



# Board of Zoning Appeals

**July 5, 2017**

**Richard Garriott, *Chairman***  
**Randy Sutton, *Vice Chairman***  
**David Whitley, *Secretary***

**Thomas Holland, James Oglesby, Harry Purkey, Jr., Elizabeth Kovner**  
**Alternates: Janice Anderson, Myles Pocta**

**City Staff:**

**Kevin Kemp, *Zoning Administrator***  
**Chris Langaster, *BZA Coordinator***  
**Kay Wilson, *Deputy City Attorney***  
**Tobias Eisenlohr, *Associate City Attorney***

**JULY 5, 2017**  
**BOARD OF ZONING APPEALS AGENDA**

- A.**  
**COMMENTS BY ZONING ADMINISTRATOR AND CHAIRMAN**
- B.**  
**REVIEW OF PUBLIC HEARING CASES**
- C.**  
**STAFF BRIEFINGS**

The Board of Zoning Appeals will conduct a Public Hearing on Wednesday, **July 5, 2017, at 2:00 p.m.** The hearing will take place in the City Council Chambers of the City Hall Building (Building 1), Municipal Center, Virginia Beach, Virginia. The Board members' staff briefing, **which is open to the public**, will be held at 1:00 p.m. in the City Manager's conference room of Building 1, Room 234. The following applications will be considered at the hearing. **Please Note: IF NO ONE APPEARS BEFORE THE BOARD TO REPRESENT THE APPLICATION, THE VARIANCE MAY BY DENIED.**

**2:00 P.M. – PUBLIC HEARING**

**Case 2017-BZA-00023**

**Applicant:** Comp Partnership and Dignity Funeral Services, Inc.

**Representative:** Robert Miller

**Address:** 5033 Rouse Drive

**GPIN:** 1467-82-5496

**Zoning District:** O-2

**Staff:** Chris Langaster

**Request:**

A variance to a 10-foot (north) side yard setback and to a 10-foot (south) side yard setback, instead of 20-feet each as required for a proposed (Funeral Home) building addition.

|   |  |
|---|--|
| <p><b>Case 2017-BZA-00027</b></p> <p><b><u>Applicant:</u></b> Skylar Bates &amp; Angela Bates</p> <p><b><u>Representative:</u></b> Eric Garner, WPL</p> <p><b><u>Address:</u></b> 1821 Addington Road</p> <p><b><u>GPIN:</u></b> 1499-44-3150</p> <p><b><u>Zoning District:</u></b> O-2</p> <p><b><u>Staff:</u></b> Chris Langaster</p>                       | <p><b><u>Request:</u></b><br/>A variance to allow 39-feet in building height, instead of 35-feet in building height for a proposed two-story single family dwelling.</p>   |
| <p><b>Case 2017-BZA-00028</b></p> <p><b><u>Applicant:</u></b> Kevin Jones</p> <p><b><u>Representative:</u></b> Billy Garrington, Governmental Permitting Consultants</p> <p><b><u>Address:</u></b> 5070 Lauderdale Avenue</p> <p><b><u>GPIN:</u></b> 1570-33-7476</p> <p><b><u>Zoning District:</u></b> R-7.5</p> <p><b><u>Staff:</u></b> Chris Langaster</p> | <p><b><u>Request:</u></b><br/>a variance to a 2.5-foot (north) front yard setback, instead of 30-feet as required; and to a one-foot (west) side yard setback instead, of 10-feet as required; and to allow 38-feet in building height instead of 37-feet as allowed; and to allow 47% in lot coverage instead of 35% in lot coverage for a proposed three-story single-family dwelling.</p> |
| <p><b>Case 2017-BZA-00029</b></p> <p><b><u>Applicant:</u></b> Michael Geheren</p> <p><b><u>Address:</u></b> 198 S Rosemont Road</p> <p><b><u>GPIN:</u></b> 1487-62-7119</p> <p><b><u>Zoning District:</u></b> B-2</p> <p><b><u>Staff:</u></b> Chris Langaster</p>   | <p><b><u>Request:</u></b><br/>A variance to a 19.6-foot front yard setback and to a 24-foot from the property line adjacent to a street (S. Rosemont Rd), instead of 35-feet each as required for a new roof on an existing one-story office building.</p>   |

|  |   |
|--|---|
| <p><b>Case 2017-BZA-00030</b></p> <p><b><u>Applicant:</u></b> Frederick Owen</p> <p><b><u>Address:</u></b> 1349 Drexel Circle</p> <p><b><u>GPIN:</u></b> 1455-37-5792</p> <p><b><u>Zoning District:</u></b> R-7.5</p> <p><b><u>Staff:</u></b> Chris Langaster</p>      | <p><b><u>Request:</u></b><br/> A variance to a 10-foot rear yard setback, instead of 20-feet as required for a proposed room addition.</p>  |
| <p><b>Case 2016-BZA-00075</b></p> <p><b><u>Applicant:</u></b> Christopher Breeden</p> <p><b><u>Address:</u></b> 4804 Ocean Front Avenue</p> <p><b><u>GPIN:</u></b> 2418-98-1449</p> <p><b><u>Zoning District:</u></b> R-7.5</p> <p><b><u>Staff:</u></b> Kevin Kemp</p> | <p><b><u>Request:</u></b><br/> A variance to a 20.4-foot setback adjacent to unimproved Atlantic Ave. (east), instead of 22-feet as previously granted by a variance on June 19, 1996 for existing additions; and to a building height of 35.91-feet instead of 35-feet as allowed for an existing dwelling; and to 36.2% in lot coverage instead of 35% as allowed for existing conditions; and to a 4-foot side yard setback adjacent to a street (unimproved 49th Street), instead of 30-feet as required for an existing hot tub; and to a 0-foot side yard setback adjacent to a street (unimproved 49th Street), instead of 30-feet as required for an existing pergola/arbor; and to a 0-foot front yard setback (Ocean Front Ave) and to a 0-foot side yard setback adjacent to a street (unimproved 49th Street), instead of 30 feet each as required for an existing wall/columns/fence over 4-feet in height; and to an 11-foot front yard setback (Ocean Front Ave), instead of 19-feet as required and to a 2-foot side yard setback (south) instead of 5 feet as required for existing hvac units</p> |



# Case # 2017-BZA00023

Property Owner **Comp Partnership and Dignity Funeral Services, Inc.**  
Representative **Robert Miller**  
Public Hearing **July 5, 2017**

## Description of Request

A variance to a 10-foot (north) side yard setback and to a 10-foot (south) side yard setback, instead of 20-feet each as required for a proposed (Funeral Home) building addition.

## Staff Planner

Chris Langaster

## Location

5033 Rouse Drive

## GPIN

1467-82-5496

## Zoning District

O-2 Office

## Site Size

35,753 square feet

## AICUZ

Less than 65 dB DNL

## Year Constructed

1988

## Board of Zoning Appeals History

No previous variances were found on this property.



## Summary of Proposal

The applicant is proposing to construct a one-story, 11,055 square foot building addition on an existing two-story office building. A variance to a ten-foot north side yard setback and to a ten-foot south side yard setback; instead of 20-feet each as required is sought with this proposal.

The applicant's intentions are to expand the existing office building and convert the building in to a funeral home. The proposed addition will align with the existing office building where it is parallel to the south side property line. At the time the existing office building was constructed, the required minimum side yard setbacks were ten-feet.; therefore, the building is nonconforming in respects to the side yard setbacks.

The applicants will acquire the adjoining lot to the north. The property line that separates the two lots will be vacated to create one lot. Parking will be installed on this portion of site and will provide the required parking for the proposed funeral home use. When the property line is vacated, the variance to the north side will no longer be needed.

A mature landscaping hedge exists along the southern property line and provides screening between this lot and the adjoining lot to the south. The applicant is willing to install any additional landscape screening to provide the required screening from the adjacent property.

## Considerations

- The proposed addition will align with the existing office building, currently ten-feet from the side yard property line;
- The proposed addition is not expected to have any detrimental impacts on the adjoining property owners. The addition will be installed along the south property line, directly adjacent to existing tennis courts on the neighboring property.
- Mature landscaping is presently installed along the southern property line and provides screening between the subject site and the site adjacent to the south.
- The applicant has agreed to install any additional landscaping that is needed to provide the required screening along the southern property line.

## Recommended Conditions

1. The proposed building addition shall be constructed in substantial adherence to the submitted site plan and building elevations entitled "Altmeyer Funeral Homes," dated March 20, 2017.
2. Category I screening shall be installed along the southern property line.



Case #  
Hearing Date July 5, 2017

City of Virginia Beach  
Board of Zoning Appeals Application

**Contact Information:**

Applicant's Name: COMP Partnership  
Mailing Address: 5033 Rouse Drive, Virginia Beach, VA 23462  
Phone: 757-490-9264 Fax: 757-490-0634 E-Mail: robert.miller@msaonline.com

**Applicant's Representative/Contact Person:**

Name: Robert S. Miller, III  
Mailing Address: 5033 Rouse Drive, Virginia Beach, VA 23462  
Phone: 757-490-9264 Fax: 757-490-0634 E-Mail: robert.miller@msaonline.com

**Description of Property:**

Street Address: 5033 Rouse Drive and  
Lot #: \_\_\_\_\_ Block: \_\_\_\_\_ Section: \_\_\_\_\_ Subdivision: Parcel 'A', DB 2410, P 1823 and MB 2689, P 314 (Attached)  
District: Kempsville Parcel Size: Parcel 'A' 35,722 .50 SF or 0.82 acres

**Description of Variance Request: (Attach Additional Sheets if Needed)**

The property is zoned O-2. The side yard setbacks for O-2 is 20'. The existing building has 10' side yards.  
The existing building is being expanded as shown on the attached site plan. The variance request is that the addition be allowed to match the existing 10' side yards on the COMP property. Ultimately, the Luther Little property is involved and together the new property is 57,559.2 SF or 1.32 acres. The future frontage on Rouse Drive is 272.44' and on Little Drive is 184', thus, Little Drive remains the front of the property. In the future situation, the side yard toward the UJFT Community Campus, LLC will still need a variance to match the existing building at 10'

**Please describe the project and proposed improvements: (Attach Additional Sheets if Needed)**

The proposed project is a new funeral home including the attached existing office building. The total square footage of the new expansion and the existing office is ±11,055 SF or 19.2% coverage. The improvements will include new storm water management and parking lots with approximately 67 parking spaces.

Attachment 1

Applicant Name: COMP Partnership, 5033 Rouse Drive

The alignment of the addition with the existing building is required to set up the office spaces and access to the building addition. Setting the building 20' off the property lines will result in the loss of critical parking and the reduction of the open space for the storm water management BMPs. Also, it will result in alignment issues for the building addition in relation to the existing office building, which is at 10' on both property lines.

The ordinance at the time the existing office building was built in 1987 had 10' side yards.

The existing COMP property will be combined with the Luther Little property to the north and the common property line will be vacated. The only adjacent property at that time will be the UJFT.

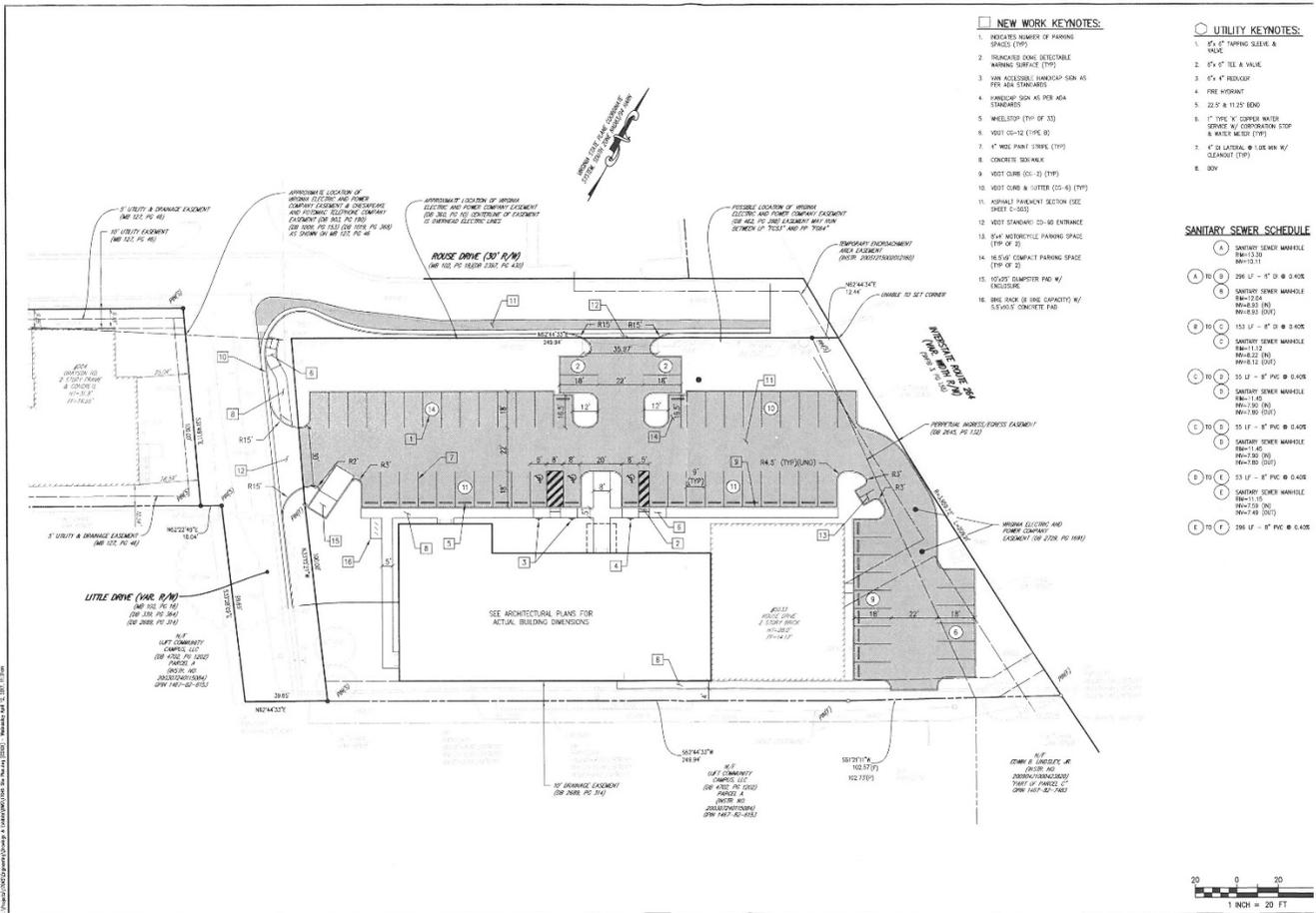
The UJFT currently has parking, storage buildings and tennis courts on the adjacent property.

