



**CUMBERLAND**  
COUNTY  
NORTH CAROLINA

**Board of Adjustment**

AGENDA  
JUNE 17, 2021  
6:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, June 17, 2021, at 6:00 p.m. in Hearing Room #3 of the Historic Courthouse at 130 Gillespie Street, Fayetteville, North Carolina. The agenda is as follows:

1. INVOCATION & PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. SWEAR IN STAFF
4. ADJUSTMENTS TO THE AGENDA
5. APPROVAL OF THE MAY 20, 2021 MINUTES
6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)
7. PUBLIC HEARING DEFERRALS/WITHDRAWALS
8. POLICY STATEMENT REGARDING APPEAL PROCESS
9. PUBLIC HEARING(S):
  - **P21-01-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A CAMPGROUND IN AN A1 AGRICULTURAL DISTRICT ON 40.58+/- ACRES, LOCATED ON THE NORTH SIDE OF SR 2026 (7715 CONCORD CHURCH ROAD), EAST OF CASHWELL ROAD, SUBMITTED BY MICHEAL AND MARIE JOYAL AND JUDITH MURACH (OWNER) (CONTINUED FROM MAY 20, 2021 BOA MEETING)
  - **P21-02-C:** CONSIDERATION OF A VARIANCE TO ALLOW A LARGER STORAGE BUILDING/BARN THAN AN EXISTING RESIDENTIAL DWELLING UNIT IN AN RR RESIDENTIAL DISTRICT ON 2.0+/- ACRES, LOCATED AT 120 ST. JUDE ROAD AND SOUTH OF SR 2026 (CLINTON ROAD), SUBMITTED BY BRANDON M. BLACKMAN (OWNER) (CONTINUED FROM MAY 20, 2021 BOA MEETING)
10. BOA MEMBERSHIP RECOMMENDATIONS
11. DISCUSSION/UPDATE(S): MINIMUM HOUSING CODE
12. ADJOURNMENT

Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



# CUMBERLAND COUNTY

NORTH CAROLINA

Rawls Howard  
Director

David Moon  
Deputy Director

## Board of Adjustment

MINUTES  
May 20, 2021  
6:00 PM

### Members Present

George Turner  
Marva Lucas-Moore

### Alternate Members in Attendance

Vickie Mullins - Alternate  
Linda Amos - Alternate

### Absent Members

Gregory Parks  
Stacy Michael Long - Alternate  
Robert Davis - Alternate

### Staff/Others Present

Aristotle (Telly) Shinas  
David Moon  
Yolanda Bennett  
Rob Hasty- (Asst County Attorney)

Chair Turner called the meeting to order at 6:05 p.m. in Public Hearing Room #3 of the Historic Courthouse.

Chair Turner stated the procedural matters are to turn off all cell phones and other electronic devices, other than the camera, are fine and if asked to speak at the podium to please speak clearly into the microphone as the meeting is being recorded. Although there are no set time limits for any speaker addressing the board, the board asks speakers to not repeat what has been previously stated. If there is no new evidence to offer, please make the board aware of your agreement with the previous speakers. If any board member wishes to speak or ask any questions, please ask to be recognized by the Chairman before speaking.

#### 1. INVOCATION

George Turner

#### PLEDGE OF ALLEGIANCE

Recited by all.

#### 2. ROLL CALL

Mr. Moon informs the board members and the audience that Alphonso Ferguson who is in the vice-chair position for several terms has passed away on April 25, 2021 so we are keeping his family in our thoughts and prayers. Mr. Moon called the roll. For the audience, Mr. Moon stated a quorum was present.

#### 3. SWEAR IN STAFF

Chairman Turner swore in staff.

#### 4. NOMINATION OF NEW VICE CHAIR

Ms. Lucas-Moore nominates Mr. Gregory Parks to be vice chair of the Board of Adjustments. Ms. Amos second the motion. The motion passed unanimously.

#### IN FAVOR

TURNER	YES
LUCAS-MOORE	YES
AMOS	YES
MULLINS	YES

5. ADJUSTMENTS TO THE AGENDA

There were none.

6. APPROVAL OF THE April 15, 2021 MINUTES

Ms. Lucas-Moore made a motion to approve the minutes from the April 15, 2021 meeting with any necessary corrections, seconded by Ms. Mullins. The motion passed unanimously.

	<b>IN FAVOR</b>
TURNER	YES
LUCAS-MOORE	YES
AMOS	YES
MULLINS	YES

7. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

There were none.

8. PUBLIC HEARING DEFERRALS/WITHDRAWALS

MR. MOON: In terms of the case of P21-01-C, Special Use Application for campground. It is a continuation from last month's Board of Adjustment meeting. The applicant submitted a revised site plan about a day and a half before the packets were released and there was not sufficient time for the review team to complete a review and provide comments, nor was there time to include that revised subdivision plan within the Board of Adjustment case packets for this evening. Recommendation of staff is that this case be deferred to the June Board of adjustment meeting. Last month, the applicant requested to defer to this evening so that they can prepare a plat dividing the property into three lots. The center lot would comprise a campground with the southern or eastern lot to serve as the lot for the trailer home and then the other lot would be a vacant lot for future sale. Because the plat occurred the lot shape changed for the campsite area substantially reducing it from the larger property to a smaller site and so a revise subdivision plan or site plan was necessary.

CHAIR TURNER: Mr. Hasty would you recommend we do in this case?

MR. HASTY: It is up to the board. Does the applicant have a position on it?

CHAIR TURNER: The applicant is here, I think.

MR. HASTY: Does the applicant object to the deferral?

CHAIR TURNER: Mr. Joyal are you here? The staff is requesting to defer this case until June do you have any objections to that?

MR. JOYAL: Well, it's disappointing but I don't object to it.

CHAIR TURNER: What we don't want to do tonight because we only have four members if there was a particularly tonight, we only have four members and if it was any issue voting and the staff is not ready, then we don't want someone to vote against it and start you all over again.

MR. JOYAL: Right. I understand.

**Mr. Turner made a motion based on staff recommendation to defer P21-01-C to the June meeting. Ms. Mullins seconded. The motion was passed unanimously.**

	<b>IN FAVOR</b>
TURNER	YES
LUCAS-MOORE	YES
AMOS	YES
MULLINS	YES

MR. MOON: Chairman, there is also the case of P21-02-C. At the last hearing, the applicant requested us to defer to this evening to allow time to consider his variance request for an already constructed garage storage facility that had not obtained a building permit. Applicant has submitted a written request that referred to next month so that they can have more time to obtain estimates from contractors for possible connection from the house to the garage which would eliminate the need for a variance. So, it's a matter of the applicant having time to evaluate what is needed to make that connection and what the cost is and what his options are, and the staff has no objections to the continuation.

**Mr. Turner made a motion based on staff recommendation to defer P21-02-C to the June meeting. Ms. Mullins seconded. The motion was passed unanimously.**

	<b>IN FAVOR</b>
TURNER	YES
LUCAS-MOORE	YES
AMOS	YES
MULLINS	YES

9. POLICY STATEMENT REGARDING APPEAL PROCESS

Mr. Moon read the policy statement.

10. PUBLIC HEARING(S)

**P21-03-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A COMMUNICATION TOWER IN AN A1 AGRICULTURAL DISTRICT ON 12.47+/- ACRES, LOCATED NORTHWEST OF THE INTERSECTION OF BURNETT ROAD AND MAIN STREET, SUBMITTED BY DUKE ENERGY PROGRESS INC (OWNER)**

Chairman Turner read the case heading for Case No. P21-03-C.

**Mr. Moon reviewed the zoning, sketch map, and land use of the area surrounding subject property. He briefly reviewed board packet material. Mr. Moon stated findings of facts is being requested by staff and is included in the packet.**

CHAIR TURNER: Does anybody have any questions?

MS. MULLINS: This is a new tower, correct?

CHAIR TURNER: Yes, this is a new tower.

MR. MOON: This is a new tower on a site that currently has an electrical substation on it.

CHAIR TURNER: There's an electrical substation there and based on their application they want to put a tower that is 89 feet high and it's not to be used for anything except their own use.

MR. MOON: That is the information I interpreted from the application. I believe the applicant is here so he can further explain the proposed use of the property.

CHAIR TURNER: Any other questions? There were no further questions. Chair Turner opened the public hearing and swore in Toby Coleman.

MR. COLEMAN: I am the attorney for Duke Energy and for the matter of housekeeping I am making sure that the corporation is represented by an attorney. I am asking that everything in the packet be included into record. Mr. Moon did an excellent job of summarizing the case here. Additionally, Mr. McNeill will be speaking about some of the details I do just want to note again, I think that Mr Moon has already provided you with information showing this meets the criteria under the ordinance under Section 927 and I also note as well that the location of this tower is located as you can see on the site plan in the center of the property. It's going to be 89 feet tall

approximately and it's going to be about 200 plus feet away from any property line, so that there is no danger to public health or safety.

CHAIR TURNER: Is that your opinion of what you're saying? I don't want to mislead what you're saying.

MR. COLEMAN: The only thing I'm saying is that I'm just pointing out the evidence in the record is there that we have setbacks from the tower for all of the property lines.

CHAIR TURNER: Your statement is based on the fact that if the tower should fall down, that it wouldn't hit anything? Correct?

MR. COLEMAN: Correct.

CHAIR TURNER: Chair Turner swears in Mr. David McNeill.

MR. MCNEILL: Good evening, Mr. Chair and members of the board, it's a pleasure to be with you tonight. I'm David McNeill, District Manager for Duke Energy and I serve 8 counties, including Cumberland County. We are appearing before you this evening regarding our plans to place communications tower at Duke Energy's Godwin substation. This project is part of our Grid Modernization Program in which, Duke Energy plans to install poles at several substations across our state. This is taking place because CenturyLink have given us notice that they will be ending their service. This pole will be approximately 89 feet tall and will be located within the Godwin substation will be there to collect data and to control the distribution equipment.

It will be located within our existing substation to collect data. They control our distribution equip. We require a tall enough pole to be able to see our line of sight with our existing tower structures throughout North Carolina. This addition will enhance service reliability for our customers. The use of this pole at the Godwin substation is a public necessity. The communications towers are an important part of our day-to-day operations and as part of the fundamental physical infrastructure required. To support our companies Smart Grid and other operational technologies.

In our storm response plan, this communication system provides reliable way to communicate key messages to individuals and groups during the power restoration process. Communicating supports employee safety and operational excellence. Our company is pleased to make this investment in our communications infrastructure and will invest approximately \$200,000 in the tower and network equipment at this site. We estimate completion of this project by mid-December, weather permit. This communications tower supports our commitment to provide our customers with safe reliable affordability and increasingly clean energy in Cumberland county and throughout service areas. Thank you for the opportunity to appear before you tonight.

CHAIR TURNER: You said that this was a public necessity, why does the public need this?

MR. MCNEILL: In simple terms, it is because electric services are so essential to all of the people of North Carolina and this communications tower put us in a position to communicate with employees doing work to restore power after major storms as well as the day-to-day operations.

CHAIR TURNER: What would happen if you didn't have it?

MR. MCNEILL: In the past we've had CenturyLink as our service provider. They let us know that they are no longer going to offer support anymore so that is why this project is important.

CHAIR TURNER: Okay, that makes sense anybody have any questions? There were none.

MR. HASTY: I believe that exhibit I should be included in the motion.

CHAIR TURNER: Based on the attorney's recommendation, we will incorporate the Godwin Special Use Permit. That the proposed monopole has been designed by professional to ensure the integrity of the tower as written here and at that tower will follow all specifications set by Cumberland County. The proposed monopole will give Duke

Energy's ability to provide power and service. This comes from termination by their previous carrier and that the monopole will be installed on existing substation that is already there will be used to aid its function.

**Ms. Mullins made a motion to add exhibit I into the motion to accept the tower project. Ms. Amos seconded. The motion passed unanimously.**

	<b>IN FAVOR</b>
TURNER	YES
LUCAS-MOORE	YES
AMOS	YES
MULLINS	YES

Chairman Turner reads the case heading for Case No. P21-04-C.

**P21-04-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW REPLACEMENT OF AN EXISTING COMMUNICATION TOWER IN AN A1 AGRICULTURAL DISTRICT ON 33.79 +/- ACRES, LOCATED AT 7773 TABOR CHURCH ROAD, SUBMITTED BY DUKE ENERGY PROGRESS INC (OWNER)**

**Mr. Moon presented and reviewed the zoning, sketch map, and land use of the area surrounding subject property. He briefly reviewed board packet material.**

CHAIR TURNER: Is the applicant asking to have the existing tower to be removed?

MR. MOON: Yes, the tower must be removed once the new tower is fully operation or after one year whichever comes first.

CHAIR TURNER: Are there any questions? There were none so Chair Turner opened the public hearing and ask if anyone wants to speak. Mr. David McNeill walks toward the podium. Mr. Turner informs him that he has already been sworn in and can proceed to talk.

MR. MCNEILL: Mr. Chair and members of the board, it is indeed a pleasure to be with you tonight, and at this time were coming before year to regarding our plans to replace a communications tower at our company's existing 500 kilovolt substation, which is located in Southeastern Cumberland County. As been described, the new tower will be self-supporting 350 feet tall with a lightning rod on top to a maximum height of 360 feet. This new tower replaces a 291-foot tower that was built in the 1980s. The use of this communications tower is a public necessity in support of the essential service of electricity for our customers. It's an important part of our company's day-to-day operations and is part of the fundamental physical infrastructure required to support our smart grid and/or other operational technologies. The 350-foot height will provide a much larger coverage area than typical cell phone towers.

This becomes extremely important during major storms when commercial communication systems are likely to be done. This communication tower enables the use of our mission critical land mobile radio system, which is a tool that our company first responders use to help us make repairs to our critical infrastructure when we are restoring service to our customers. The land mobile radio is often referred to as a two-way radio or dispatch radio. We've been using these types of radios dating back to the 1940s. This communication system is vital to the safety of our employees and general public and the tower will also support and improve Duke Energy's communications to area substations and other power grid assets. Duke Energy is pleased to make this investment of more than \$1,000,000 in the tower and network equipment at this site. This communications tower supports our commitment to providing our customers with safe, reliable, affordable, and increasingly clean energy in Cumberland County and throughout our service. We estimate that we will complete this project by the end of October, weather permitting. Thank you for the opportunity to speak.

CHAIR TURNER: Are there any questions of Mr. McNeill? There are no questions.

MR. MOON: Mr. chairman I would also like to add that the applicant provides a response provided with an exhibit I to demonstrate compliance with the special use permit criteria. It's in the findings of fact section of your staff report.

MS. MULLINS: Is this tower is not going to hook in, meaning that Verizon cannot play off of your tower, correct? This is just a Duke Energy Tower?

MR. MCNEILL: We are replacing an existing tower and it's a little bit larger which will enable communication with substations. Thank you for the question, I would like to ask the expert Mr. Dale Brooks.

CHAIR TURNER: Swears in Dale Brooks.

MR. BROOKS: I am the real estate agent for the company. Also, I work with third party companies that attach to our towers. On this particular tower, we do not have any current carriers but if a carrier wants to attach to this tower, they would have to come through the County to obtain a permit. We do design the tower for extras to join the tower because a lot of the municipalities like to see that instead of having to build another tower.

CHAIR TURNER: Are there any questions of Mr. Brooks? Mr. McNeill, will this tower have to be built higher and higher?

