

REQUEST **Variance from Side Yard Setback Standard**

The applicant requests a variance from Section 1104, County Zoning Ordinance, to allow a 1,350 +/- square foot accessory structure to encroach the minimum side yard setback line by forty-six and half (46.5) lineal feet at a lot assigned an M(P) Planned Industrial zoning district. Located at 3303 Camden and abutting Elizabeth Cashwell Elementary School, as shown in Exhibit "A", and containing 2.08 acres, the subject lot is currently occupied by Seegars Fence Co. A site plan for the lot appears in Exhibit "B" (attached) and shows the proposed location for the accessory structure. The structure was built between 2001 and 2008, and sometime between 2013 and 2017, the roof was removed, and the applicant is proposing to repair the existing infrastructure. Further, per Section 1002.E.4 of the Zoning Ordinance, any accessory structure greater than 700 square feet in floor area must be located inside the building envelope. Staff interprets this code to mean that the accessory structure must be at or inside the side yard setback.

- Exhibits
- A. Site Location/Zoning
 - B. Site Plan (attached)
 - C. Existing Use
 - D. Surrounding Area
 - E. Soil Conditions
 - F. Section 1104, Zoning Ordinance
 - G. Section 1002.E.4, Zoning Ordinance
 - H. Applicant's Response
- Attachment: mailing list;
variance application

PROPERTY INFORMATION

OWNER/APPLICANT: Mr. Ashley Alford (Owner); Kyle Holmes (Applicant).

ADDRESS/LOCATION: Refer to Exhibit "A", Location and Zoning Map. REID number: 0425489012000.

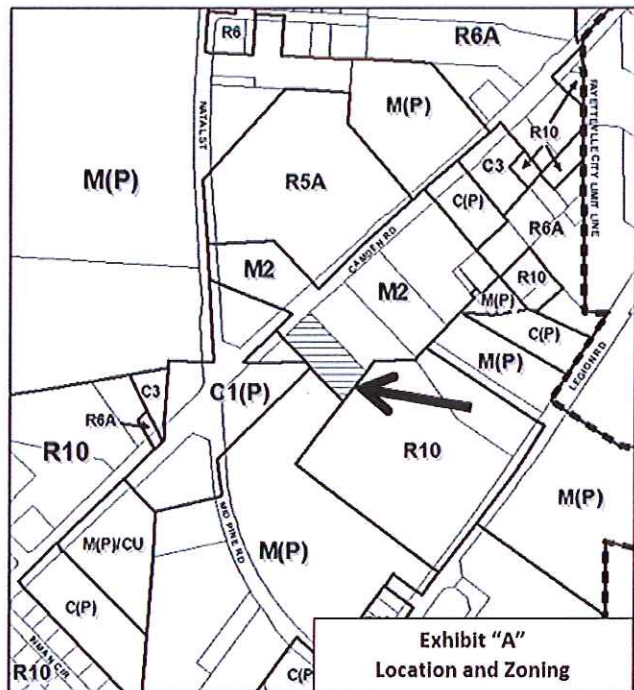
SIZE: 2.08 +/- acres. The road frontage along Camden Road is 200 +/- feet with a depth of 469 +/- feet.

EXISTING ZONING: M(P) Planned Industrial (As shown in Exhibit "A")

EXISTING SITE CONDITONS:

Exhibit "C" (attached) shows the existing use of the subject property. The subject lot is currently occupied by Seegars Fence Company.

SURROUNDING LAND USE: Exhibits "C" and "D" illustrates the following neighborhood character and surrounding area, and is further outlined below:



- **North:** Apple Moving & Storage Company and Topeka Heights Apartments
- **East:** MMX Transportation
- **West:** Vacant Land
- **South:** Elizabeth Cashwell Elementary School

SPECIAL DISTRICTS: The property is located within the Fayetteville Regional Airport Overlay District. This property is not within five miles of Fort Bragg Military Base.

TRAFFIC: The subject property sits on Camden Road which is identified as a minor arterial in the Metropolitan Transportation Plan. Camden Road is identified in the Transportation Improvement Program as U-2801C, SR 1003 (CAMDEN ROAD) EAST OF CSX RAILROAD TO SR 1007 (OWEN DRIVE). No Right of way is scheduled or a construction year listed. In addition, Camden Road has a 2021 AADT of 9,800 and a road capacity of 36,800. Due to lack of data and the small scale, the new development request does not demand a trip generation. The new development should not generate enough traffic to significantly impact Camden Road.