The neighborhood is a combination of offices and the UJFT. It will remain the same with the proposed development.

The intent of the side yard setback is to respect the existing land use of the adjacent property and the existing office and 10' side yard does that.



# Site Survey- Proposed Improvements



# Proposed Building Elevations



NORTHELEVATION  
1/8" = 1'-0"

**TMA**  
TRUCKEE ARCHITECTURAL  
ARCHITECTS

DESIGN  
ELEVATION

ALTMeyer  
FUNERAL  
HOMES  
20 MARCH 2017

**1**

Site Photos





**APPLICANT'S NAME** Dignity Funeral Services Inc.

**DISCLOSURE STATEMENT FORM**

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

|  |  |  |
|--|--|--|
| Acquisition of Property by City                        | Disposition of City Property                   | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for          | Economic Development Investment Program (EDIP) | Nonconforming Use Changes              |
| Board of Zoning Appeals                                | Encroachment Request                           | Rezoning                               |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance                            | Street Closure                         |
| Chesapeake Bay Preservation Area Board                 | Franchise Agreement                            | Subdivision Variance                   |
| Conditional Use Permit                                 | Lease of City Property                         | Wetlands Board                         |
|  | License Agreement                              |  |

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

**SECTION 1 / APPLICANT DISCLOSURE**

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

|                          |                               |      |  |
|--------------------------|-------------------------------|------|--|
| <input type="checkbox"/> | APPLICANT NOTIFIED OF HEARING | DATE |  |
| <input type="checkbox"/> | NO CHANGES AS OF              | DATE |  |
| <input type="checkbox"/> | REVISIONS SUBMITTED           | DATE |  |



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Dignity Funeral Services Inc.  
 If an LLC, list all member's names:

\_\_\_\_\_

\_\_\_\_\_

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

James E. Altmeyer, Jr., President; H. Brann Altmeyer, Secretary;  
Joseph N. Gompers, Treasurer

(B) List the businesses that have a parent-subsiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

Altmeyer Funeral Home Inc. - WV Corp.

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: \_\_\_\_\_  
 If an LLC, list the member's names: \_\_\_\_\_



-----  
If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

\_\_\_\_\_  
\_\_\_\_\_  
**(B)** List the businesses that have a parent-subsiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

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**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



**APPLICANT**

| YES                                 | NO                                  | SERVICE  | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Architect / Landscape Architect / Land Planner   |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)                                  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Construction Contractors   |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Engineers / Surveyors/ Agents  | MSA, Inc.                                  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | Wesbanco, Wheeling, WV                     |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Legal Services   | Troutman Sanders LLP                       |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property   |  |

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

YES  NO  Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest? \_\_\_\_\_

\_\_\_\_\_



**CERTIFICATION:**  
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

*[Signature]* James E. Altmeppen Jr 6-5-17  
DATE



**OWNER**

See page 4

| YES                      | NO                       | SERVICE  | PROVIDER (use additional sheets if needed) |
|--------------------------|--------------------------|--|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Accounting and/or preparer of your tax return  |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Architect / Landscape Architect / Land Planner   |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers  |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)                                  |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Construction Contractors   |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Engineers / Surveyors/ Agents  |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Legal Services   |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property   |  |

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

|                          |                          |  |
|--------------------------|--------------------------|--|
| YES                      | NO                       | Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? |
| <input type="checkbox"/> | <input type="checkbox"/> |  |

If yes, what is the name of the official or employee and what is the nature of the interest? \_\_\_\_\_



**CERTIFICATION:**  
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

PROPERTY OWNER'S SIGNATURE \_\_\_\_\_ SIGN NAME \_\_\_\_\_ DATE \_\_\_\_\_



**Description of Request**

A variance to allow 39-feet in building height instead of 35-feet in building height for a proposed two-story single family dwelling.

**Staff Planner**

Chris Langaster

**Location**

1821 Addington Road

**GPIN**

1499-44-3150

**Zoning District**

R-40 Residential

**Site Size**

6.01 Acres

**AICUZ**

Less than 65 dB DNL

**Year Constructed**

New construction

**Board of Zoning Appeals History**

No previous variances were found on this property.

**Chesapeake Bay Preservation Board History**

On December 21, 2016, a variance was granted for the proposed single-family dwelling and associated improvements



## Summary of Proposal

The applicants are proposing to construct a two-story single-family dwelling with a height of 39-feet, instead of 37-feet in building height as allowed in an (AE) flood zone. The lot grading, as measured from the lowest to highest points of the grade within 6-feet of the proposed foundation, has a differential of approximately 5.52-feet. The majority of the proposed dwelling will be less than the required maximum height; however, the south west corner of the dwelling will reach a maximum height of 39-feet.

The subject lot is heavily impacted and regulated by the Chesapeake Bay Preservation Act (CBPA). Due to restrictions of the CBPA, the buildable area on the lot is limited. In an effort to reduce the impact of the proposed improvements on the environment, the proposed dwelling is placed in the location shown on the submitted site layout.

## Considerations

- The requested variance in height is consistent with the lot grading differential on the site.
- A significant portion of this lot is located in the Resource Protection Area (RPA) of the Chesapeake Bay watershed. This limits the applicant's ability to construct a dwelling on the lot and remain in compliance with the Chesapeake Bay Preservation Act.
- The subject lot is on a peninsula and is not expected to create any detrimental impacts to the adjoining property owners or surrounding community.

## Recommended Condition

1. The proposed two-story dwelling shall be constructed in substantial adherence to the submitted site plan and building elevations entitled "Bates parcel A-1 1821 Addington Road Virginia Beach, VA".

1821 Addington Road  
Virginia Beach, VA 23454  
BZA Variance Application

**Variance being requested:**

We are requesting a Building Height variance for a proposed single-family addition.

- A variance to a 39-foot building height instead of a maximum 35-foot building height as allowed for a proposed single-family dwelling

**Describe Project and Proposed Improvements:**

The applicant would like to obtain a variance to allow for a building height modification to 39 feet due to grading and elevation changes surrounding the proposed dwelling. The proposed single-family dwelling is to be constructed on a natural peninsula on the property as collaborated with the designer and Planning Staff during the CBPA process and the result was the proposed placement of the dwelling in order to utilize the existing topography as a means to reduce impervious surface impacts within the resource protection area of the Chesapeake Bay Preservation Area. However, the grounds outside of the building footprint have grade changes from 1' to 2' east side and 3' to 4' on the west side, thus the request for a 4' height variance to 39 feet.

- A subdivision variance was granted for the site in 1997.
- This subdivision variance allowed two lots to be created without having direct access to a city street (lots A-2 and A-3). A total of three lots are shown as being part of this subdivision (A-1, A-2, A-3).
- The proposed dwelling has already received Chesapeake Bay Preservation Area (CBPA) variance approval (December 21, 2016) and the DSC site plan is currently under review.





# Proposed Building Elevations

**SOMMER  
DESIGN  
STUDIOS**

ARCHITECTS AND  
INTERIORS  
1000 W. 10th Street, Suite 100  
Anchorage, Alaska 99501  
Tel: 907.562.1234  
www.sommerdesignstudios.com

DATE: 09/28/16

**BATES**

PARCEL A  
1000 REDUCTION ROAD  
HELIKOPTER, AK



RIGHT ELEVATION

A2.02  
EXTERIOR ELEVATION



Site Photos





**APPLICANT'S NAME** Skylar Bates, Angela Bates, & Thomas Bates

**DISCLOSURE STATEMENT FORM**

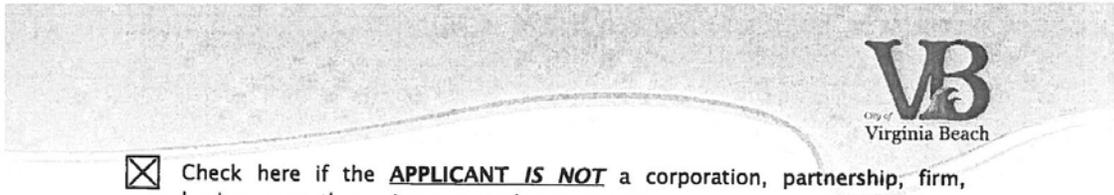
The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

|  |  |  |
|--|--|--|
| Acquisition of Property by City                        | Disposition of City Property                   | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for          | Economic Development Investment Program (EDIP) | Nonconforming Use Changes              |
| Board of Zoning Appeals                                | Encroachment Request                           | Rezoning                               |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance                            | Street Closure                         |
| Chesapeake Bay Preservation Area Board                 | Franchise Agreement                            | Subdivision Variance                   |
| Conditional Use Permit                                 | Lease of City Property                         | Wetlands Board                         |
|  | License Agreement                              |  |

↔  
**The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.**  
 ↔

**SECTION 1 / APPLICANT DISCLOSURE**

|   |                               |             |
|---|-------------------------------|-------------|
| <small>FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).</small> |                               |             |
| <input type="checkbox"/>  | APPLICANT NOTIFIED OF HEARING | DATE: _____ |
| <input type="checkbox"/>  | NO CHANGES AS OF              | DATE: _____ |
| <input type="checkbox"/>  | REVISIONS SUBMITTED           | DATE: _____ |



Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Skylar Bates, Angela Bates, & TI  
If an LLC, list all member's names:  
N/A

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

(B) List the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes<sup>1</sup> and <sup>2</sup>

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## SECTION 2 / PROPERTY OWNER DISCLOSURE

*Complete Section 2 only if property owner is different from Applicant.*

Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Skylar Bates, Angela Bates, & Th  
If an LLC, list the member's names: N/A



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

(B) List the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

N/A

<sup>1</sup> "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

---

### SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



**APPLICANT**

| YES                                 | NO                                  | SERVICE  | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Architect / Landscape Architect / Land Planner   | Jeremy Sommer, AIA & WPL                   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)                                  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Construction Contractors   | Beach Building Group                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Engineers / Surveyors/ Agents  | WPL  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | Towne Bank                                 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Legal Services   | Billy Garrington, GPC                      |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property   |  |

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

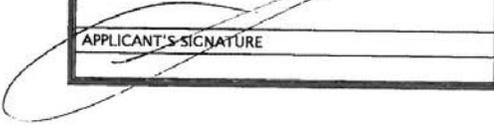
|                          |                                     |  |
|--------------------------|-------------------------------------|--|
| YES                      | NO                                  | Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> |  |

If yes, what is the name of the official or employee and what is the nature of the interest?  
 N/A



**CERTIFICATION:**  
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

|   |              |            |
|---|--------------|------------|
|  | Syklar Bates | 11/04/2016 |
| APPLICANT'S SIGNATURE   | PRINT NAME   | DATE       |



**OWNER**

| YES                                 | NO                                  | SERVICE  | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Architect / Landscape Architect / Land Planner   | Jeremy Sommer, AIA & WPL                   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)                                  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Construction Contractors   | Beach Building Group                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Engineers / Surveyors / Agents   | WPL  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | Towne Bank                                 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Legal Services   | Billy Garrington, GPC                      |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property   |  |

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

YES     NO    Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

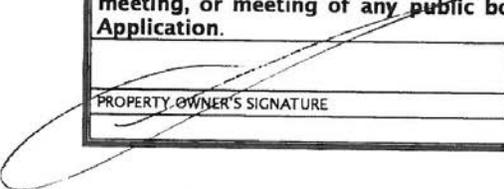
If yes, what is the name of the official or employee and what is the nature of the interest?

N/A



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|   |              |            |
|---|--------------|------------|
|  | Skylar Bates | 11/04/2016 |
| PROPERTY OWNER'S SIGNATURE  | PRINT NAME   | DATE       |



**Description of Request**

A variance to a 2.5-foot (north) front yard setback, instead of 30-feet as required; and to a one-foot (west) side yard setback, instead of 10-feet as required; and to allow 38-feet in building height, instead of 37-feet as allowed; and to allow 47-percent in lot coverage instead of 35-percent in lot coverage for a proposed three-story single-family dwelling.

**Staff Planner**

Chris Langaster

**Location**

5070 Lauderdale Avenue

**GPIN**

1570-33-7476

**Zoning District**

R-7.5 Residential

**Site Size**

3,783 square feet

**AICUZ**

Less than 65 dB DNL

**Year Constructed**

New construction

**Board of Zoning Appeals History**

No previous variances found on this property.



## Summary of Proposal

The applicant is proposing to demolish an existing two-story single-family dwelling and develop the site with a new three-story single-family dwelling. The proposed dwelling will be in essentially the same footprint as the existing structure. The applicant is seeking the following variance requests:

- A 2.5-foot front yard setback, instead of 30-feet as required;
- A one-foot west side yard setback, instead of 10-feet as required;
- A building height of 38-feet, instead of 37-feet as allowed;
- To allow 47-percent in lot coverage, instead of 35-percent in lot coverage as allowed.

The existing dwelling was built in 1940, predating the adoption of the zoning ordinance, and therefore is nonconforming with respect to the front and west side yard setbacks. The 3,783 square foot lot is severely substandard with respect to the minimum required lot area (7,500 square feet) for the R-7.5 zoning district.

It has been determined by Staff that the northern property line is the legal front of the lot, rather than the southern property line that fronts an unimproved 70-foot right-of-way (Ocean View Avenue). Vehicular access is provided from Lauderdale Avenue, a 16-foot improved right-of-way. Because Lauderdale Ave is less than 20-feet in width, a 20-foot minimum rear yard setback is applied, in lieu of a 30-foot setback traditionally required when a property line is adjacent to a right-of-way.

As previously noted, the proposed dwelling will be constructed almost entirely within the same footprint as the existing dwelling. The footprint of the proposed dwelling is slightly smaller; however, the dwelling will be three-stories opposed to the existing two-story dwelling.

## Considerations

- The lot is severely substandard in respects to the minimum lot area, therefore limiting the buildable area on the site. This impacts the applicant's ability to construct a dwelling and conform to the current dimensional requirements of the zoning ordinance and/or a dwelling comparable to others in the vicinity of the site.
- The proposed dwelling will be constructed in essentially the same footprint of the dwelling that will be demolished. The proposed footprint will be slightly smaller than the existing dwelling.
- The existing dwelling/deck encroaches on to the Ocean View Avenue right-of-way. No portion of the proposed dwelling will encroach onto this adjacent right-of-way.
- The difference in the lot grade is consistent with the change in topography, as measured within six-foot of the proposed dwelling.
- One adjacent property owner has submitted a letter of support for this request.