MR. MCNEILL: It's designed to service and function well. The previous tower served for about 40 years. This new tower is planned to be used for many, many years to come.

CHAIR TURNER: Why is this tower higher than the last one?

MR. MCNEILL: Because we are putting in these campion poles and that line of sight gives the distance to be able to service all of the different substations across the state.

CHAIR TURNER: Are there any questions of the board from anyone?

**Ms. Lucas-Moore made a motion to approve this case and to add the site plan and exhibit I into the motion. Ms. Amos seconded. The motion passed unanimously.**

	<b>IN FAVOR</b>
TURNER	YES
LUCAS-MOORE	YES
AMOS	YES
MULLINS	YES

#### 11. DISCUSSION/UPDATES(S)

Mr. Moon discusses the requirement of Cumberland County Commissioner to designate the Board of Adjustment to also be the Housing Appeal Board beginning June 2021 and how the new board will operate.

#### 12. ADJOURNMENT

**Ms. Lucas-Moore made a motion to adjourn, seconded by Ms. Amos. The motion passed unanimously. Meeting adjourned at 7:15 pm.**

	<b>IN FAVOR</b>
TURNER	YES
LUCAS-MOORE	YES
AMOS	YES
MULLINS	YES

Yolanda Bennett, Clerk to the Board

George Turner, Chairman

**CUMBERLAND COUNTY  
BOARD OF ADJUSTMENT (BOA) HEARING  
June 17, 2021**

**SUBJECT:** BOA CASE # P21-01-C – Special Use  
Concord Church Road Campground

**REQUEST:** Special Use Permit to allow a campground in an A1 Agricultural District on 19.01+/- acres, located on the north side of Concord Church Road, east of Cashwell Road

**\*Continued from the April 15 and May 20 BOA Hearing \***

- | <u>Exhibits</u>                                 |
|---|
| A. Site Location/Zoning                         |
| B. Use Matrix, Sec. 403, Zoning Code            |
| C. Section 921, Campgrounds                     |
| D. Special Use Site Plan                        |
| D1. New Plat                                    |
| E. Existing and Adjacent Uses                   |
| F. South Central Land Use Plan                  |
| G. Soil and Utilities                           |
| H. Special Use Permit                           |
| I. Sec. 1606 Applicant Response and application |

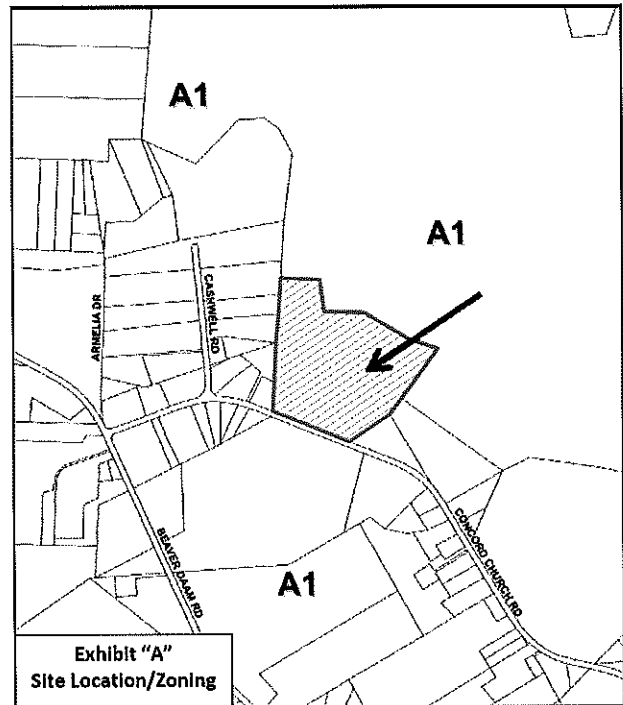
<b>EXPLANATION OF THE REQUEST</b>	<b>Special Use -- Campground</b>
-----------------------------------	----------------------------------

**Changes since the May 20 BOA Meeting:** Applicant platted the property into three lots, assigning the middle lot for the campground site. The plat has been recorded and is provided in Exhibit "D1". A revised application was submitted by the applicant to apply the special use application and special use permit only to Lot 2 of the plat. Also, the site plan now designates an existing building for the office and campground manger denotes location for the campsite business sign, designates the southern-most building for an accessory use as storage only, and provides twenty-foot wide buffer along the perimeter of the campsite as shown on the site plan in Exhibit "D". The Special Use Permit has been modified to address the changes described above.

Property Owner requests the BOA grant a Special Use Permit for a campground with sixty campsites supported by two bathhouses at the property illustrated in Exhibit "A". Twelve of the total campsites and one of the bathhouses are proposed to be installed in a second phase. Existing uses include one residential building is located on the property, a single-family building at 780 sq. ft. and a building used as a game room.

A campground use located with an A1 zoning district must obtain a Special Use approval from the Board of Adjustment, per Section 403, County Zoning Code. A campground use for camp sites and recreational vehicles falls under the Use Matrix category of "Campground/RV Parks", as shown in Exhibit "B".

Pursuant to the County Zoning Code, a "Campground/RV Park" is defined as: "Land upon which shelters (such as tents, cabins/open air cabins, travel trailers and recreational vehicles) are erected or located for temporary occupation by transients and/or vacationers. They may include such permanent structures and facilities as are normally associated with the operation of a campground. (Section 921 [Zoning Code])"



A Special Exception for a campground in an A1 zoning district must comply with the requirements set forth in Section 921 of the Zoning Code. Refer to Exhibit "C" for the requirements set forth in



Section 921. The applicant's proposed special use site plan appears in Exhibit "D".

**PROPERTY INFORMATION**

**Owner/Agent:** Michael D Joyal and Marie Joyal and Judith A. Murach/ Alex Amavizca (Agent)

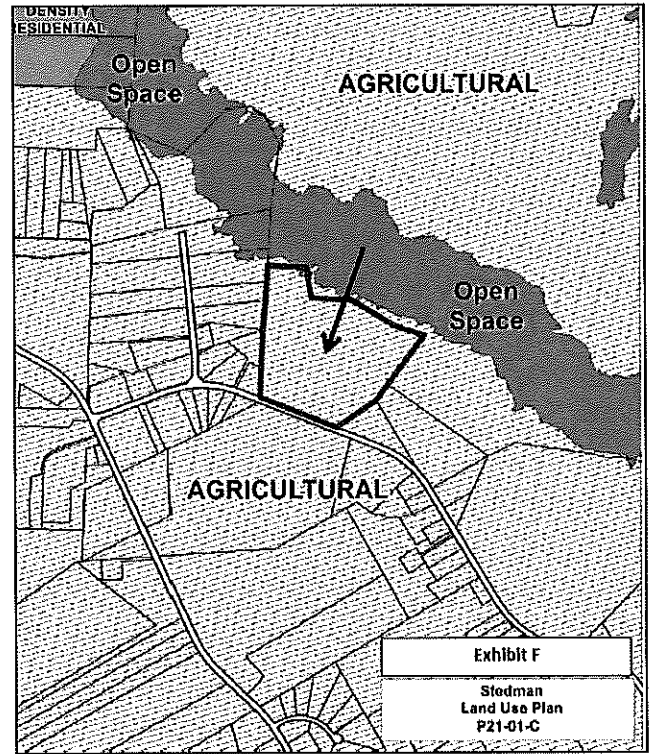
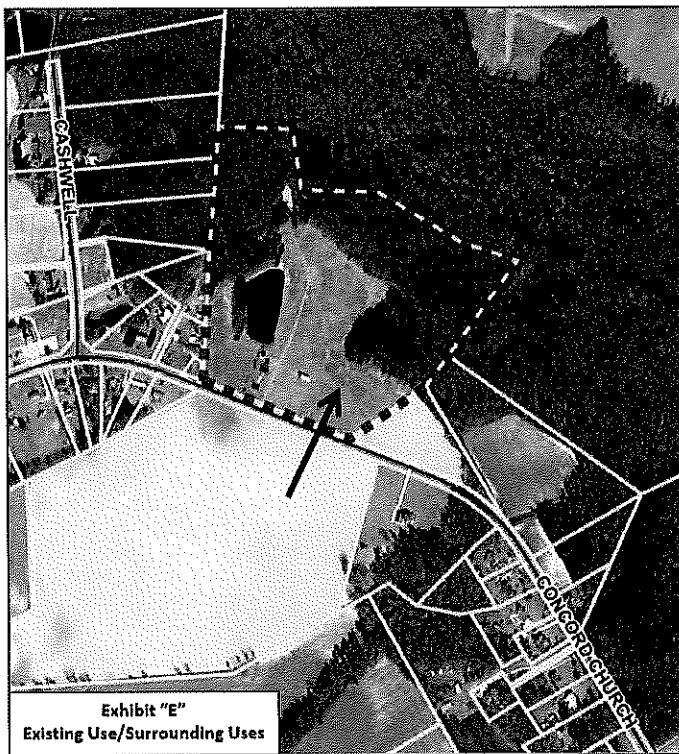
**Address/Location:** Lot 2 of the Exempt Subdivision for Michael D Joyal and Marie Joyal and Judith A. Murach; 7715 Concord Church Road (Exhibit A), approximately 2.5 miles southeast of the Town of Stedman and approximately a mile west of the Sampson County line.

**REID #:** 1405108920000

**Parcel Size:** 19.01 acres. Frontage along Concord Church Road is approximately 125.16 feet in length.

**Existing Land Use:** The subject property currently has one residential building comprised of a 780 sq. ft. single family home with a 1,380 sq. ft. detached "game room". The "game room" will be converted into a management office for the campground and a residence for a campground manager. The small home south of the campground office will be used for storage only.

**Zoning:** A1 Agriculture (Refer to Exhibit "A").

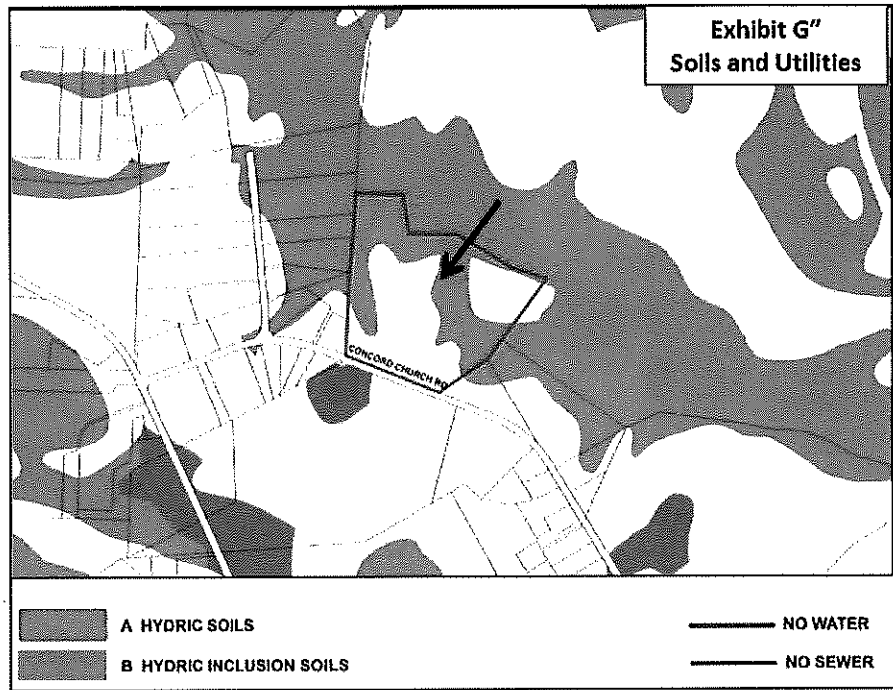


**Surrounding Land Use:** Agricultural uses and single-family homes are the predominant land uses abutting the property and occurring along Concord Church Road, as shown in Exhibit "E".

**Comprehensive Plans:** The 2030 Growth Vision Plan designates this parcel for "Rural Area". The Stedman Area Land Use Plan (2020) designates this parcel for "**Agriculture**", as illustrated herein as Exhibit "F".

**Other Site Characteristics:**

The property is not within a watershed area. Portions of the property contain hydric soils, as shown in Exhibit "G", at the east central areas of the property where portions of the campground will abut.



**IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES**

**Utilities:** This property is currently served by private well and septic. This site is not located within a water or sewer district.

**Traffic and Streets:** The subject property sits along Concord Church Road, a two-lane local road which is not located in the FAMPO planning area. The property fronts and accesses Concord Church Road.

**Schools Cap/Enroll:** The proposed campground will function only to serve as temporary habitation and used for travel, vacation, and recreation purposes. If used as intended, the campground will not have only have impact on student enrollment at public schools if the campground manager has school-age children.

- Stedman Elementary: 300/275; Mac Williams Middle: 1270/1076; Cape Fear High: 1425/1400

**Emergency Services:** This request has been reviewed by the Cumberland County Fire Marshal's Office. The Fire Marshal has indicated that the internal service road needs to have a minimum width of twenty feet.

**Special Districts:** This property is not located within the Airport Overlay District or within five miles of Ft. Bragg military base.

**FINDINGS OF FACT**

The proposed Special Use Permit is provided in Exhibit "H".

Pursuant to Section 1606.C. Special Use Permits, Consideration of Application, the Board of Adjustment must establish a finding of fact for the following criteria to approve the special use:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended.

2. The use meets all required conditions and specifications.
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan.

Applicant's response to each of these criteria are provided within Exhibit "I".

## **MOTION**

The BOA is requested to take action/motion based on the findings of fact, the Concord Church Road Campground Special Use Site Plan. Any motion to approve the special use includes approval of the Special Use Permit conditions and the Special Use Site Plan.

Proceeding: Quasi-Judicial hearing

## EXHIBIT B PERMISSIBLE USE MATRIX (SECTION 403, ZONING CODE)

### SECTION 403 USE MATRIX

CUMBERLAND COUNTY ZONING ORDINANCE  
P = PERMITTED USE  
S = SPECIAL USE (Sec. 1606, Bd of Adjustment)  
Z = CONDITIONAL ZONING (Art. V, County BOC)

LAND USES	ZONING CLASSIFICATIONS																						
	CD	A1	A1A	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5	R5A	O&P	C1P	C2P	O	M1P	M2P	
PUBLIC/COMMUNITY UTILITY STATIONS/SUBSTATIONS	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
PUBLIC UTILITY WORKS, SHOPS OR STORAGE YARDS (Sec. 918)		S																	P	P	P	P	P
PUBLISHING																							
QUARRY (Sec. 919)	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
RADIO OR TELEVISION STUDIO ACTIVITIES ONLY																	P	P	P	P	P	P	P
RAILROAD STATION/OPERATIONS																					P	P	P
RECREATION/AMUSEMENT INDOOR (Sec. 920) conducted inside building for profit, not otherwise listed & not regulated by Sec. 924								P												P	P		
RECREATION/AMUSEMENT OUTDOOR (Sec. 920) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924	P	P	S	S	S	S	S	S	S	S	S	S							S	P			
RECREATION/AMUSEMENT OUTDOOR (with mechanized vehicle operations) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924		P																			P		
RECREATION OR AMUSEMENT PUBLIC/PRIVATE (Sec. 920) not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, etc., & not regulated by Sec. 924	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
RECREATIONAL VEHICLE PARK AND/OR CAMPGROUNDS (Sec. 921)	S	S	S					S												P	P		
RELIGIOUS WORSHIP ACTIVITIES		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
REPAIR, RENTAL AND/OR SERVICING, of any product the retail sale of which is a use by right in the same district																			P	P	P	P	P
RESIDENTIAL HABILITATION SUPPORT FACILITY (Sec. 922)		S	S		S			S									P	P		P			
RESTAURANT, operated as commercial enterprise, except as regulated by Section 924																			P	P	P		
RETAILING OR SERVICING. With operations conducted and merchandise stored entirely within a building and not otherwise listed herein																				P	P		
SANITARIUM																	P						

**EXHIBIT "C"**

**SECTION 921, ZONING CODE**

shrubs, legumes or grasses and maintained until the soil is stabilized and approved by the County Engineer.