UTILITIES: PWC water and sewer utilities are available, as shown in Exhibit "E". It is the applicant's responsibility to determine if these utilities will adequately serve their development.

SCHOOLS: The variance request would not create an increase in student enrollment. The proposed accessory structure is approximately 100 linear feet from the property line of Elizabeth Cashwell Elementary School and about 550 feet from the nearest classroom.

EMERGENCY SERVICES: Cumberland County Fire Marshal's office has reviewed the request and has stated the following:

1. Ensure all fire department access requirements are met in accordance with section 503 of the 2018 NC fire code.
2. Submit building plans to scale for new construction and building renovation.

OTHER SITE CHARACTERISTICS: The site is not located in a Watershed or within a Flood Zone Hazard Area. The subject property, as delineated in Exhibit "E", illustrates no presence of hydric or hydric inclusion soils at a small portion of the northeast corner of the property.

DIMENSIONAL PROVISIONS FOR REQUESTED DISTRICT:

Minimum Standard	M(P) (Existing Zoning)
Front Yard Setback	100 feet
Side Yard Setback	50 feet
Rear Yard Setback	50 feet

APPLICABLE CODES:

Zoning Code	Standard	Exhibit #
Sec. 1104	Minimum side yard setback of 50 feet.	F
Sec. 1002.E.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."	G
Sec. 203, Definition	" Buildable Area (Buildable Envelope): The space remaining on a lot after the minimum open space requirements (yards, setbacks, etc.) have been met."	
Sec. 1605	Variance criteria to demonstrate hardship	Below

VARIANCE HARDSHIP CRITERIA:

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

- A. Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- 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 regulation, such that public safety is secured, and substantial justice is achieved.

APPLICANT HARDSHIP DECLARATION:

Applicant's response to the above four variance hardship criteria is provided in Exhibit "H".

VARIANCE SITE INFORMATION.

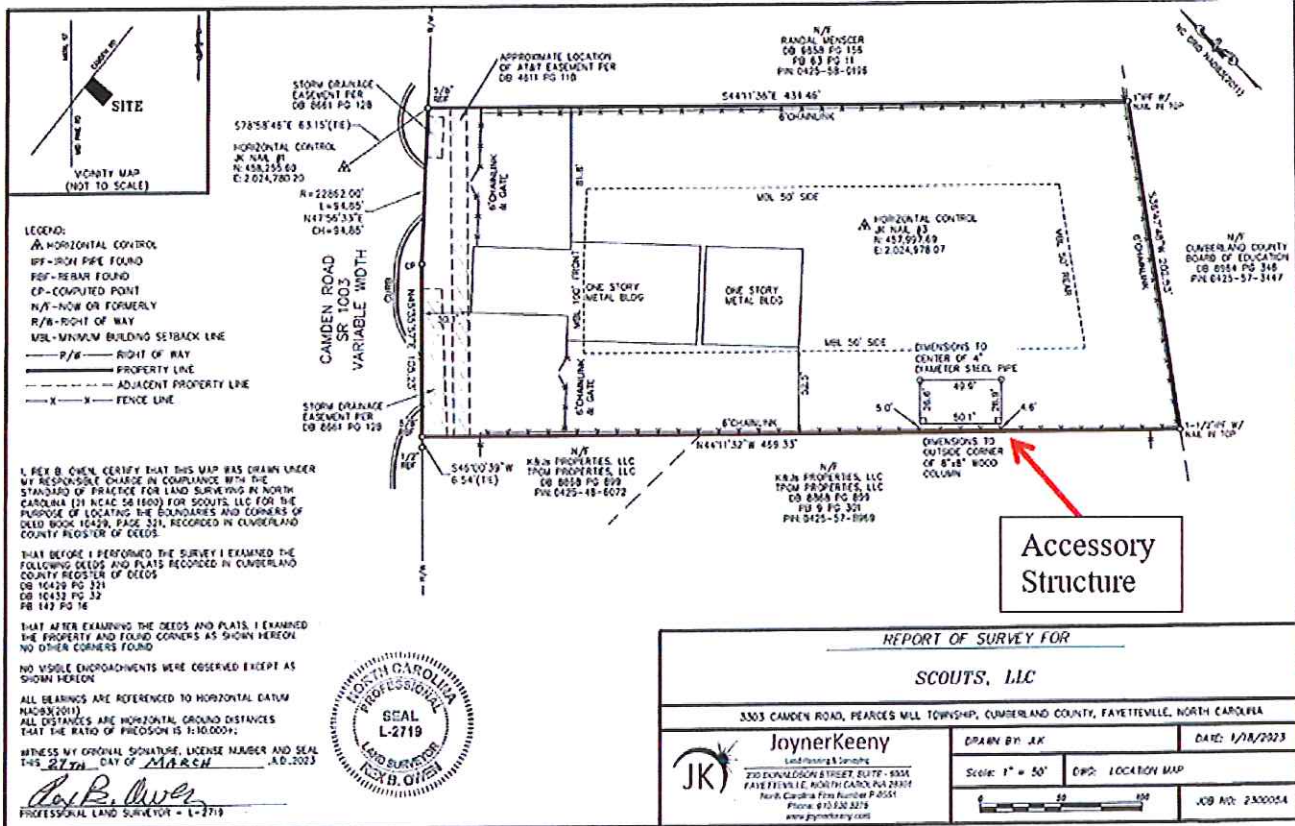
- A. A Site Plan provided in Exhibit "B" illustrates the location of existing buildings and structures on the lot as well as the location of the proposed accessory structure. Because the accessory structure is over 700 square feet, per Sec. 1002.E.4, the structure must be inside the building envelope. This means that the proposed structure must comply with the setbacks in the M(P) classification. The site plan shows the applicant's request to place the proposed accessory structure 4.6 feet from the side property line instead of complying with the minimum 50-foot side yard setback standard.