## Recommended Conditions

1. The proposed three-story dwelling shall be constructed in substantial adherence to the submitted site plan, building elevations and colored renderings.
2. The proposed steps shown on the west side of the dwelling shall not be covered.
3. The third floor deck shown on the north side of the dwelling shall not be covered, and the second floor deck and area beneath shall not be enclosed.

## Applicant's Description

April 27, 2017

MR. CHRIS LANGASTER  
ZONING DIVISION

RE; LAUDERDALE AVENUE, 5070 BZA VARIANCE REQUESTS

MR. LANGASTER,

THE OWNER WISHES TO DEMOLISH THE EXISTING STRUCTURE AND BUILD A NEW SINGLE FAMILY DWELLING ON THIS VERY NON-CONFORMING LOT ON THE BAY.

THE PROPERTY IS ZONED R 7.5 WHICH REQUIRES 7500 SQ. FT. OF LAND AREA BUT THIS PARCEL ONLY CONTAINS 3,782 SQ. FT OF LAND AND IS ONLY 50 FEET WIDE. THE HOUSE CURRENTLY IN PLACE DOES NOT MEET THE SETBACKS, ENCROACHES INTO THE FRONT YARD SETBACK SIGNIFICANTLY AND EVEN ENCROACHES INTO THE PAPER STREET WHICH IS ACTUALLY THE FRONT YARD EVEN THOUGH IT APPEARS TO BE THE BACKYARD. THE OWNER IS NOT ABLE TO REMODEL THE EXISTING HOUSE SINCE IT IS IN THE FLOOD ZONE AND HE IS NOT ALLOWED UNDER FEMA TO SPEND THE AMOUNT OF MONEY TO REMODEL WITHOUT RAISING THE DWELLING WHICH IS NOT POSSIBLE GIVEN THE AGE OF THE STRUCTURE.

SO THE OWNER NEEDS THE FOLLOWING VARIANCES:

A FRONT YARD SETBACK OF 2.5 FEET INSTEAD OF 30 FEET (PAPER STREET)

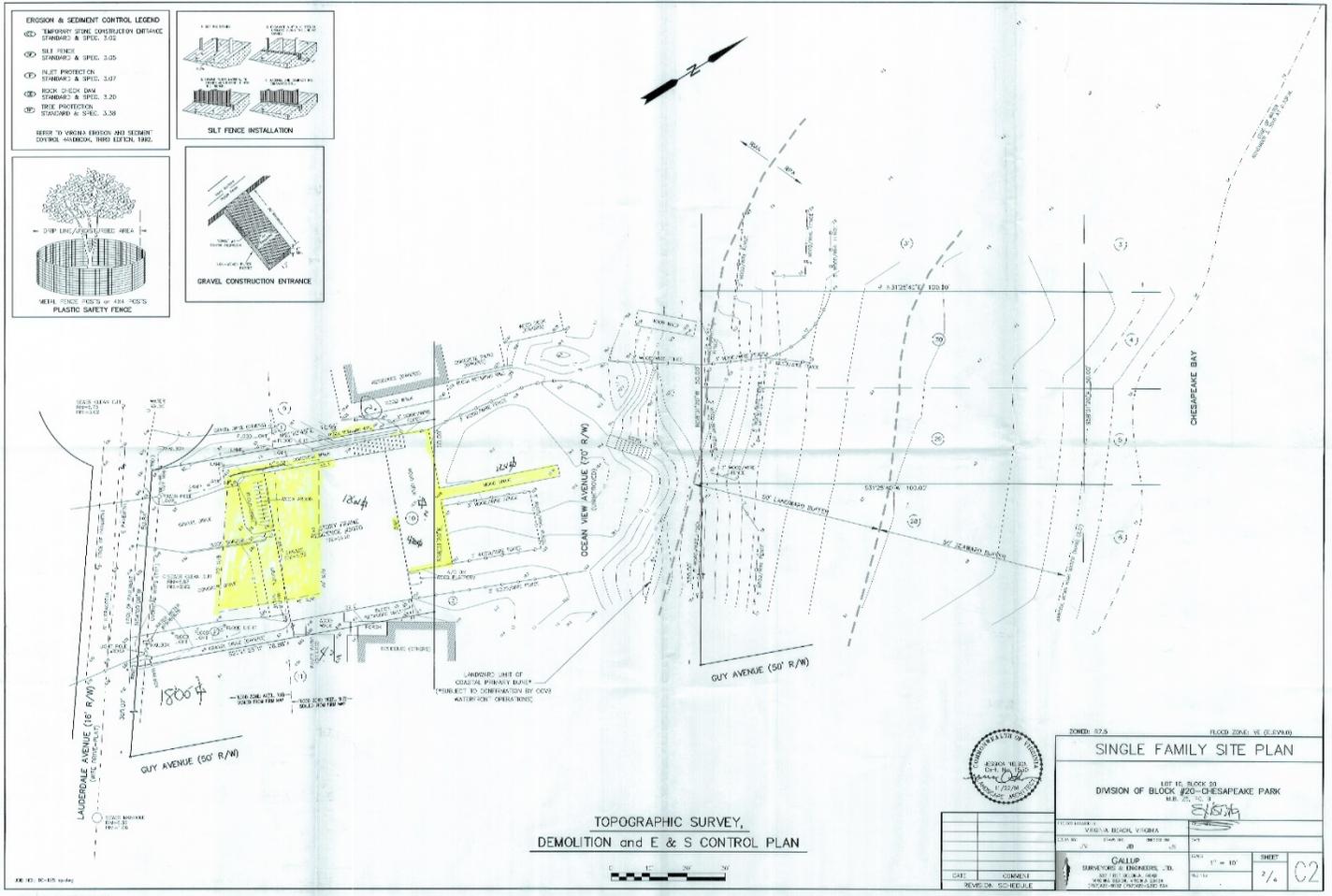
A SIDE YARD SETBACK OF 1' ON THE WEST SIDE AND 5.1 FEET ON THE EAST SIDE INSTEAD OF 10' & 5'.

A HEIGHT VARIANCE TO ALLOW 38 FEET IN BUILDING HEIGHT SINCE THE FEMA REQUIREMENTS CALL FOR 2 FEET OF SEPERATION FROM THE FLOOD LEVEL TO THE BOTTOM OF THE GRADE BEAMS ON THE FIRST FLOOR, THIS IS SIGNIFICANTLY TOUGHER THAN NORMAL FLOOD REQUIREMENTS SINCE WE ARE IN A VE ZONE AND THE ALLOWANCE IS FOR WAVE ACTION.

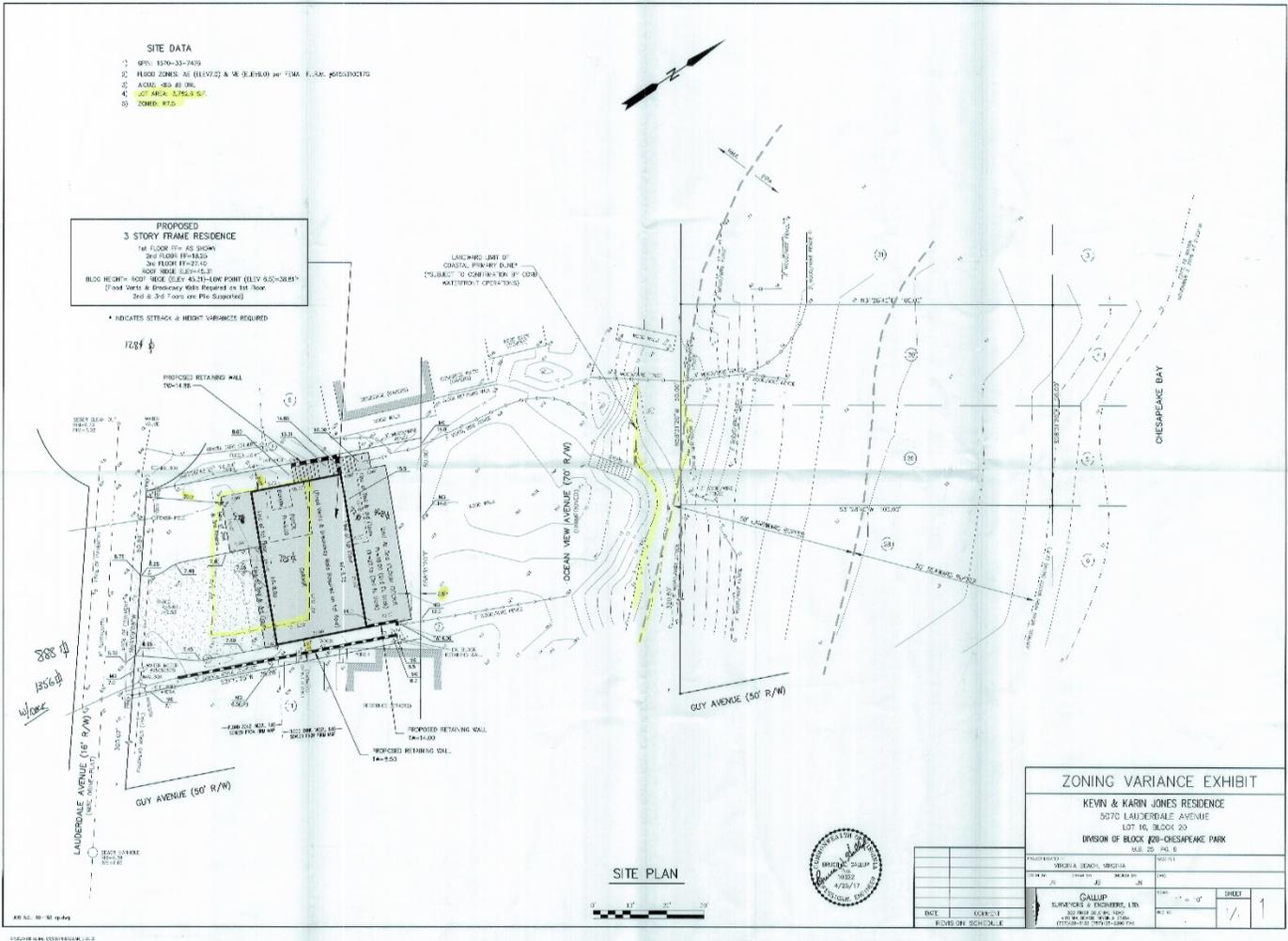
THANK YOU AND PLEASE FEEL FREE TO CALL ME IF YOU WANT TO DISCUSS ANY OF THESE ISSUES PRIOR TO THE HEARING. WE ARE EXEMPT FROM THE CBPA REQUIREMENTS AS SHOWN ON THE SITE PLAN SINCE WE ARE OUTSIDE OF THE BUFFER AREA.



# Site Survey- Existing



# Site Survey- Proposed Improvements



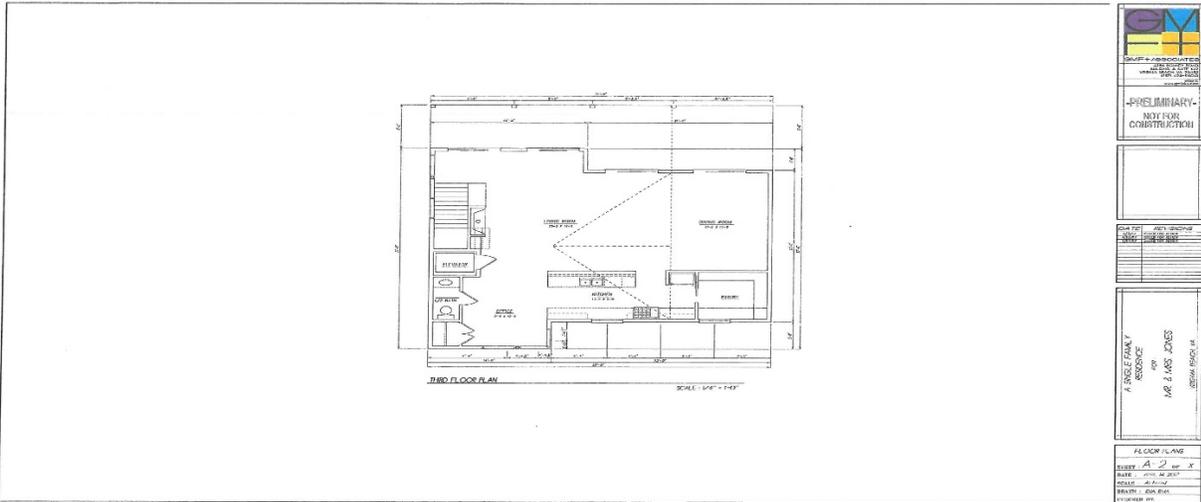
Proposed Rendering



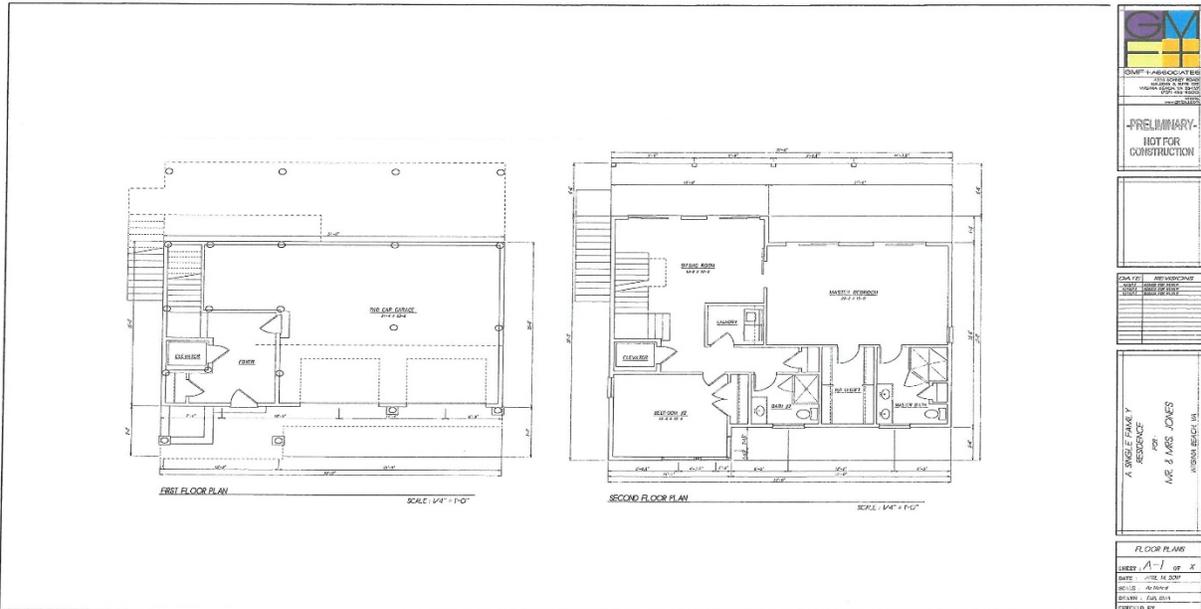
# Proposed Building Elevation



# Proposed Floor Plans



|  |          |
|--|----------|
|  |          |
| DMPT LABORATORIES, INC.<br>10000 W. 10TH AVE., SUITE 100<br>DENVER, CO 80202<br>(303) 751-1000<br>WWW.DMPTLABS.COM |          |
| PRELIMINARY - NOT FOR CONSTRUCTION   |          |
| DATE: 07/14/2017   | REV: 001 |
| A SINGLE FAMILY RESIDENCE FOR MR. & MRS. JONES, 10000 W. 10TH AVE., DENVER, CO                                     |          |
| FLOOR PLANS  |          |
| SHEET: A-3 OF X  |          |
| DATE: 07/14/2017   |          |
| SCALE: AS SHOWN  |          |
| DRAWN: DAN BISH  |          |
| CHECKED BY:  |          |



