

NOTICE OF REQUEST TO APPEAL

This letter intends to serve as official notification and full intent to appeal North Topsail Beach Town Citation 23-00117 issued by North Topsail Beach Planning Director, Deb Hill on February 1, 2024.

The citation issued declares property owners, PHILIP & KRISTEN BUCKLEY, through COASTLAND CONSTRUCTION LLC (contracted party) violated town ordinance §10.02.02 DEVELOPMENT INCONSISTENT WITH A PERMIT and assessed citation penalty § 10.07.02 REBUILDING OF DAMAGED DUNES.

The supporting narrative drafted by Planning Director Deb Hill indicated the following:

- 1. Friday, January 26, 2024 3:57 PM DCM J LUCAS NOTIFIED NTB OF CONTRACTOR WANTING TO ROTATE STAIRS 90 DEGRESS. Monday, January 29, 2024 8:31 AM K WINZLER RESPONDED WITH ZONING PERMIT CONDITONS. Mon 1/29/2024 10:19 AM D HILL RESPONDED; J LUCAS RESP HE SPOKE W MATT DAVIS TOLD HIM 1ST STEP TO DISCUSS MODIFICATION WITH RALPH.*
- 2. JOINT BLDG/ZONING INSP 2/1. MET MATTHEW DAVIS ON SITE ON OR ABOUT 12:54 PM*
- 3. Matthew Davis Coastland Construction LLC installation of pilings within 5 ft dune buffer constitute VIOLATION OF 10.02.02 DEVELOPMENT INCONSISTENT WITH CONDITIONS OF ZONING PERMIT ZFP23-000224.*
- 4. Matthew Davis Coastland Construction LLC installation of pilings within 5 ft dune buffer constitutes VIOLATION OF 10.07.02 (A) REBUILDING OF DAMAGED DUNES. It shall be the responsibility of the property owner to guarantee the protection of all identified dune systems and not allow the natural topography of the lot altered beyond that which has been authorized in the permit. The rebuilding of a dune shall be the ultimate responsibility of the property owner.*

PREFACE

On or about October 23, 2023, recently acquired property owners of 114 N PERMUDA WYND (Lot 30 of Village of Stump Sound) contracted with Coastland Construction LLC to rebuild existing deck and stairs permanently attached to the rear of the home. Deck and stairs which presented unsafe and exhibited significant rot and weather deterioration beyond aesthetic repair (Exhibit A).

During the design and review phase, the existing rear stairs, which provided access to the first and second habitable floor, were noted as exceptionally unsafe and egregiously constructed in violation of both present and past building code dating back to the original construction of the home (Exhibit B). Upon further review and in consideration of IRC 2018, Village of Stump Sound HOA Covenants and North Topsail Beach Zoning Setbacks, there presented no mathematical possibility to reconstruct the stairs in a

similar fashion to conform to all applicable guidelines. Independent research of county and town records of recorded work history on the property indicated no permits had ever been issued for the stairs post original home construction. Based on that information, and the presented exclusion from Onslow County GIS footprint, it was determined that in all likelihood the existing stair and landing were either:

- A. Authorized and permitted to be constructed in the presented fashion as part of the original home construction by which “stairs and ramps that provide access” are excluded from “building footprint”. OR
- B. Had been reconstructed and/or constructed after the issuance of original CO outside of purview of local Building Safety.

It is widely understood and standard practice through Onslow County GIS that stairs and ramps that provide access are excluded from “building footprint.” The accepted definition of “building footprint” through LEED (Leadership in Energy and Environmental Design) as well as NCARB (National Council of Architectural Registration Boards) is cited as: *means the horizontal area as seen in plan, measured from outside of all exterior walls and supporting columns. It includes dwellings and any area of attached garage that exceeds 200 square feet. It does not include detached garages or carports; accessory structures; trellises; patios; areas of porch, deck, and balcony less than 30 inches from finished grade; cantilevered covers, porches or projections; or ramps and stairways required for access.* Onslow County GIS substantiates this assertion as evidenced by Exhibit O. Exhibit O consists entirely of single family residential dwellings within ¼ mile of 114 N Permuda Wynd that all have, A) stairs with support posts that provide access, B) stairs and landings with support posts that provide access, and/or C) stairs, landing and ramps with support posts that provide access; all which are excluded from the GIS building footprint identical to 114 N Permuda Wynd. (Note: this list is not exhaustive and is intended only to be a basis for interpretation in lieu of an acceptable term defined by North Topsail Beach.)

