

Members:
George Quigley, Chair
Oscar L. Davis, III, Vice-Chair
Steve Parsons
Melree Hubbard Tart
Joseph Dykes



Alternates:
Martin J. Locklear
John Swanson
Horace Humphrey
Carrie Tyson-Autry

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

130 Gillespie Street
Fayetteville, NC 28301
(910) 678-7603

DATE: AUGUST 15, 2008

MEMO TO: CUMBERLAND COUNTY BOARD OF ADJUSTMENT

FROM: CUMBERLAND COUNTY PLANNING & INSPECTIONS DEPARTMENT

SUBJECT: TENTATIVE AGENDA

A meeting of the Cumberland County Board of Adjustment will be held on Thursday, August 21, 2008 at 7:00 p.m. in Room 118 of the Cumberland County Courthouse at 117 Dick Street. The Tentative Agenda is as follows:

1. ROLL CALL
2. APPROVAL OF THE JUNE 19, 2008 MINUTES
3. ABSTENTIONS BY BOARD MEMBERS
4. PUBLIC HEARING DEFERRALS
5. BOARD MEMBER DISCLOSURE
6. POLICY STATEMENTS REGARDING APPEAL PROCESS READ
7. STAFF INITIATED PUBLIC HEARING WITHDRAWAL:
 - **P08-05-C:** CONSIDERATION OF A VARIANCE REQUEST REGARDING THE COUNTY ZONING ORDINANCE, SECTION 1202, OFF-STREET PARKING, SUB-SECTION D, DESIGN, WHICH REQUIRES PAVED OFF-STREET PARKING SPACES FOR DEVELOPMENTS PROPOSED IN THE URBAN SERVICES AREA, FOR A RELIGIOUS WORSHIP FACILITY IN A R40 RESIDENTIAL DISTRICT, ON 13.70 +/- ACRES, LOCATED AT 1419 H BULLARD ROAD, SUBMITTED BY EDDIE WARREN, OWNED BY THE CHURCH OF THE APOSTLES.
8. PUBLIC HEARING(S):
 - A. **P08-07-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1002, INCIDENTAL USES, SUB-SECTION E.4, TO ALLOW A REAR YARD SETBACK OF 10 FEET WHERE 35 FEET IS REQUIRED (SECTION 1104) FOR AN ACCESSORY STRUCTURE GREATER THAN 700 SQUARE FEET IN A R10 RESIDENTIAL DISTRICT ON 0.30 +/- ACRES, LOCATED AT 5255 CHURCH STREET, SUBMITTED BY JAMES SMITH, OWNED BY CHRISTOPHER SMITH.

- B. **P08-08-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1403, SITE PLAN REVIEW, SUBSECTION I, WHICH REQUIRES CONNECTION TO PUBLIC UTILITIES FOR A NON-RESIDENTIAL USE WHEN UTILITIES ARE PRESENT; FOR A GRAIN GRADING FACILITY IN A M(P) PLANNED INDUSTRIAL DISTRICT ON 16.14+/- ACRES; LOCATED AT 1754 RIVER ROAD, SUBMITTED BY NEAL PATE, NC DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES; OWNED BY CARGILL INC.
- C. **P08-02-E:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN AN O&I(P) PLANNED OFFICE AND INSTITUTIONAL DISTRICT ON 2.19+/- ACRES, LOCATED AT 3135 DUNN ROAD, SUBMITTED BY CRAIG S. WHEELER, OWNED BY GREGORY AND LAURIE D. BARNES. (EASTOVER)

9. INFORMATIONAL ITEMS:

- A. RECOMMEND NOMINEE FOR ALTERNATE BOARD MEMBER VACANCY:
(Mr. Ingram resigned from the Board effective August 1, 2008 due to relocation.)

APPLICANTS

- JOHNSON CHESTNUTT
- WILLIAM LOCKETT TALLY

- B. KENNEL AMENDMENT
C. FLYER

10. ADJOURNMENT

Members:
George Quigley, Chair
Oscar L. Davis, III, Vice-Chair
Steve Parsons
Melree Hubbard Tart
Joseph Dykes



Alternates:
James Ingram
Martin J. Locklear
John Swanson
Horace Humphrey
Carrie Tyson-Autry

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

130 Gillespie Street
Fayetteville, NC 28301
(910) 678-7603

MINUTES
JUNE 19, 2008
7:00 P.M.

Members Present

Oscar Davis, III
Steve Parsons
Joseph Dykes
Carrie Tyson-Autry
John Swanson
George Quigley, Chair
*(arrived later; did not
participate in the
meeting)*

Members Absent

Horace Humphrey
Martin J. Locklear
James Ingram

Staff/Others Present

Patricia Speicher
Angela Perrier
Rita Perry
Jeff Barnhill
Grainger Barrett,
County Attorney
Pier Varner

Oscar Davis, Vice-Chair acting as Interim-Chair called the meeting to order at 7:00 p.m. in Room 118 of the Cumberland County Courthouse.

1. SWEARING IN NEW BOARD MEMBER:

Carrie Tyson-Autry – Alternate

2. ROLL CALL

Ms. Speicher called the roll and a quorum was present. (Acknowledged Mr. Quigley's excused absence)

3. APPROVAL OF THE MAY 15, 2008 MINUTES

Correction: Add "Oscar Davis, III" to "Members Present" list.

A motion was made by Mr. Parsons and seconded by Mr. Dykes to approve the minutes with corrections. The motion passed unanimously.

4. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board members.

5. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

6. BOARD MEMBER DISCLOSURE

There were no disclosures by Board members.

