the applicant's application for a variance and would not be offering testimony.

Attorney Wheless read a prepared statement, "The board of adjustments presents an opportunity for an applicant to be heard after a review of a zoning official, but before having to seek relief in a true North Carolina Court of Justice. The Board will attempt to follow the formal rules of evidence, but they are not as strict as in a true court. All evidence must be relevant, substantial and

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December 20, 2016 – Zoning Board of Adjustment

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competent. Lay witnesses may give testimony, but may not make legal arguments. Reserve that for your attorney. The hearing is open to the public, but not fully a “public hearing”. Not just anyone can offer testimony or examine witnesses. Only parties, their chosen witnesses, their counsel and “closely interested parties” may participate. A closely interested party is usually a person who is directly and substantially affected by the decisions (this is usually a neighbor). Determinations as to who may qualify as a closely interested party are made by the chair. I am not the Chair of the board. As its attorney, I have been asked to give these introductory remarks. Questions of evidence are decided by the Chair. Because there may be issues in this hearing involving the impacts of vehicular traffic on public safety, the parties must be aware of NCGS 160-393(k)(3)(b) which states that “The term competent evidence shall not include opinion testimony of lay witnesses as to the impacts of any proposed development on vehicle traffic and public safety.” Thus, the Board will try to be lenient on this issue, but testimony on this issue is deemed incompetent by statute unless offered by a qualified expert.”

The Applicant

Attorney Elizabeth Robbins, of the law firm of Casey and Robbins, of Nags Head, North Carolina, was present this evening requesting a variance on behalf of her clients, Edward R. and Sharon C. Lenz, property owners of 2000 North Virginia Dare Trail, Kill Devil Hills, North Carolina.

Mrs. Robbins explained that she prepared the Application for Variance and offered a quick summary of the request. The variance request the Applicant is seeking said variance in order to locate the driveway onto Virginia Dare Trail (NC 12), instead of Fifth Street (US 158). The subject property is a corner lot that abuts two very busy streets, NC 12 and US 158. The surrounding area includes sidewalks, along Fifth Street, Wright Shores Subdivision’s owner parking area, a public beach access and large box retail store.

The purpose and intent of the ordinance is to reduce traffic hazards and ensure public safety. Driveway access from Fifth Street would increase pedestrian and traffic hazards, thus, undermining the spirit and intent of the ordinance. She welcomed any questions from the Board.

Mr. Cox pointed out that on the variance application, the land transfer date occurred after the ordinance changed. Mrs. Robbins stated that she was not aware of this. (Clerk’s Note: Please refer to testimony given by Director of Planning and Inspections Meredith B. Guns regarding this item.)

In order to assist the Board with developing the Findings of Facts, Mr. Wheless asked several questions of Mrs. Robbins. Mr. Wheless asked if, at the intersection of Virginia Dare Trail (NC 12) and Fifth Street (US 158), there was any signage directing pedestrians to the public beach access. Mrs. Robbins stated that she is not aware of any, but that the Planning staff could probably provide a better answer.

Mr. Wheless asked if there was a sidewalk on the Applicant’s side of Virginia Dare Trail. Mrs. Robbins replied that Exhibit C, of the application, shows the location of the sidewalk, along with

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December 20, 2016 – Zoning Board of Adjustment

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the site plan. Mr. Wheless commented that one of the Findings of Facts that Board must determine is if there is an unnecessary hardship. Mrs. Robbins replied the best way to explain it is that the plat reveals the lot was originally platted long and deep, and the way the plans were drawn was to make the best use of the lot. Mr. Wheless asked, if during the design phase, was the driveway figured onto Fifth Street? Mrs. Robbins stated that she was not involved during the design phase; she has submitted what the Applicant feels is the best use of the lot.

Opposition

None.

The Town

Director of Planning and Inspections Meredith B. Guns explained that Zoning Administrator Donna Elliott prepared the Staff's comments on the application for a variance and she can address any questions the Board may have regarding Staff's comments.

Mrs. Guns clarified a few items for the Board. The sidewalk/extended should, of five feet, ends at Third Street. The sidewalk on Fifth Street was installed for pedestrian traffic/cross walk/beach access. There is an unimproved parking area at the Fifth Street beach access. This is a very busy area. This is not the only street, in Town, that has a sidewalk that runs east to west, First and Third Streets do. Ocean Bay Blvd. has a ten feet east to west walkway. Ocean Rescue bath house also has a remote parking area to the west.

Mrs. Guns explained that cars' backing into a pedestrian walkway is not safe. Neither is having traffic backing onto Virginia Dare Trail. Currently, the Town has issues with cars blocking the pedestrian walkway at Ocean Bay Blvd, where pedestrians are forced to go into the road way to get around cars. The Police Department is called out to the Ocean Bay Blvd. area many times because of this.

Mrs. Guns clarified that the ordinance Mr. Cox referred to was adopted in March 2016 but addressed corner lots only. The actual ordinance has been in effect since the 1980's.

Mr. Lowack asked if there were a similar property in Town, built prior to 1980, and it was damaged 50% or more, would that property owner have to come into compliance based on today's ordinances. Mrs. Guns stated that it hasn't happened, but based on Chapter 153, Zoning, §153.053(A)(1), Zoning Nonconformity, which reads, "Any zoning nonconformity where the cost of the addition, structural alteration, reconstruction/repair or remodel exceeds 50% of the structural valuation the site shall be brought into compliance with the regulations of this chapter. Multiple projects/approvals cannot cumulatively exceed 50% of the structural valuation within 365 days." So, based on the above section of the Town Code, a similar property would have to be brought into compliance, per Mrs. Guns.

Mr. Cox asked if the Town was opposed to the granting of a variance. Mrs. Guns replied that based on Zoning Administrator Donna Elliott's comments, the Town is not opposed.

Vice-Chairman Donahue asked if there is any thought about putting sidewalks on the other side of the street. Mrs. Guns stated that there are not any current plans for putting sidewalks on both sides of Fifth Street. She continued that there are plans through the Department of Transportation's Albemarle Transportation Plan, said plan mainly deals with US 158, however, there are areas that address sidewalks on both sides of NC 12, but that plan is a 25-year plan, which was adopted by all the local townships.

Vice-Chairman Donahue commented that a car backing out onto NC 12 is difficult. He asked Mrs. Guns if the Town was opposed to a driveway coming out onto NC 12. She replied that not being an elected official, she may not be the best one to answer that question. Vice-Chairman Donahue asked her if she thought a driveway onto Fifth Street was possible and she stated yes.