The decision was made collaboratively amongst the homeowners and Coastland Construction LLC, by process of elimination, to apply for permit of the build with the new stairs constructed perpendicular to the home with a returning ramp connecting the first habitable floor deck to the stair landing(s) as depicted in Exhibit C. The specific details and scope of the contracted work is outlined in 2018 NC Existing Building Code and 2018 NC Residential Code. The strategic layout of the descending stairs conforms to NC DOI Office of the Fire Marshal 2022 interpretations regarding multi-level decks (Exhibit N). The cost of the proposed work is significantly less than 50% the value of the existing building and therefore meets standard exemption from CAMA and is defined by 2018 NC Existing Building Code as *not a substantial improvement* (https://up.codes/viewer/north_carolina/iebc-2015/chapter/2/definitions#substantial_improvement)

Pursuant to the guidelines set forth by North Topsail Beach and publicly posted on the North Topsail Beach website (<https://www.northtopsailbeachnc.gov/buildinginspections/page/deckstairsramp->

[application](#)) under “Deck/Stairs/Ramp Application”, permit requests must be made to NC Department of Environmental Quality representatives prior to the submission of permit applications. It is further understood and widely recognized in the community that North Topsail Beach will not review or engage with any constituent seeking permit guidance throughout the proposed permitting process until NC DEQ representatives have reviewed and permitted and/or exempted the proposed project first. This is not a speculation but a statement of fact based on previous instances dated:

On or about 3/20/2021; On or about 8/1/2022

On or about October 24, 2023, Coastland Construction contacted NC DEQ representative Heather Styron, submitting complete scope of work with supporting photography, requesting review of the proposed project and on October 26, 2023, Heather Styron issued CAMA Single Family Residential Exemption 53-23, Structural Maintenance and Repair of an Existing Structure (Exhibit D) pursuant to the provisions outlined in CAMA Handbook for Coastal Development (<https://files.nc.gov/ncdeq/Coastal%20Management/documents/PDF/CAMA/CAMA%20Handbook%202014%20edition%20printable.pdf>) which state:

CAMA exempts the maintenance and repair (but not replacement) of any damaged structure, provided the repair is less than 50 percent of the value of the structure, or 50 percent of the structural elements of a water-dependent structure as described in 7J.0210.

This directive aligned with all relevant research and past working knowledge regarding 1 and 2 story decks maintained in the Onslow County GIS directory.

Prior to the submission of any build permit application by Coastland Construction, it is standard practice to background research the contracted property for any previous documented instances of non-compliance, review the property record maintained by the local government (Onslow County GIS) and ascertain all applicable building codes for the most accurate and effective permitting process.

On November 7, 2023 Coastland Construction submitted complete permit package through North Topsail Beach online portal CitizenServe. The permit submission was submitted as Simple Build Permit, Zoning and Floodzone Development permit application(s) from which the package specified the conditions outlined in CAMA EX 53-23 and included:

1. The complete set of plans drafted internally by Coastland Construction (Exhibit E)
2. The plat plan with GIS recorded footprint and proposed new set of stairs (pg 6 of Plans, Exhibit F)
3. CAMA Exemption 53-23 (Exhibit D).
4. CBI Inspection Report of Owens Corning structural lumber used for reconstruction.
5. Owens Corning Span Performance Datasheet

On November 14, 2023, the electronic record of North Topsail Beach Employee Kate Winzler recorded timestamp approval of permit ZFP23-000224. The INITIAL REVIEW approval was accompanied by a list of questions made by Kate Winzler (that corresponded with an email) that were easily identifiable in the permit package plans. Ms. Winzler was answered via email and directed to submitted building plans. Specifically, notice was received that the permit application was incomplete and we needed to respond to the questions. The questions were answered and noted as easily identifiable in the submitted plans.

On November 14, 2023, the electronic record of North Topsail Beach Employee Kate Winzler recorded INITIAL REVIEW timestamp approval of permit SB23-000111.