|  |          |
|--|----------|
|  |          |
| DMPT LABORATORIES, INC.<br>10000 W. 10TH AVE., SUITE 100<br>DENVER, CO 80202<br>(303) 751-1000<br>WWW.DMPTLABS.COM |          |
| PRELIMINARY - NOT FOR CONSTRUCTION   |          |
| DATE: 07/14/2017   | REV: 001 |
| A SINGLE FAMILY RESIDENCE FOR MR. & MRS. JONES, 10000 W. 10TH AVE., DENVER, CO                                     |          |
| FLOOR PLANS  |          |
| SHEET: A-1 OF X  |          |
| DATE: 07/14/2017   |          |
| SCALE: AS SHOWN  |          |
| DRAWN: DAN BISH  |          |
| CHECKED BY:  |          |

# Site Photos





**APPLICANT'S NAME** Kevin Jones

**DISCLOSURE STATEMENT FORM**

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

|  |  |  |
|--|--|--|
| Acquisition of Property by City                        | Disposition of City Property                   | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for          | Economic Development Investment Program (EDIP) | Nonconforming Use Changes              |
| <b>Board of Zoning Appeals</b>                         | Encroachment Request                           | Rezoning                               |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance                            | Street Closure                         |
| Chesapeake Bay Preservation Area Board                 | Franchise Agreement                            | Subdivision Variance                   |
| Conditional Use Permit                                 | Lease of City Property                         | Wetlands Board                         |
|  | License Agreement                              |  |

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

**SECTION 1 / APPLICANT DISCLOSURE**

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

|                          |                               |       |  |
|--------------------------|-------------------------------|-------|--|
| <input type="checkbox"/> | APPLICANT NOTIFIED OF HEARING | DATE: |  |
| <input type="checkbox"/> | NO CHANGES AS OF              | DATE: |  |
| <input type="checkbox"/> | REVISIONS SUBMITTED           | DATE: |  |

Page 1 of 7



Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: KEVIN L JONES  
If an LLC, list all member's names:

-----  
-----  
If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

-----  
-----  
See next page for information pertaining to footnotes<sup>1</sup> and <sup>2</sup>

←-----→  
**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: KEVIN L JONES  
If an LLC, list the member's names: -----



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

\_\_\_\_\_  
\_\_\_\_\_

(B) List the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

\_\_\_\_\_



**APPLICANT**

| YES                                 | NO                                  | SERVICE  | PROVIDER (use additional sheets if needed)     |
|-------------------------------------|-------------------------------------|--|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Accounting and/or preparer of your tax return  | Professional Tax: Accounting                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <u>Architect</u> / Landscape Architect / Land Planner  | G M F + ASSOCIATES                             |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)                                  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Construction Contractors   | NOT SELECTED                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Engineers / Surveyors/ Agents  | GALLUP SURVEYORS + ENGINEERS; Billy Garrington |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | PNC BANK                                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legal Services   | Billy Garrington GC                            |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property   |  |

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

YES     NO    Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**CERTIFICATION:**  
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

|   |               |         |
|---|---------------|---------|
|  | KEVIN L JONES | 4/26/17 |
| APPLICANT'S SIGNATURE   | PRINT NAME    | DATE    |



**OWNER**

| YES                                 | NO                                  | SERVICE  | PROVIDER (use additional sheets if needed)      |
|-------------------------------------|-------------------------------------|--|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Accounting and/or preparer of your tax return  | Professional Tax Accounting                     |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Architect / Landscape Architect / Land Planner   | GMF + ASSOCIATES                                |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers  |   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)                                  |   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Construction Contractors   | NOT SELECTED                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Engineers / Surveyors/ Agents  | GALLUP SURVEYORS + ENGINEERS ; Billy Carrington |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | PNC BANK  |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legal Services   | Billy Graybill GR                               |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property   |   |

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

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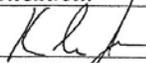
If yes, what is the name of the official or employee and what is the nature of the interest? \_\_\_\_\_



**CERTIFICATION:**

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|   |               |         |
|---|---------------|---------|
|  | KEVIN L JONES | 4/26/17 |
| PROPERTY OWNER'S SIGNATURE  | PRINT NAME    | DATE    |



**Description of Request**

A variance to a 19.6-foot front yard setback and to a 24-foot setback from the property line adjacent to South Rosemont Rd, instead of 35-feet each as required for a new roof on an existing one-story office building.

**Staff Planner**

Chris Langaster

**Location**

198 S Rosemont Road

**GPIN**

1487-62-7119

**Zoning District**

B-2 Community Business

**Site Size**

16,208 square feet

**AICUZ**

Less than 65 dB DNL

**Year Constructed**

1967

**Board of Zoning Appeals History**

No previous variances found on this property



## Summary of Proposal

The applicant is proposing to construct a covered entryway located 24-feet from the property line adjacent to Rosemont Road, instead of 35-feet as required. Additionally, the applicant is seeking a 'clean-up' variance to a 19.6-foot front yard setback adjacent to Chester Street, instead of 35-feet as required for the existing office building. The existing building was constructed in 1967 and is presently vacant. At the time this building was constructed the required front yard setback was 30-feet, therefore, staff was not able to find that the existing encroachment is nonconforming and does not know how this encroachment occurred.

The applicant plans to renovate the exterior and interior of the existing building and lease it to a chiropractic office. A decorative entryway will be added to the south side of the building, as well as landscaping that will be installed around the building and throughout the site. The proposed improvements are expected to substantially improve the site that appears to have been abandoned for some time and is in the need of maintenance.

## Considerations

- The proposed improvements and landscaping are expected to significantly enhance the aesthetic quality of a currently vacant site.
- This request is not expected to create any detrimental impacts to the adjoining property owners or surrounding community.
- The existing building is constructed within the required front yard setback.

## Recommended Conditions

1. The proposed entry shall be constructed in substantial adherence to the submitted site plan and building elevations entitled "New Life Chiropractic," and dated April 25, 2017.
2. The proposed entry shall not be enclosed.
3. Landscaping as depicted on the submitted plan, or comparable, shall be installed.



Case # \_\_\_\_\_  
Hearing Date \_\_\_\_\_

City of Virginia Beach  
Board of Zoning Appeals Application

**Contact Information:**

Applicant's Name: Michael Geheren  
Mailing Address: 2859 Virginia Beach Blvd. Suite 108  
Phone: <sup>(757)</sup>472-0630 Fax: <sup>757</sup>631 E-Mail: geheren@verizon.net

**Applicant's Representative/Contact Person:**

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**Description of Property:**

Street Address: 198 S. Rosemont Road  
Lot #: 24-25 Block: \_\_\_\_\_ Section: 1 Subdivision: Westmoreland Estates  
District: \_\_\_\_\_ Parcel Size: .5 acres

**Description of Variance Request:** (Attach Additional Sheets if Needed) Map book=32  
page=3

See attachment. Narrowness of lot places the building in the front yard setback. Setback is 35 feet and we are currently at 29.7 feet.

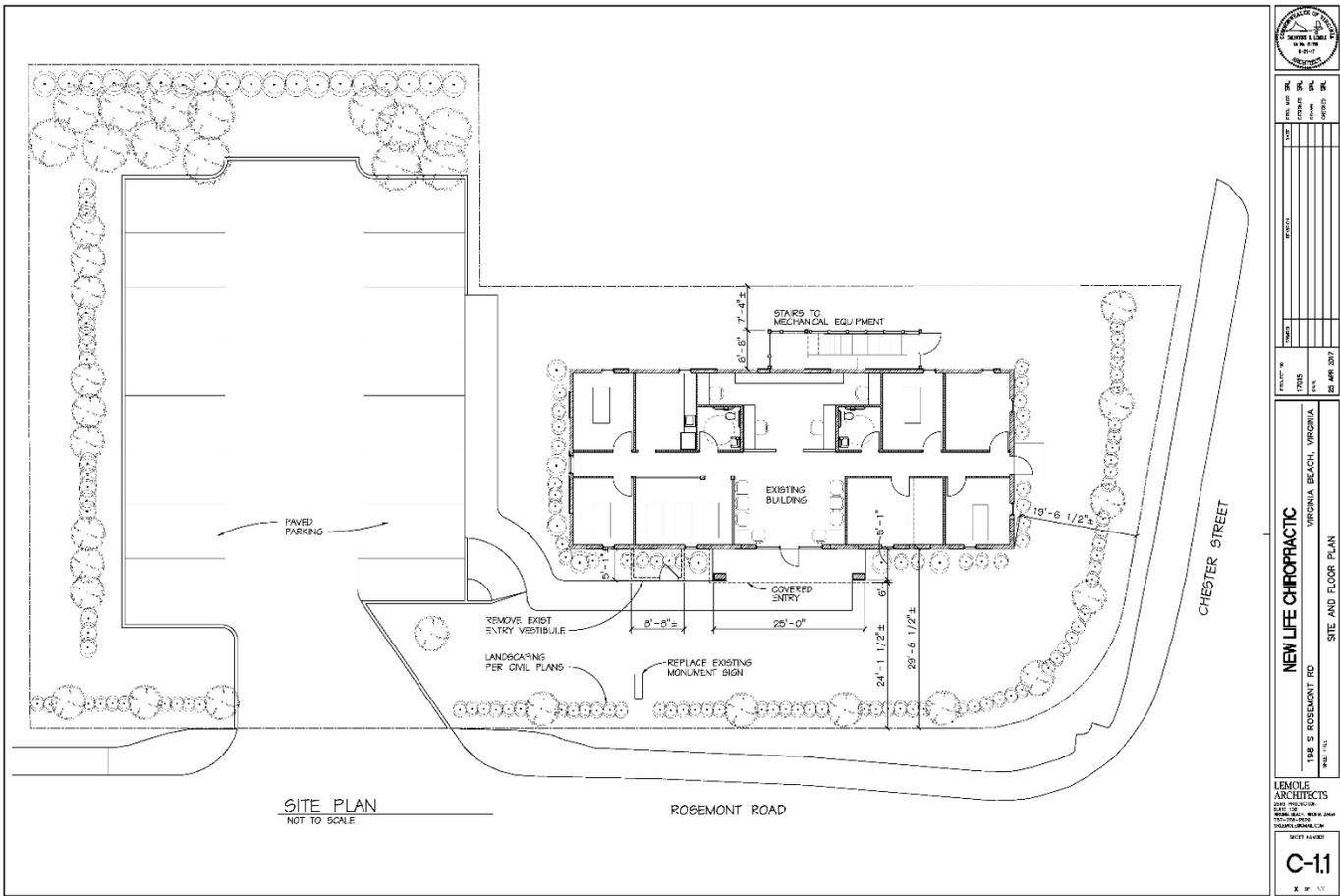
**Please describe the project and proposed improvements:** (Attach Additional Sheets if Needed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



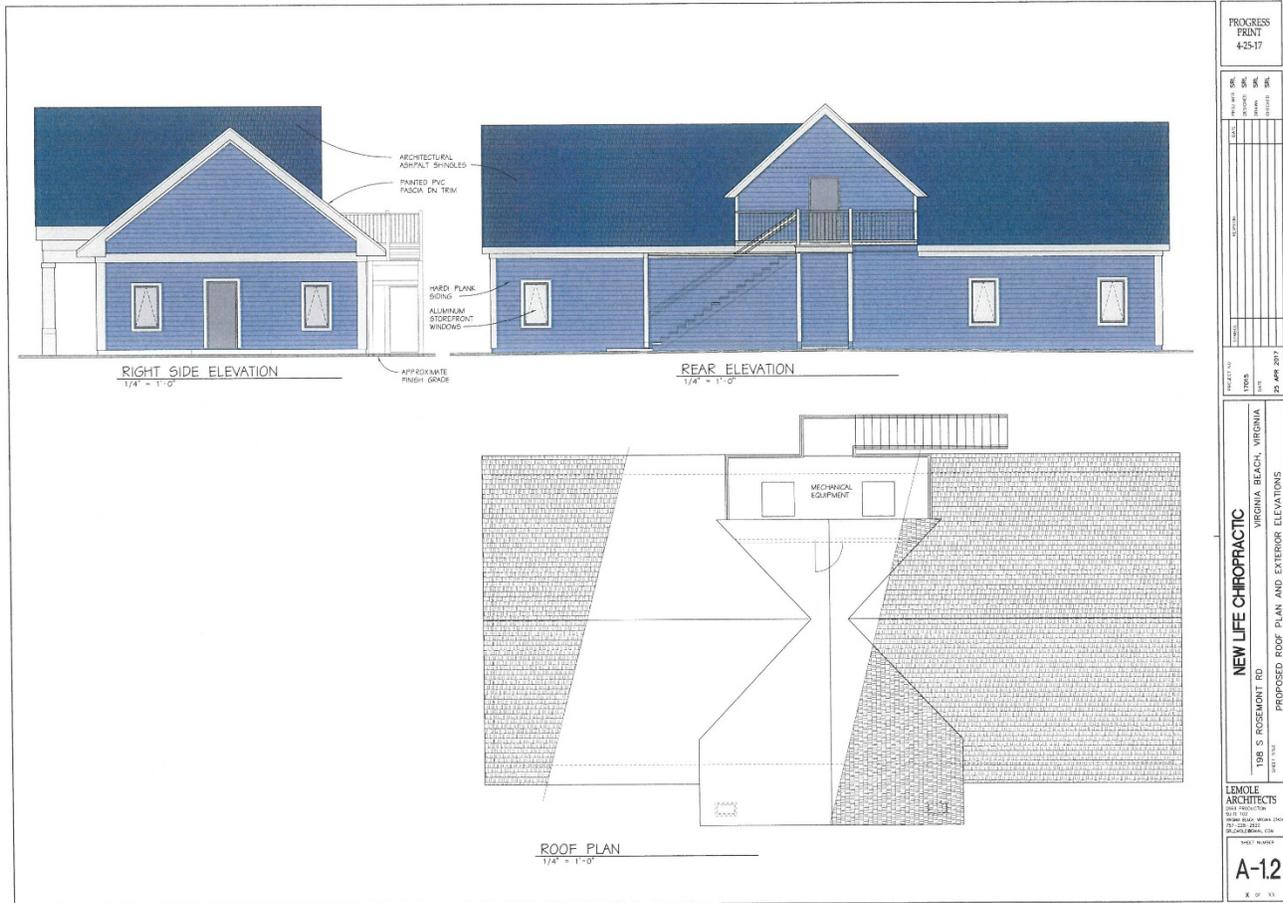


# Site Layout- Proposed Improvements





# Building Elevations



Site Photos





APPLICANT'S NAME New life Properties  
LLC.