MOTION / BOA ACTION

The BOA has the authority to take final action on variance applications, making a decision to approve, deny, or approve with conditions. The motion must be based on the four findings variance criteria and based on the findings of fact presented at the hearing.

Exhibit "B"

Site Plan with Proposed Accessory Structure Location



Source: Applicant

Exhibit "C"
Existing Use

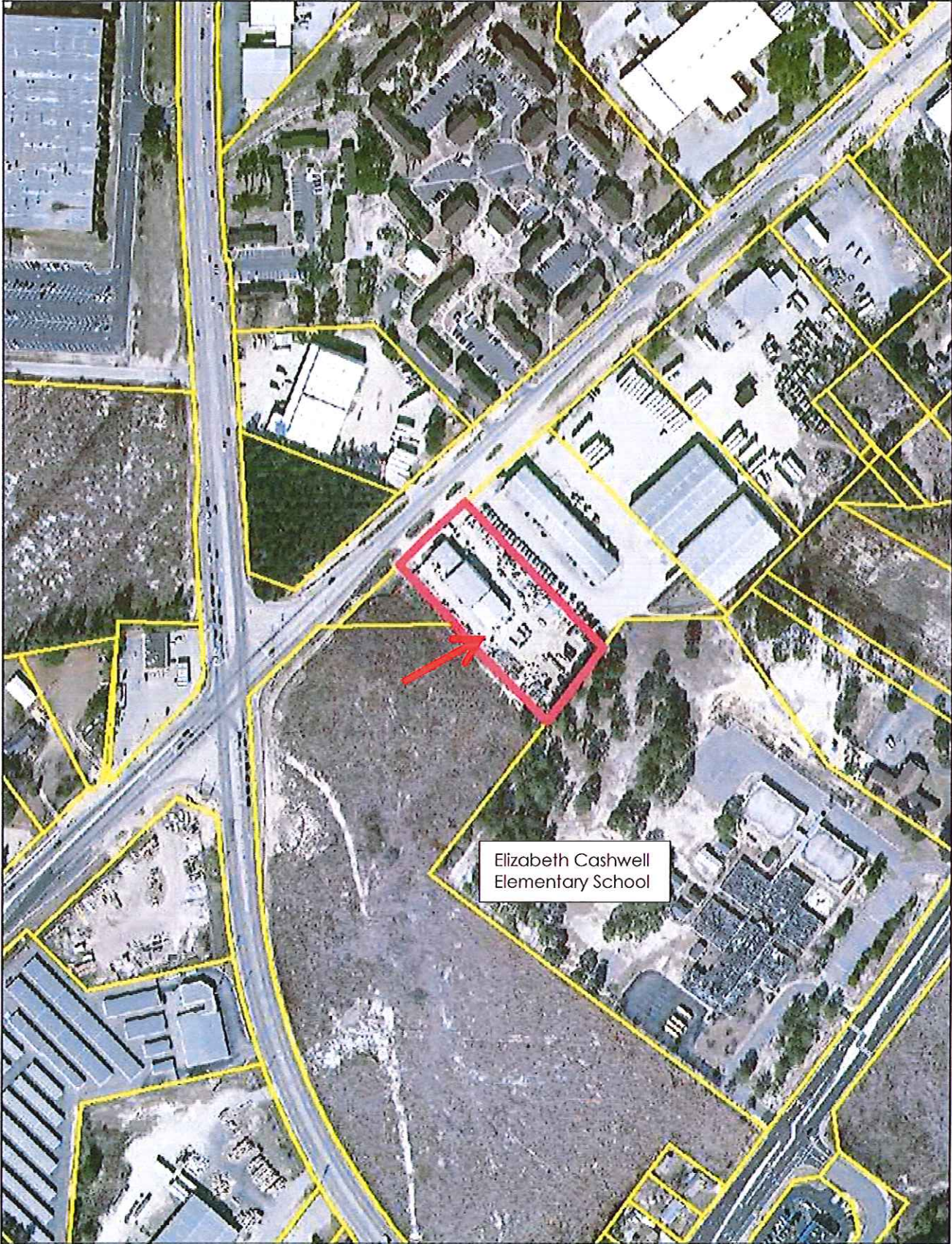


Exhibit "D"
Neighborhood Character and Surrounding Area

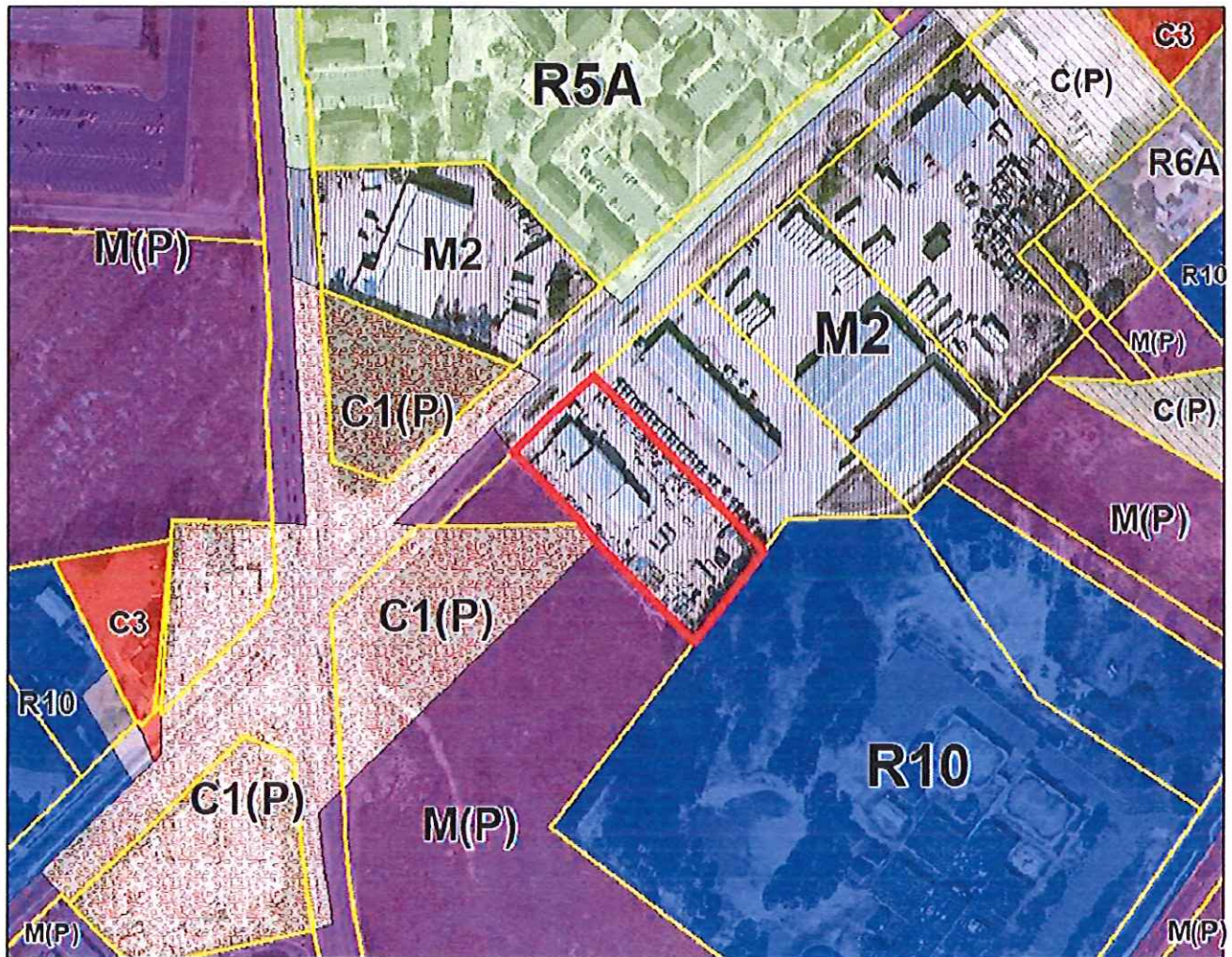


Exhibit "E"
Soil Conditions

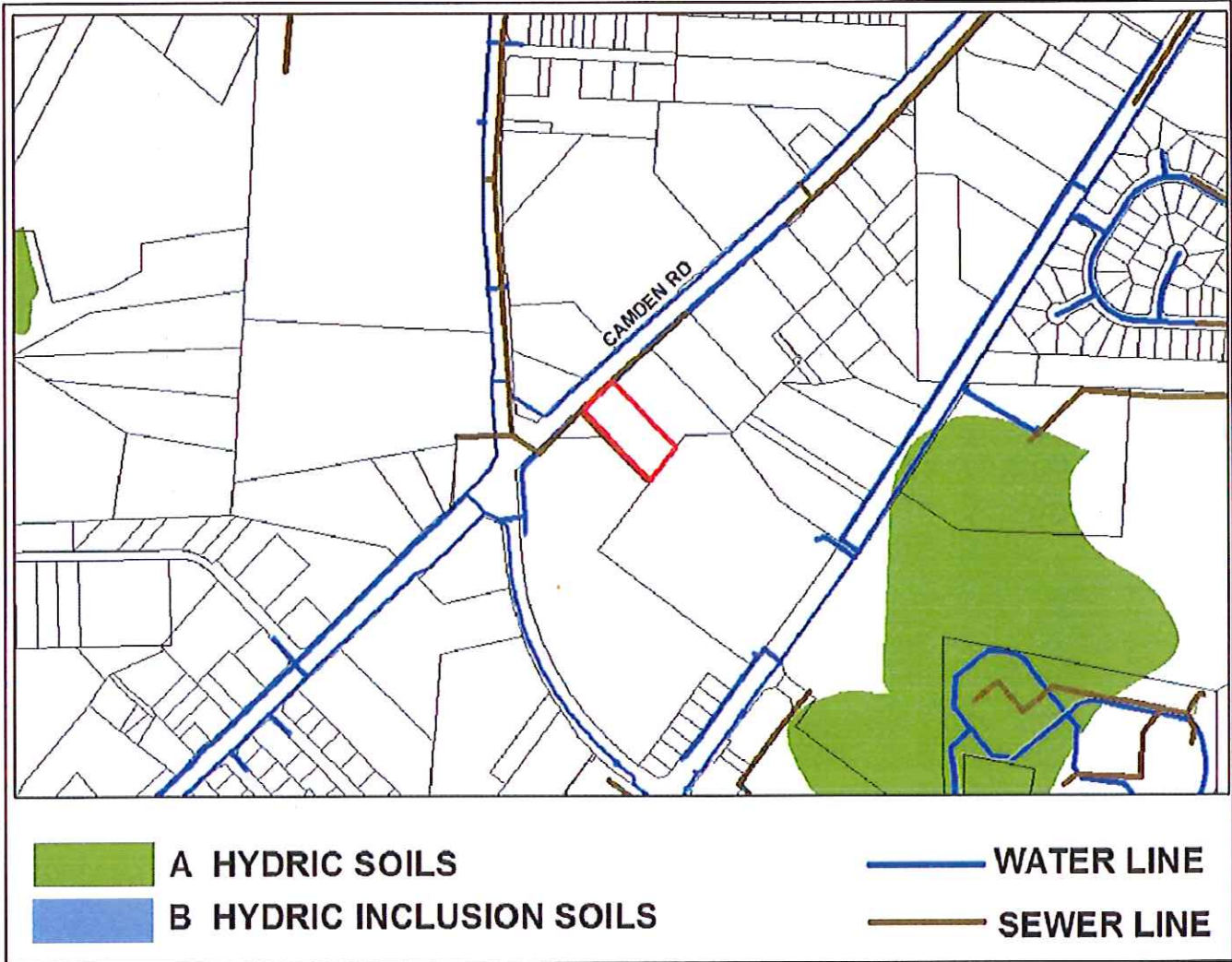



Exhibit "F"
Section 1104, Zoning Ordinance

(Section 1104, District Dimensional Provisions – Continued)¹

MINIMUM YARD SETBACK REGULATIONS²

<u>DISTRICT</u>	<u>FRONT YARD</u> (feet)		<u>SIDE YARD</u> (feet)	<u>REAR YARD</u> (feet)
	Measured from R/W Line	Measured from Street Centerline		
CD	50	80	50	50
O&I(P)	35	65	15	20
C1(P)	45	75	15	20
C2(P)	50	80	30	30
C(P)	50	80	30	30
M1(P)	50	80	30	30
 M(P)	100	130	50	50

¹ Exception: See Section 1103 for special exceptions to this chart.

² All signs are regulated by Article XIII.
 (Amd. 02-19-08)

Exhibit "G"
Section 1002.E.4., Zoning Ordinance