7. POLICY STATEMENTS REGARDING APPEAL PROCESS READ

Ms. Speicher read the Board's policy regarding the appeal process to the audience.

8. BOARD HEARING:

- **WS 08-05. CONSIDERATION OF THE CAPE FEAR OPERATIONS CENTER FOR UP TO 46% IMPERVIOUS SURFACE HIGH DENSITY DEVELOPMENT APPROVAL UNDER THE TERMS OF THE COUNTY WATER SUPPLY WATERSHED MANAGEMENT AND PROTECTION ORDINANCE, SECTION 31A-60; ZONING: M(P) PLANNED INDUSTRIAL; ACREAGE: 10.79 +/- ACRES; LOCATED ON THE NORTH SIDE OF SR 1815 (WADE-STEDMAN ROAD) AND WEST OF INTERSTATE 95; SUBMITTED AND OWNED BY PROGRESS ENERGY CAROLINAS, INC. (TOWN OF WADE)**

MS. SPEICHER: This is not a public hearing; therefore, even though there are parties in attendance in regards to this case (Tim Stahl, Engineer and Mayor Huell Aekins), it is up to the Board if you decide to hear any testimony.

Mr. Jeff Barnhill presented the zoning, land use, site plan, application and photos of the site to the Board.

MR. BARRETT: Is the outlet into the easement?

MR. BARNHILL: Yes

MS. SPEICHER: To clarify for the Board. What was included in the packet is not fully correct. In May the Planning Staff made the recommendation for the approval of the site plan, the Town of Wade approved the site plan on June 13th.

Ms. Speicher explained the purpose of the watershed to Ms. Tyson-Autry.

MR. PARSONS: How many strands of bobbed wire are on the seven foot chain link fence?

MR. BARNHILL: The fence is six feet high with the addition of three strands of bobbed wire.

MR. PARSONS: Are there also vegetative barriers?

MR. BARNHILL: Yes

MR. PARSONS: Is that because there are residential uses surrounding the property?

MR. BARNHILL: Yes

MS. SPEICHER: If the Board has additional questions, the Engineer from Site Technologies, Inc. (Tim Stahl) and Progress Energy's Project Manager (Clifford Reynolds) are present?

INTERIM-CHAIR DAVIS: Would anyone like to come forward to present anything to the Board?

Mr. Reynolds introduced himself to the Board.

MR. PARSONS: Progress Energy is requesting approval for up to 46% impervious surface and no additional for the future?

MS. SPEICHER: This is being handled in this manner because it is a non-residential development. Re-submittal and re-approval of the site plan would be required for any future expansions.

A motion was made by Mr. Parsons and seconded by Ms. Tyson-Autry to approve Case No. WS-08-05 for up to 46% on the 10.79 acres, subject to all Conditions of Approval, provided that it is developed according to the plan under the direction of the Watershed Review Officer in accordance with Section 31A-68 which authorizes the delegation of enforcement authority from the Board to the Planning & Inspections Department.

Parsons: Yes

Davis: Yes

Dykes: Yes

Tyson-Autry: Yes

The motion was approved unanimously.

Mr. Barrett informs the applicant for Case No. P08-06-C in regards to the voting requirements for a quasi-judicial hearing. Presently, there are only four members present; therefore, the vote would have to be unanimous.

MR. BARRETT: Is there a Board member (Mr. Swanson) currently en route?

MS. PERRY: Yes sir, Mr. Swanson

MR. BARRETT: Therefore, the Board could go forward without the additional Board member, but it is your (the applicant's) decision because of the unanimous vote requirement when there are only four Board members.

MR. MCDONALD: I would like to wait for the additional Board member to arrive.

INTERIM-CHAIR DAVIS: Recessed the meeting at 7:18 p.m. and reconvened at 7:30 p.m.

INTERIM-CHAIR DAVIS: Mr. Swanson do you have any disclosures?

MR. SWANSON: No

9. PUBLIC HEARING(S):

The Public Hearing was opened

- **P08-06-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A BORROW SOURCE OPERATION IN A M(P) PLANNED INDUSTRIAL DISTRICT ON A 69.25 +/- ACRE PORTION OF A 79.5 +/- ACRE TRACT, LOCATED ON THE WEST SIDE OF DOC BENNETT ROAD, NORTH OF I-95, SUBMITTED BY JERRY F. MCDONALD, OWNED BY VIRGINIA CORBETT CARROLL.**

Ms. Speicher presented the zoning, land use and photos of the site to the Board.

INTERIM-CHAIR DAVIS: This is not currently a borrow source area, but it is near others?

MS. SPEICHER: Yes sir.

Ms. Speicher continued with the presentation and also elaborated on the packet material provided to the Board.

MS. SPEICHER: A revision is needed showing the required landscaping on the site.