K. When any extraction has been completed, such area shall either be left as a permanent spring-fed lake or the floor thereof shall be leveled in such manner as to prevent the collection and stagnation of water and to provide proper drainage without excessive soil erosion.

L. All equipment and structures shall be removed within three months of the completion of the extraction of materials.

M. The facility must be permitted by the North Carolina Department of Environment and Natural Resources and/or other applicable Federal, State, and local agencies.

**SECTION 920. RECREATION OR AMUSEMENT, PUBLIC/PRIVATE & INDOOR/OUTDOOR.**

A. One sign shall be permitted and shall not exceed the standards for those allowed in the C1(P) zoning district.

B. The site shall have vehicular access to a paved public street.

C. *Repealed.*

D. All outdoor lighting shall comply with the standards of Section 1102 M.

E. If the facility is of such a use that would be conducted on dirt (i.e., ball fields, go cart tracks, etc.) measures shall be taken to minimize the creation of dust.

F. Fencing, netting, or other control measures shall be provided around the perimeter of any areas used for hitting, flying, or throwing of objects to prevent the object from leaving the designated area.

G. A minimum of three acres of land is required for mechanized outdoor recreation areas and the detailed site plan and application shall provide adequate information to ensure the increase in motor vehicle traffic will not adversely impact any surrounding residential neighborhoods.

*(Amd. 01-19-10; Amd.04-18-11)*

**SECTION 921. RECREATION VEHICLE PARK AND/OR CAMPGROUND.**

A. Recreation vehicle parks/campgrounds shall be used only by travel trailers, pickup, coaches, motor homes, camping trailers, other vehicular accommodations,



cabins and tents suitable for temporary habitation and used for travel, vacation and recreation purposes.

B. The area of the park/campground shall be at least three acres. Each recreation vehicle/cabin/open air cabins camp site, excluding sites used solely for tents, shall be a minimum of 1,200 square feet in area with a maximum of 20 sites per acre. Each site shall contain a stabilized vehicular parking pad of packed gravel, paving or other suitable material. Cabin sites shall not exceed more than twenty percent of the total proposed sites within the recreation vehicle/campground site. The maximum size of the proposed cabins shall not exceed 400 square feet and shall be identified as being either a cabin or open air cabin. Cabins shall not have bathrooms within the cabin and must be served by a bathhouse located within 500 feet from the entrance of the cabin to the entrance of the bathhouse.

C. All yard setback requirements shall be in accordance with the dimensional requirements of the zoning district in which the park or campground is located and no structure, recreational vehicle site or camping site shall be located within the required yard area.

D. Individual recreation vehicle spaces within a recreation vehicle park/campground shall not directly access a public road. Access to all recreation vehicle spaces and accessory structures within the park/campground shall be from internal streets with the entrance to the park directly accessing a public right-of-way. A driveway permit must be obtained from the North Carolina Department of Transportation for connection to the public street.

E. The recreation vehicle park/campground shall not allow for permanent occupancy on the same site by the same occupant for any continuous period of time exceeding 90 days with a maximum allowance of 180 days per calendar year within the same park. There must be a minimum 30-day waiting period between stays within the same park for each recreational vehicle/occupant. Each recreation vehicle park/campground shall be required to maintain a registry or logbook identifying, at a minimum, the recreation vehicle license plate number and Vehicle Identification Number for recreation vehicle sites and/or names of occupants in campground sites which will be subject to inspection by the County during regular inspections. Upon the adoption date of this amendment, existing recreation vehicle parks will also be required to comply with the logbook requirement.

F. Each park shall have at least one telephone available for public use. Management headquarters, manager's residence, recreational facilities, bathhouses, toilets, dumping stations, showers, coin-operated laundry facilities, stores and the uses and structures customarily incidental to operations of a recreation vehicle park/campground are permitted as accessory uses to the park, subject to the following restrictions:

1. Such establishments (excluding recreational facilities) and the parking areas primarily related to their operations shall not occupy more than 10% of the gross area of the park/campground.

2. The structures housing such facilities shall not be located closer than 100 feet to any public street and shall not be directly accessible from any public street but shall be accessible only from an internal drive within the park/campground.

3. Such structures containing toilets, bathhouses and other plumbing fixtures shall comply with the requirements of the North Carolina Building Code.

4. Each park shall be limited to a maximum of one manager's/ caretaker's residence.

G. Adequate off-street parking and maneuvering space shall be provided on site. No public street, sidewalk or right-of-way or any other private grounds not a part of the recreational vehicle parking area shall be used to park or maneuver vehicles.

H. Internal drives shall be constructed to a minimum of 18 feet in width if providing two-way streets and 12 feet in width for one-way streets and contain a minimum depth of six inches of stone gravel base with proper ditching, drainage, and seeding of slopes. Permanent dead-end streets shall have a cul-de-sac constructed 40 feet in diameter.

I. Recreational vehicle parks and campgrounds shall be enclosed by a fence, wall, landscape screening, earthen mounds or by other measures from all contiguous residential areas in a manner that complements the landscape and assures compatibility with the adjacent environment and complies with the buffering requirements for non-residential uses adjacent to residential districts.

J. In addition to the requirements required to be shown on the site plan as required by the Article XIV, the site plan shall include the name and address of the applicant, the location and dimensions of each recreation vehicle/camping site, the location and use of all service and recreational facilities, all interior access ways, drives, and parking. All site plans subject to this Section shall also require approval from the County Health Department.

K. When permitted, recreation vehicle parks/campgrounds within the CD Conservancy District shall be subject to the following requirements:

1. No individual recreation vehicle/camping site shall have individual on-site septic systems.



2. Each recreational vehicle must be equipped with a holding tank and each park/campground must have an approved dumping station or pump-out facilities on the premises.

L. All Federal, State and other local regulations shall be complied with.  
(Amd. 11-20-06; Amd. 01-19-10; Amd. 04-20-20)

**SECTION 922. RESIDENTIAL HABILITATION SUPPORT FACILITY.**

A. Minimum lot size: 20,000 square feet.

B. The structure must pass all health and fire inspections.

C. The property must be at least a one-half-mile radius from an existing or approved residential habilitation support facility or an existing or approved group home, regardless of the jurisdiction of the existing or approved facility or home.

D. The following setbacks shall be minimum yard requirements, except where the zoning district in which the facility is located has greater dimensional requirements, the zoning district setbacks apply:

1. Front yard: 50 feet from any public or private street.

2. Rear yard: 35 feet; and

3. Side yard: 25 feet.

E. Off-street parking shall be provided at the rate of two spaces plus one for each caregiver.

F. The facility shall have direct access to a paved public street meeting North Carolina Department of Transportation standards.

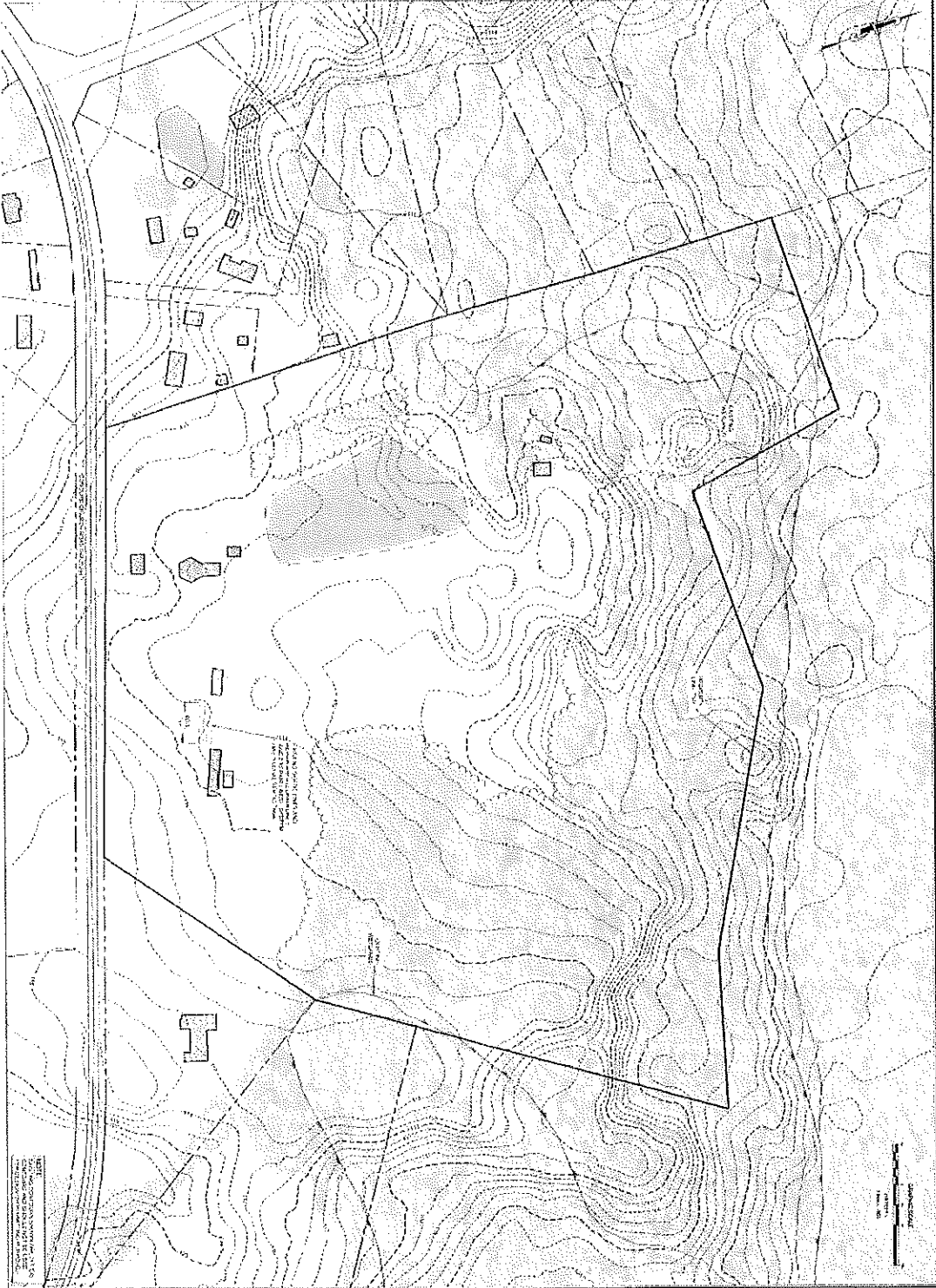
G. The facility shall provide a minimum of 100 square feet of living area per person, not counting the caregivers.  
(Amd. 02-19-08; 01-19-10)

**SECTION 923. SECOND HAND, PAWN AND FLEA MARKET.**

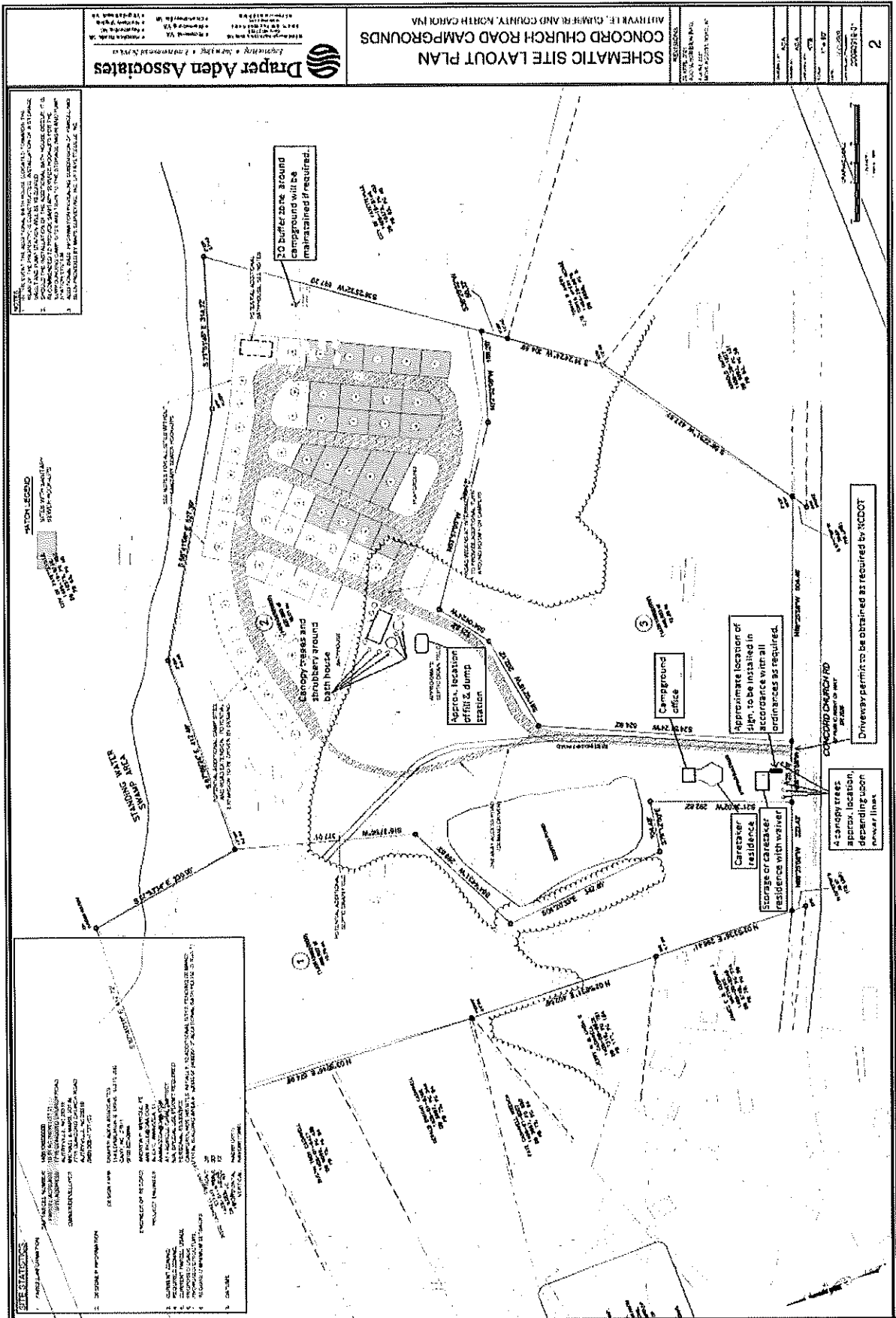
A. Outside storage of goods, equipment and material shall be prohibited; however, outside display of merchandise in conducting the commercial operation is permitted

# EXHIBIT "D"

## SPECIAL USE SITE PLAN – CONCORD CHURCH CAMPGROUND SITE PLAN (Case # P21-01-C Special Use)



<p>1</p> <p>DATE: 10/15/21</p> <p>SCALE: AS SHOWN</p> <p>PROJECT: CONCORD CHURCH ROAD CAMPGROUNDS</p> <p>CLIENT: CONCORD CHURCH</p>	<p><b>PRELIMINARY EXISTING CONDITIONS</b></p> <p><b>CONCORD CHURCH ROAD CAMPGROUNDS</b></p> <p>ALF THYVILLE, CUNBERLAND COUNTY, NORTH CAROLINA</p>	<p><b>Draper Aden Associates</b></p> <p><i>Engineering • Surveying • Environmental Services</i></p> <p>1000 W. MARKET STREET, SUITE 1000   P.O. BOX 1000          CHARLOTTE, NC 28202   PHONE: 704.375.1000   FAX: 704.375.1001          1000 W. MARKET STREET, SUITE 1000   P.O. BOX 1000          CHARLOTTE, NC 28202   PHONE: 704.375.1000   FAX: 704.375.1001</p> <p>MEMBER OF THE          DRAPER ADEN ASSOCIATES GROUP</p>
---	--	--



**SCHEMATIC SITE LAYOUT PLAN**  
**CONCORD CHURCH ROAD CAMPGROUNDS**  
 ALTYVEE, CAMPER AND COUNTY, NORTH CAROLINA

**Draper Aden Associates**  
 Engineers • Architects • Environmental Planners  
 10174 N. CENTRAL EXP. SUITE 100  
 RAYNESVILLE, VA 24135  
 800.368.9272  
 WWW.DRAPERADEN.COM

Driveway permits to be obtained as required by NCDOT

Approximate location of signs to be installed in accordance with all ordinances as required.