Vice-Chairman Donahue accepted into evidence the applicant's and Town's packet into evidence and the hearing was closed.

Board of Adjustment Findings of Fact

The Board of Adjustment established the following findings of fact:

1. It is the Board of Adjustment's CONCLUSION that the hardship of which the Applicant complains **DOES** result from a strict application of the ordinance. This conclusion is based on the following FINDINGS OF FACT: **If the Applicant adheres to the strict application of the ordinance, the Applicant opens himself up to a major liability as his property is located on one of the busiest streets in the Town of Kill Devil Hills.**
2. It is the Board of Adjustment's CONCLUSION that the hardship of which the Applicant complains **DOES** result from conditions that are peculiar to the property. This conclusion is based on the following FINDINGS OF FACT: **This lot is located in an area of town with immense pedestrian traffic because of the location of sidewalks, a public beach access and large retail box store. The sidewalks, in this area, are one of the busiest in town.**
3. It is the Board of Adjustment's CONCLUSION that the hardship **DOES NOT** result from the Applicant's own actions. This conclusion is based on the following FINDINGS OF FACTS: **The peculiar circumstances of this area existed prior to the Applicant's ownership of the property. The section of the Town Code the Applicant is seeking a variance from was enacted in 1988, which predates his ownership.**
4. It is the Board of Adjustment's CONCLUSION that, if granted, the variance **WILL** be consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based upon all of the above

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December 20, 2016 – Zoning Board of Adjustment

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FINDINGS OF FACTs listed above, as well as the following: The intent of the ordinance is to reduce traffic hazards by requiring the entrances/exits onto Croatan Highway (US 158)/Virginia Dare Trail (NC 12) when there is a corner lot. By allowing the driveway onto Virginia Dare Trail (NC 12) , the variance will be in harmony with the general purpose and intent of the ordinance by reducing traffic hazards. The Fifth Street Beach Access can be extremely congested. If the driveway was onto Fifth Street, it would cross the pedestrian sidewalk, along Fifth Street. Granting of the variance would help to assure public safety and welfare.

Vice-Chairman Donahue made a motion to approve the variance request. Ronald Seidman seconded the motion. Vote to grant the variance was by unanimous vote, of 5-0.

Board Member Comment

Old Business

Adjournment

There being no further business before the Board of Adjustment at this time, Mr. Cox made the motion to adjourn, which was seconded by Mrs. Dorn and approved by a vote of 5-0. It was 6:56 p.m.

Submitted by:

Pam Riddick, Secretary

These minutes were approved at the August 29, 2017 meeting of the Zoning Board of Adjustment.

Michael Lowack, Vice-Chairman

(CLERK'S NOTE: Due to William E. Donahue's resignation from the ZBOA, he is unable to sign the minutes from the December 20, 2016 meeting. The current Vice-Chairperson, Michael Lowack, was in attendance at the December 20, 2016 meeting; therefore, he will sign the minutes.)

Minutes of the July 25, 2017 Meeting of the Kill Devil Hills Zoning Board of Adjustment (ZBOA) held at 6:00 p.m. in the Meeting Room of the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present: Toni Dorn, Michael Lowack, Robert Rollason, and Ronald Seidman

Members Absent: Kevin Cox

Others Present: Jay Wheless, Attorney for the ZBOA; and Michael O'Dell, ZBOA Clerk / Administrative Specialist

Call to Order and Roll Call

At 6:00 p.m., Jay Wheless called this meeting of the Kill Devil Hills Board of Adjustment to order and welcomed all present. The Clerk was called upon to conduct the Roll Call and four members of the Board of Adjustment were present, constituting a quorum.

Mr. Wheless then stated that the meeting was called solely to conduct an election of a chairperson and vice-chairperson, due vacancies created due to Chairman Richard Baer's death and Vice-Chairman William Donahue's recent resignation from the Board.

Old Business

New Business

1. Election of Chairperson and Vice-Chairperson

Mr. Rollason nominated Michael Lowack as ZBOA Vice-Chairperson for the 2017 term. There being no other nominations, Mr. Seidman moved to close nominations, with a second by Ms. Dorn. Nominations were closed by a unanimous, 4-0 vote. Mr. Lowack was elected Vice-Chairperson by a unanimous, 4-0 vote.

Mr. Seidman nominated Robert Rollason as ZBOA Chairperson for the 2017 term. There being no other nominations, Mr. Lowack moved to close nominations, with a second by Mr. Seidman. Nominations were closed by a unanimous, 4-0 vote. Mr. Rollason was elected Chairperson by a unanimous, 4-0 vote.

Adjournment

There being no further business appearing before the Zoning Board of Adjustment at this time, Mr. Seidman moved to adjourn this meeting. Ms. Dorn seconded the motion and approval was by a unanimous, 4-0 vote.

It was 6:05 p.m.

Submitted by:

James Michael O'Dell, ZBOA Clerk

These minutes were approved at the August 29, 2017 meeting of the Zoning Board of Adjustment.

Robert Rollason, III, Chairman

NAME: _____

Date: _____

Signature: _____

4/5 Vote is necessary on each question in order to grant a variance.

- (1) Does a strict application of the ordinance result in an unnecessary hardship to the Applicant?

YES _____ NO _____

(It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.)

- (2) Does the hardship result from conditions that are peculiar to the property, such as location, size, or topography?

YES _____ NO _____

(Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)

- (3) Does the hardship result from actions taken by the applicant (or the property owner)? Voting yes is for *denial* of the variance.

YES _____ NO _____

(The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.)

- (4) Is the requested variance consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and is substantial justice is achieved?

YES _____ NO _____

NOTES:

- No change in permitted uses may be authorized by variance.
- Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.
- Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

V/01/17-08/29/2017

Town of Kill Devil Hills, NC
Application for a Variance
Page 1

A variance is not a right. It may be granted to an application only if the applicant establishes compliance with the hardship criteria established in NCGS §160A-388(d).