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.

(Amd. 11-20-06; Amd. 02-19-08; Amd. 01-19-10)

Exhibit "H": Applicant's Response



3/17/23

To: Zoning Board of Cumberland County

Ref: 3303 Camden Rd Fayetteville, NC 28306
Request for Setback Decrease (Right Side of Property)

To the members of the Board,

My name is Kyle Holmes and I am with H2 Contracting, LLC of Fayetteville NC. We have been working with Mr. Ashley Alford who is the President of Seegars Fence Co. here in Fayetteville on his proposed project. Mr. Alford originally reached out to us to price replacing the roof system on his existing shelter structure located on the back right side of his property. This shelter has always been used to keep new wood slat fence material and posts dry and out of the weather. The existing roof had been damaged previously due to storms and needed replacing.

This shelter is critical to his ability to maintain quality material for upcoming projects. If material sits in the weather there is a large percentage that can no longer be used on new projects.

We were unaware that this existing structure did not meet the required setback requirements for the property. We later found this out when applying for a roof permit. Our permit did not consist of any new structural columns as the columns that are existing will remain in location.

This property is currently zoned M2 with is an industrial zoning. The adjacent left property is zoned M2 as well. The right-side adjacent property is zoned M(P) and C1(P) which allows for these types of shelters.

We are requesting a variance on the existing required setbacks of 50' changing the right-side setback to 3.5'. This is to accommodate the existing structure. This structure has been in place for over fifteen years (GIS before 2008)
Code Section: 1104

Hardship Questions:

- A. Response: Without this variance the remaining structure would need to be demolished and our client has no other appropriate location. Also, the cost of replacing would double since the main structure currently exists in this location. Furthermore, Owner would continue to lose money due to damaged materials not able to be used.
- B. Response: Current location works best with the use of remaining lot. This is out of the way of trucks and works with flow of delivery traffic.
- C. Response: This structure has been in place and our client only wishes to make repairs to the roof needed to continue use of the existing structure
- D. Response: We propose putting the roof back on this existing column structure – this will not only improve the look and feel for the overall property it will once again make this a useful structure while also saving our client money long term. This will keep the new materials out of the weather.



GENERAL CONTRACTORS

Our intention is to build new roof structure on existing columns. We do not intend to increase the size in any way. Please see attached survey showing the structure. Our project will use metal roofing panels which will maintain a quality look for years to come.

I am hopeful that this letter has given good understanding of the need to have this shelter function in its original capacity and for that to happen we need to be able to pull a permit and install new roof system on the existing columns. This will not only improve his ability to use his property for its original intent but it will make sure he can give the quality product he desires to his customers without losing thousands of dollars per year to damaged material from exposure to rain, sunlight, etc.

Thank you very much for your consideration.