Campground office

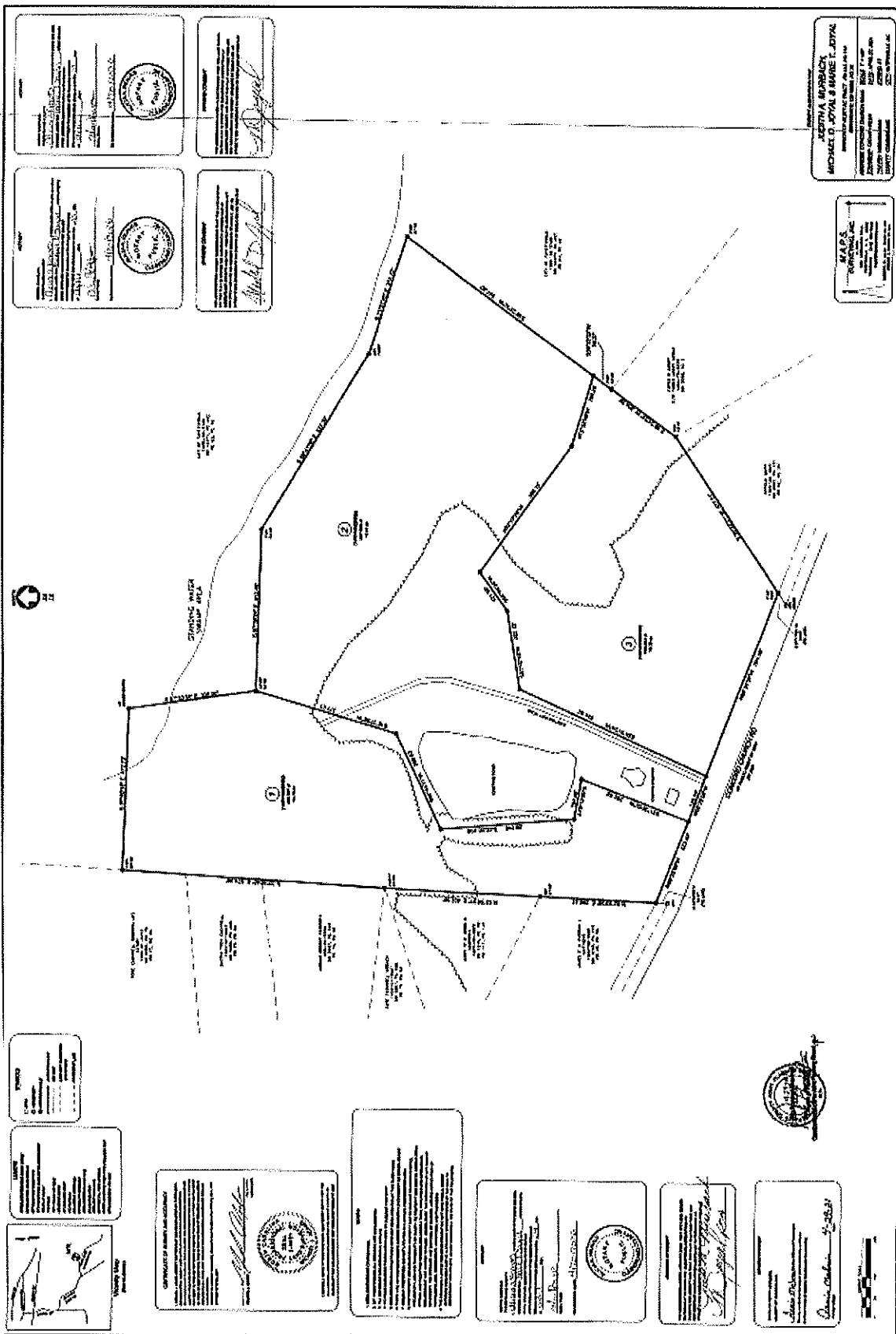
Approx. location of fill & dump station

10' buffer zone around campgrounds will be maintained if required.

**NOTES:**

1. ALL UTILITIES SHOWN ARE BASED ON FIELD SURVEY AND RECORD PLANS.
2. ALL UTILITIES SHALL BE DEEPENED TO A MINIMUM OF 48" BELOW FINISHED GRADE.
3. ALL UTILITIES SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL HEALTH DEPARTMENT.
4. ALL UTILITIES SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL FIRE DEPARTMENT.
5. ALL UTILITIES SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL WATER UTILITY.
6. ALL UTILITIES SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL SEWER UTILITY.
7. ALL UTILITIES SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL GAS UTILITY.
8. ALL UTILITIES SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL TELEPHONE UTILITY.
9. ALL UTILITIES SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL CABLE UTILITY.
10. ALL UTILITIES SHALL BE INSTALLED TO THE SATISFACTION OF THE LOCAL POWER UTILITY.

# EXHIBIT "D1" EXEMPT SUBDIVISION (PLAT)



NOTICE TO THE PUBLIC  
 THE STATE OF TEXAS  
 COUNTY OF [Name]  
 [Signature]  
 [Seal]

[Signature]  
 [Seal]

NOTICE TO THE PUBLIC  
 THE STATE OF TEXAS  
 COUNTY OF [Name]  
 [Signature]  
 [Seal]

[Signature]  
 [Seal]

JUSTINA MURPHY  
 MICHAEL D. JOVAL & MARIE T. JOVAL  
 [Address]  
 [Phone]  
 [Fax]  
 [Email]

[Signature]  
 [Seal]

[Text]

[Text]

[Text]

OFFICIAL OF PUBLIC RECORDS  
 [Signature]  
 [Seal]

[Text]

[Text]

[Text]

[Text]

[Seal]

**EXHIBIT "H"**  
**DRAFT SPECIAL USE PERMIT – CONCORD CHURCH RD CAMPGROUND**

## **Special Use Permit- Board of Adjustment**

DRAFT

(Concord Church Rd Special Use Permit and Site Plan (Exhibit "A" for 19.01 acres of Lot 2 of the Exempted Subdivision Plat approved by Cumberland County Board of Adjustment on June 17, 2021)

### **Ordinance Related Conditions**

*SUP- Campground Park in an A1 District*

#### **Pre- Permit Related:**

1. Three copies (24" x 36") and one 11" x 17" of a revised SUP site plan must be submitted to staff review and approval and include the following:
  - a. The notes for the storage building shall be revised to remove the word "waiver" and replace with "variance".
  - b. The Site Data Table and notes shall accurately reflect the acreage and data for Lot 2 of the Exempt Subdivision Plan.

#### **Permit-Related:**

2. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits. (NCGS § 130A-338 & Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)
3. The *Special Flood Hazard Area* (SFHA) exists on this tract. The SUP Site Plan does not appear to place any development within the SFHA. Any development within SFHA must have first floor elevations, including all mechanical and electrical equipment above base flood elevation (BFE) plus two feet of freeboard. Proper Floodplain Development Permits are required, issued by the County Engineer, prior to any building/permit application. A copy of the approved Floodplain Development Permit must be provided to County Code Enforcement at the time of building/zoning permit applications. [Sec. 6.5-21, County Code]
4. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Department of Energy, Minerals and Land Resources, NC Department of Environmental Quality (DEMLR NCDEQ). If one acre or more of land is to be disturbed, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement prior to the issuance of the Certificate of Occupancy. (Note: If any retention/detention basins are required for state approval of this plan, three copies of a revised plan (and \$25/\$50 revision fee) must be submitted and approved by Planning & Inspections.) (Sec. 2306.D, County Subdivision Ord. & 2006-246, NC Session Law)
5. The owner/developer(s) of the Concord Church Road RV/Campground Park must obtain detailed instructions from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street on provisions of the County Zoning Ordinance and any permits that may be required to place any structure within this development or to commence any use of the subject property. For additional information, the developer should contact a Code Enforcement Officer. (Chpt. 4, County Code & Sec. 107, County Zoning Ord.)
6. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application. [Sec. 4-8(b)(2), County Code]
7. Driveway Permit Required. Construction of any new connection or alteration of any existing connection to Concord Church Road may require an approved Driveway Permit. For additional information contact the NC Department of Transportation's (NCDOT) Division 6/District 2 office.

Change of use of subject properties shall require an approved Driveway Permit. Permits MUST be secured prior to the change or alteration of existing or proposed property use. Failure to secure required permits prior to construction or change in property usage may result in the removal of the driveway or street connections at the property owner's expense. For additional information contact the Division 6/District 2 office.

In the event that a structure (house) is built by a contractor for commercial gain and/or if property changes ownership from existing owner to builder, an approved Driveway Permit must be secured.

Note: In the event the NCDOT driveway permit process alters the site plan in any manner, three copies of a revised site plan (and \$25.00 revision fee) must be submitted for staff review and approved prior to permit application.

Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application. [§ 136-18(29), NCGS]

8. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved building, site, and landscape plans. (Sec. 107.B, County Zoning Ord.; & Secs. 2005 & 2007 County Subdivision Ord.)

**Site-Related:**

9. Development and use of the project site shall occur consistent with the "Concord Church Road Special Use Permit" site plan (Exhibit "A") and as set forth in Exhibit "B". All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance, and County Zoning Ordinance for the A1 zoning district must be complied with, as applicable. The Special Use Permit and the Special Use (campground) only apply to the 19.01 acres illustrated in the site plan (Exhibit "A").
10. Any swimming pool must comply with any minimum fencing requirements and all required permits for the swimming pool must be obtained from Cumberland County Health Department and Planning & Inspections Department.
11. Landscaping placed near the entrance driveway or road must be installed and maintained to provide adequate sight distance for along Concord Church Road. A final landscape plan must be submitted and approved by Current Planning prior to construction of the campground site. The landscape plan shall comply with the County's Zoning Ordinance. The landscape design proposed around the bath house in Exhibit "A" shall also be apply to the second bath house and to the office building.
12. This conditional approval is not approval of any freestanding signs. If a freestanding sign is desired, re-submittal of the site plan is required prior to application for any freestanding sign permits. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is **not** approval of the size, shape, or location of any signs.) (Art. XIII, County Zoning Ord.)
13. "Concord Church Road" must be labeled with the assigned State Road number on all submitted future site plans. (Sec. 2203, County Subdivision Ord.)
14. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environmental Quality (NCDEQ) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2307.A, County Subdivision Ord.)
15. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306.C, County Subdivision Ord.)

16. In the event a stormwater utility structure is required by the NC Department of Environmental Quality (NCDEQ), the owner/developer must secure the structure with a four foot high fence with a lockable gate, and is required to maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation. (Sec. 1102.O, County Zoning Ord.)

17. Turn lanes may be required by the NC Department of Transportation (NCDOT). [Art. XIV, County Zoning Ord. & NCGS §136-18(5) & §136-93]

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**

18. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.

19. All dumpster, garbage, and utility area shall be provided and located on concrete pads and screened on a minimum of three sides.

20. The campground park, including the manager's/caretaker residence, shall be served by the internal driveway system. The internal driveway must be a minimum width of twenty (20) feet and constructed with appropriate material to support emergency vehicles. Clearance above the road must be maintained at an unobstructed height not less than 13feet 6inches to allow for passing of a fire engine. This includes trees, lights, wires etc.

The driveway width provided herein shall supersede the driveway width requirement provided within Exhibit "B".

21. All required parking spaces for vehicles other than RV's are required to be a minimum of 9' wide x 20' long within the site plan.

22. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site and landscape areas are kept free of litter and debris, all grass areas mowed, all buffers and shrubbery kept trim and maintained, so that the site remains in a constant state of being aesthetically and environmentally pleasing. (Sec. 1403, County Zoning Ord.)

23. Operation of the site must occur consistent with the Noise Regulations of the County Code Chpt. 9.5, Art. II.

24. The use of the site as for an RV/Campground Park, as shown in Exhibit "A" only, is limited to a maximum of sixty (60) campground and recreation vehicles sites for temporary occupation by transients and/or vacationers. Only one permanent residential structure shall be used for a manager's/caretaker residence at the building location shown within Exhibit "A". Any relocation of the manager's/caretaker residence must be approved by the County Code Enforcement Manager.

25. The business office shall occur at the location designated on the special use site plan, as shown in Exhibit "A" and shall not be closer than 100 feet from Concord Church Road. Access to the campground office, manager/caretaker home or accessory use building must be from an internal service driveway or internal road and shall not occur from Concord Church Road. The southernmost building located on the site plan (Exhibit "A") shall only be used as an accessory building for campground storage. Any other use of the storage building will require an amendment to the special use permit. And this accessory use storage building and any other accessory use structure shall not be located closer to Concord Church Road than the storage building shown on the site plan in Exhibit "A"

26. A manager's/caretaker home is not shown on the site plan within Exhibit "A". If any manager's/caretaker's home is placed within the campground site, the location must be approved by the County Current Planning Manager.



27. A twenty-foot wide perimeter buffer, as shown in Exhibit "A", will be placed and maintained along the perimeter of the campground area.

**Other Relevant Conditions:**

28. This conditional approval is contingent upon continued compliance with the County's Subdivision and Development Ordinance and Zoning Ordinance. Development of the property must comply with all applicable local, state and federal laws and ordinances.

29. The owner/developer be aware that every deed created for a lot being served by an on-site water and/or sewer system must contain the following disclosure when filed with the County Register of Deeds:

"Public water and/or sewer services are not available as of the date of the recording of this deed. On-site sewer disposal systems must be approved by the County Health Department."

30. Expiration of Permits. This Special Use becomes null and void if not exercised within three years from the date of approval, within one calendar year from the date of such approval if the permit has not been recorded with the County Register of Deeds, and within one calendar year of the date of such approval if revised SUP site plan has not be submitted and accepted by the Cumberland County Current Planning. Furthermore, once the Certificate of Occupancy has been issued for this Special Use and then the Special Use ceases to exist for a time period of one calendar year or more, a re-submittal of the Special Use application for the same use may be required if there has been a material change in the ordinance standards.