On November 16, 2023, the electronic record of North Topsail Beach Employee Kate Winzler recorded PERMIT REVIEW timestamp approval of permit SB23-000111 with notes "pending zoning and floodplain approval".

With a start date recorded on November 14, 2023 and completion date of November 16, 2023 the electronic record BUILDING REVIEW with no recorded employee was approved.

With a start date of November 14, 2023 and completion date of November 21, 2023, the electronic timestamp record of North Topsail Beach Employee Deb Hill recorded her review approval of permit ZFP-000224 with the recorded notes "no change in footprint, existing pilings."

On November 21, 2023 the complete permit(s) SB23-000111 and ZFP23-000224 were paid and issued to Coastland Construction LLC. No changes to the submitted building plans or proposed plat plan were requested throughout the process and were henceforth regarded as approved.

On Thursday December 21, 2023, construction began at 114 N Permuda Wynd. During the removal of the now former stairs, it was discovered the rail section was providing much of the structural support and upon railing removal the stairs collapsed. Upon removal and detachment from host structure of the damaged joists supporting the first habitable floor deck depicted in Exhibit G, the existing 6x6 pilings supporting the first and second floor deck descended out of the vertical position in excess of approximately 15-20 degrees. This could only occur in a properly embedded piling if (A) the piling sustained lateral impact and was broken off beneath the surface or (B) the wood piling had rotted through beneath the surface. It was discovered at that time that existing 6x6 pilings A, B and C (Exhibit H) had a post embedment of approximately 3' below grade, 4' and 4' respectively. Some of the previously existing 6x6 pilings have been retained and clear grade level saturation marks are present. In accordance with NC Existing Building Code [BS] 606.1 and NC Residential Code Chapter 46 R4603.4, Coastland Construction replaced pilings A, B and C and resumed construction in accordance with the permitted plans.

On Thursday, January 18, 2024, during the new stair construction phase of the build, specifically the deck and stair support post install, representatives of the Village of Stump Sound ARC committee visited the site of construction. The ARC President advised that a homeowner from the adjacent property complained about the location of the deck support post in relation to the seaward dune. The ARC member was advised of the owners receipt of ARC approval on December 1, 2023 from the ARC Change Request and the present DEQ CAMA Exemption, zoning and build permits authorized by NC DEQ and North Topsail Beach. Through subsequent follow-up conversations with Village of Stump Sound ARC President, it was contested by the ARC to Coastland Construction and homeowner that the aforementioned approvals were authorized within the "building footprint" and that "stairs and ramps that provide access" ARE NOT part of the "building footprint." The Village of Stump Sound issued request of property owners, without regard to provided supporting documentation disproving ARC's assertion, that homeowners seek further authorization from NC DEQ before further work continue. Coastland Construction, in confluence with the homeowners, ceased all work on the presently permitted job at the end of business on January 18, 2024 and contacted recently assigned NC DEQ field representative Jonathan Lucas to provide clear instruction and articulation for the permitted job and to seek a resolution to the complaint.

Jonathan Lucas returned call placed to his office and brief overview was outlined on January 23, 2024. Mr. Lucas determined a site visit was appropriately needed to review the present build in process and the site visit with Coastland Construction and homeowner was conducted on January 24, 2024. During the site visit, various avenues and articulations were discussed, including our full interpretation of the law and existing permitted plans. More information was required for Mr. Lucas to make a formal determination so we concluded the meet with action items needed for follow-up. Following the site visit, a recap email was sent by Matthew Davis (Coastland Construction) to Mr. Lucas (Exhibit I, Attachments labeled Exhibit I-1-3) detailing the action items discussed, as well as specific codes applicable in Coastland's decision to originally permit the job with the stairs perpendicular to the home as opposed to parallel. Alternative solutions were discussed during the site visit, including a beach access walkway, in the event "building footprint" was redefined administratively outside of our knowledge base. In an effort to be further prepared, Coastland Construction submitted separate email to Mr. Lucas regarding the proposal of Beach Access Walkway (Exhibit K, Attachment K-1), should the need arise. The area presumably of debate was the ramp connecting the stair landings to deck level 1.