(Please Type or Print)

Applicant Name, Address, Contact Information: Michael G. Smith
104 Commerce St. Smithfield, Va. 23430
757-576-4203

Owner Name, Address, Contact Information: Michael G. Smith
Deborah H. Green 104 Commerce St. Smithfield
Va. 23430 757-576-4203

Property Location/Address: 106 East Third St. Kill Devil Hills

Parcel Number: 002734000

PIN Number: 98840637880

Area of Subject Property (acres or square feet): 13,837 sqft. = 0.248 Acres

Lot Width: 50' front / 130' Rear Lot Depth: 190' Leftside / 140.99' Rt

Current Zoning Classification: "C"

Existing Land Use: Residential

Surrounding Land Use:

North Commercial

South Residential

East Residential

West Residential Commercial

Description of Use Requested: Residential

Town of Kill Devil Hills, NC
Application for a Variance
Page 2

I (we) Michael G. Smith, hereby petition the Kill Devil Hills Board of Adjustment for a variance from the literal provisions of the Kill Devil Hills Zoning Ordinance because under the interpretation given to me by the Zoning Administrator, I (we) am/are prohibited from using the parcel of land described in this application in the manner that I have proposed. I (we) request a variance from the following provisions of the ordinance:

To leave storage building in it's current location /
which is where I was told by the inspections
office to place storage building.

153.082(2)(c)Exceptions/153.181(A)Setbacks/153.161(A)(3)(B)(3)(c)Setbacks

To the end that the above-mentioned property can be used in the manner described herein:

See ATTACHMENT
Page 2 ATTACHMENT #1

Facts Relevant to the Issuance of a Variance

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board of Adjustment is required to reach the determination that 1) there are unnecessary hardship(s) to the applicant if the strict letter of the ordinance is carried out; 2) the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit; and, 3) that in granting of the variance the public safety and welfare have been assured and substantial justice has been done.

In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board of Adjustment that it can properly reach these conclusions.

THE REQUESTED VARIANCE IS CONSISTENT WITH THE SPIRIT, PURPOSE, AND INTENT OF THE ORDINANCE, SUCH THAT PUBLIC SAFETY IS SECURED AND SUBSTANTIAL JUSTICE IS ACHIEVED.

Town of Kill Devil Hills, NC
Application for a Variance
Page 3

1. That there are unnecessary hardships in the manner of carrying out the strict letter of the ordinance. Applicant comment: as Statement(s) of Fact:

See ATTACHMENT
Pg #3 #2

Staff comment, as Statement(s) of Fact:

Shed can be moved to meet setback requirements. Condition on Building Permit #ZP2015-074 states that shed must meet setbacks for accessory structures or be located within building envelope.

2. That the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit:

See ATTACHMENT
Pg #3 #2

Staff comment, as Statement(s) of Fact:

The shed can remain within the proper setback requirements. Granting of this variance will not be in harmony with the general purpose and intent of the ordinances.

3. That in granting the variance, the public safety and welfare have been assured and substantial justice has been done:

See Attachment
Pg 3 #3

Staff comment, as Statement(s) of Fact:

Public safety and welfare will not be affected by granting this variance, but it would not serve substantial justice since the shed can be moved to meet the towns ordinances.

Calls, conversations or other communications with any member of the Board of Adjustment prior to the meeting cannot be considered in the final decision and may result in the Board Members' recusal due to a conflict of interest. If adjacent property owners are to testify on behalf of the applicant, they must be present. Petitions and written consent may be accepted by the Board of Adjustment, but they cannot be used as a basis for the decision.

Certification:

I (we) hereby acknowledge and say that the information contained herein and herewith is true and that this application shall not be scheduled for official consideration until all of the required contents are submitted in proper form to the Town of Kill Devil Hills Planning and Inspections Department.

Applicant Signature: Michael J. Smith
Date: 8-9-17

2
Page #1

Attachment #1

In historic weather events (i.e. Matthew) the stormwater reached levels of flooding in the neighborhood of East 3rd Street and Soble Drive and at H & R Block Tax Service. The Current placement of the storage shed was not compromised by these high level of waters. By moving the shed to comply with the current set backs bring this storage building in a situation that water would have entered the building. This storage building houses fuel for lawn mowers and propane tanks for cooking; it also houses chemicals such as fertilizers, pestizides, herbizides, and machincery to maintian the property.

By moving the shed to comply would place these items in paralle of exposing the contents to the enviornmently concerned area (pond) that is the home to turtles, fish, otters, nutra, and many water fowl that have been there for decades.

This building location is situated to neighbors that have approved the location to me and is in the spirit of the intent section 153.05 page 35 of 188 of the zoning code.

Page 3 #2

Attachment #2

The variance does show enviromental concern that may effect residents and visitors. Thus, the placement of said storage building in its current placement protects surrounding residents and visitors that visit on East Third Street and surrounding areas.

Page 3 #3

Attachment #3

Allowing this variance shows owner responsibilty for the property, the residents, visitors, sensitive enviroment and wild life. This demonstrates the effort to preserve public safety and welfare to all concerned.

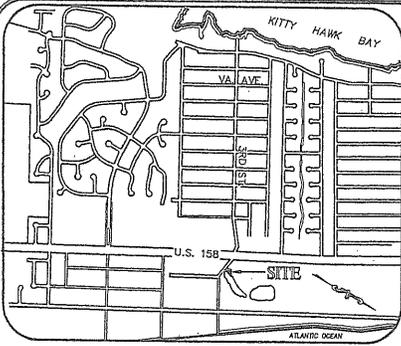
**Town of Kill Devil Hills, NC
Required Attachments/Submittals for an
Application for a Variance**

Name of Applicant Requesting the Variance: Michael G. Smith

1. Typed metes and bounds description of the property (or portion of property). A recorded deed is sufficient, if the deed describes only the subject property.
2. Dare County Tax Records print out of the names and addresses of all immediately adjacent property owners, including any that are directly across the street/road or highway.
3. Fee received by: Deq Date: 8/11/17