**Advisories:**

- Any revision or addition to this plan necessitates re-submission for review and approval prior to the commencement of the change.
- A review of the data available to the Army Corp of Engineers indicates that jurisdictional waters may be present on this property and therefore are likely to be impacted by the proposed project. However, without an official Jurisdictional Determination at the property, these findings cannot be confirmed.

A permit will be required for this project if construction will involve the temporary and/or permanent placement of fill in waters of the United States including wetlands. If a permit is required, the applicant will be required to avoid and minimize impacts to wetland/waters of the United States and may need to provide compensatory mitigation for unavoidable impacts.

- The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.
- The developer's subsequent application for permits upon receipt of these conditions of approval constitutes the developer's understanding and acceptance of the conditions of approval for this development.
- This conditional approval is not to be construed as all-encompassing of the applicable rules, regulations, etc. which must be complied with for any development. Other regulations, such as building, environmental, health and so forth, may govern the specific development. The developer is the responsible party to ensure full compliance with all applicable Federal, State, and local regulations.
- The subject property sits on Concord Church Road and is not within the FAMPO boundaries or its Transportation Plan. For questions related to this comment, please contact Transportation Planning.

**If you need clarification of any conditions, please contact David Moon at 910-678-7606 with the Current Planning Section; otherwise, contact the appropriate agency at the contact numbers below.**

**Contact Information (Area Code is 910 unless otherwise stated):**

Current Planning Manager:		678-7606	
<a href="mailto:dmoon@co.cumberland.nc.us">dmoon@co.cumberland.nc.us</a>			
Subdivision/Site Plan/Plat	Jeff Barnhill	678-7765	
<a href="mailto:jbarnhill@co.cumberland.nc.us">jbarnhill@co.cumberland.nc.us</a>			
Code Enforcement (Permits):	Scott Walters	321-6654	
<a href="mailto:swalters@co.cumberland.nc.us">swalters@co.cumberland.nc.us</a>			
County Building Inspections:	Michael Naylor	321-6657	
<a href="mailto:mnaylor@co.cumberland.nc.us">mnaylor@co.cumberland.nc.us</a>			
Fire Marshal – Emergency Services	Kevin Lowther	321-6625	
<a href="mailto:klowther@co.cumberland.nc.us">klowther@co.cumberland.nc.us</a>			
	Gene Booth	678-7641	
<a href="mailto:wbooth@co.cumberland.nc.us">wbooth@co.cumberland.nc.us</a>			
County Engineer’s Office:	Wayne Dudley	678-7636	
<a href="mailto:wdudley@co.cumberland.nc.us">wdudley@co.cumberland.nc.us</a>			
County Health Department:	Fred Thomas	433-3692	
<a href="mailto:fthomas@co.cumberland.nc.us">fthomas@co.cumberland.nc.us</a>			
US Postal Service	Jonathan R. Wallace	(704) 393-4412	
<a href="mailto:jonathan.r.wallace@usps.gov">jonathan.r.wallace@usps.gov</a>			
Corp of Engineers (wetlands):	Emily Greer	(910) 251-4049	
<a href="mailto:emily.c.greer@usace.army.mil">emily.c.greer@usace.army.mil</a>			
NCDEQ (E&S):	Leland Cottrell	(910) 433-3393	
<a href="mailto:leland.cottrell@ncdenr.gov">leland.cottrell@ncdenr.gov</a>			
US Fish & Wildlife Services	Susan Ladd Miller	(910) 695-3323	
<a href="mailto:susan_miller@fws.gov">susan_miller@fws.gov</a>			
Location Services:			
Site-Specific Address:	Will Phipps	678-7666	
<a href="mailto:wphipps@co.cumberland.nc.us">wphipps@co.cumberland.nc.us</a>			
Tax Parcel Numbers:		678-7549	
NCDOT (driveways/curb-cuts):	Troy Baker	364-0601	<a href="mailto:tbaker@ncdot.gov">tbaker@ncdot.gov</a>
Transportation Planning:	Irvin Wyche	678-7615	
<a href="mailto:iwyche@co.cumberland.nc.us">iwych@co.cumberland.nc.us</a>			
N.C. Division of Water Quality:	Annette Lucas	(919) 807-6381	
<a href="mailto:annette.lucas@ncdenr.gov">annette.lucas@ncdenr.gov</a>			

**EXHIBIT "A"**  
**of the Concord Church Road RV/Campground Park Special Use Site plan**

The site plan appearing in Exhibit "D" of the Staff Report will be included as Exhibit "A" of the Special Use Permit with any additional conditions or changes, if any, made by the BOA at the hearing.

**EXHIBIT "B"**  
**SECTION 921 REQUIREMENTS – RV\CAMPGROUND PARKS**

As appearing in Exhibit "C" of the Staff Report

## **EXHIBIT "C"**

The plat appearing in Exhibit "D1" of the Staff Report will be included as Exhibit "C" of the Special Use Permit.

## **EXHIBIT "I"**

### **Applicant's Response to Sec. 1606 Special Use Criteria**

Pursuant to Section 1606.C. Special Use Permits, Consideration of Application, the Board of Adjustment must establish a finding of fact for the following criteria to approve the special use:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended.

**The proposed usage will not materially endanger the public health or safety when located according to the plan. The proposed campgrounds will be designed in compliance with all County and State regulations, including state/county stormwater, erosion control, and wastewater (septic) regulations.**

2. The use meets all required conditions and specifications.

**The use will be designed so that it complies with all requirements provided in Article IX, Section 921. Recreational vehicle park and/or campground, as well all of the stipulations listed in the draft Special Use Permit. As noted/suggested in the pre-permit related conditions, landscaping and screening for the site will focus heavily on maintaining the existing tree lines to the east and west of the property to ensure adequate screening between adjacent residential homes.**

3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

**The use will maintain the value of the adjoining properties. One of the goals for the design will be to ensure the neighbors never have to see the campers. This will be accomplished, as noted/suggested in criteria 2, by maintaining as much of the existing trees along the perimeter of the property. Photos have been provided below showing both the anticipated general location for camp sites as well as the heavily vegetated perimeter.**

**The owners originally came up with the idea to develop the campground when they were visiting the area. They were looking to camp in the area and were unable to find any camp sites in the area. They are a small sampling of the number of people who would like to come camp in the area but don't have the necessary access to camp sites.**

4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan.

**Section 303 in the zoning ordinance states, "this district is designed to promote and protect agricultural lands, including woodland, within the County". Our development fulfills this goal by protecting the existing woodlands, stream, and wetlands on the property. No development is desired or anticipated within any stream or wetland areas. The site design is laid out so it takes advantage of the screening provided by the existing woodlands, while minimizing the need to impact the existing trees to the greatest extent possible. The development fulfills the vast majority of the requirements outlined in the Comprehensive Land Use Plan. This, coupled with**

the large amount of existing screening, will ensure the development will be in complete harmony with the surrounding area, and will often go unnoticed by citizens who aren't actively looking for the campgrounds.



**ATTACHMENT: MAILING LIST**



**CUMBERLAND COUNTY  
BOARD OF ADJUSTMENT HEARING  
June 17, 2021**

**SUBJECT: BOA CASE # P21-02-C -- Variance**

**REQUEST:** Variance to allow a larger storage building than an existing residential dwelling unit at property in an RR district on 2.0+/- acres, and located at 120 St. Jude Road, south of Clinton Road.

<u>Exhibits</u>
A. Site Location
B. Site Plan (attached)
C. Soils
D Existing/Surrounding Uses.
E. Future Land Use Map
F. Sec. 1104 District Standards (attached)
G. Variance Application (attached)
Attachments: Pictures, Mailing List

**\*\* CONTINUED FROM THE APRIL 15 and May 20 BOA HEARING \*\***

*Property owner requested an extension at the May 20 hearing to allow him to conduct research on the cost to construct a covered walkway connection between the house and the storage shed/garage. As June 10, property has not submitted any new information to the Current Planning Section.*

**EXPLANATION OF THE REQUEST**

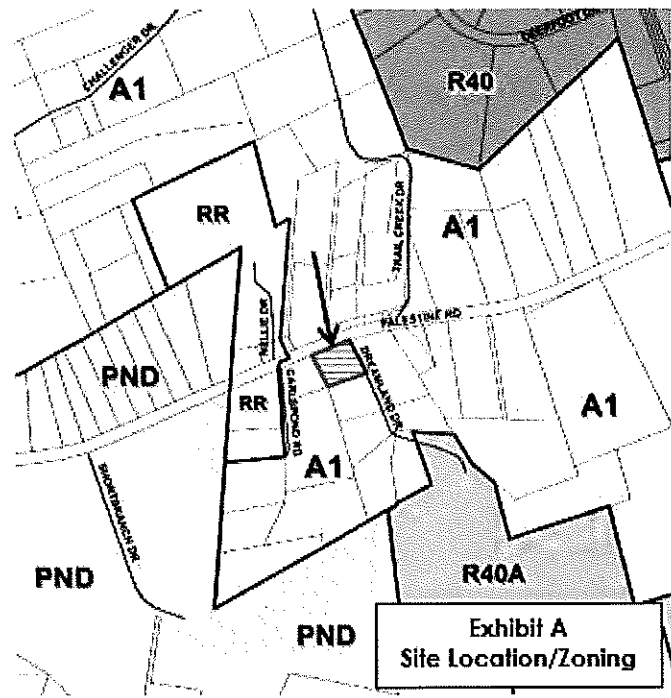
The Property Owner of a parcel located at the property illustrated in Exhibit "A" has constructed a storage building with approximately 2,000 sq. ft. on a parcel that includes a residential dwelling, which is only 988 sq. ft. Pursuant to Section 203, Paragraph B. Definitions of Specific Terms and Words, of the County's Zoning Code, an accessory structure cannot be larger than the primary structure, which in this case is a 988 sq. ft. residential dwelling. As stated in Section 203:

**Accessory Building or Use:** A building or use, not including signs, which is:

A. Conducted or located on the same zoning lot as the principal building or use, or off-street parking, as specifically provided for in this ordinance;

B. Clearly incidental to, subordinate in area and purpose to, and serving the principal use; [emphasis added]; and

C. Either in the same ownership as the principal use or clearly operated and maintained solely for the comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use.



With a floor area of approximately 2,000 sq. ft., the shed/storage building floor area needs to be smaller than the floor area of the primary residential structure, which is approximately 988 sq. ft., in order to meet the intent of Section 203. Construction of the storage building occurred without the property owner submitting a building permit application and without the Department of Planning & Inspections issuing a building permit.

**PROPERTY INFORMATION**

**Owner/Applicant:** Brendan M. Blackman  
**Address/Location:** 120 St. Jude Rd. (Exhibit A)  
**REID #:** 045658747100  
**Parcel Size:** 2.0 acres within one parcel  
**Parcel Width:** 212 feet  
**Parcel Depth:** 411 feet  
**Street Frontage:** 212 feet (Clinton Rd)

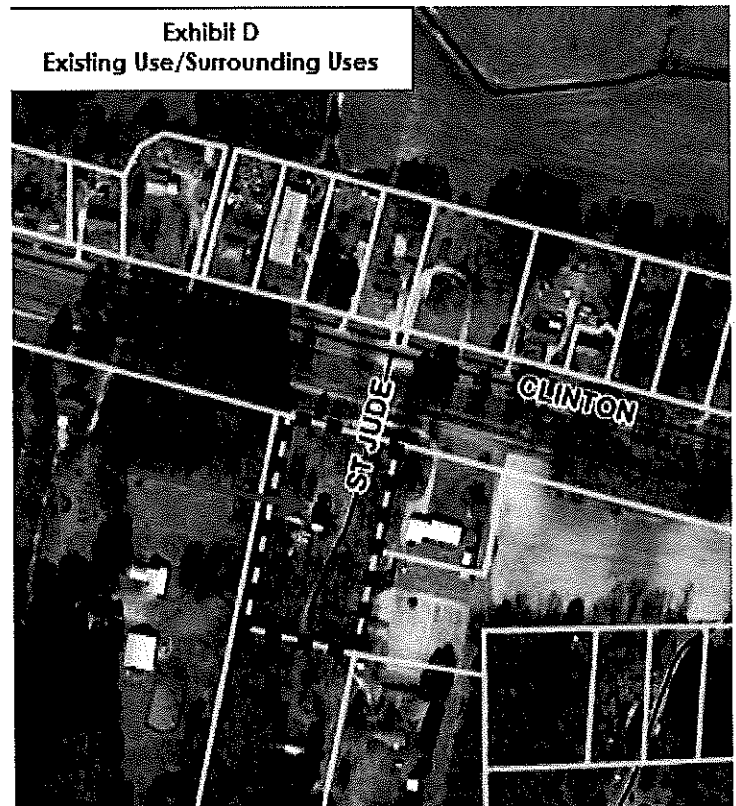
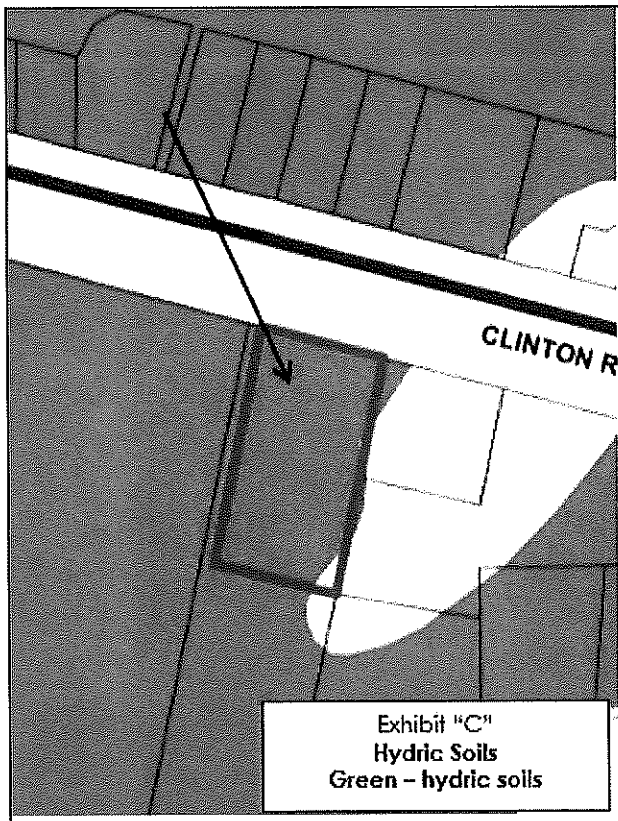
**Existing Land Use:** The subject property is currently developed with a single-family dwelling, as illustrated in Exhibit "B" below, as well as pictures provided in Exhibit E (attached).

**Zoning:** A1 Agricultural (as shown in Exhibit "A").

**Other Site Characteristics:** A site plan of the property with the shed is provided in Exhibit "B" attached. The property is not within the Special Flood Hazard Area. The property is within the watershed. Hydric soils cover most of the property with exception to a small portion of its southeast corner, as shown in Exhibit "C". The property is not located inside a 100-year floodplain.