On Thursday, January 25, 2024 homeowners requested Coastland Construction resume work on the portions of the deck not subject to the areas in review while a decision was being determined. On Friday, January 26, 2024 prior to the end of business, Mr. Lucas sent email to Matthew Davis (Coastland Construction) Exhibit J, advising receipt of previously sent email(s) and requested a little more time to sort through information on his end. On Monday, January 29, 2024 Mr. Lucas called Matthew Davis (Coastland Construction) and advised that it was his intent to maintain the current and active CAMA Exemption 53-23 with the code compliant confirmation

from North Topsail Beach Building Inspector that the former original stairs could in-fact not be rebuilt as they previously were in accordance with applicable building code.

On Monday, January 29, 2024 Matthew Davis (Coastland Construction) contacted Ralph Allen of North Topsail Beach and recapped the events to date. Mr. Allen provided a separate number where he could be reached on the morning of Tuesday, January 30, 2024 and requested a text message between 0900 and 1000 and he would make a site visit before end of day. On Tuesday, January 30 at approximately 1034, Matthew Davis inadvertently text Mr. Allen on the office line and not the provided cell number previously provided. At the present time, Coastland Construction was transferring work vehicles from another residence outside the area to 114 N PERMUDA WYND to resume work on the areas of the deck not subject to the area in dispute. At the end of business on Tuesday, January 30, after no response had been received by Mr. Allen, it was discovered that the wrong number had been texted.

On Wednesday, January 31, 2024, Matthew Davis (Coastland Construction) text Mr. Allen at the correct number provided at 0717 indicating the previous day error and present availability for a site visit and again at 1022 indicating the exact same information provided at 0717. Mr. Allen acknowledged and indicated a site visit later in the afternoon. On the afternoon of Wednesday, January 31, 2024, Mr. Allen arrived to 114 N PERMUDA WYND and a brief recap was discussed. With the totality of information discussed, Mr. Allen requested a return visit on Thursday, February 1 to afford the opportunity to meet having reviewed the permit and submitted plans.

On February 1, Mr. Allen arrived during the morning hours and a recap of DEQ was again discussed. Mr. Allen ascertained from the plans that he needed to discuss with Zoning official Deb Hill and preliminarily scheduled a site visit with himself, Matthew Davis and Deb Hill on the morning of Monday, February 5, 2024. Matthew Davis contacted homeowner and advised of the pending North Topsail Beach meet on February 5, 2024.

Prior to 1200 on February 1, Mr. Allen called Matthew Davis and advised he had recently visited with Deb Hill and she had requested to collectively meet at 114 N PERMUDA WYND on the same day and that they would be arriving shortly thereafter.

In preparation for the pending visit, Matthew Davis pulled all relevant and required permitting documentation and had it all on his person in preparation to alleviate the need for another site visit. Deb Hill arrived onsite in advance of Ralph Allen. On the property at the time of the interaction were Coastland Construction admin staff and a member of leadership/build team for Coastland Construction. After several minutes of remaining in her vehicle, Deb Hill was politely greeted by Matthew Davis when she exited and noted to have a couple of sheets of paper on her person. During the initial interaction Matthew Davis thanked her for coming out and offered a recap of the events to date including the need to have additional supporting documentation. Deb Hill declined the offer and proceeded to the area of the property where construction was underway while Ralph Allen was departing his vehicle. Following behind Ms. Hill while