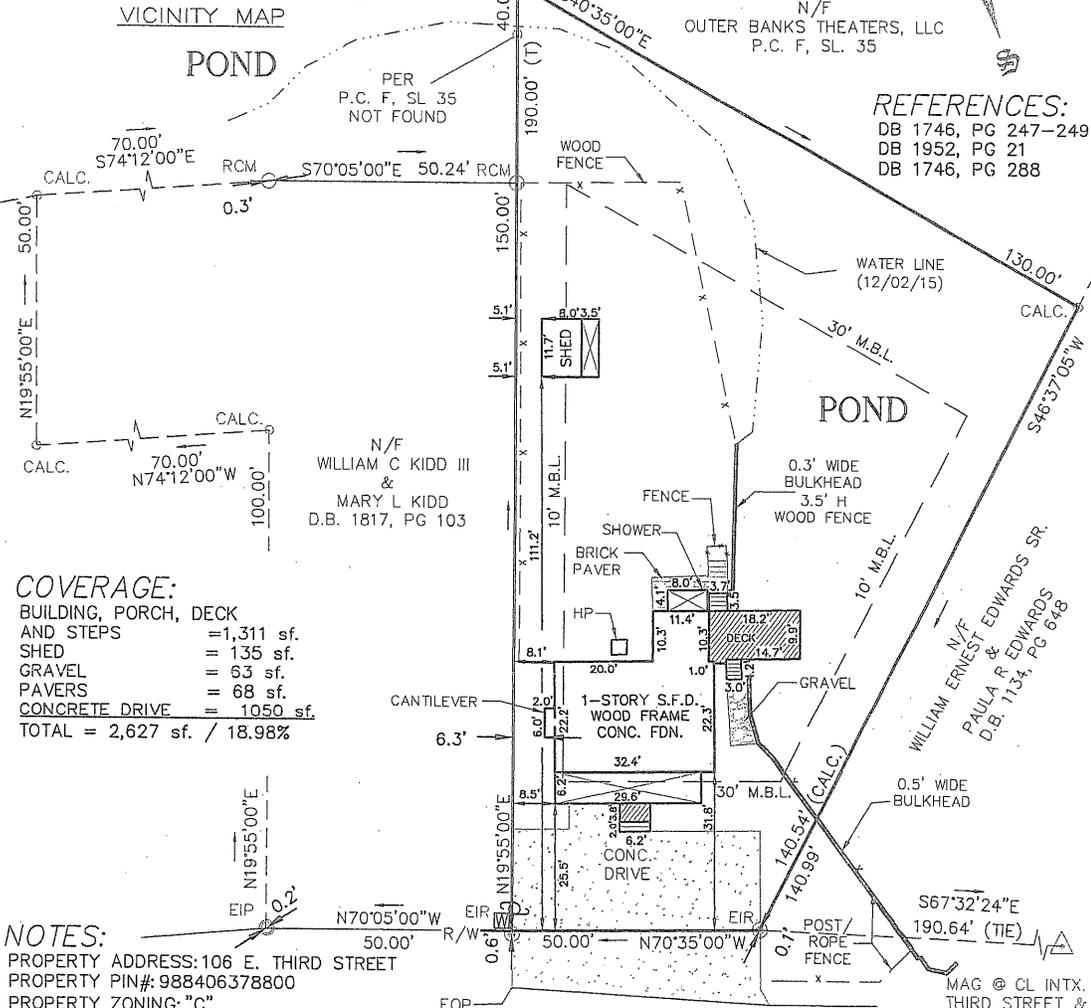
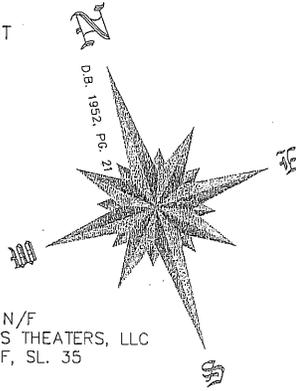
The application fee is nonrefundable.

*****Important: If any of the above requirements
are not present at the time of submittal of the
Application for an Appeal, the application is not complete
and will not be accepted.*****



LEGEND:

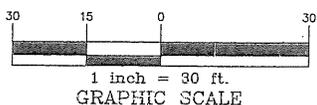
- RCM - ROUND CONCRETE MONUMENT
- ⊙ EIR - EXISTING IRON ROD
- ⊙ EIP - EXISTING IRON PIPE
- △ PK - PK NAIL
- CALC - CALCULATED POINT
- ⊙ POWER POLE
- ⊙ WATER METER
- EOP - EDGE OF PAVEMENT
- R/W - RIGHT OF WAY



REFERENCES:
 DB 1746, PG 247-249
 DB 1952, PG 21
 DB 1746, PG 288

COVERAGE:
 BUILDING, PORCH, DECK AND STEPS = 1,311 sf.
 SHED = 135 sf.
 GRAVEL = 63 sf.
 PAVERS = 68 sf.
 CONCRETE DRIVE = 1050 sf.
 TOTAL = 2,627 sf. / 18.98%

NOTES:
 PROPERTY ADDRESS: 106 E. THIRD STREET
 PROPERTY PIN#: 988406378800
 PROPERTY ZONING: "C"
 AREA = 13,837 sq. ft. = 0.248 acres
 AREA CALCULATED BY COORDINATE METHOD.
 LOT SUBJECT TO EASEMENTS & COVENANTS OF RECORD.
 PROPERTY SUBJECT TO A FULL AND ACCURATE TITLE SEARCH.
 LOT MAY BE IN AN AREA OF ENVIRONMENTAL CONCERN
 INDIVIDUAL PERMITS MAY BE REQUIRED.
 SETBACKS AS PER TOWN OF KILL DEVIL HILLS AND MUST BE VERIFIED.
 SURVEYOR MAKES NO CERTIFICATION AS TO SETBACKS.
 SUBDIVISION AS RECORDED IN P.C. M.B. 1952, PG. 21. D.C.R.
 PROPERTY IS LOCATED IN F.I.R.M. AE (EL. 8.3)
 MAP NO.: 3720988400J, INDEX DATED: 09-20-2006
 SUBJECT TO CHANGE BY F.E.M.A.



UPDATE: AS BUILT 5/16/17 BW
 SHED DIM. 6/7/17 BW

I, CARLOS F. GOMEZ, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, THAT THE BOUNDARIES NOT ACTUALLY SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN EXISTING RECORDS AND THAT THIS MAP WAS NOT PREPARED TO BE RECORDED. THE RATIO OF PRECISION AS 1/10000 HAS CALCULATED.
 WITNESS MY HAND AND SEAL THIS 7th DAY OF JUNE 2017.

FILE NO. S2526.14	AS BUILT: MICHAEL G. SMITH & DEBORAH H. GREEN	
SURVEY DATE 12-2-15	1/4 ACRE PARCEL OF LAND IN KILL DEVIL HILLS PARCEL NUMBER: 002734000 KILL DEVIL HILLS	
CAD FILE S2526ASB	ATLANTIC TWSP	DARE COUNTY
SCALE 1" = 30'	NORTH CAROLINA	
DRAWN BW	Civil, Structural, Surveying & Site Development 4425 N. CROATAN HWY P.O. Box 1129 Kitty Hawk, N.C. 27949 (252)-261-4151	
FIELD BOOK 93/72		





TOWN OF KILL DEVIL HILLS

PLANNING DEPARTMENT

(252) 449-5318

OTHER PLANNING FEES

(Non-Refundable)

1184

DATE: 8/11/17

- Board of Adjustment
- Zoning Amendment
- Administrative Review
- CAMA
- Copies
-
-

AMOUNT: 300⁰⁰ Three Hundred dollars

RECEIVED FROM: Michael + Deborah
Smith Green

PAID

AUG 11 2017

DESCRIPTION: Variance - 106 E. Third St.

