STAFF REPORT CONTACT INFORMATION

Deborah J. Hill MPA AICP CFM CZO 910.328.1349 dhill@northtopsailbeachnc.gov

DOCKET/CASE/APPLICATION NUMBER	APPLICANT/PROPERTY OWNER
V-24-01	MICHAEL CLARENCE & CATHERINE CARLTON METCALF
PUBLIC HEARING DATE	**PROPERTY ADDRESS/LOCATION**
01-24-2024 6 P.M.	6603 13TH AVE

BRIEF SUMMARY OF REQUEST

A variance request by Keith Parker, NC Design & Build LLC on behalf of his client, Col. Michael C. Metcalf, U. S. Army, Ret. from the Town of North Topsail Beach from Unified Development Ordinance Article 5 Table 5-1 Dimensional Requirements to allow for construction of an elevator hoistway approximately 3.7 feet into the 15-foot sideyard corner setback at 6603 13th Avenue, North Topsail Beach NC.

MAP SOURCE: ONSLOW COUNTY GIS 2022 AERIAL WITH ZONING LAYER

EXISTING ZONING	EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
MHR MANUFACTURED HOUSING RESIDENTIAL	Single Family Residential	MHR Single Family Residential	EL23-000003 07-AUG-23 CARGO LIFT	5,000 sq ft 0.11 acre Survey dated 12/13/2022 by Dwight Ashley PLS

STAFF RECOMMENDATION

APPROVE **APPROVE WITH CONDITIONS** **DENY**

COMPATIBILITY with the COMPREHENSIVE PLAN (CAMA Land Use Plan)

Property not within a CAMA AEC. Development exempt from CAMA requirements.
Future Land Use: High Density Residential

PROPERTY HISTORY

Compatibility with the planned development (or other controlling documents); traffic/parking; public works/utilities; engineering/flood plain/soil; building code/fire or design

Permits: ZFP23-000133, SB23-000066, E23-000136, EL23-000003 issued 8/07/2023

COMPATIBILITY with the UNIFIED DEVELOPMENT ORDINANCE

ARTICLE 5. DIMENSIONAL REQUIREMENTS SIDE YARD CORNER MHR Single- family 15’.

§5.06 OTHER YARD MODIFICATIONS.

(B) Architectural features, such as open or enclosed fire escapes, steps, outside stairways, balconies and similar features, and uncovered porches, may not project more than four feet into any required yard. Sills, cornices, eaves, gutters, buttresses, ornamental features and similar items may not project into any required yard more than 30 inches.

§2.03.04 VARIANCES (A)

(2) A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

EXHIBITS

1. Staff Report
2. Notice of Inspection Failure dated 10/05/2023
3. Applicant's letter dated October 18, 2023
4. VA Benefits Letter (provided under separate cover to protect applicant's privacy)
5. DD-214 (provided under separate cover to protect applicant's privacy)
6. Variance Application
7. Survey with hand-drawn relocation of elevator hoistway to facilitate parking and access on ground level
8. Photo of existing structure with with hand-drawn relocation of elevator hoistway.
9. Public Notice

From: dhill@northtopsailbeachnc.gov
To: jjsmkmom@yahoo.com; ncdesignandbuild@gmail.com
Cc: Deb Hill; Kate Winzler; Ralph Allen
Subject: Inspection Failure
Date: Thursday, October 5, 2023 11:08:57 AM

Subject: 6603 13TH AVE, 23-000678 Inspection

Greetings,

It appears that the elevator shaft has encroached into the side setback.
Attached, please find the link to a variance application to the Board of Adjustment https://www.northtopsailbeachnc.gov/planningzoning/page/application-variance.

Deborah Hill, CMC, NCCMC
Planning Director
Town of North Topsail Beach
2008 Loggerhead Ct
North Topsail Beach, NC 28460
910.328.1349

Town of NORTH TOPSAIL BEACH
FOUNDED IN 1990 Nature's Tranquil Beauty NORTH CAROLINA

er 18, 2023

Planning Board
Town of North Topsail Beach
2008 Loggerhead Court
North Topsail Beach, NC 28460

Subject: Request for Variance: Elevator Construction at 6603 13th Avenue

My wife, Catherine, and I purchased the house and property located at 6603 13th Avenue in December 2022. We actually moved in the week of Christmas, fulfilling for Catherine the lifelong dream of living on Topsail Island.