Ms. Speicher presented the established criteria in the County Ordinance regarding Borrow Source Operations. (Section 904)

A. The applicant shall provide a list of all property owners within 1,000 feet of the exterior boundaries of the lot of record to the site of the borrow source operation. This information shall be provided from the current Tax Administrator's property tax listing of property according to the tax administration office. **(This list is in the case file and available for review upon request.)**

B. Applicants shall identify the size and location of operating, or permitted, borrow source operations within a 1 ½-mile radius as measured from the centroid of the parcel within which the borrow pit is located. The scope and density of these operations within a 1½-mile radius shall be considered in making the final

determination. **(A map indicating all borrow sources within a 1½ mile radius was included in the board packet material.)**

C. While in transit, trucks are to use appropriate load covers, and water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the borrow source operation. **(This is addressed in Condition #17 of the draft conditions.)**

D. Existing vegetation, or stabilized, vegetated earthen berms to serve as buffers and to prevent soil erosion, shall be maintained between the borrow source operation and adjacent residences and public thoroughfares to screen the operation from the public. **(This is addressed in Condition #15 of the draft conditions.)**

E. Hours of operation shall be sunrise to sunset, Monday through Saturday, unless otherwise stated in the permit. **(The hours of operations will be 7:00 a.m. – 6:00 p.m., Monday – Saturday.)**

F. The applicant shall provide to the Planning and Inspections Staff, at the time the application is submitted, documentation from the North Carolina Department of Transportation that the public thoroughfare to which the borrow source operation has access, has sufficient load carrying capacity to support the proposed traffic generated by the borrow source operation or that load limits are acceptable. **(We do have a letter from NCDOT in the case file and it is available for review upon request. NCDOT is fine with this proposed site.)**

G. The applicant shall provide to the Planning and Inspections Staff, at the time the application is submitted, proof of legal access, for the County Attorney's approval, from the borrow source operation to a public thoroughfare if the subject property does not have direct access to a public thoroughfare. **(This site has access to a State maintained public road.)**

INTERIM-CHAIR DAVIS: The request states the hours of operations would be 7:00 a.m. – 6:00 p.m.?

MS. SPEICHER: Yes sir.

INTERIM-CHAIR DAVIS: Is that a recommendation? The Ordinance states sunrise to sunset.

MS. SPEICHER: Monday through Saturday, unless otherwise stated in the permit.

INTERIM-CHAIR DAVIS: If the Board were to grant this request with the hours of operations being 7:00 a.m. – 6:00 p.m., we would not be in violation?

MS. SPEICHER: No sir.

MR. PARSONS: (Requested to view the other permitted borrow source operations map) If we have no records, how can these be other permitted borrowed source operations?

MS. SPEICHER: A State permit would be required; therefore, a permit has been issued. The zoning on the majority of those tracts is industrial. As a result, the use would be allowed. It is a possibility that the rules have change over the years where a local permit may not have been required.

MR. PARSONS: Would it still be permitted?

MS. SPEICHER: To my knowledge, the State has always required a permit. At the least, an erosion sedimentation control permit.

INTERIM-CHAIR DAVIS: Did NCDENR review this proposal?

MS. SPEICHER: Yes sir.

MR. BARRETT: This entire section was substantially redrafted in 2002 because of the impact of the amount of quarry operations.

MR. PARSONS: Is there any density type issues?

INTERIM-CHAIR DAVIS: As an example, you can only have a certain number of daycares in a given radius.

MS. SPEICHER: No sir.

MR. PARSONS: The only requirement is that the other operations are identified.

MR. BARRETT: There are areas in the County that may have a number of Borrow Source Operations where the roads become an issue.

MS. SPEICHER: This type of use is also compatible with the Airport Master Plan and is located in the Airport Approach Zone.

MS. SWANSON: The slide states, "Other Permitted Borrowed Source Operations", does that mean they are active?

MS. SPEICHER: No sir. We have files on the site with case numbers. The applicant provided Staff this information as required by the Ordinance. They may be able to inform the Board which sites are active or inactive.

MS. SWANSON: On the application the note states, "Applicant stated the site would be operated in the same manner as approved for Case No. P00-13-C". Are there any time restrictions from the time approval is granted?

MS. SPEICHER: **SECTION 1606E: Expiration of Permits** of the Zoning Ordinance states as follows: 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. 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, the Special Use Permit shall become void.

MR. SWANSON: When was that case heard?

MS. SPEICHER: If the applicant starts the operation within the timeline it is acceptable as meeting the Ordinance requirement. To answer your question, it was heard in 2000. Included in the packet is the approval memorandum in regards to Case No. P00-13-C dated June 27, 2000.

MR. BARRETT: Has Staff taken any actions?

MS. SPEICHER: No sir.

Interim-Chair Davis acknowledges Chair Quigley seated in the audience.

INTERIM-CHAIR DAVIS: Mr. Jerry McDonald please come to the podium.
(Swore in Mr. McDonald)

MR. BARRETT: Did you get a permit from the State with provision?

MR. MCDONALD: Yes sir. We had to bond this property.

MR. PARSONS: What types of material will be excavated?

MR. MCDONALD: Clay and sand.

MR. PARSONS: In your opinion, do you think the roads can handle the operation?

MR. MCDONALD: Yes sir. The trucks run everyday.

MR. PARSONS: Is the traffic produced from your operation going to affect the operation of the surrounding facilities?

MR. MCDONALD: That is hard to say. Traffic is not consistent.

MR. PARSONS: Any safety provisions?

MR. MCDONALD: We have to slope our banks. A stop sign is required at the road before the entrance. There are standard procedures.

MR. BARRETT: In the past ten or fifteen years, have you had any accidents involving non-employees?

MR. MCDONALD: No sir. We have a gate that is closed nightly.

MR. SWANSON: (Requested to view the zoning map) Were the RR district areas existing before zoning existed?

MS. SPEICHER: The case history shows the subject property, the RRs and R6A in the area being initially zoned accordingly in March 1979.

MR. PARSONS: Will there be fencing around the entire site?

MR. MCDONALD: Fencing will be around the front to prevent entrance.

INTERIM-CHAIR DAVIS: Mr. Daniel Norton please come to the podium. (Swore in Mr. Norton)

MR. NORTON: How will the digging be done and where?