TOWN OF
KILL DEVIL HILLS

BY: Donna Edrington

TOWN OF KILL DEVIL HILLS

PUBLIC HEARING

DATE: Oct. 24, 2017

TIME: 6:00 pm

LOCATION: ZBOA/BOC Meeting Room

KILL DEVIL HILLS TOWN HALL

102 Town Hall Drive

Kill Devil Hills, NC

APPLICATION: M. Smith/D. Green

106 E. 3rd St. Variance from

Ch 153, Zoning, 153.082(2)(c) Exceptions

153.161(A)(3), (B)(3)(c) Setbacks

For more information about this application
contact the Planning and Inspections Dept.
at (252) 449-5318

TOWN OF KILL DEVIL HILLS

PUBLIC HEARING

DATE: Oct. 24, 2017

TIME: 6:00 pm

LOCATION: ZBOA/BOC Meeting Room

KILL DEVIL HILLS TOWN HALL

102 Town Hall Drive

Kill Devil Hills, NC

APPLICATION: M. Smith / D. Green

106 E 3rd St Variance from

Ch 153, Zoning, 153.082(2)(c) Exceptions

153.16(A)(3), (B)(3)(c) Setbacks

For more information about this application
contact the Planning and Inspections Dept.
at (252) 449-5318

County of Dare, North Carolina

(Owner and Parcel information is based on current data on file and may be updated as of August 11, 2017)

Primary (100%) Owner Information:

SMITH, MICHAEL G JRO
 GREEN, DEBORAH H JRO
 104 COMMERCE ST
 SMITHFIELD VA 23430



Parcel Information:

Parcel: 002734000 PEN: 988406378800
 District: 07- KILL DEVIL HILLS
 Subdivision: SUBDIVISION - NONE
 LotBlkSec: LOT- BLK- SEC-
 Multiple Lots -
 Plat/Case/Slide: PL- SL- Warr: 1
 Deed Date: 02/14/2014
 BkPg: [255,062]
 Parcel Status: ACTIVE

Property Use: RESIDENTIAL

106 E THIRD ST

BUILDING USE & FEATURES

	Tax Year Bldg Value: \$47,900	Next Year Bldg Value: \$47,900
Building Use	FLAT ROOF	
Exterior Walls	MODERN FRAME	Actual Year Built: 1965
Full Baths:	1 Half Baths: 0	
Bedrooms:	2	
Heat-Fuel:	3 - ELECTRIC	
Heat-Type:	2 - FORCED AIR	Finished sqft for building 1: 880
Air Conditioning:	4 - CENTRAL W/AC	Total Finished SqFt for all bldgs: 880

MISCELLANEOUS USE Tax Year Misc Value: \$3,000 Next Year Misc Value: \$3,000

Misc Bldg a: (RS1) FRAME UTILITY SHED Year Built: 2016 sqft: 96
 Misc Bldg b: (WD1) WOOD DECK OR RAMP Year Built: 2016 sqft: 36
 Misc Bldg c: (RC2) CANOPY Year Built: 2016 sqft: 36

LAND USE Tax Year Land Value: \$132,500 Next Year Land Value: \$132,500

Land Description: 0?-Ocean Influence F

TOTAL LAND AREA: 14000 square feet

Tax Year Total Value: \$183,400 Next Year Total Value: \$183,400

*Values shown are on file as of August 11, 2017

Thanks so much!!

Michael

Michael O'Dell
 Administrative Specialist
 Town of Kill Devil Hills
 P.O. Box 1719
 Kill Devil Hills, NC 27948
 (252) 449-5300
 (252) 441-7946 Fax
www.kdhnc.com



County of Dare, North Carolina

*Owner and Parcel information is based on current data on file and was last updated on June 26 2017

Primary (100%) Owner Information:

OUTER BANKS THEATERS, LLC
 PO BOX 357
 MURFREESBORO NC 27855

Parcel Information:

Parcel: 002736000 PIN: 988406386196
 District: 07- KILL DEVIL HILLS
 Subdivision: SUBDIVISION - NONE
 LotBlkSect: LOT: BLK: SEC:
 Multiple Lots: -
 PlatCabSlide: PL: F SL: 35 Units: 0
 Deed Date: 07/30/2003
 BkPg: [1510/0048](#)

Parcel Status: ACTIVE



Property Use: RECREATIONAL

1803 N CROATAN HWY

BUILDING USE & FEATURES Tax Year Bldg Value: \$2,570,900 Next Year Bldg Value: \$2,570,900

Building Use: CINEMA/THEATER

Exterior Walls:

Actual Year Built: 2004

Full Baths:

Half Baths:

Bedrooms:

Heat-Fuel:

Heat-Type:

Finished sqft for building 1:

Air Conditioning:

Total Finished SqFt for all bldgs:

MISCELLANEOUS USE Tax Year Misc Value: \$220,500 Next Year Misc Value: \$220,500

Misc Bldg a: (PA1) PAVING ASPHALT PARKING Year Built: 2004 sqft: 200000

LAND USE Tax Year Land Value: \$1,925,000 Next Year Land Value: \$1,925,000

Land Description : 07-Commercial Highway PrimaryLand Description b : 07-Marsh Acreage

TOTAL LAND AREA: 7.82 acres

Tax Year Total Value: \$4,716,400 Next Year Total Value: \$4,716,400

*Values shown are on file as of June 26 2017

County of Dare, North Carolina

*Owner and Parcel information is based on current data on file and was last updated on June 26 2017

Primary (100%) Owner Information:

MARROQUIN, PEDRO
 24 DUCKWOODS DR
 KITTY HAWK NC 27949



Parcel Information:

Parcel: 002949000 PIN: 988406377604
 District: 07- KILL DEVIL HILLS
 Subdivision: LONG LAKE
 LotBlkSect: LOT: 18 & BLK: SEC:
 Multiple Lots: AND PT OF LT 15 CROATAN SHORES
 PlatCabSlide: PL: 3 SL: 47 Units: 1
 Deed Date: 03/24/2005
 BkPg: [1621/0044](#)
 Parcel Status: ACTIVE