**DISCLOSURE STATEMENT FORM**

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|  |  |  |
|--|--|--|
| Acquisition of Property by City                        | Disposition of City Property                   | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for          | Economic Development Investment Program (EDIP) | Nonconforming Use Changes              |
| Board of Zoning Appeals                                | Encroachment Request                           | Rezoning                               |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance                            | Street Closure                         |
| Chesapeake Bay Preservation Area Board                 | Franchise Agreement                            | Subdivision Variance                   |
| Conditional Use Permit                                 | Lease of City Property                         | Wetlands Board                         |
|  | License Agreement                              |  |

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

**SECTION 1 / APPLICANT DISCLOSURE**

|  |                               |             |
|--|-------------------------------|-------------|
| FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s). |                               |             |
| <input type="checkbox"/>   | APPLICANT NOTIFIED OF HEARING | DATE: _____ |
| <input type="checkbox"/>   | NO CHANGES AS OF              | DATE: _____ |
| <input type="checkbox"/>   | REVISIONS SUBMITTED           | DATE: _____ |

Page 1 of 7





- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: New Life Properties LLC  
 If an LLC, list all member's names:  
Michael Geheren  
Lauris Geheren  
 If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: (Attach list if necessary)

(B) List the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Applicant: (Attach list if necessary)

See next page for information pertaining to footnotes<sup>1</sup> and<sup>2</sup>

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: New Life Properties LLC  
 If an LLC, list the member's names: Michael Geheren  
Lauris Geheren



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

Michael Geheren  
Laurie Geheren

(B) List the businesses that have a parent-subsiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



**APPLICANT**

| YES                                 | NO                                  | SERVICE  | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Architect / Landscape Architect / Land Planner   | Sal Lamoie                                 |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)                                  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Construction Contractors   | Anthony Cataldo                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Engineers / Surveyors/ Agents  | Kellen Gwartz                              |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | Towne Bank<br>Rob Marchand                 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Legal Services   | Pender & Coward                            |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property   |  |

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

YES     NO    Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**CERTIFICATION:**  
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

|   |                 |         |
|---|-----------------|---------|
|  | Michael Geheren | 4/24/17 |
| APPLICANT'S SIGNATURE   | PRINT NAME      | DATE    |



**OWNER**

| YES                                 | NO                                  | SERVICE  | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Architect / Landscape Architect / Land Planner   | Sal Lemote                                 |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)                                  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Construction Contractors   | Anthony Cataldo                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Engineers / Surveyors/ Agents  | Kellen / Gerwitz                           |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | Towae bank<br>Rob Marchand                 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Legal Services   | Pender & Leonard                           |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property   |  |

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If yes, what is the name of the official or employee and what is the nature of the interest? \_\_\_\_\_



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|                            |                 |      |
|----------------------------|-----------------|------|
|                            | Michael Geheren |      |
| PROPERTY OWNER'S SIGNATURE | PRINT NAME      | DATE |



**Description of Request**

A variance to a ten-foot rear yard setback, instead of 20-feet as required for a proposed room addition.

**Staff Planner**

Chris Langaster

**Location**

1349 Drexel Circle

**GPIN**

1455-37-5792

**Zoning District**

R-7.5 Residential

**Site Size**

9,546 square feet

**AICUZ**

Less than 65 dB DNL

**Year Constructed**

1971

**Board of Zoning Appeals History**

No previous variances were found on this property.



## Summary of Proposal

The applicant is proposing to construct a one-story, 16-foot by 38-foot room addition. A variance is required to a ten-foot rear yard setback, instead of 20-feet as required. Upon review of this application, staff discovered a room addition extending 16-feet from the rear of the existing dwelling could not maintain a 10-foot rear yard setback as the applicant has requested. Staff notified the applicant of the discrepancy and the applicant has agreed to reduce the room addition to 14-feet by 38-feet.

An existing screened porch and deck will be removed in anticipation of the proposed room addition. The footprint of the proposed room addition will extend further into the rear yard than the existing screen porch. Staff was not able to determine when the screen porch was constructed or whether a building permit was obtained. Therefore, staff could not establish if the screen porch is nonconforming with regard to the required rear yard setback.

The rear of the subject site abuts interstate 64. When the subdivision was created, a greenbelt was dedicated for open space along the property adjacent to the interstate. The greenbelt will never be developed, and therefore, this request is not expected to create any detrimental impacts to the adjoining property owners.

## Considerations

- A variance is sought to the rear the property line that faces interstate-64. The property directly abutting the rear property line is a greenbelt that will not be developed.
- Staff was not able to determine how the screen porch encroachment occurred or if a building permit was obtained.
- This request is not expected to have a detrimental impact on any of the adjoining property owners

## Recommended Condition

1. The proposed one-story room addition shall be constructed in substantial adherence to the submitted site plan and 'hand-drawn' sketch provided in the file.

## Applicant's description of hardship

Because of the small size and shape of the lot, the house was placed in the back half of the lot leaving approximately (26) twenty six feet to the rear property line.

The property behind my property is "common grounds" owned by the housing Association, therefore there not be any inconvenience to anyone.

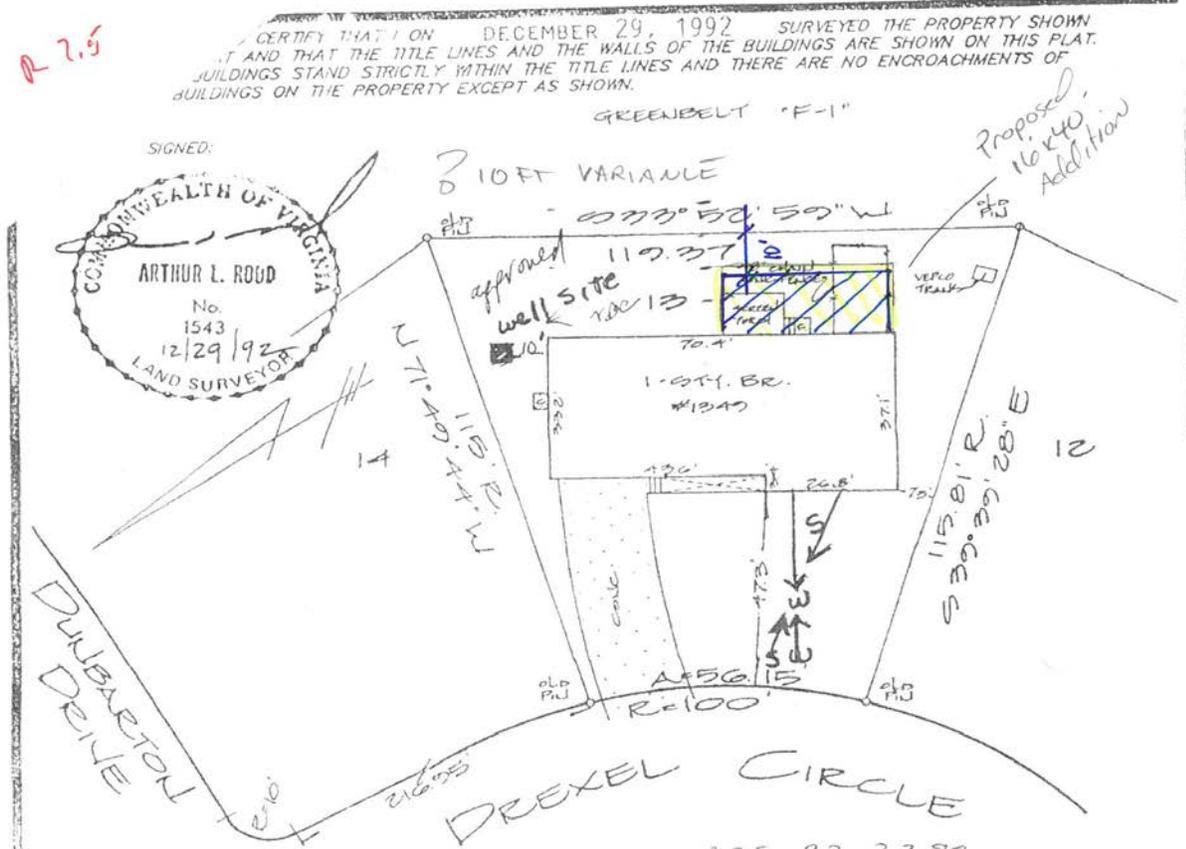
With the addition of this room, the value of the property will be increase, which will help to increase the value of the area.

**Site Layout- Proposed Improvements**

R 7.5

CERTIFY THAT I ON DECEMBER 29, 1992 SURVEYED THE PROPERTY SHOWN  
 AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS ARE SHOWN ON THIS PLAT.  
 BUILDINGS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF  
 BUILDINGS ON THE PROPERTY EXCEPT AS SHOWN.

SIGNED:  
 COMMONWEALTH OF VIRGINIA  
 ARTHUR L. ROOD  
 No. 1543  
 12/29/92  
 LAND SURVEYOR



228-93-2384  
 18 20 2

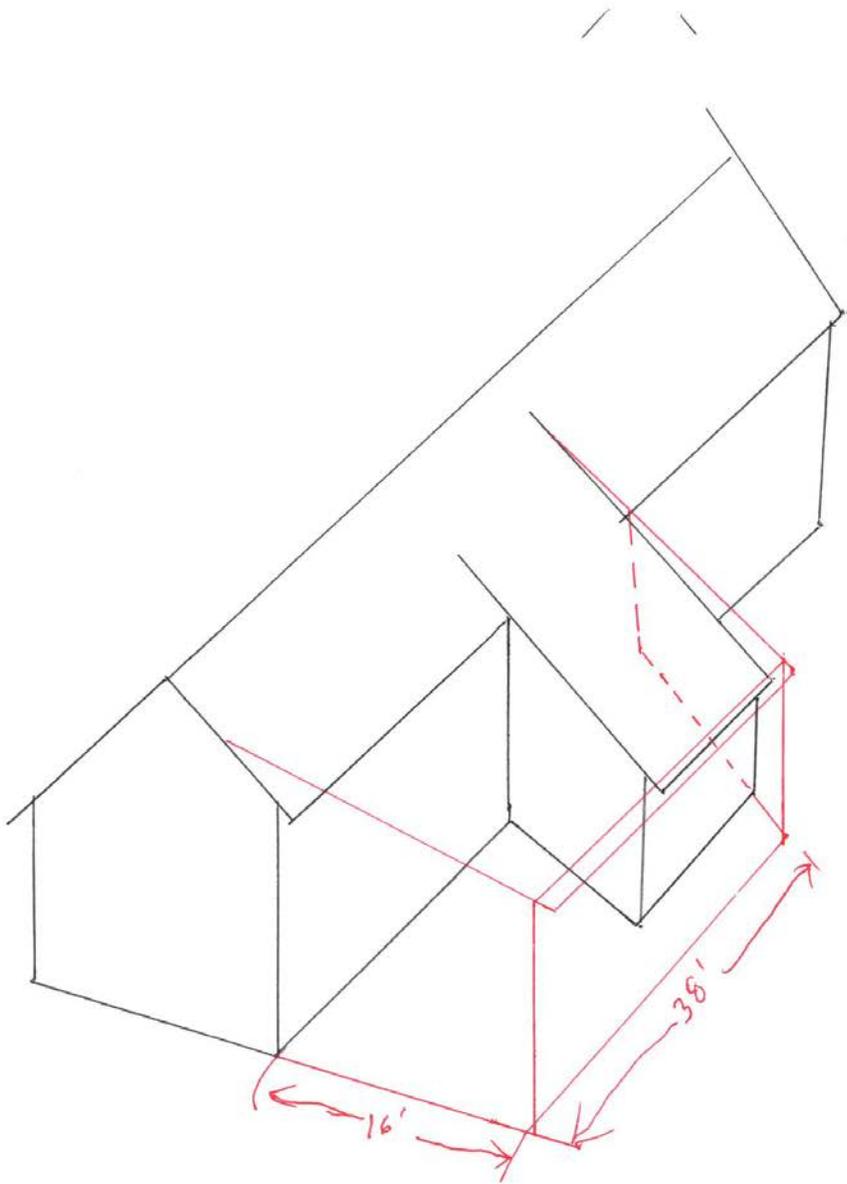
THIS WELL IS APPROVED  
 FOR IRRIGATION  
 PURPOSES ONLY

1349 DREXEL Cir

PHYSICAL SURVEY  
 OF  
 LOT 13, BLOCK F, SUBDIVISION OF "COLLEGE PARK", SECTION THREE  
 VIRGINIA BEACH, VIRGINIA  
 FOR  
 FREDERICK M. OWEN & HOLLY M. OWEN

SCALE: 1" = 30'  
 DECEMBER 29, 1992

# Hand-drawn Sketch of Proposed Addition



1349 Droyel Circle  
VIRGINIA BEACH

LOT: B Bolck: F subdivision of "College Park" section three

Site Photos





**DISCLOSURE STATEMENT FORM**

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

|  |  |  |
|--|--|--|
| Acquisition of Property by City                        | Disposition of City Property                   | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for          | Economic Development Investment Program (EDIP) | Nonconforming Use Changes              |
| Board of Zoning Appeals                                | Encroachment Request                           | Rezoning                               |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance                            | Street Closure                         |
| Chesapeake Bay Preservation Area Board                 | Franchise Agreement                            | Subdivision Variance                   |
| Conditional Use Permit                                 | Lease of City Property                         | Wetlands Board                         |
|  | License Agreement                              |  |

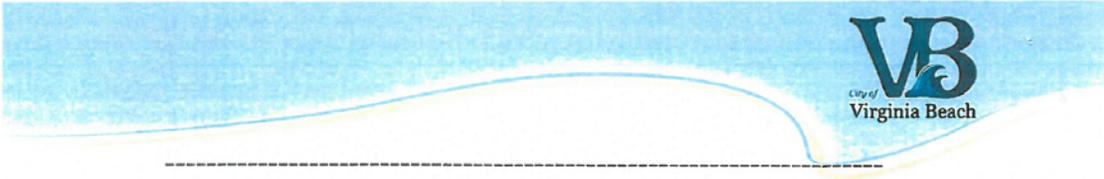
The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

**SECTION 1 / APPLICANT DISCLOSURE**

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

|                          |                               |      |  |
|--------------------------|-------------------------------|------|--|
| <input type="checkbox"/> | APPLICANT NOTIFIED OF HEARING | DATE |  |
| <input type="checkbox"/> | NO CHANGES AS OF              | DATE |  |
| <input type="checkbox"/> | REVISIONS SUBMITTED           | DATE |  |





If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

\_\_\_\_\_  
\_\_\_\_\_

(B) List the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.



