



Nice Matters!

**Emerald Isle
Planning Department**
7509 Emerald Drive
Emerald Isle, NC 28594

252-354-3338 Office
252-354-5068 Fax

www.emeraldisle-nc.org

Planning Director
John Nevel
townplanner@emeraldisle-nc.org



A Family Beach

**Town of Emerald Isle Board of Adjustment
Regular Meeting
7500 Emerald Dr.
Emerald Isle, NC 28594**

**Agenda
February 16, 2026**

1. Call to Order
2. Roll Call and Establish Quorum
3. Elect Chair and Vice-Chair
4. Approval of Minutes (February 17th, 2025)
5. Adoption of Agenda
6. Board of Adjustment Training-Tim Carraway & Clay Davis, Cauley Pridgen P.A.
7. Adjournment

ROLL CALL & ESTABLISH QUORUM

Monday, February 16th, 2026

Board of Adjustment Members:

Mark Ahuna

Scott Henson

Mark Brennesholtz

Eric Haviland

Andrew Frick

Tim Kinch

Mark Wicker

Was a quorum established? (4 or more Board of Adjustment members shall constitute a quorum)

Yes

No



Nice Matters!

**Emerald Isle
Planning Department**
7509 Emerald Drive
Emerald Isle, NC 28594

252-354-3338 Office
252-354-5068 Fax

www.emeraldisle-nc.org

Planning Director
John Nevel
townplanner@emeraldisle-nc.org



A Family Beach

MEMO

Date: February 16, 2026

To: Town of Emerald Isle Board of Adjustment

From: Planning and Inspections Department

Regarding: Approval of minutes

Staff Suggestion: To approve the minutes as presented

Background:

Permit Technician, Mikey Tata, has completed the minutes for the February 17, 2025 Regular Planning Board meeting. They are attached for your review.

Procedure:

To review the minutes from the said meeting to ensure everything looks good, and to approve the minutes as presented.



John Nevel, CZO
Planning Director

1
2 **1. Recusal of Board Members (NCGS § 160D-109(d))**

- 3 • **Conflict of Interest/Fixed Opinion:** Counsel argued that a September 23, 2024,
4 Facebook comment by Board Member Susan Manette ("really makes me angry")
5 regarding the property constituted a fixed opinion.
6 • **Ex Parte Communications:** Counsel argued that the January 27, 2025, Planning
7 Board meeting (where the Town Attorney discussed UDO interpretations regarding
8 dunes/vegetation) constituted an undisclosed ex parte communication, as the Town is
9 a party to the appeal.
10 • **Board Response:** Member Manette stated the comment was made before any appeal
11 was filed and without specific knowledge of the case facts, she affirmed her ability to
12 remain impartial. Other board members noted they had not seen the specific violation
13 notice and remained impartial.
14 • **Action:** The Board declined to recuse any members. The Chair's ruling to deny the
15 recusal request was upheld by the full Board.
16

17 **2. Exclusion of Drone Surveillance Photographs**

- 18 • **Argument:** Counsel argued that drone photos were obtained without consent in
19 violation of NCGS § 15A-300.1(b) and the Fourth Amendment. He contended that
20 while the statute mentions "criminal prosecution," the Town UDO allows criminal
21 penalties, making the exclusion relevant.
22 • **Town Response:** The Board Attorney noted that subsection (f) of the statute
23 specifically limits the exclusionary rule to criminal prosecutions. Since this is a
24 civil/administrative land-use matter, the evidence is admissible.
25 • **Action:** The Board voted to uphold the Chair's decision to allow the photographs.
26 • **Discussion:** The Board discussed the prevalence of drone use in municipal inspections.
27 Planning Director Chris Seberg noted that while aerial GIS photography has been used
28 for decades, drone footage is a newer resource. He stated the town pilot is FAA-
29 certified and typically operates from public rights-of-way.
30 • **Legal Arguments:** Mr. Ferguson argued that the lack of survey lines makes the photos
31 non-probative and reiterated that the search violated state law (NCGS § 15A-300.1).
32 • **Action:** A motion was made to reverse the Chair's ruling (thereby excluding the
33 photos).
34 ○ **Vote:** The motion to reverse passed 4 to 1 (Chairman Sullivan voting "No" to
35 reversal).
36 ○ **Result:** The drone photographs are excluded from the record for the upcoming
37 evidentiary hearing.
38

39 **3. Appeal of Denied Subpoenas (Town Attorney & Commissioners)**

- 40 • **Argument:** Counsel for the Brownlows sought to subpoena Town Attorney Kirby
41 Smith, Commissioners Sawyer and Sanderson, and Mayor Pro Tem Taylor. Counsel
42 argued that according to the December 10th, 2024, minutes, the Board of
43 Commissioners acted as the official decision-makers by voting to direct the issuance of
44 the Notice of Violation (NOV).

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF ADJUSTMENTS
FEBRUARY 17, 2025

Page 3 of 3

- 1 • **Town Response:** Mr. Celotto (Town Attorney) argued that under the UDO, the
2 Planning Director (Mr. Seberg) is the official who makes the determination. He stated
3 the Commissioners only voted on who would physically issue the letter due to the
4 delicate nature of the respondent being a sitting commissioner but did not perform the
5 investigation or make the findings of fact.
6 • **Action:** A motion was made to uphold the Chair's ruling to deny these specific
7 subpoenas, maintaining that Matt Zap and Chris Seberg (who are already subpoenaed)
8 are the appropriate officials to testify regarding the decision.
9 ○ **Vote:** 3 to 2 in favor of upholding the Chair's ruling.
10 ○ **Result:** The subpoenas for the Town Attorney, Commissioners, and Mayor Pro
11 Tem remain denied.

12
13 **5. Administrative Scheduling**

14 The attorneys for both parties will coordinate to ensure a quorum is present for the full quasi-
15 judicial merits hearing.

16 Next Meeting Date: Scheduled for March 17, 2025.

17
18 **6. Adjournment**

19 **Motion:** Made by Chairman Sullivan, seconded by Member Manette.

20 **Action:** Passed unanimously.

21
22 **Meeting Adjourned:** [Time not specified, approximately 7:15 PM].
23
24
25
26
27
28
29

30 _____
BOA Chair/Co Chair

_____ Mikey Tata, Permit Technician



Nice Matters!

**Emerald Isle
Planning Department**
7509 Emerald Drive
Emerald Isle, NC 28594

252-354-3338 Office
252-354-5068 Fax

www.emeraldisle-nc.org

Planning Director
John Nevel
townplanner@emeraldisle-nc.org



A Family Beach

MEMO

Date: February 16, 2026
To: Town of Emerald Isle Board of Adjustment
From: Planning and Inspections Department

Regarding: Board of Adjustment Training
Staff Suggestion: N/A

Background:

Attorney Tim Carraway with Cauley Pridgen P.A. will be providing the Board of Adjustment with a training presentation. Tim's associate, Clay Davis, will also be present. Chris handles BOA matters and appeals for several other municipalities and will be there to assist the board with any questions that arise.

Procedure:

N/A



John Nevel, CZO
Planning Director