Property Use: RESIDENTIAL

101 E THIRD ST

BUILDING USE & FEATURES	<u>Tax Year Bldg Value: \$2,000</u>	<u>Next Year Bldg Value: \$2,000</u>
Building Use:	MULTI-SIDED/DOME	Actual Year Built: 1968
Exterior Walls:	FRAME	
Full Baths:	1 Half Baths: 0	Finished sqft for building 1: 676 Total Finished SqFt for all bldgs: 676
Bedrooms:	2	
Heat-Fuel:	3 - ELECTRIC	
Heat-Type:	3 - ELECTRIC	
Air Conditioning:	2 -NON-CENTRAL	
MISCELLANEOUS USE	<u>Tax Year Misc Value: \$0</u>	<u>Next Year Misc Value: \$0</u>

LAND USE	<u>Tax Year Land Value: \$117,400</u>	<u>Next Year Land Value: \$117,400</u>
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Land Description : 07-Ocean Influence F

TOTAL LAND AREA: 13500 square feet

Tax Year Total Value: \$119,400	<u>Next Year Total Value: \$119,400</u>
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**Values shown are on file as of June 26 2017*

County of Dare, North Carolina

*Owner and Parcel information is based on current data on file and was last updated on June 26 2017

Primary (100%) Owner Information:

KIDD, WILLIAM C III EUX
 KIDD, MARY L EUX
 2721 VAN DYKE AVE
 RALEIGH NC 27607

Parcel Information:

Parcel: 002733000 PIN: 988406377832
 District: 07- KILL DEVIL HILLS
 Subdivision: SUBDIVISION - NONE
 LotBlkSect: LOT: BLK: SEC:
 Multiple Lots: -
 PlatCabSlide: PL: SL: Units: 1
 Deed Date: 11/06/2009
 BkPg: [1817/0103](#)
 Parcel Status: ACTIVE



104 E THIRD ST

BUILDING USE & FEATURES

Tax Year Bldg Value: \$62,100

Next Year Bldg Value: \$62,100

Building Use: BEACH BOX
 Exterior Walls: ASBESTOS
 Full Baths: 2 Half Baths: 0
 Bedrooms: 3
 Heat-Fuel: 3 - ELECTRIC
 Heat-Type: 2 - FORCED AIR
 Air Conditioning: 4 -CENTRAL W/AC

Actual Year Built: 1967

Finished sqft for building 1: 1008

Total Finished SqFt for all bldgs: 1008

MISCELLANEOUS USE

Tax Year Misc Value: \$1,000

Next Year Misc Value: \$1,000

Misc Bldg a: (WD1) WOOD DECK OR RAMP Year Built: 2002 sqft: 80

LAND USE

Tax Year Land Value: \$135,100

Next Year Land Value: \$135,100

Land Description : 07-Ocean Influence F

TOTAL LAND AREA: 11000 square feet

Tax Year Total Value: \$198,200

Next Year Total Value: \$198,200

**Values shown are on file as of June 26 2017*

County of Dare, North Carolina

*Owner and Parcel information is based on current data on file and was last updated on June 26 2017

Primary (100%) Owner Information:

KYGER, DOUGLAS W TIC
 KYGER, CHRISTINE A TIC
 186 COOLEY AVE
 MIDDLETOWN VA 22645

**Parcel Information:**

Parcel: 002950000 PIN: 988406378642
 District: 07- KILL DEVIL HILLS
 Subdivision: LONG LAKE
 LotBlkSect: LOT: 19 BLK: SEC:
 Multiple Lots: -
 PlatCabSlide: PL: 3 SL: 47 Units: 1
 Deed Date: 01/29/2016
 BkPg: [2072/0436](#)
 Parcel Status: ACTIVE

Property Use: RESIDENTIAL

105 E THIRD ST

BUILDING USE & FEATURES	<u>Tax Year Bldg Value: \$78,000</u>	<u>Next Year Bldg Value: \$78,000</u>
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Building Use:	BEACH BOX	Actual Year Built: 1972
Exterior Walls:	VINYL / ALUM	
Full Baths:	1 Half Baths: 0	Finished sqft for building 1: 960 Total Finished SqFt for all bldgs: 960
Bedrooms:	3	
Heat-Fuel:	3 - ELECTRIC	
Heat-Type:	2 - FORCED AIR	
Air Conditioning:	4 -CENTRAL W/AC	

MISCELLANEOUS USE	<u>Tax Year Misc Value: \$9,300</u>	<u>Next Year Misc Value: \$9,300</u>
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Misc Bldg a: (BK1) BULKHEAD Year Built: 2013 sqft: 124

LAND USE	<u>Tax Year Land Value: \$121,100</u>	<u>Next Year Land Value: \$121,100</u>
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Land Description : 07-Ocean Influence F

TOTAL LAND AREA: 14500 square feet

<u>Tax Year Total Value: \$208,400</u>	<u>Next Year Total Value: \$208,400</u>
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County of Dare, North Carolina

*Owner and Parcel information is based on current data on file and was last updated on June 26 2017

Primary (100%) Owner Information:

EDWARDS, WILLIAM ERNEST SR

EDWARDS, PAULA R

1389 CLAY ST

FRANKLIN VA 23851

Parcel Information:

Parcel: 002735000 PIN: 988406378785

District: 07- KILL DEVIL HILLS

Subdivision: SUBDIVISION - NONE

LotBlkSect: LOT: BLK: SEC:

Multiple Lots: -

PlatCabSlide: PL: SL: Units: 1

Deed Date: 09/19/1997

BkPg: [1134/0648](#)

Parcel Status: ACTIVE



Property Use: RESIDENTIAL

108 E THIRD ST

BUILDING USE & FEATURES**Tax Year Bldg Value: \$31,500****Next Year Bldg Value: \$31,500**

Building Use:

FLAT ROOF

Exterior Walls:

CONCRETE BLOCK

Actual Year Built: 1960

Full Baths:

1 Half Baths: 0

Bedrooms:

2

Heat-Fuel:

3 - ELECTRIC

Heat-Type:

2 - FORCED AIR

Finished sqft for building 1: 750

Air Conditioning:

4 -CENTRAL W/AC

Total Finished SqFt for all bldgs: 750**MISCELLANEOUS USE****Tax Year Misc Value: \$0****Next Year Misc Value: \$0****LAND USE****Tax Year Land Value: \$144,400****Next Year Land Value: \$144,400**

Land Description : 07-Ocean Influence F

TOTAL LAND AREA: 13000 square feet**Tax Year Total Value: \$175,900****Next Year Total Value: \$175,900****Values shown are on file as of June 26 2017*



THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

BOARD OF ADJUSTMENT

October 12, 2017

Outer Banks Theaters, LLC
PO Box 357
Murfreesboro, NC 27855

Dear Adjacent Property Owner(s):

Due to inclement weather and notice issues, the earlier September 26, 2017, Zoning Board of Adjustment meeting to address a variance application submitted to the Town of Kill Devil Hills by the property owners of 106 East Third Street was CANCELLED.