**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



**APPLICANT**

| YES                                 | NO                                  | SERVICE  | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Architect / Landscape Architect / Land Planner   |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)                                  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Construction Contractors   | Pending                                    |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Engineers / Surveyors/ Agents  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | NFCU (Navy Federal)                        |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Legal Services   |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property   |  |

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

| YES                      | NO                                  | Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> |  |

If yes, what is the name of the official or employee and what is the nature of the interest?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**CERTIFICATION:**  
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

|   |                   |         |
|---|-------------------|---------|
|  | FREDERICK M. OWEN | 4/28/17 |
| APPLICANT'S SIGNATURE   | PRINT NAME        | DATE    |



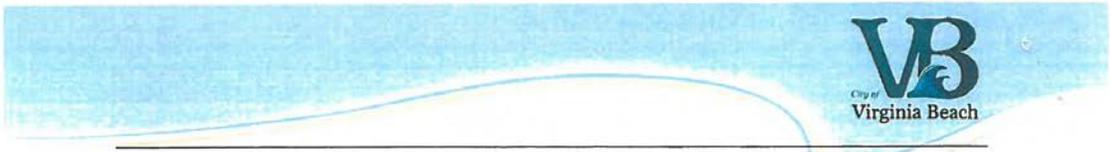
**OWNER**

| YES                                 | NO                                  | SERVICE  | PROVIDER (use additional sheets if needed) |
|-------------------------------------|-------------------------------------|--|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Architect / Landscape Architect / Land Planner   |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers  |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)                                  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Construction Contractors   | Pending                                    |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Engineers / Surveyors/ Agents  |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | NFCU                                       |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Legal Services   |  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property   |  |

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

YES      NO     Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest? \_\_\_\_\_



**CERTIFICATION:**  
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

|   |                   |         |
|---|-------------------|---------|
|  | Frederick M. Owen | 4/28/17 |
| PROPERTY OWNER'S SIGNATURE  | PRINT NAME        | DATE    |



**Description of Request** A variance to a 20.4-foot setback adjacent to unimproved Atlantic Ave. (east) instead of 22-feet as previously granted by a variance on June 19, 1996 for existing additions; and to a building height of 35.91-feet instead of 35-feet as allowed for an existing dwelling; and to 36.2-percent in lot coverage instead of 35-percent as allowed for existing conditions; and to a four-foot side yard setback adjacent to a street (unimproved 49th street), instead of 30-feet as required for an existing hot tub; and to a 0-foot side yard setback adjacent to a street (unimproved 49th street) instead of 30-feet as required for an existing pergola/arbor; and to a 0-foot front yard setback (Ocean Front Ave) and to a 0-foot side yard setback adjacent to a street (unimproved 49th street), instead of 30-feet each as required for an existing wall/columns/fence over four-feet in height; and to an 11-foot front yard setback (Ocean Front Ave), instead of 19-feet as required and to a two-foot side yard setback (south) instead of five-feet as required for existing HVAC units.

**Staff Planner**

Kevin Kemp

**Location**

4804 Ocean Front Avenue

**GPIN**

2418-98-1449

**Zoning District**

R-7.5 Residential  
*North End Overlay*

**Site Size**

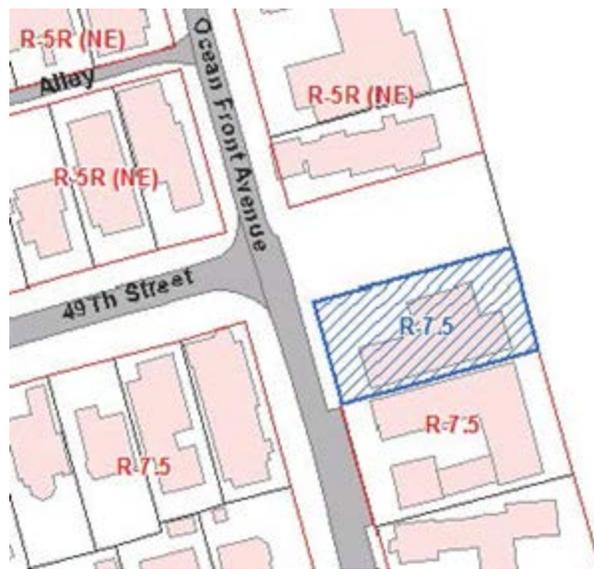
11,473 square-feet

**AICUZ**

65-70 dB DNL

**Year Constructed**

1981



**Board of Zoning Appeals History**

11/05/1980- A variance to a 24-foot front yard setback for a proposed dwelling was granted.  
 11/16/1988- A variance to a 3-foot side yard setback and a 3-foot rear yard setback for an in-ground pool and fence was granted.  
 06/19/1996- A variance to an 18-foot side yard setback and a 22-foot rear yard setback for a home addition was granted.  
 01/20/1999- A variance 0-foot side yard setback and to a 0-foot rear yard setback for a swimming pool was granted.  
 11/02/2016 & 02/01/2017- Variance application was deferred and is being heard on this agenda.

## Summary of Proposal

City records indicate that the existing single-family home on the property was developed in 1981. Several variances have been granted for the development and subsequent additions to the home. These variances are listed below:

- 11/05/1980- A variance was granted to a 24-foot front yard setback along Ocean Front Avenue for the single-family dwelling.
- 11/16/1988- A variance to a three-foot side yard setback adjacent to 49<sup>th</sup> Street and a three-foot setback adjacent to Atlantic Avenue was granted for an in-ground swimming pool.
- 06/19/1996- A variance to an 18-foot side yard setback adjacent to 49<sup>th</sup> Street and to a 22-foot setback adjacent to Atlantic Avenue was granted for additions to the home.
- 01/20/1999- A variance to a 0-foot side yard setback adjacent to 49<sup>th</sup> Street and to a 0-foot setback adjacent to Atlantic Avenue was granted for an in-ground swimming pool.

The applicant recently contacted the Planning Department with regard to a proposed three-story addition at the rear of the home. It was determined by Staff that the three-story addition could be constructed as a matter of right, based upon the variance approved in 1996.

In the process of reviewing the site plan for the proposed addition, several existing conditions were found on the site that require after-the-fact variances. These variance requests are listed below.

- A variance to a 20.4-foot setback adjacent to Atlantic Avenue, instead of 22-feet as approved by variance in 1996, for an existing porch. A variance was granted for this portion of the dwelling; however, a recent survey shows that the porch was constructed closer to the property line than the variance permitted.
- A variance to a building height of 36-feet; instead of 35-feet as allowed for the existing dwelling.
- A variance to a four-foot side yard setback adjacent to 49<sup>th</sup> Street, instead of 30-feet as required for an existing hot tub.
- A variance to a 0-foot side yard setback adjacent to 49<sup>th</sup> Street, instead of 30-feet as required for an existing pergola/arbor. The pergola structure consists of 10 vertical posts and 13 horizontal cross-members. According to the submitted survey, it appears a portion of this structure may be located within the public right-of-way. If this is determined to be true, an encroachment agreement will be required from the Department of Public Works.
- A variance to a 0-foot setback adjacent to 49<sup>th</sup> Street and Ocean Front Avenue, instead of 30-feet as required for each for an existing wall/columns/fence over four-feet in height. A recent survey confirms that a majority of the wall/fence along 49<sup>th</sup> Street is located within the public right-of-way. An encroachment agreement application has been filed with the Department of Public Works. Staff has reviewed satellite photography and it appears that a wall with brick columns existed in this location in 1988.
- 11-foot setback adjacent to Ocean Front Avenue, instead of 19-feet as required, and a two-foot side yard setback, instead of five-feet as required for an existing HVAC unit.
- A variance to a 36-percent lot coverage, instead of 35-percent as allowed for existing improvements on the site.

## Considerations

- There are several variances that have been granted on the subject property that allow for the existing home and subsequent additions to encroach into the required setbacks. Although constructed in accordance with the plans that were approved by the Board of Zoning Appeals, it has been discovered that several aspects of the property do not meet the dimensional requirements of the Zoning Ordinance, and therefore variances are required.
- The initial request that was deferred in November, 2016, then again on February 1, 2017. The application now contains only existing conditions and does not include a proposed addition. In the process of reviewing the application, Staff determined the addition could be constructed as a matter of right due to the variance approved in 1996.
- The side porch received a variance to a 22-foot east side yard setback in 1996. It has been recently discovered that this porch was constructed 20.4-feet from the east property line, and thus a variance is requested.
- It is not clear to Staff how the current fence/wall, hot tub, pergola/arbor, and HVAC units were constructed within the required setbacks, as no variances were found for these items. All these items are included in this variance request.
- The existing development on the site slightly exceeds the allowable lot coverage by 1.2-percent. A variance is still to a 36.2-percent lot coverage, instead of 35-percent as allowed.
- The subject lot meets all dimensional requirements of the Zoning Ordinance, including lot area and lot width, for a lot within the R-7.5 Residential zoning district.
- 49<sup>th</sup> Street adjacent to this site is an unimproved right-of-way, and serves as a pedestrian access point to the beach.
- Staff has received a number of emails and phone calls in opposition to this request from the adjacent property owners and other owners in the vicinity of this application.
- The North Virginia Beach Civic League review this application and is neutral, deferring to the Board of Zoning Appeals.

## Recommended Conditions

1. When developed, the site shall be in substantial conformance to the submitted site plan entitled, "PHYSICAL SURVEY OF THE NORTHERN 1.2 OF LOT 22 AND LOT 23 THE HOLLIES," dated 11/17/2016 and prepared by Timmons Group.
2. When developed, the addition shall be constructed in substantial conformance to the submitted elevation drawings entitled, "BREEDEN RESIDENCE OBSERVATORY TOWER ADDITION," dated 08/10/2016 and prepared by Speight Marshall & Francis, P.C.
3. An application shall be submitted to the Department of Public Works, Real Estate and Right-of-Way Office for all encroachments within the public right-of-way. Should these requests be denied, the applicant shall remove all encroachments within the right-of-way.

# Applicant's Description of Request

Case # \_\_\_\_\_  
 Hearing Date Nov. 2, 2016

**Criteria for Variance Approval:**

Section 15.2-2309 of the Code of Virginia states that the Board of Zoning Appeals shall not approve a variance unless it finds:

- a. That the strict application of the ordinance would produce an undue hardship.
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
- d. That the granting of the variance is in harmony with the intended spirit and purpose of the ordinance.

**Please help demonstrate that your request meets the State Code criteria for variance approval by addressing any of the following that are applicable: (Attach Additional Sheets if Needed)**

- Describe the hardship.
- Explain how the zoning ordinance prohibits or restricts the use of this property.
- Is there something unique about the size, shape or topography of the property that prevents you from developing as desired?
- Describe any measures proposed to ensure your development will not be a detriment to adjacent properties.
- Why do you believe that your proposal will not change the character of the neighborhood?
- How does your proposal meet the spirit and intent of the code section that you wish to vary from?

THE 30' REAR YARD AND 30' SIDE YARD SETBACKS PREVENT A SHAU ADDITION FROM BEING PERMITTED. THE TOTAL ADDITION IS LESS THAN 80 SQUARE FEET. THE ADDITION WILL BE BLENDED INTO THE ARCHITECTURE OF THE HOUSE.