INTERIM-CHAIR DAVIS: This site plan does not pertain to the area you are questioning.

MR. NORTON: I was told the entire property was going to be done.

INTERIM-CHAIR DAVIS: The Board is only addressing the subject property in the application request.

MR. NORTON: Will there be on-site burning? I am not in opposition; I just want my questions answered.

MR. BARRETT: Mr. Norton, please direct your questions to the Chair and he will ask the applicant.

MR. NORTON: What will be the disposition of the remaining material?

INTERIM-CHAIR DAVIS: Question 1: Is the wood going to be burned?
Question 2: What will be the disposition of anything
leftovers from the burn?

MR. NORTON: Once the site is done, will it be used as a dump?

INTERIM-CHAIR DAVIS: No

MR. BARRETT: The State requires the site to be graded to a certain slope, three to over one, in addition to required grassing. It will not be a dump.

MR. NORTON: Unauthorized four-wheelers use the site on the weekends. Law Enforcement is called, but they never catch anyone. (Showed where four-wheelers enter the property on the area map.)

Interim-Chair Davis requested Mr. McDonald to answer Mr. Norton's questions.

INTERIM-CHAIR DAVIS: What will be the disposition of anything leftover from the burn?

MR. MCDONALD: We are going to leave the leftover material as it is. If the material is pushed into a pile this could cause an erosion problem. The material will not be burned. Over the years bushes will grow.

MR. PARSONS: Will there be any other activities?

MR. MCDONALD: No

MR. SWANSON: What is the purpose of the drainage area?

MR. MCDONALD: This will catch water to slow rain water from rising.

MR. SWANSON: How deep?

MR. MCDONALD: It will be a couple of feet deep and kept sloped into the hill.

MR. SWANSON: Is there any treatment for insects?

MR. MCDONALD: No sir.

MS. SPEICHER: Mr. Chair, Condition #10 addresses those issues. (The owner/developer shall secure and maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation.)

MR. BARRETT: I would like to bring your attention to Condition #14. (The existing vegetation or stabilized, vegetated berms serving as buffers and to prevent soil erosion are required and shall be maintained between the borrow source operation and adjacent residences and public thoroughfares to screen the operation from the public view.) Is this intent to buffer Mr. Norton's property?

MS. SPEICHER: Yes sir. The applicant was put on notice of the buffer requirements for future development.

MR. SWANSON: Could you give me a definition of solid buffer?

MS. SPEICHER: It can be a privacy fence, solid wall or vegetation. We highly encourage vegetative on non-residential sites because it can qualify for the buffer and the landscaping standards.

MR. SWANSON: Is there a minimum height requirement?

MS. SPEICHER: Six feet. If vegetation is used it must be one foot in height at the time of planting but capable of reaching six feet within three years.

MR. SWANSON: Can it be a chain link fence?

MS. SPEICHER: Chain link does not satisfy the buffer requirement.

MR. NORTON: (Request to be shown Phase I of the mining area.)

Closed public hearing

Mr. Swanson made a motion, seconded by Mr. Parsons, in regards to case P08-06-C a request for a Special Use Permit to allow a borrow source operation in a M(P) Planning Industrial District on 69.25 +/- acre portion of a 79.5 +/- acre tract located on the west side of Doc Bennett Road, north of I-95, submitted by Jerry F. McDonald, owned by Virginia Corbett Carroll, the following case facts were determined:

1. The use will not materially endanger the public health or safety if located in accordance to the plan submitted and recommended. Based on the finding presented on the approved site plan, the required compliance with the conditions and specifications in the application as well as the Zoning Ordinance, this facility will not endanger the public health or safety.
2. The use meets all required conditions and specifications. Based on the finding that the use will meet the Staff recommended conditions, specifications and requirements addressed in Section 917 of the Zoning Ordinance if it is operated in accordance with the approved site plan. This proposal as conditioned by Staff, plat related items and State requirements will meet the requirements in the spirit of the laws as set forth in terms of the conditions and specification.
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity. This is based on the finding that we have not heard any material and substantial testimony that would indicate that there is an adverse impact on adjoining or abutting properties.
4. The location and character of the use, if developed according to the plan, will be in harmony with the area in which it is to be located and is in conformity with Cumberland County's most recent Land Use Plan. This is based on the fact that this facility is harmonious to the neighborhood.

Having heard all the evidence and argument presented at the hearing, the Board finds that the application is complete, and complies with all of the applicable requirements of the County Zoning Ordinance for the development proposed, and that therefore the application to make use of the property described within this case for the purpose indicated is hereby approved subject to all applicable provisions of the Zoning Ordinance and the following conditions:

1. The applicant shall complete the development strictly in accordance with the application and site plan submitted to and approved by this Board a copy of which is filed in the Cumberland County Planning & Inspections Department.
2. The applicant/property owner is the responsible party to ensure compliance with all other related Federal, State and local regulations including but not limited to the NC Building Code.

3. It is required that the plat be recombined in accordance with the Staff's recommendation.
4. All the conditions presented in the proposed draft Special Use Permit be complied with.

Therefore, based on the foregoing the Board orders that the application for Special Use Permit be granted to allow a borrow source operation in a M(P) Planning Industrial District on 69.25 +/- acre portion of a 79.5 +/- acre tract located on the west side of Doc Bennett Road, north of I-95, submitted by Jerry F. McDonald, owned by Virginia Corbett Carroll.

Parsons: Yes

Davis: Yes

Dykes: Yes

Tyson-Autry: Yes

Swanson: Yes

The motion was approved unanimously.