The Board of Adjustment will now conduct a public hearing on Tuesday, October 24, 2017, at 6:00 p.m. in the Meeting Room, located at 102 Town Hall Drive, off Colington Road. At that time, you may appear and present any arguments you may have for or against the granting of the variance.

The nature of the application is to seek relief from Chapter 153, *Zoning*, §153.082(2)(c) *Exceptions* / §153.181(A) *Setbacks* / §153.161(A)(3),(B)(3),(C) *Setbacks*. Please contact Donna Elliott, Zoning Administrator, at 252-449-5310, with any questions.

Sincerely,

James Michael O'Dell
Administrative Specialist



THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

BOARD OF ADJUSTMENT

September 11, 2017

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Sincerely,

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THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

BOARD OF ADJUSTMENT

August 18, 2017

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Sincerely,

James Michael O'Dell
Administrative Specialist

KDH - Adjacent Property Owner Letters



THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

BOARD OF ADJUSTMENT

October 12, 2017

Pedro Marroquin
24 Duckwoods Drive
Kitty Hawk, NC 27949

Dear Adjacent Property Owner(s):

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James Michael O'Dell
Administrative Specialist



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NORTH CAROLINA

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24 Duckwoods Drive
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THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

BOARD OF ADJUSTMENT

August 18, 2017

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24 Duckwoods Drive
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Sincerely,

James Michael O'Dell
Administrative Specialist



THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

BOARD OF ADJUSTMENT

October 12, 2017

William C. & Mary L. Kidd
2721 Van Dyke Avenue
Raleigh, NC 27607

Dear Adjacent Property Owner(s):

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THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

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THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

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Sincerely,

James Michael O'Dell
Administrative Specialist



THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

BOARD OF ADJUSTMENT

October 12, 2017

Douglas W. & Christine A. Kyger
186 Cooley Avenue
Middletown, VA 22645

Dear Adjacent Property Owner(s):

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NORTH CAROLINA

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THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

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THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

BOARD OF ADJUSTMENT

October 12, 2017

William E. & Paula R. Edwards
1389 Clay Street
Franklin, VA 23851

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Sincerely,

A handwritten signature in cursive script, appearing to read "James Michael O'Dell".

James Michael O'Dell
Administrative Specialist



THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

BOARD OF ADJUSTMENT

September 11, 2017

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THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

BOARD OF ADJUSTMENT

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Sincerely,

James Michael O'Dell
Administrative Specialist



Town of Kill Devil Hills

PO BOX 1719
Kill Devil Hills, NC 27948
Phone: 252-449-5318 Fax: 252-441-4102

PAID

DEC 18 2015

Planning and Inspection Department

ZP2015-074

PROJECT NAME: Construct 11 x 11 shed inside of building envelope or in rear yard setback area 5' from property lines. As-built survey required.

SITE ADDRESS: 106 THIRD ST E KILL DEVIL HILLS

ZONING PERMIT

ISSUED: 12/18/2015

EXPIRES: 06/15/2016

APPLICANT: Smith, Michael
104 Commerce ST
Smithfield, VA 23430
757-576-4203

OWNER: Smith, Michael
104 Commerce ST
Smithfield, VA 23430
757-576-4203

CONTRACTOR: SAME AS OWNER

License: Same as Owner
Expires: 12/30/2019

PARCEL:

PIN: 988406378800

Parcel Number: 002734000

Address: 106 THIRD ST E KILL DEVIL HILLS

Addition: SUBDIVISION - NONE

Zoning:
Block: 0 **Lot(s):** 0

Legal Description:

FEES:	Paid	Due
Building Permit Fee - Minimum Fee	\$150.00	\$0.00
Totals :	\$150.00	\$0.00

PROJECT DESCRIPTION:

Submitted by Zoning Administrator

ZP2015-074

PROJECT NAME: Construct 11 x 11 shed inside of building envelope or in rear yard setback area 5' from property lines. As-built survey required.

SITE ADDRESS: 106 THIRD ST E KILL DEVIL HILLS

ZONING PERMIT

ISSUED: 12/18/2015

EXPIRES: 06/15/2016

DETAILS
Permit

Name	Value
ZONING DISTRICT	RL
FRONT YARD SETBACK	30
REAR YARD SETBACK	20% Depth >30
SIDE YARD SETBACK	10
HEALTH DEPARTMENT PERMIT #	25004
CAMA PERMIT	N
CAMA EXEMPTION	N
FLOOD ZONE	AE
BASE FLOOD ELEVATION	9
PURPOSE	Residential Accessory
CONSTRUCTION COST	2000.00
LOT COVERAGE	18.98
ACCESSORY STRUCTURE (SQFT)	121
TOTAL SQUARE FOOTAGE	121
SURVEYOR NAME AND NUMBER	C. Gomez L-3241
CULVERT	N
DRIVEWAY INVERT 2	N

REQUIRED INSPECTIONS

Final

Zoning Final

CONDITIONS

- * NOTICE: Call Public Services Department (252) 480-4080 before pouring driveway!
- * This permit becomes null and void if work or construction authorized is not commenced within 6 months or if construction or work is suspended for a period of 12 months at any time after work has started.
- * As-built survey will be required prior to Certificate of Occupancy or Certificate of Compliance.

ZP2015-074

ZONING PERMIT

PROJECT NAME: Construct 11 x 11 shed inside of building envelope or in rear yard setback area 5' from property lines. As-built survey required.