I am a 90% Disabled Veteran having served in the United States Army for nearly 32 years. I suffer with VA service-connected degenerative disc disease with arthritis, that causes continual chronic back pain. I also deal daily with the long term results of a left ankle lateral collateral sprain that I suffered while deployed to Mosel, Iraq during Operation Iraqi Freedom. I have to wear a brace on my left ankle all my waking hours, every day. Both of these conditions, in themselves, require that I have access to an elevator in our home. But the lack of cartilage and subsequent arthritis in my left ankle is so severe that I am a candidate for a VA financed complete ankle replacement—a surgery that I have had to put off for 10 months as I have awaited the installation of an elevator in my home.

Catherine, my wife, suffers with chronic pain as well. She is under the care of pain management physicians and receives periodic epidural injections. For two weeks after an epidural injection, she is limited in her mobility and it is not safe for her to go up and down stairs. An elevator would lessen her pain, improve her ability to get to the main and upper floors of our house, and improve her quality of life.

After completing all the permits/paperwork/initial inspections with the Town of North Topsail Beach, it is my understanding that NC Design and Building, the construction firm that built the elevator shaft has now had to file an Application for Variance. Considering the above-mentioned physical conditions, I request that that Variance be approved as soon as possible so that the installation of an elevator can be completed.

Respectfully,

Michael C. Metcalf
Chaplain (Colonel), US Army (Retired)
6603 13th Avenue
N. Topsail Beach, NC 28460
Cell: (828) 550-8267
mudflapeagle@icloud.com

Enclosures: VA Benefits Letter
DD214

Town of North Topsail Beach

APPLICATION FOR VARIANCE

(A Pre-submittal conference is required prior to submission)

Tracking Information (Staff Only)

Case Number: $350 non-refundable filing fee & $150 deposit subject to Cancellation Policy* Deadline for Legal Ad:	Date/Time received: Check #: Scheduled for Board of Adjustment on:	Application verified by: djh Receipt #: 1/24/2024 6:00 P.M. at ~~6:30~~ p.m.

Application must be filed out in its entirety and signed by applicant to be accepted and processed. Incomplete applications will not be accepted. Each application shall contain or be accompanied by such legal description maps, plans, and other information so as to completely describe the proposed use and existing conditions.

Submittal: Complete applications are due as indicated by the schedule below and will be reviewed for sufficiency. A complete application includes:	Applicant Initials	Staff Initials
✓ **Application form (this packet):** Address the questions carefully and completely.	MCM	djh
✓ **Non-refundable filing fee & deposit subject to Cancellation Policy*:** $500, payable to the Town of North Topsail Beach, if by check. A receipt will be provided.	MCM	djh
✓ **Supplemental material, as applicable:** detailed site plan or plot plan, other documents.	MCM	djh

The Town's Unified Development Ordinance is available online and contains Board of Adjustment procedures (§2.03, pages 2-3 through 2-7) and the requirements for granting a variance (§2.03.04, pages 2-5 through 2-6).

Attendance at the hearing is required. All meetings are the 3rd Thursday of the month and begin at 6:30 p.m. and are usually held in the 1st Floor Conference Room, Town Hall, 2008 Loggerhead Court, North Topsail Beach, NC 28460. Applicants may represent themselves may be represented by someone appropriate for quasi-judicial public hearings. The public hearing will allow the applicant, proponents, opponents and anyone else the opportunity to speak and ask questions in regards to the request. Unless otherwise specified, any order or decision of the Board granting a variance shall expire if the applicant does not obtain a building permit or certificate of occupancy for such use within six (6) months from the date of the decision.

Notice Under the Americans with Disabilities Act: A person with a disability may receive auxiliary aid or service to effectively participate in town government activities by contacting the Town Clerk, voice (910) 328-1349 or townclerk@ntbnc.org , as soon as possible but no later than 48 hours before the event or deadline date.

***Cancellation Policy:** All cancellations must be received at least 48 hours before the start of the Public Hearing and refunds are subject to a $150 cancellation fee. Cancellations must be received in writing by e-mail (kate@ntbnc.org), fax (910- 328-4508 ATTN: Kate Winzler), or by U.S. mail (2008 Loggerhead Court, North Topsail Beach, NC 28460-9286 - ATTN: Kate Winzler). No refunds will be made for requests received after that time. Please allow two weeks for processing.