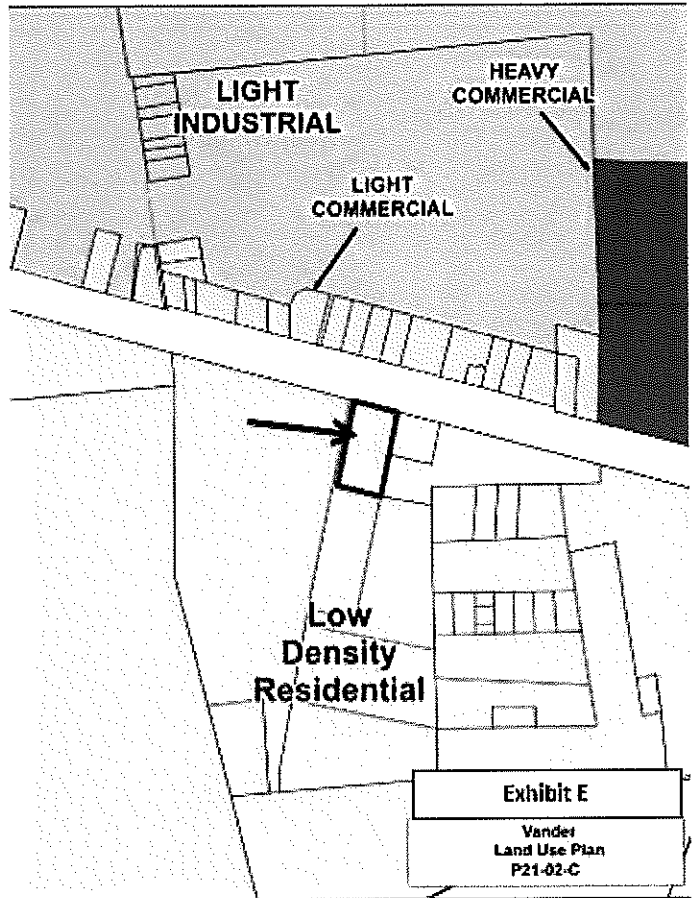
**SURROUNDING LAND USE:** Residential uses, including manufacture homes as well as farmlands are the predominate use in the surrounding area, as shown in Exhibit "B".

**Development Review:** This property was platted in 2013 by Plat Book. 132, Page. 154.



**Comprehensive Plans:** The 2030 Growth Vision Plan designates this parcel for "Low Density Residential Residential", (2.2 to 6 units per acre). The Vander Land Use Plan is shown in Exhibit "E".

**Applicable Zoning Codes:** Section 203, Paragraph B. Definitions of Specific Terms and Words); Section 1002. Incidental Uses. Accessory Structures (Exhibit F attached)



**IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES**

**Utilities:** This property is currently served by private well and septic.

**Traffic and Streets:** The subject property is located inside of FAMPO boundaries and accesses St. Jude Road, which is identified as a local road in the Metropolitan Transportation Plan. There are no construction projects planned, and the subject property will have no impact on the Transportation Improvement Plan.

**EMERGENCY SERVICES:** This request has been reviewed by the Cumberland County Fire Marshal's Office. The County Fire Marshall had no comment on any concerns at this time.

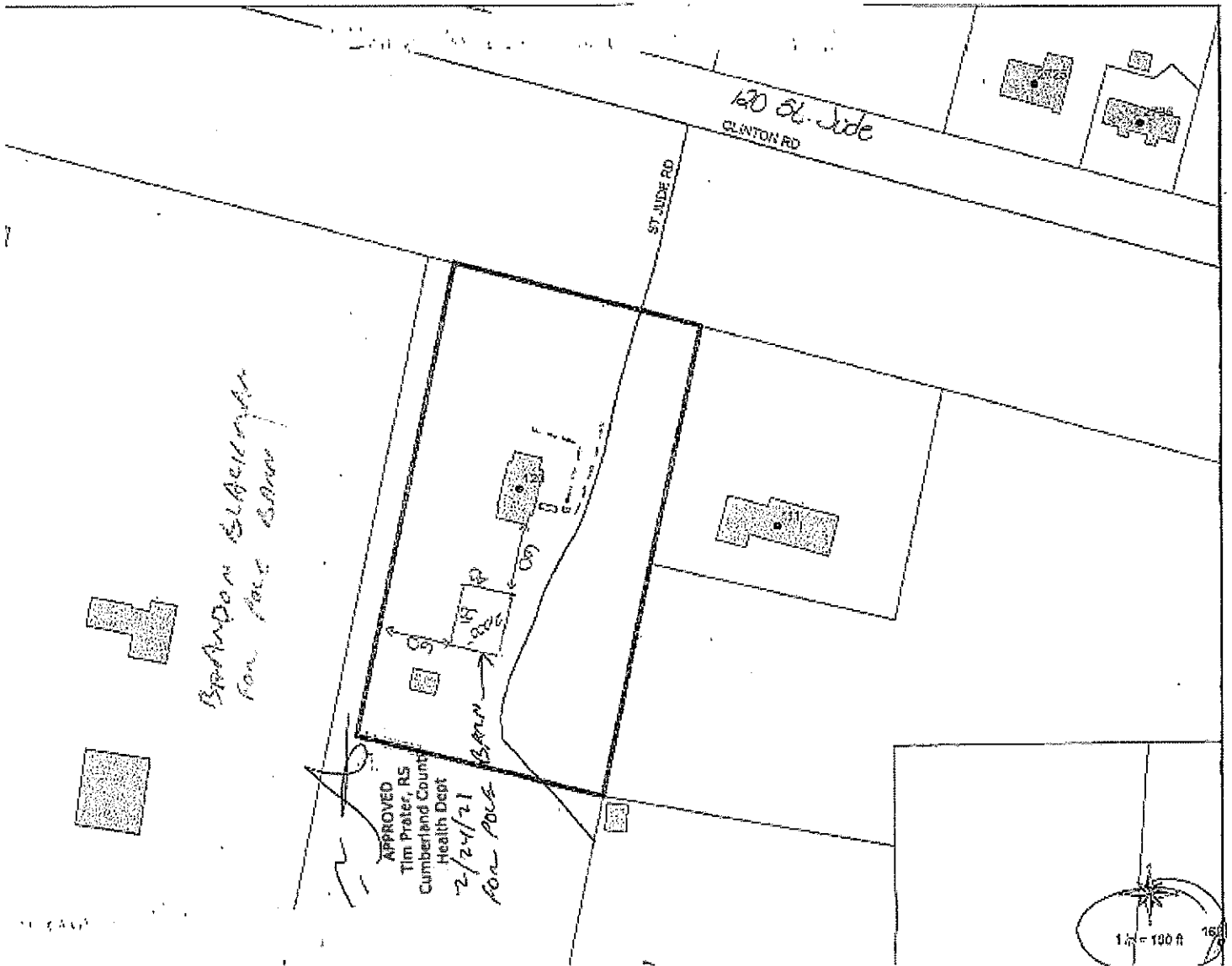
**FINDINGS OF FACT**

Criteria that must be addressed for evaluation of a variance application originate from Section 1605 of the Zone Code and are listed below.

1. Unnecessary hardship would result from the strict application of the ordinance.
2. There are conditions peculiar to the property, such as location, size, or topography.
3. The special circumstances are not the result of the actions of the applicant.
4. The requested variance will be consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

**Applicant's response to the above criteria were submitted with the application and is provided with the Variance Application in Exhibit "G".**

# EXHIBIT B SITE PLAN



**EXHIBIT F**  
**APPLICABLE ZONING CODES**

---

**SECTION 203. DEFINITIONS OF SPECIFIC TERMS AND WORDS.**

**Accessory Building or Use:** A building or use, not including signs, which is:

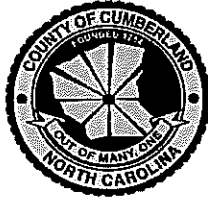
- A. Conducted or located on the same zoning lot as the principal building or use, or off-street parking, as specifically provided for in this ordinance.
- B. Clearly incidental to, subordinate in area and purpose to, and serving the principal use; and
- C. Either in the same ownership as the principal use or clearly operated and maintained solely for the comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use.

**SECTION 1002. INCIDENTAL USES.**

A. Accessory Structures. The following provisions apply to all accessory structures:

- 1. Accessory structures shall not be rented or inhabited by other than employees performing services on the premises of the owner, lessee, or tenant of the premises.
- 2. Accessory buildings not intended to be used for living quarters shall not be constructed upon a lot until the construction of the principal building has commenced.
- 3. Manufactured homes intended for residential occupancy shall not be classified as accessory or used as a storage structure.
- 4. Accessory structures shall not be erected in any required front or side yard or within 20 feet of any side street line, or within five feet of any lot line not a street line, or within five feet of any accessory building or other building. In no case, however, shall an accessory building be placed closer to a street than the minimum setback requirements for a principal structure. Any accessory structure greater than 700 square feet in floor area must be located inside the building envelope.

**EXHIBIT G**  
**VARIANCE APPLICATION**



**County of Cumberland**  
◆  
**BOARD OF ADJUSTMENT**

CASE #:	<u>P21-02-06<sup>C</sup></u>
CUMBERLAND COUNTY BOA MEETING DATE:	<u>April 15, 2021</u>
DATE APPLICATION SUBMITTED:	<u>2-24-21</u>
RECEIPT #:	<u>76483</u>
RECEIVED BY:	<u>JB</u>

**APPLICATION FOR  
VARIANCE REQUEST**

The Cumberland County Board of Adjustment meetings are held on the third Thursday of each month in the Historic Courthouse, 130 Gillespie Street – Hearing Room 3. The Planning and Inspections Department will advertise the public hearing and a notice will be mailed or delivered to surrounding residents or property owners that may be affected by the proposed Variance request.

The Board of Adjustment is a quasi-judicial review board and all persons wishing to appear before this Board should be prepared to give sworn testimony on relevant facts. Applicants for Variances are encouraged to read Section 1605 “Variance” of the Zoning Ordinance to establish whether or not their case merits further consideration by the board (see next page).

**The following items are to be submitted with the complete application:**

1. A copy of the recorded deed and/or plat, or an accurate written legal description of only the area to be considered;
2. A copy of a detailed site plan drawn to an engineer scale; and
3. Cash or check payable to “Cumberland County” in the amount of \$ \_\_\_\_\_ (see attached Fee Schedule)

**NOTE:** Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available Board of Adjustment meeting according to the board’s meeting schedule. Also, the application fee is *nonrefundable*.

The Planning and Inspections Staff is available for advice on completing this application; however, they are not available for completion of the application or preparation of the site plan.

**EXCERPT FROM  
THE CUMBERLAND COUNTY ZONING ORDINANCE**

---

**(PENDING ADOPTION)**

**Section 1605 VARIANCE**

The Board of Adjustment may authorize in specific cases such variances from the terms of this Ordinance upon request of a property owner or his authorized agent and may require any evidence necessary to make determination of the case. Before the board may grant any Variance, the board must find that all of the following conditions exist for an individual case:

- A. Unnecessary hardship would result from the strict application of the ordinance.
- B. There are conditions peculiar to the property, such as location, size, or topography.
- C. The special circumstances are not the result of the actions of the applicant.
- D. The requested variance will be consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

**In granting a variance, the board may attach and the record shall reflect such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable. The record shall also state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the Board finds to exist.**

**Any variance granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one calendar year from the date of such approval. The Board of Adjustment is not authorized to grant variances to a Special Use Permit or to a Conditional Zoning Permit allowed in Conditional Zoning Districts or to the specific conditions or other performance criteria imposed upon such uses.**



**BOARD OF ADJUSTMENT**

LOCATION OF PROPERTY: 120 St Jude Rd Fayetteville NC 28312

OWNER: Brandon M. Blackman

ADDRESS: 120 St. Jude Rd Fayetteville ZIP CODE: 28312

TELEPHONE: HOME 910-977-7639 WORK \_\_\_\_\_

AGENT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_

E-MAIL: \_\_\_\_\_

**APPLICATION FOR A VARIANCE**  
As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 045638 7471000  
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 2.0 Frontage: 212 ft Depth: 411 ft

C. Water Provider: well

D. Septage Provider: Septic

E. Deed Book 9216, Page(s) 787, Cumberland County

F. Existing and/or proposed use of property: \_\_\_\_\_  
Residential

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: 203-B

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: See attached letter.

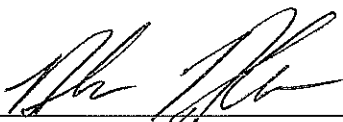


**STATEMENT OF ACKNOWLEDGMENT**

Regarding appearance before the Board of Adjustment, the undersigned owner(s), agents, or their assigns, by virtue of their signature(s) to this application, hereby acknowledge the following:

- That although appearance before the board is not required, it is strongly encouraged;
- The board will hear any and all argument for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the board has the authority to issue a final approval or denial decision on this request, or defer the request for additional information to be provided;
- If the petitioner or the representative of this application does not appear personally before the board, whether there is opposition or not, the board has full authority to consider the case and defer, approve, or deny the case;
- If the board's action is to deny the matter before them, the course of appeal to their decision will be that of Cumberland County Superior Court. (Affected parties of the board's decision have 30 days from proper notification which to serve notice of appeal).

Signed acknowledgment that the County Planning Staff has explained the application process and procedures regarding this request and the public hearing procedure stated above.

SIGNATURE OF OWNER(S) 

PRINTED NAME OF OWNER(S) Brandon Blackman

DATE 7-24-21

**CUMBERLAND COUNTY BOARD OF ADJUSTMENT  
FEE SCHEDULE**

BOARD OF ADJUSTMENT

SPECIAL USE PERMIT	\$200
VARIANCE	
WATERSHED	
ADMINISTRATIVE REVIEW APPEALS	\$100
INTERPRETATIONS	
NONCONFORMING USES	

\* Board of Adjustment fee include hearings for the County Flood Ordinance and County Watershed Ordinance

Dear Members of the Zoning Board,

I am writing to seek variance for my single-family home at 120 St. Jude road, Fayetteville NC 28312. Current zoning rules state that secondary dwellings must not be larger than the primary dwelling. I am respectfully requesting a variance to this ordinance. I was unaware and misinformed about owning your own property and building a barn on it. I unfortunately have already almost finished my pole barn that I was building to suit the needs of me and my family. My home is very small and is only 988 sq. feet. The barn I have built is 2000 sq. feet. Before starting on the barn I spoke with all the adjoining property owners who are all family/kin and none of them have displayed any objections. My home has no room for storage and I also need the room to accommodate my farm tractors, trailers, lawn equipment, vehicles and miscellaneous tools. We are also trying to secure our belongings due to continuous petty theft/drug activity in our area. I understand that I have gone about this backwards but I am trying to right my wrongs. I did not do this out of disrespect or disregard for the ordinance, I was misinformed as stated earlier and I now understand. In our particular case a building that is 988 sq. feet or smaller would not accommodate or allow for enough storage to protect our belongings. I apologize for the way I have gone about this, I truly am sorry. I am respectfully requesting you to take into consideration my family's needs and safety for a building this large. Thank you for your time in this matter.