attempting to engage Mr. Allen, Matthew Davis arrived to the area of the build after Ms. Hill and before Mr. Allen. Without any sort of provocation, Deb Hill dismissively asserted the verbal assessment of a \$10,000 fine to the homeowners and subsequent \$10,000 per day fine until the area was compliant. Matthew Davis requested the basis of the determination without any amount of working knowledge regarding the events to date on her person or referenced prior to assertion. Deb Hill repeated her assertion which again failed to provide a basis so Matthew Davis specifically outlined the events leading up to the request to have North Topsail Beach make a site visit and determination so DEQ could advise with a recommended or revised plan of action. Matthew Davis advised of the present permit in place, advised Ms. Hill of her specific approval of the permit in place and advised Ms. Hill (in the absence of her present review of the plans of the permit) that every item onsite constructed to date matched identical to what was permitted by North Topsail Beach. In attempt to present those plans, which was currently in Matthew's possession, Deb Hill rejected receipt and began reading an email transcript between herself and Jonathon Lucas on January 26 from which Jonathon Lucas had indicated Coastland Construction would be reaching out in confluence of his direction to seek further clarification so a determination could be made on the best way to proceed and the potential need for additional permitting if so required (Exhibit L). Deb Hill verbally questioned if Matthew had made contact with Jonathon Lucas and Matthew confirmed the affirmative and iterated "hence why we have requested her involvement today." Deb Hill provided Matthew with the email transcript and Matthew questioned the relevancy of the email in her limited argument with the exception that Ms. Hill had provided dated proof that she had working knowledge that Coastland Construction (Matthew Davis) would be reaching out to her department for further assistance of the homeowners prior to NC DEQ's advisement to Coastland Construction of the same. And that in her role as a government official charged with the specific safety and preservation of resources it would be ethically and morally indicative of her to step in at the onset of being advised that an entity operating in her area of responsibility is seeking guidance and direction in helping her constituents do the same, especially when it regards a process that she herself has approved.

Matthew Davis continuously cited supporting and applicable building code, provided and reiterated specific conformity to the processes instilled by North Topsail Beach and Deb Hill rejected each notion. In the process of that articulation, Ralph Allen acknowledged that North Topsail Beach had been advised of a grievance with the homeowners and the HOA citing specifically that the homeowners were told to stop work by the management company. Presently, no party outside of the homeowners and Coastland Construction had discussed the basis of requests to review the active permits and exemptions in place for further clarification on dune layout and the nature of it's relevancy to specific building code and with that statement, it occurred to Coastland Construction (Matthew Davis) that specific members of North Topsail Beach had working knowledge of subjective information much further in advance of the notification by Jonathan Lucas and failed to engage or act in any manner. Equipped with that information, Coastland Construction (Matthew Davis) denounced the inner workings of "the good ole boy network" and requested the immediate and fact based determination of Deb Hill so that immediate action could be taken to correct and/or remedy the

situation without detriment to any party involved. Deb Hill advised she needed to review her notes to make such assessment and again Matthew Davis advised he had all the relevant documentation, permits and correspondence in hand to make an informed decision and that it was his interpretation of events surrounding the site visit that Planning Director Deb Hill's agenda was predetermined well in advance of the requested site visit and she intended to execute her position of power, on hearsay, without due regard, to inflict as much harm as possible to the homeowner and Coastland Construction because she prematurely determined we operated outside the scope of the permit before seeking permission from her, to do so. Deb Hill rejected again and Matthew Davis provided all available contact phone numbers again and requested an immediate call the moment Deb "reviewed her notes" so action could be taken.

At 6:18 pm on 2/1/24 Deb Hill sent an email with citation and penalty.

ANSWER

1. *Friday, January 26, 2024 3:57 PM DCM J LUCAS NOTIFIED NTB OF CONTRACTOR WANTING TO ROTATE STAIRS 90 DEGRESS. Monday, January 29, 2024 8:31 AM K WINZLER RESPONDED WITH ZONING PERMIT CONDITONS. Mon 1/29/2024 10:19 AM D HILL RESPONDED; J LUCAS RESP HE SPOKE W MATT DAVIS TOLD HIM 1ST STEP TO DISCUSS MODIFICATION WITH RALPH.*

COASTLAND CONSTRUCTION ASSERTS - NC DEQ representative J Lucas was contacted by Coastland Construction to provide CAMA interpretation of the "CAMA line" as requested by homeowner's HOA regarding the permitted work constructed pursuant to SB23-000111 and ZFP23-000224 in accordance with NC Existing Building Code and the resulting toe of the frontal dune impact. J Lucas was provided requisite background information and code compliant sourced material articulating the elected decision to originally permit the job by North Topsail Beach with the stairs constructed perpendicular. No deviation from the plat plan in confluence with the build plans have ever occurred.

2. *JOINT BLDG/ZONING INSP 2/1. MET MATTHEW DAVIS ON SITE ON OR ABOUT*

Coastland Construction requested North Topsail Beach clarification and assistance to ascertain a joint interpretation of the resulting dune impact from the construction of the permitted work.