**I / WE CERTIFY THAT THE INFORMATION ABOVE IS TRUE AND CORRECT:**

  
 SIGNATURE OF PROEPRTY OWNER or ATTORNEY

\_\_\_\_\_  
 SIGNATURE OF CONDO/ CO-OWNER

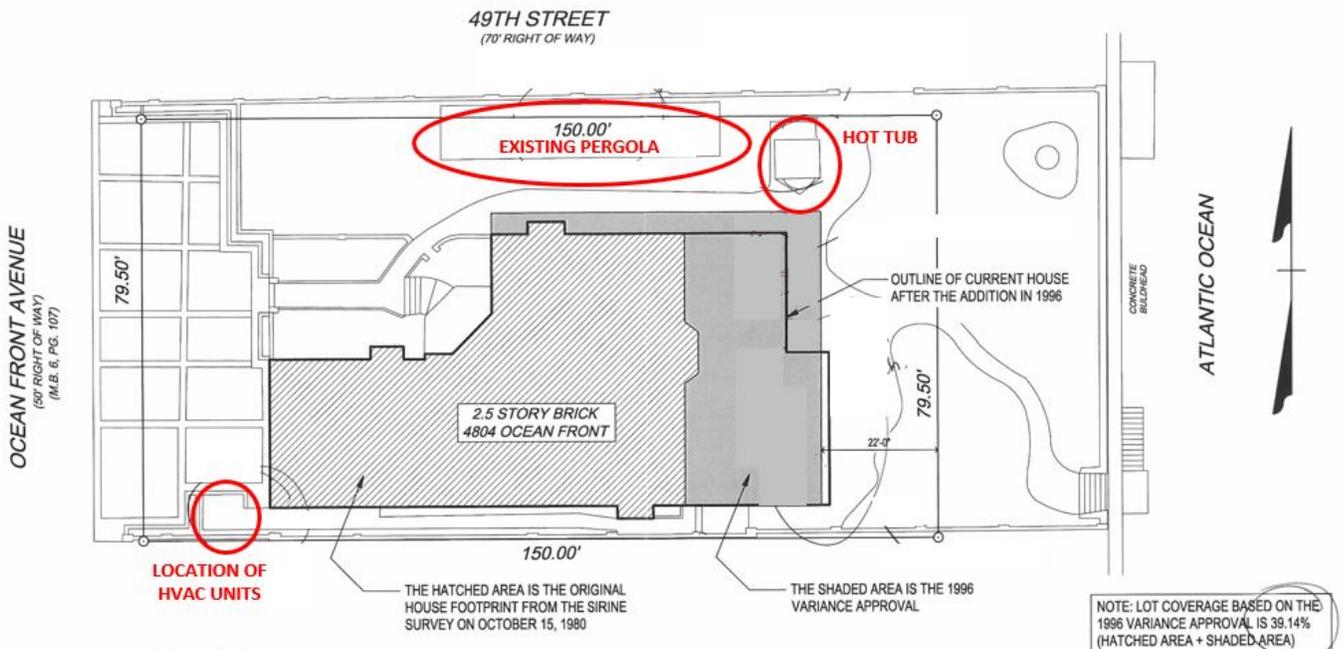
| OFFICE USE ONLY    |                                       |
|--------------------|---------------------------------------|
| Date Received      | <u>08 / 12 / 2016</u>                 |
| Receipt            | <u>697837</u>                         |
| Processed by       | <u>Will Miller</u>                    |
| Zoning             | <u>R7.5</u> Zoning Map Page <u>M4</u> |
| GPIN               | <u>24189814490000</u>                 |
| Watershed          | <u>Atlantic Ocean</u>                 |
| AICUZ              | <u>65-70 (sub Area D)</u>             |
| SGA / RAC / OB/ SD | <u>/</u>                              |

| BOARD OF ZONING APPEALS<br>USE ONLY |                    |
|-------------------------------------|--------------------|
| Approved Date:                      | ____ / ____ / ____ |
| Conditions:                         | YES _____ NO _____ |
| Denied Date:                        | ____ / ____ / ____ |
| _____<br>CHAIRMAN SIGNATURE         |                    |

Mail to: Planning/Zoning  
 2405 Courthouse Drive, Room 100  
 Virginia Beach, VA 23456

-Previous Variance = 11-5-80, 11-16-88  
 6-19-96, 1-20-99

# Site Layout- Existing



## SITE PLAN

1/16" = 1'-0"

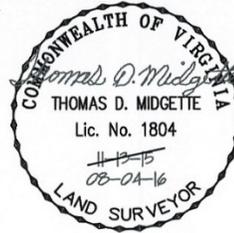
|  |  |                       |
|--|--|-----------------------|
| <b>CHRISTOPHER TORREY BREEDEN</b><br>4804 OCEAN FRONT AVE.<br>VIRGINIA BEACH, VA 23451 |  | DESIGNED BY:<br>JDC   |
|  |  | DRAWN BY:<br>JDC      |
|  |  | DATE:<br>4/20/17      |
|  |  | PROJECT No:<br>15.210 |
|  |  | SHEET Ref:<br>--      |
|  |  | DRAWING No:<br>SKS4   |


**SPEIGHT, MARSHALL & FRANCIS, P.C.**  
 STRUCTURAL ENGINEERS  
 2125 MCCOMAS WAY, SUITE 103 VIRGINIA BEACH VA, 23456  
 PHONE: (757) 427-1020 FAX: (757) 427-9818

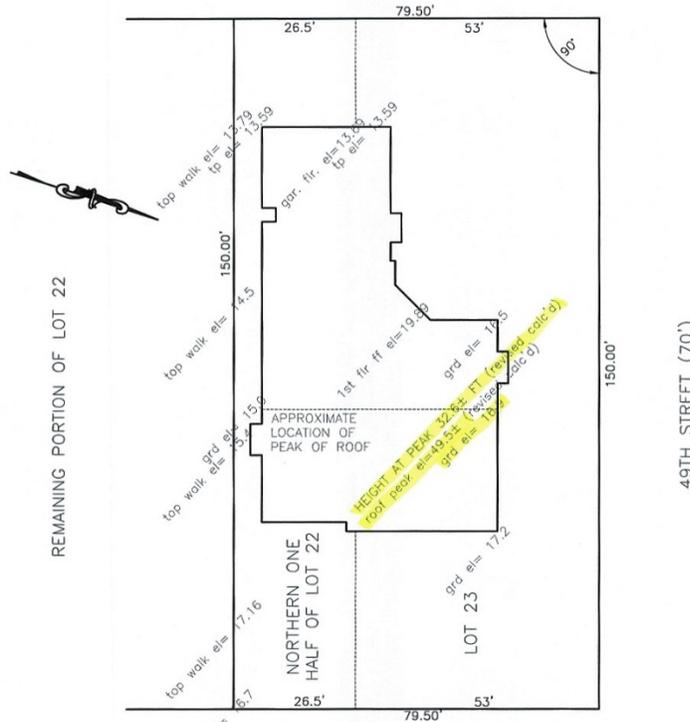
# Site Survey- Topographic

THIS SURVEY IS FOR ELEVATION PURPOSES ONLY AND IS NOT A PHYSICAL SURVEY OF THE PROPERTY SHOWN HEREON.

SIGNED:



OCEAN FRONT AVENUE (50')



ATLANTIC AVENUE  
(UNDETERMINED WIDTH)

NOTES:

1. THE ELEVATIONS SHOWN HEREON WERE DERIVED IN THE FIELD ON OCTOBER 23, 2015 FROM THE CITY OF VIRGINIA BEACH TBM STATION NUMBER C-311 (1952).
2. THE VERTICAL DATUM USED IS NAVD '88.
3. THIS ELEVATION SURVEY IS NOT INTENDED TO SHOW ANY EASEMENTS, OTHER THAN THOSE SHOWN HEREON.
4. THIS ELEVATION SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A TITLE REPORT.
5. THE LEGAL INFORMATION FOR THIS LOT AND THE PHYSICAL FEATURES SHOWN HEREON WERE DERIVED FROM PHYSICAL SURVEY BY JOHN E. SIRINE AND ASSOCIATES, LTD., DATED JULY 21, 1998. NO PHYSICAL FEATURES SHOWN HEREON WERE FIELD VERIFIED FOR SIZE AND LOCATION.
6. APPROXIMATE LOCATION OF ELEVATION TAKEN AT DECIMAL POINT OF ELEVATION NUMBER SHOWN.

REVISED 08-04-16:  
CORRECTED ROOF PEAK HEIGHT  
CORRECTED ROOF PEAK ELEVATION

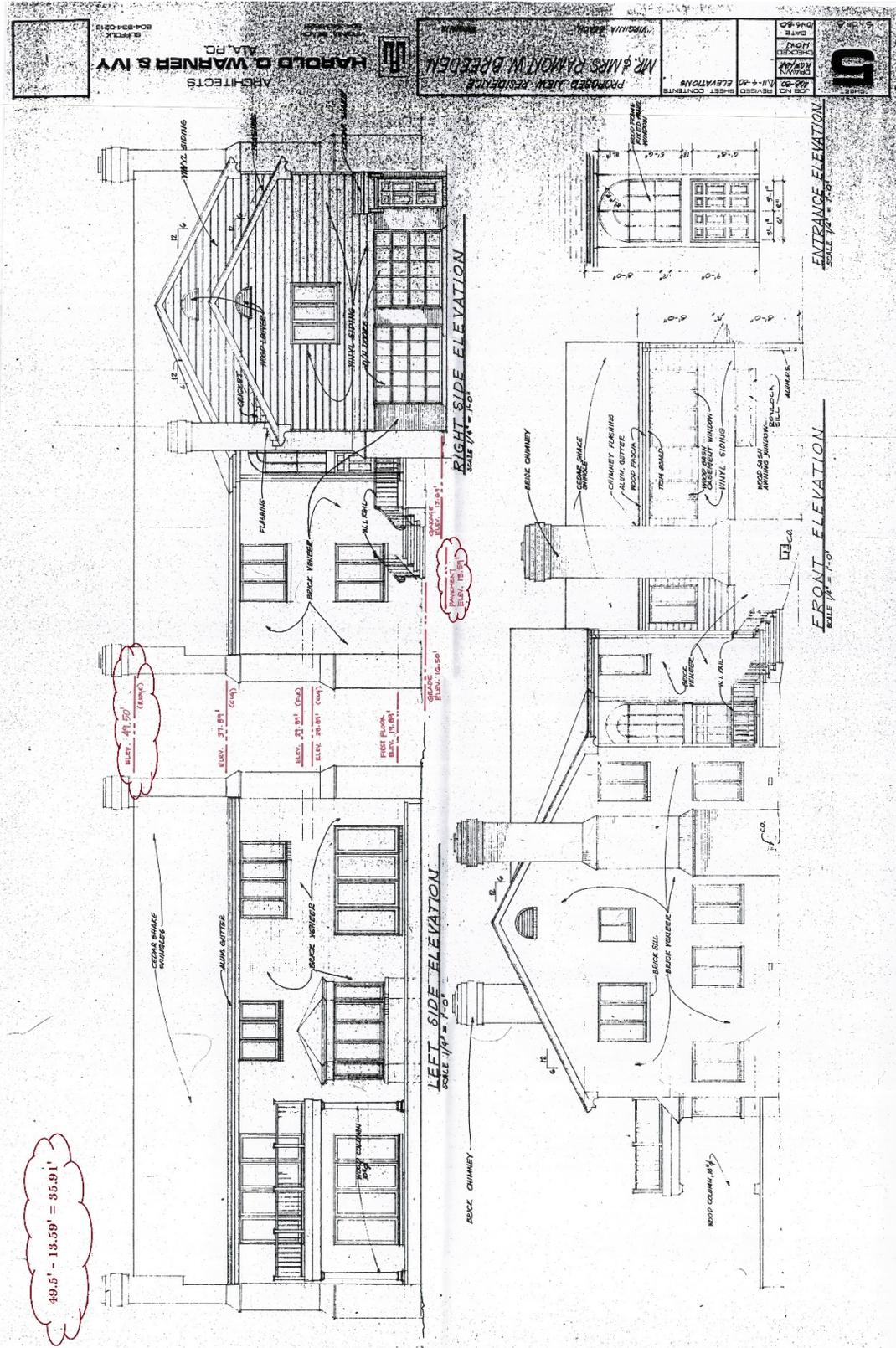
ATLANTIC OCEAN

ELEVATION SURVEY  
OF  
THE NORTHERN ONE HALF OF LOT 22  
AND ALL OF LOT 23, THE HOLLIES  
MB 6, PG 107  
FOR  
TORREY BREEDEN  
VIRGINIA BEACH, VIRGINIA

SCALE: 1" = 25' NOVEMBER 13, 2015

NDI ENGINEERING COMPANY  
BASGIER AND ASSOCIATES DIVISION  
ENGINEERS-SURVEYORS-PLANNERS  
572 CENTRAL DRIVE, SUITE 103, VIRGINIA BEACH, VA 23454  
PHONE: (757) 431-2177 FAX: (757) 431-2175

# Elevation Drawing

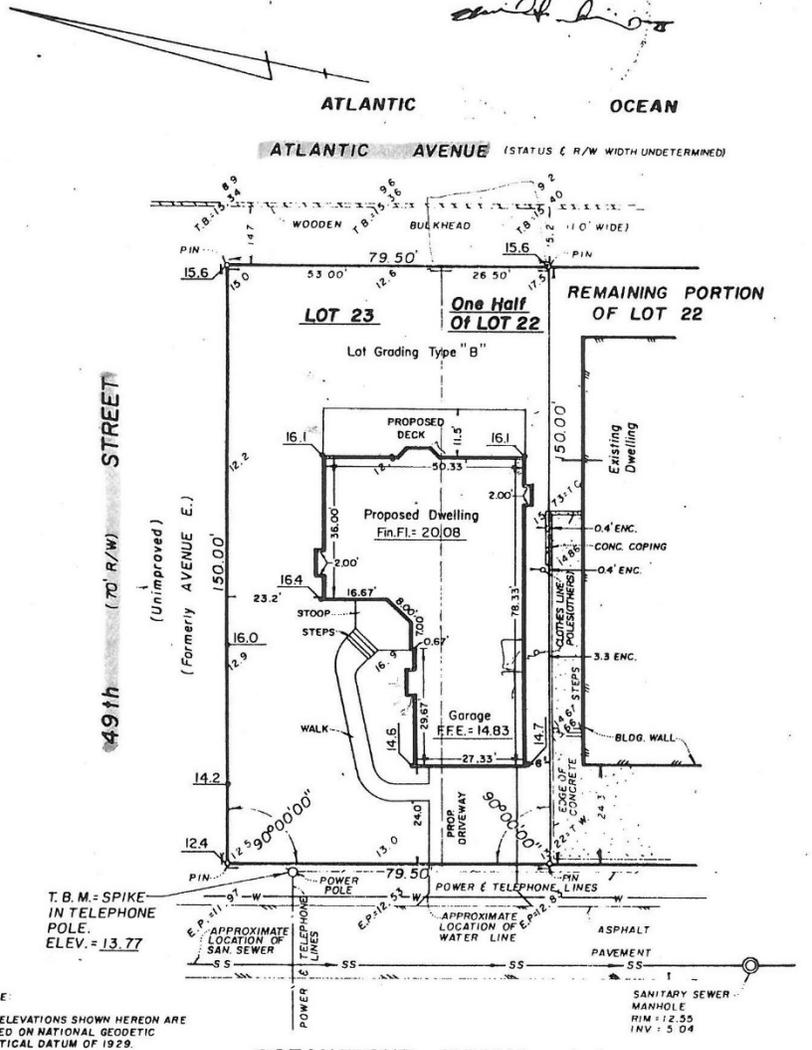


**Site Plan- 1980**

THIS IS TO CERTIFY THAT I, ON SEPTEMBER 25, 1980 SURVEYED THE PROPERTY SHOWN PLAT, AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS P. THE BUILDINGS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN

SIGNED

*[Handwritten Signature]*



NOTE:  
ELEVATIONS SHOWN HEREON ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929.