Respectfully,

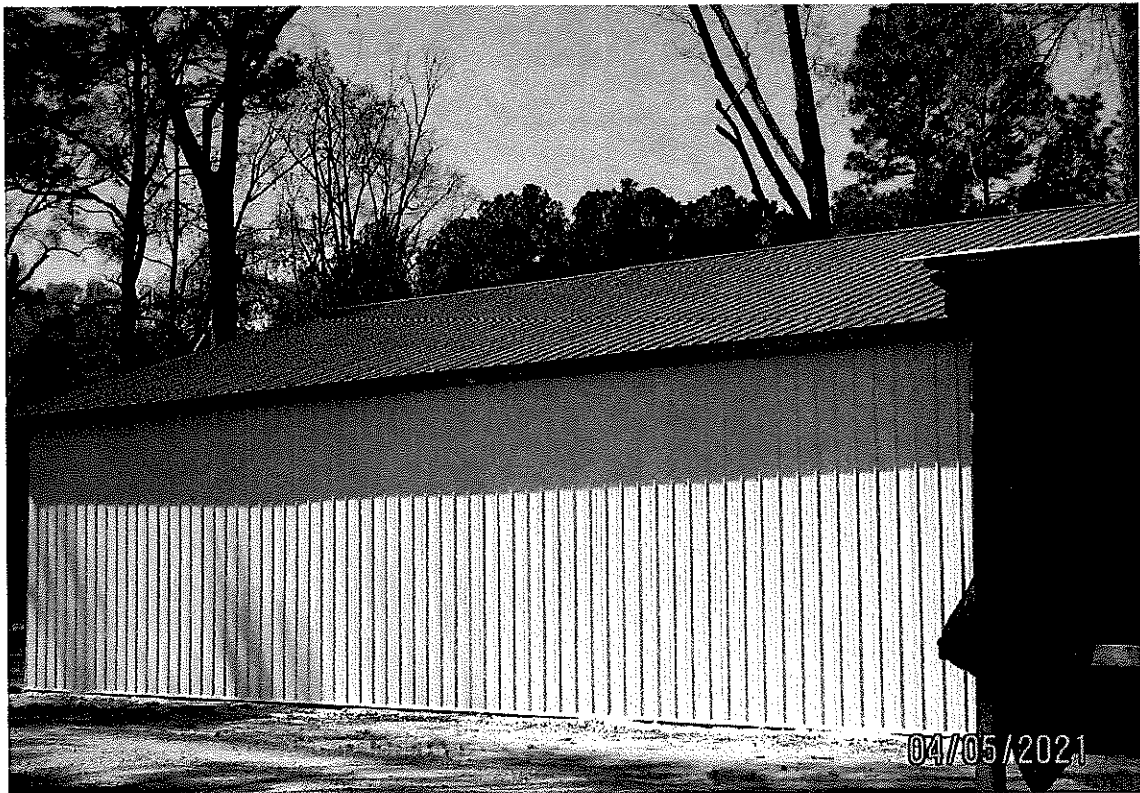
Brandon Blackman

A handwritten signature in black ink, appearing to read 'Brandon Blackman', written over the printed name.

## ATTACHMENTS

SITE PICTURES







## MAILING LIST



# CUMBERLAND COUNTY

NORTH CAROLINA

## PLANNING & INSPECTIONS

### PLANNING STAFF REPORT BOA Member Recommendations

**Jurisdiction: Unincorporated**

#### REQUEST

The Board of Adjustment is requested to make recommendations to the Board of County Commissioners for the appointment of vacant regular members and alternates. Below is a list of the current or near-term vacant positions and the name of the former or current member associated with that position. Attached is a list of citizens that BOA can recommend as candidates for these vacant positions. Also, BOA can consider current BOA Alternates (listed below) for recommendation. The BOA recommendations will be presented to the Board of County Commissioners when appointments to the BOA are considered in the next few months.

	<b>Term Expires</b>	<b>Eligible for Reappoint.</b>
<b>Former or Current Member</b>		
Alfonso Ferguson (Vacant)	08/31/21	No
Winton McHenry (Vacant)	06/30/22	No
George Turner (position becomes vacant as of September 30, 2021)	09/30/21	No
<b>Alternate Members</b>		
Quinsentina James	expired	No

Attached is the following: (1) a list of interested citizens, (2) summary of the BOA Membership and Duties, (3) the BOA Rules of Procedures, and (4) Section 1601 - 1605, Board of Adjustment, Zoning Code.

Below is a list of current BOA Alternates that can also be considered for a recommendation as a Regular BOA member.

#### Current BOA Alternate Members

<b>Alternate Members</b>	<b>Date Appointed</b>	<b>Term Expires</b>
Robert Davis	8/19	08/31/22
Stacy Long	8/19	08/31/22
Linda Amos	10/19	05/31/22
Vicki Mullins	2/21	06/30/22

#### RECOMMENDATION

Provide a recommendation for at least four candidates from the current BOA Alternates or the attached list of interested citizens to fill the current and upcoming vacancies for the BOA regular and alternate members.

**APPLICANTS FOR  
BOARD OF ADJUSTMENT**

<b><u>NAME/ADDRESS/TELEPHONE</u></b>	<b><u>OCCUPATION</u></b>	<b><u>EDUCATIONAL BACKGROUND</u></b>
<b>BROOKS, DONALD (B/M)</b> 301 SOUTHLAND DRIVE FAYETTEVILLE NC 28311 910-826-6078 <u>DONALDBROOKS959@GMAIL.COM</u> Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: YES Graduate-other leadership academy: GRADUATE EXECUTIVE LEADERSHIP PROGRAM <b><i>CATEGORY: GENERAL PUBLIC</i></b>	<b>RETIRED</b>	<b>BACHELORS</b>
<b>DICKENS, CATHY (-/F)</b> 1426 COBRA DRIVE FAYETTEVILLE NC 28303 910-286-0157 <u>MAXINEDICKENS69@GMAIL.COM</u> Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO <b><i>CATEGORY: GENERAL PUBLIC</i></b>	<b>DISTRICT SUPERVISOR SOIL AND WATER</b>	<b>HIGH SCHOOL</b>
<b>PHILLIPS, ANDREA JENKINS (W/F)</b> 2816 TRENTWOOD CT FAYETTEVILLE NC 28304 910-977-4528 <u>ANDREAJENKINSPHILLIPS@GMAIL.COM</u> Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO <b><i>CATEGORY: ALTERNATE MEMBER</i></b>	<b>TEACHER CC SCHOOLS</b> <b>*SERVES ON THE EQUALIZATION AND REVIEW BOARD*</b>	<b>MASTERS</b>
<b>REEVES, IAN (-/M)</b> 415 FAIRFAX AVE FAYETTEVILLE NC 28303 910-364-4362 <u>IAN.B.REEVES@GMAIL.COM</u> Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: ARMY BASIC AND ADVANCED LEADERSHIP COURSE <b><i>CATEGORY: ALTERNATE MEMBER</i></b>	<b>PARALEGAL ARMY</b>	<b>COLLEGE</b>

**APPLICANTS FOR  
BOARD OF ADJUSTMENT PAGE 2**

<u>NAME/ADDRESS/TELEPHONE</u>	<u>OCCUPATION</u>	<u>EDUCATIONAL BACKGROUND</u>
RHODES, EVA P. (-/F) 301 DUNLEITH PLACE FAYETTEVILLE NC 28311 443-326-2924 <u>EVAPHR1161@COMCAST.NET</u> Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO <b>CATEGORY: GENERAL PUBLIC</b>	RETIRED FEDERAL EMPLOYEE	COLLEGE LISTED
SILVERMAN, GARY A (W/M) 1174 DERBYSHIRE ROAD FAYETTEVILLE NC 28314 910-574-9952 <u>GSILVERMAN001@GMAIL.COM</u> Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: US ARMY LEADERSHIP COURSES <b>CATEGORY: GENERAL PUBLIC</b>	LT COLONEL US ARMY RETIRED/PT INSTRUCTOR	BS, AS
TURNER, KENNETH (W/M) 2009 ROCK AVE FAYETTEVILLE, NC 28303 484-0042/797-1896 <u>KTURNER1@HOTMAIL.COM</u> Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO <b>CATEGORY: GENERAL PUBLIC, ALTERNATE MEMBER</b>	REALTOR REAL ESTATE INVESTMENTS	BA
TWITTY, MARTELLE (B/F) 6404 DAVIS BYNUM FAYETTEVILLE NC 28306 910-922-2014 <u>MARTELLECOKE@GMAIL.COM</u> Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO <b>CATEGORY: GENERAL PUBLIC</b>	DENTAL HYGIENIST DAY AND NIGHT FAMILY DENTAL	DENTAL HYGIENE, BS

**CUMBERLAND COUNTY BOARD OF ADJUSTMENTS  
SUMMARY OF MEMBERSHIP AND DUTIES**

**Statutory Authorization:**

NCGS 153A-345 County Code: Zoning Ordinance Article

**Member Specifications:**

10 Members

- 5 regular
- 5 alternate (Alternate members fill in for regular members as necessary and are often appointed to fill vacancies of the regular membership.)

**Term:**

3 Year

**Compensation:** None

**Duties:**

- Conduct administrative reviews and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, determination, refusal made by the Planning and Inspections Director or other administrative officials in the carrying out or enforcement of any provisions of the zoning ordinance;
- Hear, deny or approve applications for variances and special use permits from the terms of the zoning ordinance;
- Interpret the official zoning maps;
- Rule on matters concerning nonconforming uses;
- Hear and approve or deny applications for High Density Development and variances from the provisions of the County Water Supply Watershed Management and Protection Ordinance;
- Hear and rule on appeals and variance requests from the County's Flood Damage Prevention Ordinance.
- Serve as the County's Housing Appeals Board

**Meetings:**

Third Thursday of each month at 6:00 p.m.

**Cumberland County, North Carolina  
Board of Adjustment**

**Rules of Procedure**

I. GENERAL RULES

The Board of Adjustment shall be governed by the terms of the *General Statutes of North Carolina*, § 153A-245, including subsequent amendments, and by the *Cumberland County Zoning Ordinance*, adopted June 20, 2005 as it may be amended from time to time. All members of the board shall thoroughly familiarize themselves with these regulations.

II. OFFICERS AND DUTIES

- A. *Chairman*. The chairman shall be elected by majority vote of the membership of the board from among its regular members. The chairman's term of office shall be for one calendar year beginning on July 1 and ending on June 30, and until the successor is qualified. The chairman shall be eligible for reelection provided that the individual remains qualified as a regular member and the term limit has not expired. Subject to these rules, the chairman shall rule upon all points of order and procedures, unless overruled by a majority of the board in session at the time.
- B. *Vice-Chairman*. A vice-chairman shall be elected by the regular board members in the same manner and for the same term as the chairman. The vice-chairman shall serve as acting chairman in the absence of the chairman and at such times when so acting, the vice-chairman shall have the same powers and duties as the chairman.
- C. *Secretary*. The individual fulfilling the duties as secretary shall be a County Planning and Inspections staff member and shall be assigned to serve the board by the County Planning and Inspections Director (hereinafter *director*) or the director's designee. The secretary shall act in this capacity so long as the staff member assigned is performing in an acceptable manner as determined by the director or the director's designee. The secretary, subject to the direction of the chairman and the board, shall keep all records, shall conduct all correspondence of the board, shall arrange for all public notices required to be given, shall notify members of pending meetings and their agenda, shall notify parties to cases before the board of its decision on such cases, and shall generally supervise and ensure the administrative work of the board is properly and efficiently accomplished. The secretary shall ensure that a complete set of minutes of the record for every board meeting is kept in a permanent volume in a secure location. The minutes shall show the record of all material facts pertaining to each meeting and hearing, every resolution acted on by the board, and all votes of members of the board on any resolution or on the final

determination of any question, indicating the names of members who are absent or fail to vote. The secretary shall not be eligible to vote on any matter coming before the board.

### III. MEMBERS

160A-388

- A. Membership on the Board of Adjustment shall be governed by the terms of the *General Statutes of North Carolina*, § ~~153A-345~~, as in effect, and by the *Cumberland County Zoning Ordinance* adopted June 20, 2005, and as amended from time to time.
- B. Individual board members, whether appointed as a regular member or an alternate, may be removed for cause, including violation of these rules, by majority vote of the County Board of Commissioners.
- C. Faithful attendance at all meetings of the board and conscientious performance of the duties required of members of the board shall be considered a prerequisite of continuing membership on the board. Regular members missing three consecutive meetings without good cause shall be requested to resign immediately, and if a resignation is not submitted may be removed by the County Board of Commissioners.
- D. Board members shall not take part in the hearing, consideration or determination of any case in which the board member is personally or financially interested or as to which the board member may have a bias making it inappropriate for the board member to participate in consideration of such case.
- E. Board members shall not vote on any matter deciding an application or appeal unless the board member attended the meeting in which the hearing on the application or appeal occurred.
- F. Board members shall not discuss any case with any parties or independently investigate any case prior to the hearing on that case. While prior knowledge or modest communications prior to a hearing does not automatically disqualify a board member from participating in a case, board members must not enter the hearing with a fixed opinion about the case and each board member must disclose on the record at the start of the hearing any personal prior knowledge and/or communications.
- G. Members of the board shall not express individual opinions on the proper judgment of any case with any parties thereto prior to its determination of that case. Violations of this rule will be reported to the County Board of Commissioners and could be cause for removal from the board.

#### IV. MEETINGS

- A. *Regular Meetings.* Regular meetings of the board shall be held monthly on the third Thursday of the month, except that if no application is filed by the application deadline schedule prior to a meeting date, the secretary shall notify all members that no meeting will be held for that month. The meetings shall be held in Public Hearing Room #3 at the Historic Courthouse, 130 Gillespie Street at 7:00 p.m., except as specified for special meetings below.
- B. *Special Meetings.* Special meetings of the board may be called at any time by the chairman. At least 48 hours written notice of the time and place of special meetings shall be given by the secretary or the chairman, to each member of the board, and notice shall also be given in compliance with the *North Carolina Open Meetings Law*. Special meetings can only be called if it is pre-determined that a quorum of the board members can be present.
- C. *Quorum and Voting.* A quorum shall consist of four members of the board. However, the concurring vote of four-fifths of the members of the board for the hearing of a particular case shall be necessary to: reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of any County ordinance in which the Board of Adjustment has been designated as the appeals board; to grant any variance from any County ordinance that the board has the authority to vary; to rule on matters concerning nonconforming uses; to interpret the official zoning maps; and pass upon disputed questions of lot lines or district boundary lines as they arise in the administration of the *County Zoning Ordinance*. A simple majority vote is required to find in favor of an application for a Special Use Permit and for matters subject to approval as high density developments under the provisions of the *Cumberland County Water Supply Watershed Management and Protection Ordinance*.
- D. *Conduct of Meetings.* All Board of Adjustment meetings shall be open to the public. Except for consideration of high density development applications subject to the provisions of the *County Water Supply Watershed Management and Protection Ordinance*, all board meetings shall follow quasi-judicial protocol. The order of business at regular meetings generally shall be as follows:
1. Roll call;
  2. Adjustments to the agenda;
  3. Approval of the minutes of the previous meeting;
  4. Abstentions by board members;
  5. Public hearing deferrals;



6. Board member disclosures;
7. Board policy statement regarding appeal process read to audience;
8. Hearing of cases;
9. Discussion by board members and staff;
10. Updates on previously heard cases; and
11. Adjournment.