A handwritten signature in black ink, appearing to read 'K. B. Holmes', is written over a thin horizontal line.

Kyle B. Holmes

H2 Contracting, LLC

731 McGilvary St. Fayetteville, NC 28303

O: 910-484-0524 F: 910-484-0341

**ATTACHMENT:
NOTIFICATION MAILING LIST**

K&JS PROPERTIES LLC;TPGM PROPERTIES LLC

PO BOX 53729

FAYETTEVILLE, NC 28305

MENSCER, RANDAL

261 MENSCHER DR

HOPE MILLS, NC 28348

K&JS PROPERTIES LLC;TPGM PROPERTIES LLC

PO BOX 53729

FAYETTEVILLE, NC 28305

CUMBERLAND COUNTY BOARD OF EDUCATION

2465 GILLESPIE ST

FAYETTEVILLE, NC 28302

PARKS MOVING & STORAGE INC

3285 NATAL ST

FAYETTEVILLE, NC 28306

K&JS PROPERTIES LLC;TPGM PROPERTIES LLC

PO BOX 53729

FAYETTEVILLE, NC 28305

SCOUTS LLC

401 PATETOWN RD

GOLDSBORO, NC 27530

**ATTACHMENT:
APPLICATION**



County of Cumberland
BOARD OF ADJUSTMENT

CASE #: _____

CUMBERLAND COUNTY BOA
MEETING DATE: _____

DATE APPLICATION
SUBMITTED: _____

RECEIPT #: _____

RECEIVED BY: _____

**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: 3303 Camden Rd.

OWNER: Scouts LLC

ADDRESS: 3303 Camden Rd. Fayetteville, NC ZIP CODE: 28306

TELEPHONE: HOME 910-424-8080 WORK 910-424-8080

AGENT: Kyle B. Holmes

ADDRESS: 731 McGilvary St. Fayetteville NC 28301

TELEPHONE: HOME 910-527-5553 WORK 910-484-0524

E-MAIL: h2contractingkbh@gmail.com

APPLICATION FOR A VARIANCE
As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 0425-48-9012
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 2.08 Frontage: 200.08 Depth: 469.33

C. Water Provider: PWC

D. Septage Provider: PWC

E. Deed Book 10429, Page(s) 321, Cumberland County

F. Existing and/or proposed use of property: Existing Zoning M2(MP), Heavy Industrial,
Use of property to stay same

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: Decrease property setbacks to allow existing structure to remain. REF: Section 1104 General

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: REF: SEction 1104 General Provisions. Zoning M2 (MP) setbacks require
100' Front Setback, 50' Side, 50' Rear. Main building currently sits inside setbacks

We are requested the existing structure to be allowed to remain. We request the
right side setback be decreased from 50' to 3.5'. Existing Chainlink fence to remain

The undersigned hereby acknowledge that the County Planning Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

Mr. Ashley Alford

NAME OF OWNER(S) (PRINT OR TYPE)

3303 Camden Road Fayetteville, NC 28306

ADDRESS OF OWNER(S)

ashley@seegarsfence.com

E-MAIL

910-624-4813

HOME TELEPHONE #

910-424-8080

WORK TELEPHONE #

Kyle B Holmes

NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

731 McGilvary St Fayetteville NC 28301


ADDRESS OF AGENT, ATTORNEY, APPLICANT

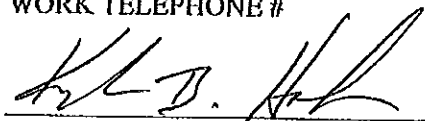
910-527-5553

HOME TELEPHONE #

910-484-0524

WORK TELEPHONE #


SIGNATURE OF OWNER(S)


SIGNATURE OF AGENT, ATTORNEY
OR APPLICANT

SIGNATURE OF OWNER(S)

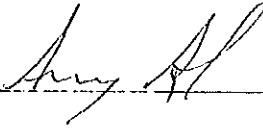
The contents of this application, upon submission, become "public record."

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) Mr. Ashley Alford

DATE March 16, 2023

**CUMBERLAND COUNTY BOARD OF ADJUSTMENT
FEE SCHEDULE**

BOARD OF ADJUSTMENT

SPECIAL USE PERMIT
VARIANCE
WATERSHED
ADMINISTRATIVE REVIEW APPEALS
INTERPRETATIONS
NONCONFORMING USES

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