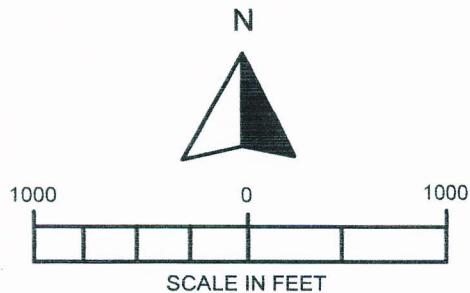
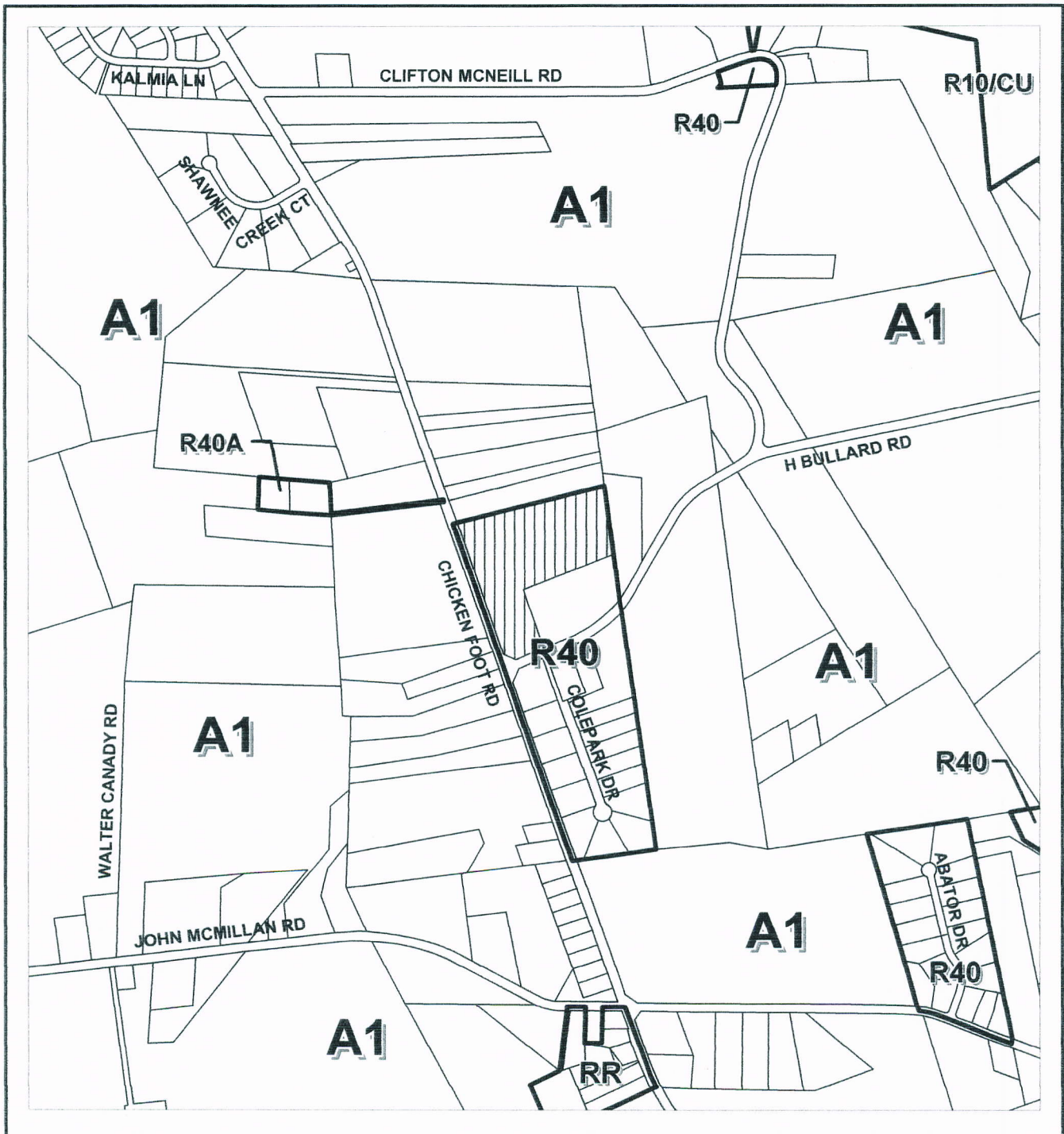
10. DISCUSSION

- REVIEW UPDATED WEBPAGE

Ms. Speicher presented the revisions to the Board for their perusal.

11. ADJOURNMENT

There being no further business, the meeting adjourned at 8:10 p.m.



BOARD OF ADJUSTMENT VARIANCE REQUEST

ACREAGE: 13.7 AC.+/-

HEARING NO: P08-05-C

ORDINANCE: COUNTY

HEARING DATE

ACTION

GOVERNING BOARD

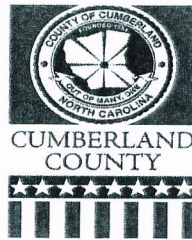
PIN: 0422-90-5829

AF
4/22/08

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

Lori Epler,
Vice-Chair
Cumberland County

Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman
Patricia Hall,
Town of Hope Mills
Charles C. Morris,
Town of Linden



COUNTY of CUMBERLAND

Planning & Inspections Department

July 15, 2008

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Walter Clark
Roy Turner,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Mr. Eddie Waren
The Church of the Apostles
PO Box 256
Hope Mills NC 28348

SUBJECT: Confirmation of Telephone Conversation
Permanent Surfacing of Off-Street Parking at 1419 H Bullard Road

Dear Mr. Waren,

This letter is intended to serve as confirmation of a telephone conversation between Patti Speicher, Land Use Codes, and you on Thursday, July 10, 2008 concerning the rezoning application, Case No. P08-28, that you submitted essentially asking for a variance on the ordinance provision that requires all required off-street parking to be covered with permanent surfacing material. Based on the use of the site being a religious worship facility, the County Zoning Ordinance requires your site to provide a minimum of 61 off-street parking spaces.