LEGEND:  
T.C. = TOP OF COPING  
T.W. = TOP OF WALK  
E.P. = EDGE OF PAVEMENT  
T.B. = TOP OF BULKHEAD

OCEANFRONT AVENUE (50' R/W)  
(Formerly 1st STREET)

**SITE PLAN**  
OF  
**LOT 23 AND ONE-HALF OF LOT 22, THE HOLLIES**  
LYNNHAVEN BOROUGH-VIRGINIA BEACH, VIRGINIA  
FOR  
**RAMON W. BREEDEN**

SCALE: 1" = 30'      OCTOBER 15, 1980

**RRS**  
ROUSE - SIRINE ASSOCIATES, LTD.

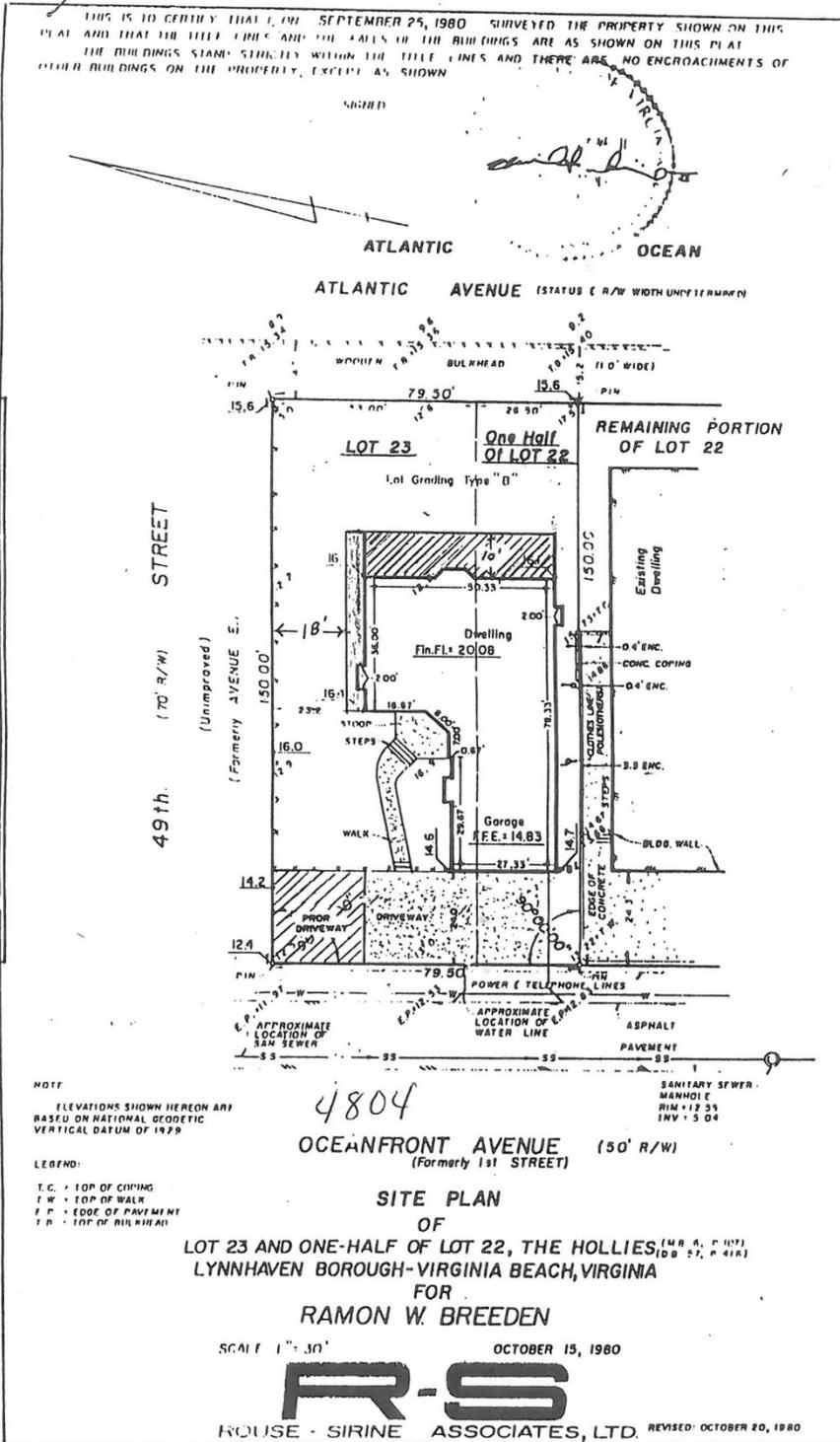
22

OCT 19 1988

REVISED: OCTOBER 20, 1980

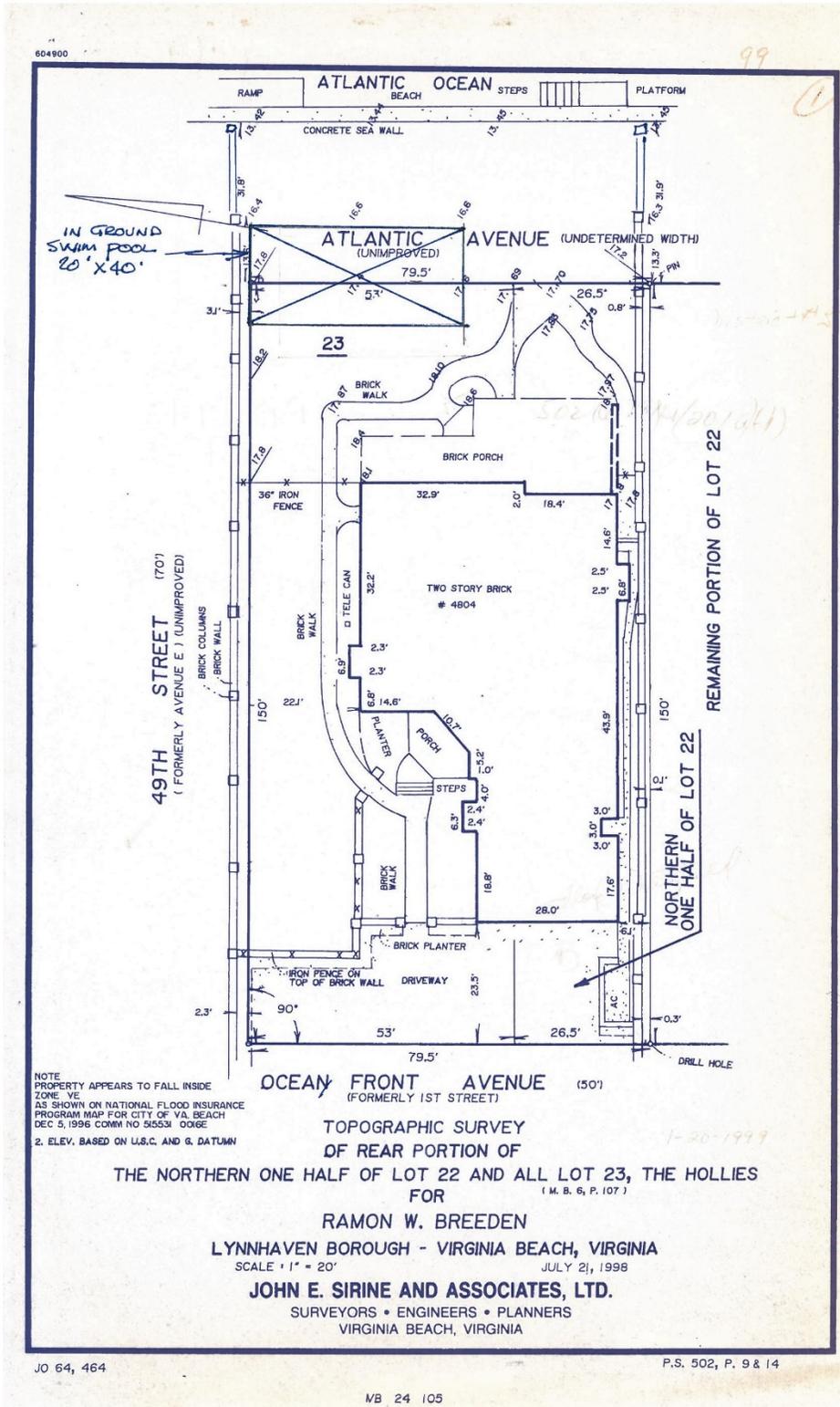
JO. 5246

PS 107 P 79



JO 5246

PS 107 P. 79

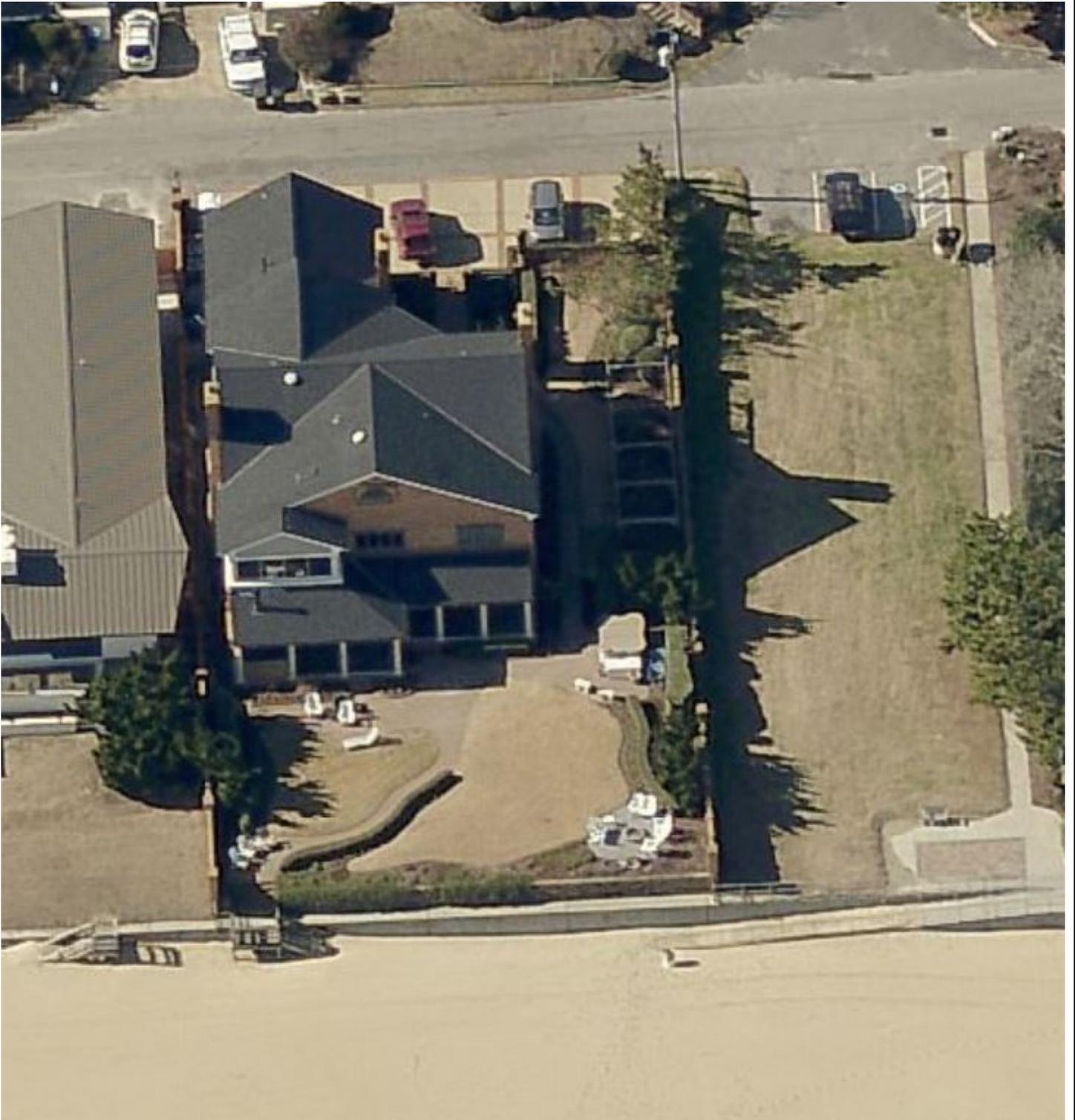


JO 64, 464

P.S. 502, P. 9 & 14

VB 24 105





Site Photos



# Site Photos





**APPLICANT'S NAME** Christopher Torrey Breeden

**DISCLOSURE STATEMENT FORM**

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

|  |  |  |
|--|--|--|
| Acquisition of Property by City                        | Disposition of City Property                   | Modification of Conditions or Proffers |
| Alternative Compliance, Special Exception for          | Economic Development Investment Program (EDIP) | Nonconforming Use Changes              |
| Board of Zoning Appeals                                | Encroachment Request                           | Rezoning                               |
| Certificate of Appropriateness (Historic Review Board) | Floodplain Variance                            | Street Closure                         |
| Chesapeake Bay Preservation Area Board                 | Franchise Agreement                            | Subdivision Variance                   |
| Conditional Use Permit                                 | Lease of City Property                         | Wetlands Board                         |
|  | License Agreement                              |  |

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

**SECTION 1 / APPLICANT DISCLOSURE**

|   |                               |             |
|---|-------------------------------|-------------|
| FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertain to the applications. |                               |             |
| <input type="checkbox"/>  | APPLICANT NOTIFIED OF HEARING | DATE: _____ |
| <input type="checkbox"/>  | NO CHANGES AS OF              | DATE: _____ |
| <input type="checkbox"/>  | REVISIONS SUBMITTED           | DATE: _____ |

Page 1 of 7





If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

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(B) List the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

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<sup>1</sup> "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.



### SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



**APPLICANT**

| YES                                 | NO                                  | SERVICE  | PROVIDER (use additional sheets if needed)  |
|-------------------------------------|-------------------------------------|--|---|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Accounting and/or preparer of your tax return  |   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Architect / Landscape Architect / Land Planner   |   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers  |   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)                                  |   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Construction Contractors   | Breeden Construction LLC                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Engineers / Surveyors/ Agents  | TIMMONS GROUP<br>SPEIGHT MARSHALL & FRANCIS |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property) | Towne Bank                                  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Legal Services   |   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property   |   |

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

YES     NO    Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**CERTIFICATION:**  
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

|                       |                        |         |
|-----------------------|------------------------|---------|
|                       | CHRISTOPHER T. BREEDEN | 8/10/16 |
| APPLICANT'S SIGNATURE | PRINT NAME             | DATE    |