ISSUED: 12/18/2015

EXPIRES: 06/15/2016

SITE ADDRESS: 106 THIRD ST E KILL DEVIL HILLS

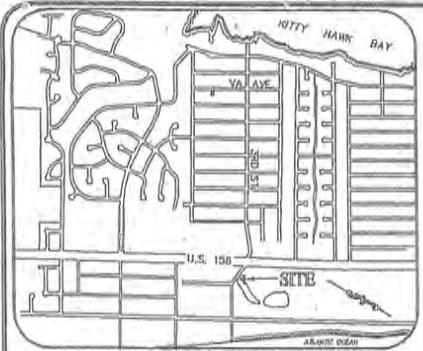
I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of Laws and Ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state/local law regulating construction or the performance of construction.

Issued By: _____

Contractor or Authorized Agent: _____

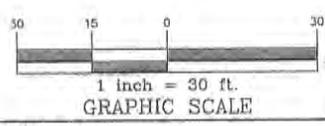
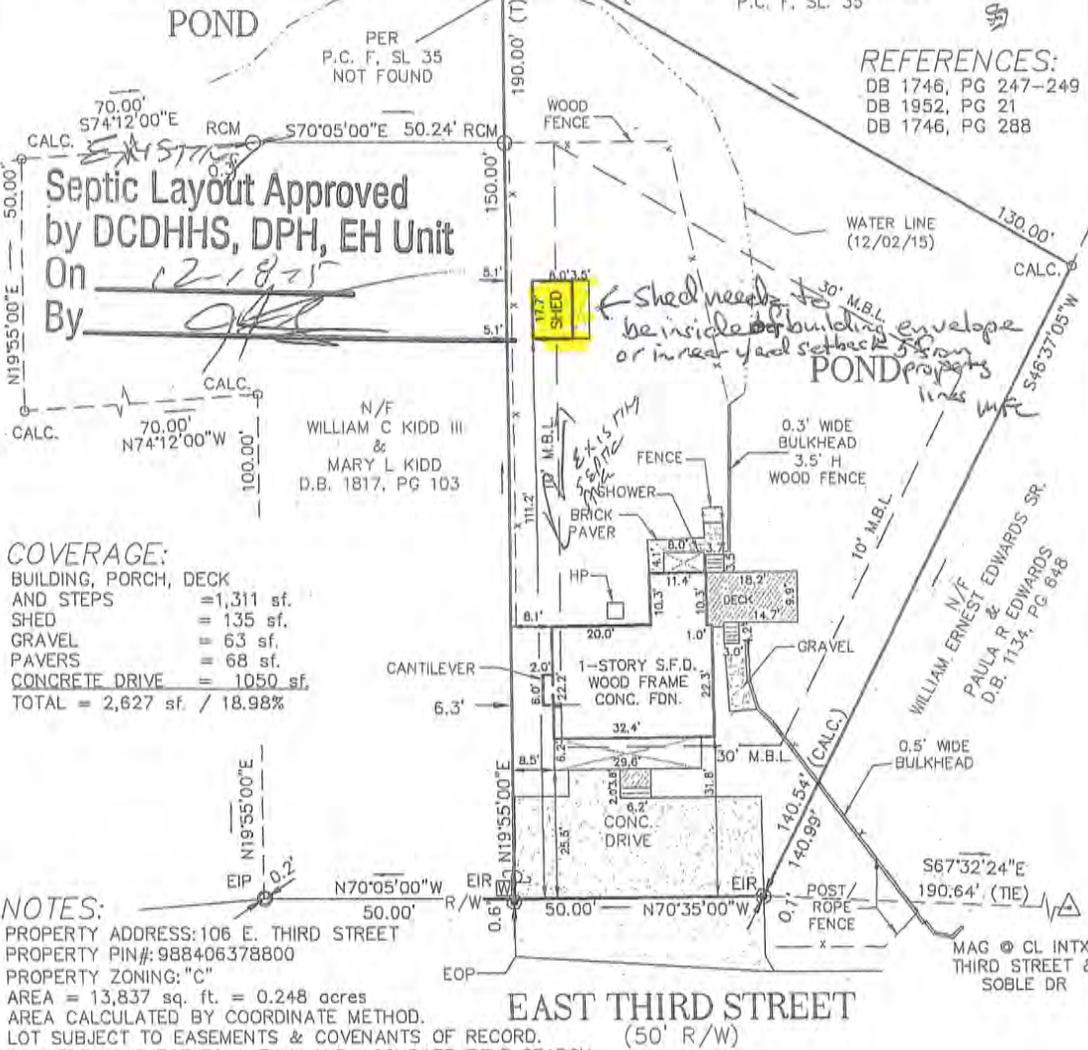
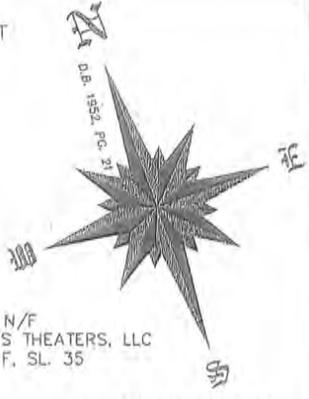
Date: _____

12/18/15



VICINITY MAP

- LEGEND:**
- RCM - ROUND CONCRETE MONUMENT
 - ⊙ EIR - EXISTING IRON ROD
 - ⊖ EIP - EXISTING IRON PIPE
 - △ PK - PK NAIL
 - CALC - CALCULATED POINT
 - ⊖ POWER POLE
 - ⊖ WATER METER
 - ⊖ EOP - EDGE OF PAVEMENT
 - R/W - RIGHT OF WAY



UPDATE:

I, CARLOS F. GOMEZ, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, THAT THE BOUNDARIES NOT ACTUALLY SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN EXISTING RECORDS AND THAT THIS MAP WAS NOT PREPARED TO BE RECORDED. THE RATIO OF PRECISION IS 1:10000+ AS CALCULATED. WITNESS MY HAND AND SEAL THIS 14th DAY OF DECEMBER, 2014.

[Signature]

FILE NO. S2526.14
 SURVEY DATE: 12-2-15
 CAD FILE: S2526PLS
 SCALE: 1" = 30'
 DRAWN: BW
 FIELD BOOK: 93/72

SURVEY FOR:
MICHAEL G. SMITH & DEBORAH H. GREEN

1/4 ACRE PARCEL OF LAND IN KILL DEVIL HILLS
PARCEL NUMBER: 002734000
 KILL DEVIL HILLS

ATLANTIC TWSP DARE COUNTY NORTH CAROLINA

Civil, Structural, Surveying & Site Development
 4425 N. CROATAN HWY
 P.O. Box 1129
 Killdy Hawk, N.C. 27949
 (252)-281-4151

Coastal
 ENGINEERING & SURVEYING, INC.