Due to a recent change in the State stormwater regulations, only 80 percent of the parking area can be paved; thus reducing the required permanent surfacing to 49 spaces. Also, as you have been made aware the *NC Building Code* requires handicap parking spaces and access areas to be constructed with a hard surface. You confirmed on the telephone that your intention is to pave a total of 34 off-street parking spaces.

Per your agreement via the telephone, a withdrawal was submitted for the rezoning case with a refund for that case being issued to you. The County will issue a temporary *Certificate of Occupancy* (CO) until the remaining 15 spaces are properly surfaced. The temporary CO will be issued for a time period of 12 calendar months from the date of this letter. Prior to July 15, 2009, you or another representative from your organization must contact this office and give a status report on the surfacing of the additional 15 spaces.

Prior to the issuance of the temporary CO you must submit to Land Use Codes, three copies of a revised site plan, indicating the 34 parking spaces you intend to surface immediately.

If you have any questions regarding this letter, please contact me at 910-678-7618, email: tlloyd@co.cumberland.nc.us or Patti Speicher at 678-7605, email: pspeicher@co.cumberland.nc.us.

Sincerely,

Thomas J. Lloyd
Director

cc: Cumberland County Board of Adjustment
Grainger Barrett, County Attorney
Ken Sykes, Code Enforcement Coordinator
Gary Faulkner, Building Inspections Coordinator
Deborah Simpson, Central Permitting
Patti Speicher, Land Use Codes

P08-07-C
SITE PROFILE

P08-07-C: CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1002, INCIDENTAL USES, SUB-SECTION E.4, TO ALLOW A REAR YARD SETBACK OF 10 FEET WHERE 35 FEET IS REQUIRED (SECTION 1104) FOR AN ACCESSORY STRUCTURE GREATER THAN 700 SQUARE FEET IN A R10 RESIDENTIAL DISTRICT ON 0.30+/- ACRES, LOCATED AT 5255 CHURCH STREET, SUBMITTED BY JAMES SMITH, OWNED BY CHRISTOPHER SMITH.

Site Information:

Frontage & Location: 98.5' +/- on Church Street.

Depth: 147.0' +/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: Vacant lot

Initial Zoning: R10 – November 17, 1975 (Area 4)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: R6, R10, R5, O&I, C1(P) & RR; South: R10, R6A, R7.5 & CD; East: R10, R10/CU (to allow two manufactured homes), R7.5 & CD; West: R10, R6 & C1(P)

Surrounding Land Use: Public school, residential (including manufactured homes), and woodlands