APPLICATION FOR VARIANCE

Property Address 6603 13TH AVE NORTH TOPSAIL BEACH NC 28460 Tax Parcel ID# 812-108 Zoning MHR

A variance is requested from Article 5 Table 5-1 Dimensional Requirements of the Unified Development Ordinance to permit:

An elevator hoistway 3.7 feet into the 15-foot side yard corner setback.

APPLICANT

Keith Parker, NC Design & Build LLC
(Print)

(Signature) Date

Address 118 NE 19th St Oak Island NC 28465
Telephone (919) 800-1061
Fax Number
Email Address ncdesignandbuild@gmail.com

OWNER

Michael C. Metcalf, Chaplain (Colonel), US Army (Retired)
(Print)

(Signature) 11/16/2023 Date

Address 6603 13TH AVE NORTH TOPSAIL BEACH NC 28460
Telephone (828) 550-8267
Fax Number
Email Address mudflapeagle@icloud.com

The application must either be signed by the property owner or a written, signed statement must be provided by the property owner giving consent to the request. Signatures must be original.

STATEMENT OF JUSTIFICATION FOR VARIANCE

The Board of Adjustment has limited discretion in deciding whether to grant a variance. Under the State Enabling Act, the Board is required to reach three conclusions before it may issue a variance: (a) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance; (b) that the variance is in harmony with the general purposes and intent of the Ordinance and preserves its spirit; and (c) that in granting the variance, the public safety and welfare have been assured and substantial justice has been done. A variance can be approved if the following conditions are found to exist:

Condition #1: Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

Statement by Applicant: Disabled Veteran, having served in the United States Army for nearly 32 years, suffers with VA service-connected degenerative disc disease with arthritis, that causes continual chronic back pain. Deals daily with the long term results of a left ankle lateral collateral sprain that occurred while deployed to Mosel, Iraq during Operation Iraqi Freedom. Has to wear a brace on left ankle during waking hours, every day. Both of these conditions, in themselves, require access to an elevator in home. Lack of cartilage and subsequent arthritis in left ankle is so severe that he is a candidate for a VA financed complete ankle replacement-a surgery that he has had to put off for 10 months as he waited the installation of an elevator in his home. In addition to husband, wife, suffers with chronic pain. She is under the care of pain management physicians and receives periodic epidural injections. For two weeks after an epidural injection, she is limited in her mobility and it is not safe for her to go up and down stairs. An elevator would lessen her pain, improve her ability to get to the main and upper floors of house, and improve her quality of life.

Condition #2: The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

Statement by Applicant: Pursuant to both UDO 2.03.04 (A) (2) and G.S. 160D-705 (d) (2) also provides that a variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

Condition #3: The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

Statement by Applicant: Zoning and Floodplain Development Permit, Simple Build Permit, Electrical Permit and Elevator Permit applications were submitted on 07/12/2023 and approved on 08/07/2023. On or about October 5, 2023, Building Inspector Ralph Allen notified contractor Keith Parker that elevator hoistway appeared to be withing 15-foot sideyard setback. Mr. Parker had uploaded survey and photo documents with hand-drawn relocation of elevator hoistway to facilitate parking and access on ground level; however, these documents were not captured in the Citizenserve file.

Condition #4: The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

Statement by Applicant: the Federal Fair Housing Act, NCGS 160D-705 (d) (2) and the Town's Unified Development Ordinance allow for reasonable accommodation for a person with a disability; two members of the public whose health would be threatened absent the issuance of this variance; and the scheduling of the applicant's surgery is pending the outcome of the Board of Adjustment's review of the variance request to allow for the 3.7 feet into the 15-foot corner side yard corner setback to allow for the elevator hoist.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information, and belief.

Signature of Applicant _____ Date 11-15-2023

Supporting documentation:

1. Applicant's letter dated October 18, 2023 with enclosures: VA Benefits Letter and DD-214
2. Survey with with hand-drawn relocation of elevator hoistway to facilitate parking and access on ground level
3. Photo of existing structure with with hand-drawn relocation of elevator hoistway.