3. *Matthew Davis Coastland Construction LLC installation of pilings within 5 ft dune buffer constitute VIOLATION OF 10.02.02 DEVELOPMENT INCONSISTENT WITH CONDITIONS OF ZONING PERMIT ZFP23-000224.*

Coastland Construction installed deck support and stair posts in accordance with the permitted plans (Exhibit E, page 2). Permitted plans and scope of work are subject to

the provisions outlined in NC Existing Building Code in addition to NC Residential Building Code. Unsafe conditions were eliminated.

4. *Matthew Davis Coastland Construction LLC installation of pilings within 5 ft dune buffer constitutes VIOLATION OF 10.07.02 (A) REBUILDING OF DAMAGED DUNES. It shall be the responsibility of the property owner to guarantee the protection of all identified dune systems and not allow the natural topography of the lot altered beyond that which has been authorized in the permit. The rebuilding of a dune shall be the ultimate responsibility of the property owner.*

Conditions of assessed monetary penalty are dependent upon a violation of 10.02.02.

CLOSING

Property owners and Coastland Construction LLC have made every effort to provide relevant and factual data regarding the basis for the complete scope of work and have complied, in its entirety, with the approved and permitted plans of North Topsail Beach and all relevant and lawful directives and interpretations as they were understood. When owners and Coastland Construction were notified of any perceived discourse, even from non-governing bodies, Coastland Construction ceased all active work on the area contested and made every good faith effort to seek guidance and counsel from every governing body applicable, even in the absence of no lawful directive to do so. Furthermore, Coastland Construction and home owners made available every interpreted law, defining term and regulation perceived relevant and sought specific guidance to help facilitate an amicable resolution in the best interest of all, regardless of their intent.

The guidance and assistance provided by NC DEQ representative Jonathon Lucas and North Topsail Beach Building Inspector Ralph Allen was professional and courteous throughout and assistance was offered well beyond the scope of what has been traditionally received and come to be expected in years past. The actions and present disposition of North Topsail Beach Zoning Official Deb Hill were nothing short of Arbitrary and Capricious as evidence by her provided email records and lack of direct involvement until such time as her name was called and she perceived her directives to J Lucas to be violated. It is further noted and personally recalled from the interaction that took place at 114 N PERMUDA WYND on Thursday February 1, 2024 that the term "help" was used on multiple occasions by Matthew Davis and North Topsail Beach's Deb Hill dismissed and refused to provide any such assistance.

It is further substantiated in the acts, emails and omissions by Zoning Official, Deb Hill, that based on the totality of evidence, had Deb Hill reviewed the proposed permit plat plan, build plans and 3D images provided in the original permit application submitted by Coastland Construction on November 7, 2023, the job (based on her present assertions) would have never been lawfully permitted as submitted and any non-compliant condition alleged while in strict compliance with build plans, be rendered moot. Pursuant to NC General Statute, code enforcement officials are not required to review plans for permitting however, North Topsail Beach Ordinance 2.06.13 ZONING PERMIT (B) dictates: *It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning permit for any purpose regulated by this ordinance until he or she has inspected such plans in detail and found them in conformity with this ordinance. To this end, the Zoning Administrator may require that every application for a zoning permit be accompanied by a plan or plat drawn to scale*

and showing the following in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed activity is in conformance with this ordinance.

As a matter of public record, Deb Hill has further demonstrated the individual capacity to render the Onslow County GIS footprint (Exhibit M, email dated 2/5/24) along with satellite photos of the property as it was constructed prior to recent permit issuance (Exhibit M, email dated 2/5/24). It is abundantly evident, Zoning Official Deb Hill failed to perform the duties and responsibilities of the position from which she is assigned.

Coastland Construction respectfully requests 1) North Topsail Beach Appellate Board reverse and rescind citation §10.02.02 DEVELOPMENT INCONSISTENT WITH A PERMIT and assessed citation penalty § 10.07.02 REBUILDING OF DAMAGED DUNES and 2) Issue conditions for a variance on permits SB23-000111 and ZFP23-000224.