2010 Land Use Plan: Low density residential

Special Flood Hazard Area (SFHA): None

Urban Services Area: Yes

Water/Sewer Availability: PWC/Septic

Soil Limitations: None

Average Daily Traffic Count (2006): 20,000 on S. Main Street

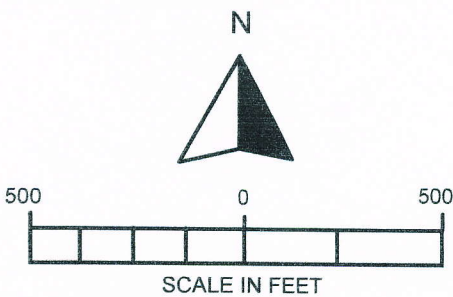
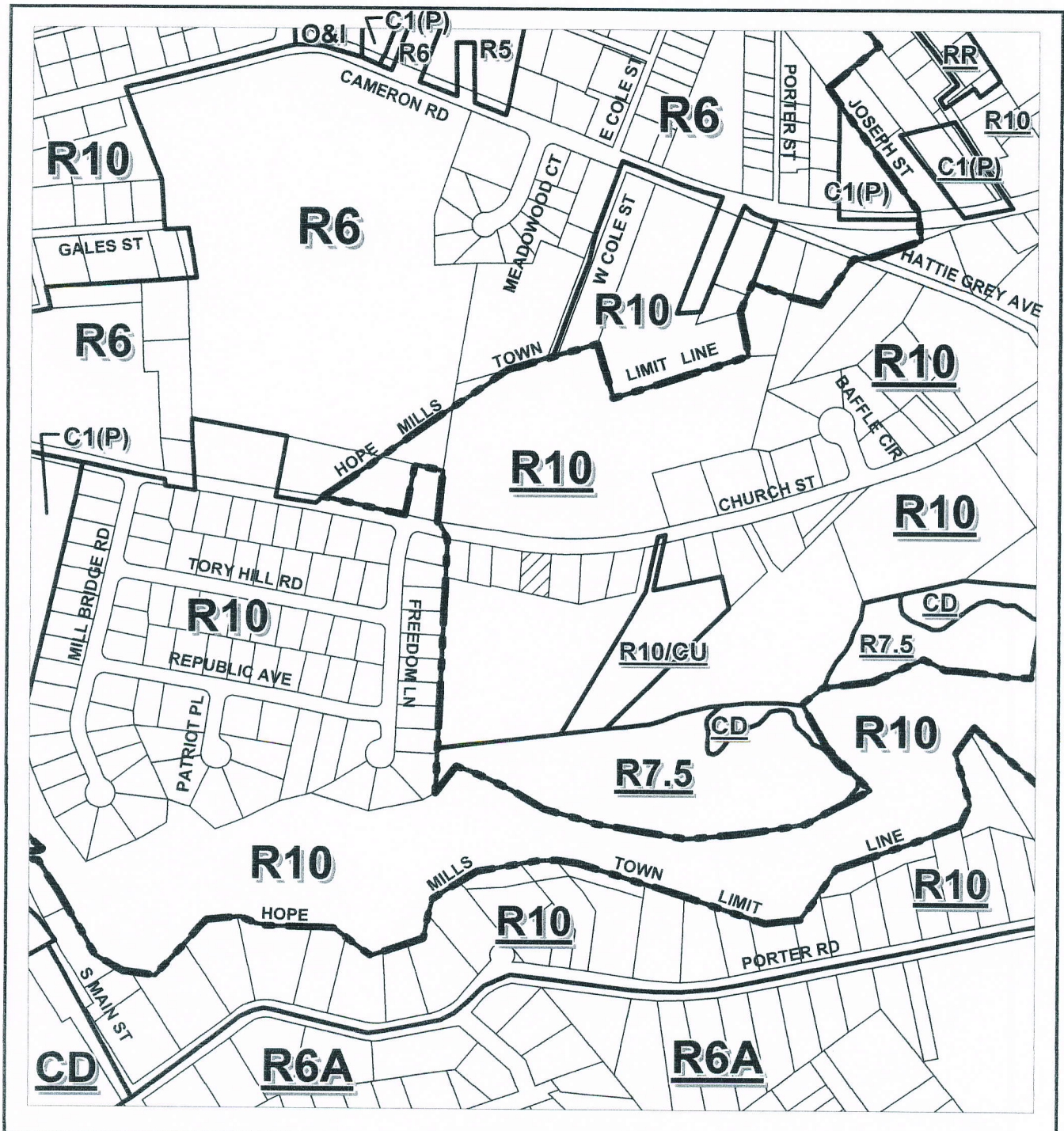
Highway Plan: No impact on the current Highway Plan

Notes:

1. The proposed accessory structure is a garage of 1008 square feet. Less than 500 square feet will be designated for the storage of Home Improvement/Contractor business equipment as a home occupation and the remaining space for the storage of a personal vehicle.
2. County Zoning Ordinance, Section 1002 INCIDENTAL USES:
E.4 Accessory Structures: 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.
3. Residence is required to be constructed prior to accessory structure(s)
4. Approximate Building Envelope size 5752.5 sq. ft.; total size Proposed Structures approximately 3008 sq. ft.

First Class Mailed Notice Certification

A certified copy of the tax record owner(s) and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith.