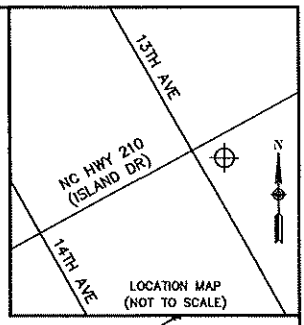
CERTIFICATION

I, DWIGHT E. ASHLEY, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 5132, PAGE 759 AND MAP BOOK 3 PAGE 89); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES; THAT THE RATIO OF PRECISION IS 1: 10,000+; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA G.S. 47-30 AS AMENDED. WITNESS MY SIGNATURE, LICENSE NUMBER, AND SEAL THIS 13TH DAY OF DECEMBER, A.D., 2022.

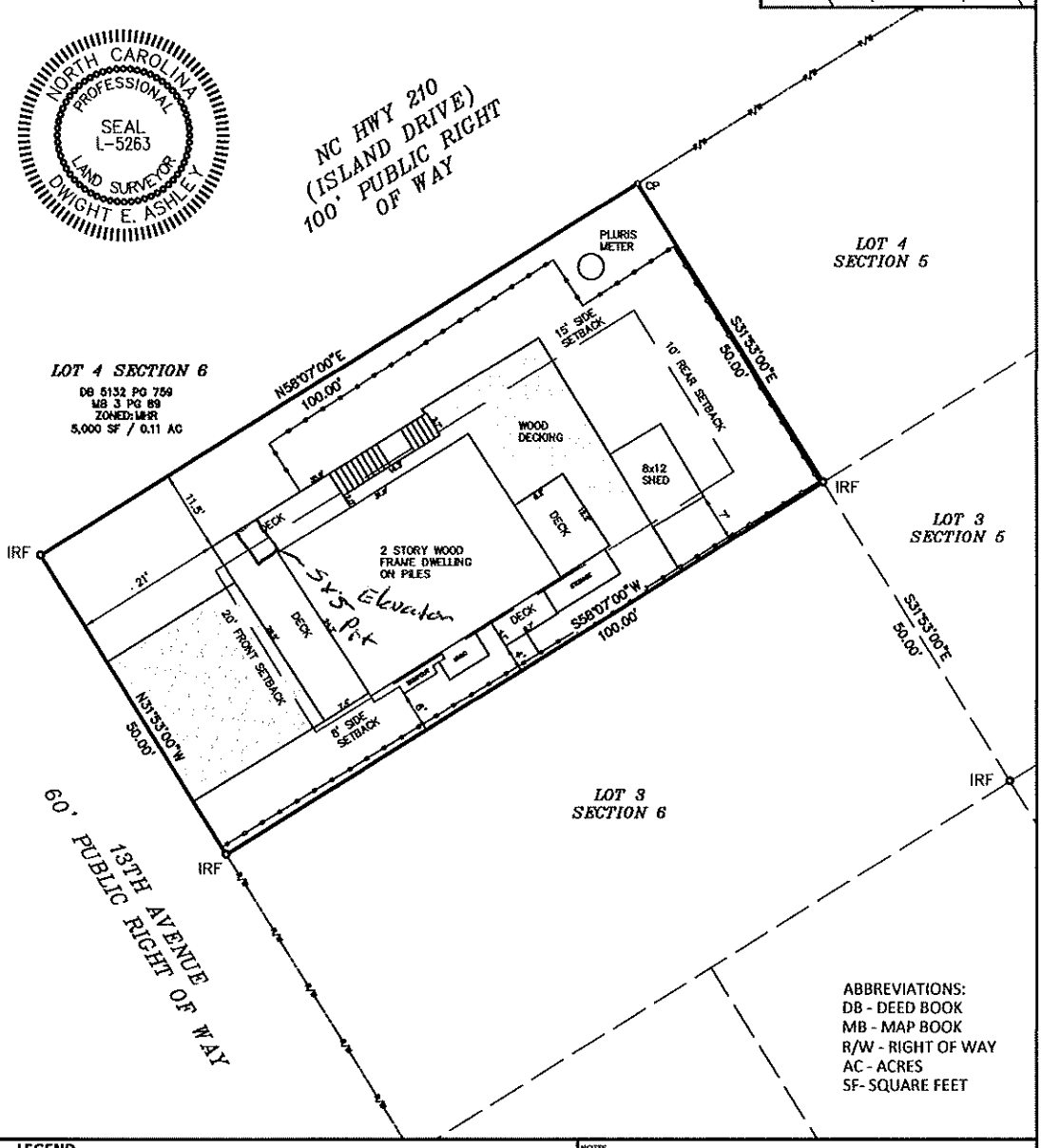
Dwight Ashley

DWIGHT E. ASHLEY, PLS L-5263

AREA TABLE	ACRES	SQ. FT.
LOT 4 SECTION 6	0.11	5,000
HOUSE FOOTPRINT		772



NORTH CAROLINA PROFESSIONAL SEAL L-5263 LAND SURVEYOR DWIGHT E. ASHLEY



ABBREVIATIONS:
DB - DEED BOOK
MB - MAP BOOK
R/W - RIGHT OF WAY
AC - ACRES
SF- SQUARE FEET

LEGEND

- IRON PIPE FOUND (IPF)
- IRON REBAR SET (IRS)
- IRON PIPE SET (IPS)
- COMPUTED POINT (CP)
- IRON REBAR FOUND (IRF)
- BOUNDARY PARCEL
- STREET RIGHT OF WAY
- ADJACENT PARCEL
- SETBACK LINE
- FENCE LINE

NOTES

1. THE PURPOSE OF THIS SURVEY IS TO SHOW EXISTING CONDITIONS ON LOT 4 SECTION 6.
2. AREA BY COORDINATE COMPUTATION METHOD.
3. ALL DISTANCES AND COORDINATES SHOWN ARE US SURVEY FOOT HORIZONTAL GRID DISTANCES.
4. PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, RIGHTS OF WAY, RESTRICTIONS, AND AGREEMENTS OF RECORD THAT MAY BE REVEALED IN A FULL TITLE REPORT AND COVENANTS RECORDED IN DEED BOOK 481 PAGE 18.
5. LOT A APPEARS TO BE LOCATED IN A SPECIAL FLOOD HAZARD ZONES, (ZONE "AE" BFE=12') PER FEMA FLOOD INSURANCE RATE MAP 3720425600K, MAP EFFECTIVE 06/19/2020.
6. SETBACKS REFERENCED FROM NORTH TOPSAIL BEACH ZONING ORDINANCE ARTICLE 5 FOR ZONING DISTRICT "MHR"

EXISTING CONDITIONS SURVEY FOR:
MICHAEL & CATHY METCALF
LOT 4 SECTION 6 BLOCK B
SEAHAVEN BEACH
6603 13TH AVENUE
NORTH TOPSAIL BEACH, 28460
PIN: 425616949576

SCALE: 1"=20' 10 0 10 20 30 JOB: 231-001