## V. APPLICATIONS

- A. *Type of Applications.* The board shall hear and decide all matters referred to it and as enumerated in Section 1603 of the *County Zoning Ordinance*.
- B. *Procedure for Filing Applications.* All applications for hearings shall be filed with the secretary, or with the administrative official, acting as secretary for the board for purposes of receiving this notice. All applications shall be made upon the form furnished for that purpose, and all required information shall be provided thereon before an application shall be considered as complete and having been filed.
- C. *Fees.* Applications shall not be considered as having been submitted until there has been paid to "Cumberland County" a filing fee as set forth in the *Cumberland County Fee Schedule*.
- D. *Hearings:*
  1. *Date and Time of Hearing.* Upon receipt of a completed application, the secretary will schedule the case to be heard in accordance with the board's adopted *Deadline/Meeting Schedule*.
  2. *Notice.* The secretary shall ensure public notice of the hearing by publishing or advertising in a newspaper of general circulation within the County the date, time and location of the hearing along with specific information from the application to afford the public actual notice of the matter applied for. The notice of the hearing is to be published a minimum of ten days and not more than 25 days prior to the meeting in which the case is to be heard.
  3. *Conduct of Hearing.* Any party may appear in person or by attorney at the hearing. The order of business for hearing each case shall be as follows: (a) the chairman, or such person as he shall direct, shall give a preliminary statement of the case, (b) after being sworn in by the chairman, the applicant

will present evidence relevant to this application together with his/her contentions as to why the application shall be granted; (c) persons opposed to granting of the application will be allowed to present relevant evidence and contentions against the granting of this application; (d) both sides if desired, will be allowed to present rebuttal evidence and arguments; (e) following presentation of a case, the board shall make its decision setting forth its findings of fact, its conclusions, and any conditions of approval. Witnesses may be questioned following presentation of their testimony by board members, and thereafter by any other interested persons.

4. *Rehearings.* An application for a rehearing may be made in the same manner as provided for an original hearing. Evidence in support of the application shall initially be limited to that which is necessary to enable the board to determine whether there has been a substantial material change in the facts, evidence, or conditions of the case. A rehearing shall be denied by the board if in its judgment there has been no substantial material change in the facts, evidence, or conditions of the case. If the board finds that there has been such a change, the request for rehearing shall thereupon be scheduled and heard in the same manner as any other application.

E. *Decisions:*

1. *Time.* Decisions by the board shall generally be rendered at the same meeting in which the case was heard. In the event, the board has requested additional information or by consensus among its members agree that additional time is warranted for the applicant or opponents, the case may be rescheduled for a date certain, typically should be set for the following month regularly scheduled board meeting.
2. *Form.* The final decision of the board for each case shall be shown in the record of the minutes of the meeting in which the case is heard. The formal approval of the minutes shall be ascertained in the minutes following the month in which a case is heard. The record shall show the reasoning for the decision, with a summary of the evidence introduced and the findings of fact, if required, and conclusions made by the board.
3. *Public Record of Decisions.* The decisions of the board, as filed in the board's record book shall be a public record, available for inspection at all reasonable times.

VI. ANNUAL REPORT TO BOARD OF COUNTY COMMISSIONERS AND COUNTY JOINT PLANNING BOARD

The secretary shall prepare and submit in July of each calendar year to the Board of County Commissioners and County Joint Planning Board a summary of the Board of Adjustment's activities for the preceding fiscal year. Such report shall contain a statement of the cases heard and a summary of the actions taken, along with any other matters which the board deems appropriate for inclusion in such report.

VII. AMENDMENTS

These rules may be amended at any time by an affirmative vote of not less than four members of the board, provided that such amendment be presented in writing at a regular meeting preceding the meeting at which the vote is taken.

\*\*\*\*\*

Read, approved, and adopted by the Board of Adjustment on this 26th day of September, 1972, the following board members voting AYE: Chairman Hill, Vice-Chairman Lytton, Mr. Averitte, Mr. Huggins, and Mr. Starling.

Amended on this 16<sup>th</sup> day of July, 1987.  
Amended on this 19<sup>th</sup> day of July, 2007.  
Amended on this 20th day of January, 2011.

## **ARTICLE XVI BOARD OF ADJUSTMENT**

### **SECTION 1601. ESTABLISHMENT.**

The Board of Commissioners, pursuant to N.C. GEN. STAT. §153A-340, does establish a Board of Adjustment. Such board shall consist of at least five members appointed by the Commissioners, with membership providing for a means of proportional representation of the County's territorial jurisdiction. The appointments shall be for staggered terms. Subsequent or new reappointments shall be for three-year terms; all appointments to fill vacancies shall be for the unexpired term. The Commissioners shall also appoint five alternate members at large to serve in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed in the same manner as regular members and at the regular times for appointment. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and exercise all the powers and duties of any regular member absent from the meeting.

### **SECTION 1602. PROCEEDINGS.**

The Board shall elect a Chairperson and Vice-Chairperson from among its members. The Director shall assign a staff member to fill the Secretary and Clerk positions. Meetings of the board shall be held at the call of the Chairperson and at such other times as the board may determine. The Chairperson or any member acting as chair and the Secretary to the Board are authorized to administer oaths. The Chairperson may compel the attendance of witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor. The Vice-Chairperson or any member of the board while temporarily acting as Chairperson has and can exercise like authority. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon every motion or question, or if absent or failing to vote, indicating such fact. The board shall also keep records of its examinations and official action.

### **SECTION 1603. POWERS AND DUTIES.**

The Board of Adjustment shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development:

A. Hear and decide special use permits, requests for variances, and appeals of decisions relating to the administrative review of any order, requirement, decision or determination

made by the Director or other administrative official regarding enforcement of this ordinance or other ordinance that regulates land use or development. (See Section 1604 below)

B. Vary or modify any of the regulations or provisions of this ordinance related to the construction or alteration of buildings or structures, dimensional requirements and minimum standards of individual uses except for specific location criteria for individual uses, in accordance with Section 1605, where there are unnecessary hardships in carrying out the strict letter of this ordinance, so that the spirit, purpose and intent of the ordinance shall be observed, public safety is secured and substantial justice achieved;

C. May hear and decide special use permit applications in accordance with standards and procedures specified in Section 1606;

D. *Repealed.*

E. Rule on matters concerning nonconforming uses as to their continuance or discontinuance, expansion, reconstruction and, in general, compliance with Sections 1003 and 1004;

F. Rule on matters related to the County's Water Supply Watershed Management and Protection Ordinance regarding High Density developments, appeal of the Watershed Review Officer's decision, and hear request for variance from the County Water Supply Watershed Management and Protection Ordinance;

G. Hear and rule on appeals and variance requests from the County's Flood Damage Prevention Ordinance.

H. *Repealed.*

#### **SECTION 1604. APPEALS.**

The Board of Adjustment shall hear and decide from decisions of administrative officials charged with enforcement of the zoning ordinance and may hear appeals arising out of any other ordinance that regulates land use or development pursuant to all of the following:

A. Any person who has standing under G.S. 160A-393(d) or the County may appeal a decision to the Board of Adjustment. The notice of appeal shall state the grounds for the appeal.

B. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the subject property owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

C. The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

D. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

E. Subject to the provisions of subdivision (D) of this sub-section, the board of adjustment shall hear and decide the appeal within a reasonable time.

F. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the County would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

#### **SECTION 1605. VARIANCE.**

When unnecessary hardships would result from carrying out the strict letter of this ordinance, or other land use regulation or ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

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

B. 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.

C. 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 shall not be regarded as a self-created hardship.

D. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any variance granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one calendar year from the date of such approval. The Board of Adjustment is not authorized to grant variances to any use approved in a Conditional Zoning district or to the specific conditions or other performance criteria imposed upon such use. If the board denies a variance request, the board shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider resubmission of the application for the same variance request on the same property without a substantial material change concerning the property and the application.

#### **SECTION 1606. SPECIAL USE PERMITS.**

The Board of Adjustment shall hear and decide applications for Special Use Permits. The various Special Uses set forth in the Use Matrix in Article IV, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and neighborhoods, shall be permitted only upon approval by the Board of Adjustment in accordance with the standards and procedures specified in the ordinance. Reasonable and appropriate conditions may be imposed upon these permits.

A. Purpose. Permitting Special Uses adds flexibility to this ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the Special Use Permit procedures, property uses that would otherwise be undesirable in certain districts can be developed to minimize any negative effects they might have on surrounding properties.

B. Procedure. Special Use Permits shall be granted by the Board of Adjustment as permitted for only those uses enumerated in Section 403, Use Matrix, as Special Uses. Uses specified

as a Special Use in Section 403 shall be permitted only upon the issuance of a Special Use Permit by the Board of Adjustment.

The owner or owners of all property included in the petition for a Special Use Permit shall submit a complete application and a detailed site plan (drawn in accordance with the specifications listed in Section 1402) to the Planning and Inspections Staff. The Staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule.

Developers are encouraged to discuss their Special Use plans with the Planning and Inspections Staff before submission. The staff shall assist the developer upon request by reviewing Special Use plans to ensure that the technical requirements of this ordinance are met before submission to the Board of Adjustment.

All applications and site plans shall provide information indicating compliance with the development standards for individual uses as listed in Article IX of this ordinance, as applicable, and the height and area regulations for the zoning district in which they are located, unless the provisions for the Special Use provide to the contrary.

C. Consideration of Application. The Board of Adjustment shall consider the application, site plan and any other evidence presented in accordance with this article and may grant or deny the Special Use Permit requested. In granting a Special Use Permit, the Board shall find that:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and proposed;

2. The use meets all required conditions and specifications;

3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Cumberland County's most recent Land Use Plan, either comprehensive or a detailed area plan.

D. Final Disposition. In granting approval of a Special Use Permit, the Board of Adjustment shall impose such reasonable terms and conditions as it may deem necessary for the protection of the public health, general welfare and public interest. In granting a Special Use Permit, the Board of Adjustment may give due consideration to one or all of the following:

1. The compatibility of the proposal, in terms of both use and appearance, with the surrounding neighborhood;



2. The comparative size, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding area and neighborhood;

3. The frequency and duration of various indoor and outdoor activities and special events, and the impact of these activities on the surrounding area;

4. The capacity of adjacent streets to handle increased traffic in terms of traffic volume, including hourly and daily levels and weight-bearing limitations;

5. The added noise level created by activities associated with the proposed use;

6. The requirements for public services where the demands of the proposed use are in excess of the individual demands of the adjacent land uses, in terms of police and fire protection, and the presence of any potential or real fire hazards created by the proposed use;

7. Whether the general appearance of the neighborhood will be adversely affected by the location of the proposed use on the parcel;

8. The impact of night lighting in terms of intensity, duration and frequency of use, as it impacts adjacent properties and in terms of presence in the neighborhood;

9. The impact of the landscaping of the proposed use, in terms of maintained landscaped areas, versus areas to remain in a natural state, as well as the openness of landscaped areas, versus the use of buffers and screens;

10. The impact of a significant amount of hard-surfaced areas for buildings, sidewalks, drives, parking areas and service areas, in terms of noise transfer, water runoff and heat generation;

11. The availability of public facilities and utilities;

12. The harmony in scale, bulk, coverage, function and density of the proposed development and compliance with the development standards of the individual uses; and

13. The reasonableness of the request as compared to the purpose and intent of the most recent Land Use Plan, this ordinance, and adopted policies, for the physical development of the district, and protection of the environment.

All such additional conditions imposed on the permit by the Board of Adjustment shall be entered in the minutes of the meeting at which the Special Use Permit is granted, on the Special Use Permit itself, and on the approved plans submitted therewith. The specific conditions shall run with the land and shall be binding on the original applicants for the Special

Use Permit, their heirs, successors and assigns. The applicant for the Special Use Permit is responsible for the recordation of the "Notice of Special Use Permit" with the Cumberland County Register of Deeds prior to application for any zoning permit.

If the Board denies the Special Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider resubmission of the application for the same Special Use Permit on the same property without a substantial material change concerning the property and the application.

E. Expiration of Permits. Any Special Use granted becomes null and void if not exercised within the time specified in such approval, or if no date is specified, within one calendar year from the date of such approval if the permit has not been recorded with the County Register of Deeds. Furthermore, once the Certificate of Occupancy has been issued for a Special Use and then the Special Use ceases to exist for a time period of one calendar year or more, a re-submittal of the Special Use application for the same use may be required if there has been a material change in the ordinance standards.

F. Modifications to Plans. The Board of Adjustment shall review any change, enlargement or alteration in site plans submitted as a part of a Special Use application, and new conditions may be imposed where findings require. The Planning and Inspections Staff may approve minor modifications of the approved plans in the same manner as authorized in Section 506 for Conditional Zoning districts, provided that the changes do not materially alter the original plan as approved, and the intent and objectives of the original approval are not deviated from.

G. Noncompliance. If for any reason any condition imposed pursuant to this section is found to be illegal or invalid, the Special Use Permit shall be null and void and of no effect, and the Planning and Inspections Staff shall institute proceedings for the case to be reheard by the Board of Adjustment.

Compliance with all the conditions of a Special Use Permit is an essential element of the Special Use Permit's continued validity and effectiveness. If the Coordinator shall determine that a permittee has failed to comply with a condition of an approved Special Use Permit, he shall so notify the permittee or the permittee's successor in interest and shall place the matter on the Board of Adjustment's agenda for the Board's decision whether or not to revoke the Special Use Permit. Such hearing shall be on reasonable written notice to the permittee or the permittee's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the Board of Adjustment shall be a final decision, and a decision to revoke the Special Use Permit may be appealed to the Superior Court of Cumberland County within 30 days after the permittee or the permittee's successor in interest has been served with written notice of the Board of Adjustment's decision. Service by personal delivery, electronic mail or certified mail, return receipt requested, of a certified copy of the Board of Adjustment's approved minutes for its meeting at which such decision is made, may constitute written notice and service of the Board of Adjustment's decision hereunder.

H. Appeals of Special Use Permit Decisions. No appeal may be taken from the action of the Board of Adjustment in granting or denying a Special Use Permit except through the Cumberland County Superior Court in the same manner as set forth in this article for appeal of any Board of Adjustment decision.

#### **SECTION 1607. HEARINGS**

A. The Board of Adjustment shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the board. A quasi-judicial is effective upon filing the written decision with the Clerk to the board. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Clerk to the board shall certify that proper notice has been made.

B. The Secretary to the Board of Adjustment shall ensure the Commanders of Fort Bragg, Pope Army Airfield, and Simmons Army Airfield are notified of any application affecting the use of property located within five miles or less of the perimeter boundary of said bases in accordance with N.C. GEN. STAT. § 153A-323.

#### **SECTION 1608. REQUIRED VOTE.**

A. The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this sub-section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

B. A member of the board exercising quasi-judicial functions pursuant to this article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected person's constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that

member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

**SECTION 1609. REVERSAL/REVOCAION OF DECISION.**

After a hearing has been held and approval granted, the Board of Adjustment may reverse or revoke any decision notice to the property owner and affected applicant if not the owner upon finding that:

- A. The approval was obtained by fraud;
- B. The use for which such approval was granted is not being executed;
- C. The use for which such approval was granted has ceased to exist or has been suspended for one calendar year or more;
- D. The permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval;
- E. The permit granted is in violation of an ordinance or statute; or
- F. The use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

**SECTION 1610. APPEAL OF FINAL DECISION.**

Every quasi-judicial decision shall be subject to review by the Superior Court by proceedings in the nature of certiorari pursuant to N.C. GEN. STAT. § 160A-393. A petition for review shall be filed with the Clerk of Superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision A of this sub-section. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

**State Statute References: N.C. GEN. STAT. §153A-345.1 and §160A-388**  
*(Amd. 02-19-08; Amd. 08-18-08; Amd. 01-19-10; Amd. 04-18-11; 08-21-17)*