STUMP SOUND TOWNSHIP | ONSLOW COUNTY

ASHLEY LAND SURVEYING, PLLC

2017 OYSTER CATCHER DRIVE
HAMPSTEAD, NC 28443
TELEPHONE NO. (910)520-3420
LICENSE No.: L-5263
FIRM LICENSE No.: P-2675

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Joann M. McDermon, Mayor
Mike Benson, Mayor Pro Tem

Aldermen:
Richard Grant
Tom Leonard
Laura Olszewski
Connie Pletl

Town of NORTH TOPSAIL BEACH
FOUNDED IN 1990 Nature's Tranquil Beauty NORTH CAROLINA

Alice Derian, ICMA-CM
Town Manager

Nancy Avery
Interim Town Clerk

PUBLIC NOTICE
Zoning Board of Adjustment
Wednesday, January 24, 2024, 6:00 p.m.

Public Notice is hereby given that the Town of North Topsail Beach Zoning Board of Adjustment will hold an Evidentiary Hearing following quasi-judicial procedures on Wednesday, January 24, 2024, at 6:00 p.m at Town Hall, 2008 Loggerhead Court, North Topsail Beach NC.

The purpose of this meeting is to hear and decide Case #V-24-01, a variance request by Keith Parker, NC Design & Build LLC on behalf of his client, Col. Michael C. Mecalf, U. S. Army, Ret. from the Town of North Topsail Beach from Unified Development Ordinance Article 5 Table 5-1 Dimensional Requirements to allow for construction of an elevator hoistway approximately 3.7 feet into the 15-foot sideyard corner setback at 6603 13th Avenue, North Topsail Beach NC.

Prior to the public hearing, all new members shall, before entering their duties, qualify by taking an oath of office as required by North Carolina General Statutes 153A-26 and 160A-61.

All information pertaining to the Board of Adjustment public hearing may be viewed at Town Hall, 2008 Loggerhead Court, North Topsail Beach NC, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. All interested citizens are encouraged to attend.

Deborah J. Hill MPA AICP CFM CZO
Planning Director