BOARD OF ADJUSTMENT VARIANCE

ACREAGE: 0.30 AC.+/-

HEARING NO: P08-07-C

ORDINANCE: COUNTY

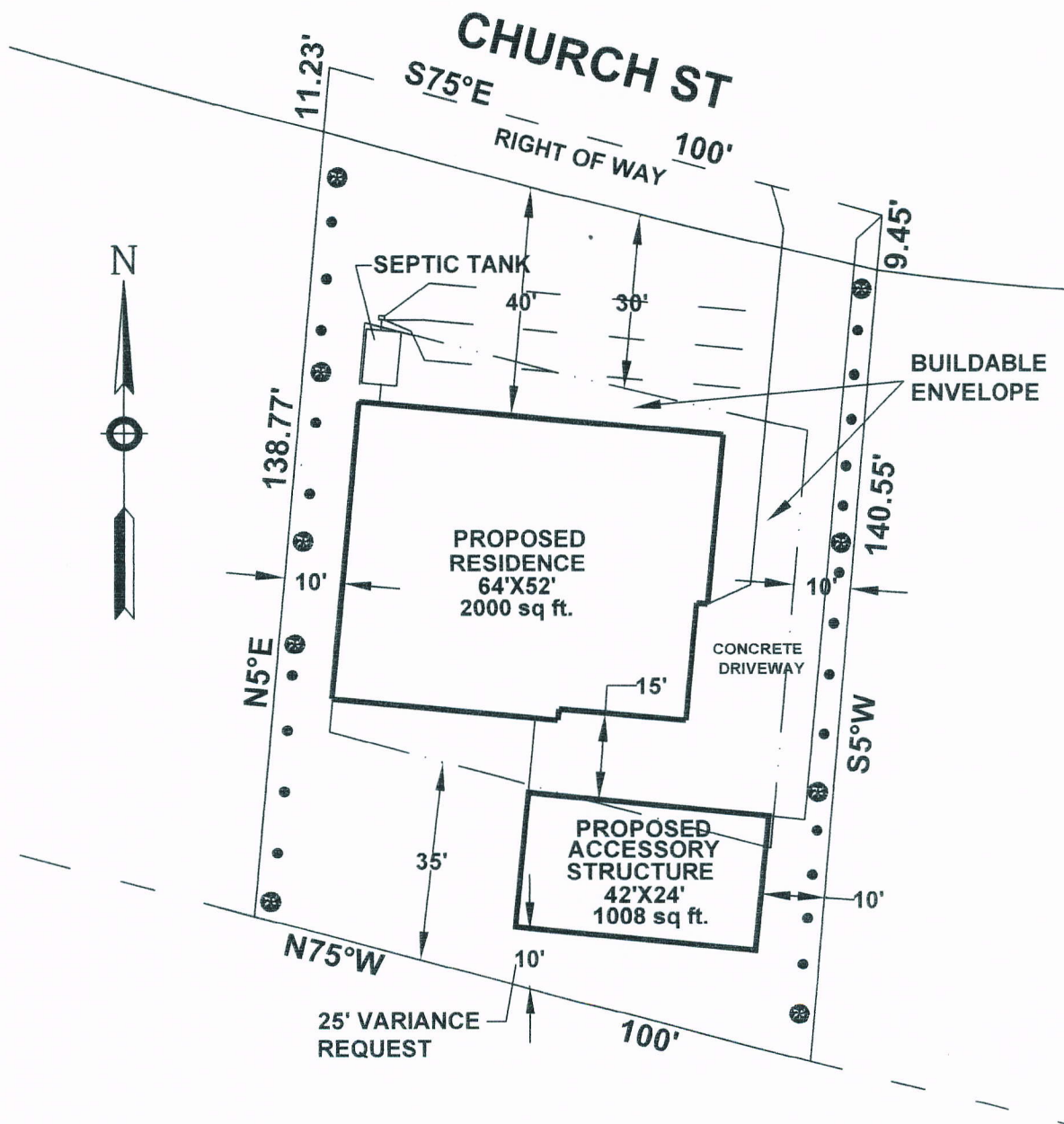
HEARING DATE

ACTION

GOVERNING BOARD

PIN: 0414-81-8058

AF



**BOARD OF ADJUSTMENT
 VARIANCE**

**REQUEST: TO ALLOW A REAR YARD SETBACK OF
 10 FEET WHERE 35 FEET IS REQUIRED**

CASE: P08-07-C ACREAGE: 0.30±

ZONED: R10 SCALE: 1"=30'

*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST

08-08-08

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: HOPE MILLS, COUNTY OF CUMBERLAND, NORTH CAROLINA

OWNER: CHRISTOPHER SMITH

ADDRESS: 5255 Church Street ZIP CODE: 25348

TELEPHONE: HOME _____ WORK _____

AGENT: James E. Smith

ADDRESS: 314 MYERS COURT

TELEPHONE: HOME (910) 488-4808 WORK (910) 309-9450

APPLICATION FOR A VARIANCE

As required by the Zoning Ordinance or Code

A. Parcel Identification Number (PIN #) of subject property: 0414-81-8058
(also known as Tax ID Number or Property Tax ID)

B. Acreage: .30 ACRE Frontage: 98.5 Depth: 140.55 X 138.77

C. Water Provider: PWC.

D. Septage Provider: SEPTIC TANK

E. Deed Book 7560, Page(s) 398, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing and/or proposed use of property: VACANT Lot - To be develop

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: ARTICLE # 11 Lot And Yard Regulation Section 1104
Best Yard Variance or 25'

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: The nature and hardship in this zoning ordinance or code will not allow REASONABLE USE OF THE LAND UNDER THE TERMS OF THE ZONING ORDINANCE.

See Attachment (A) Less THAN 500 sq for Storage of
Home OCCUPATIONS Profession Equipment, within Proposed Garage,
Remaining SPACE for Storage of Vehicle

C. S. 7-22-08

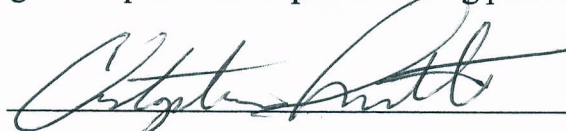
STATEMENT OF ACKNOWLEDGEMENT

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 arguments 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 acknowledgement that the Planning and Inspections 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)

CHRISTOPHER SMITH

DATE

7/14/08

Only expressly authorized agents or assigns may sign this acknowledgement in lieu of the tax record owners' signatures.

Christopher Smith
5255 Church Street
Hope Mills, N.C. 28348

July 13, 2008

RE: Minor Variance Request

To Whom It May Concern:

I Christopher Smith do hereby request a minor variance of ten (10) ft. instead of thirty five (35) ft. from the **Cumberland County Planning & Inspections Dept. (Zoning)** for the property of the above address. The existing ordinance of thirty five (35) ft. as stated do not allow the **garage/storage/supply** building to be constructed as needed for the owner to **house/store his private vehicle, and work related material/equipment that are needed for his Home Improvement/Contractor Business.** To include:

- The site condition prevents reasonable use of the land under the terms of the **Zoning Ordinance**, which was not created by the owner of the property.
- The requested variance does not affect the properties of surrounding neighborhoods.
- The granting of a variance will be in harmony with the neighborhood/area, and not contrary to the intent and purpose of the **Zoning Ordinance.**
- The variance will not affect the public health, safety and general welfare of the neighborhood, etc; however, it will enhance the property, and eliminate clutter.
- The purpose is to build a type of structure that will add beauty to the neighborhood and city of Hope Mills, NC.

I Christopher Smith certify that all of the above statements and the statements contained in any papers or plans submitted herewith are **true** and **accurate** to the best of my **knowledge** and **belief**.

Name:



Date:

7/22/08
CS

Cumberland County Department of Public Health
227 Fountainhead Lane
Fayetteville NC 28301-5417
(910) 433-3660

Improvement Permit

This permit is subject to revocation if the site plan or plat, whichever is applicable, or the intended use changes.

Date: 7/15/2008

NEW SYSTEM/SOIL EVAL

Permit #: 2008 - 1232

Private well to be installed prior to wastewater system installation.

Pin Number: 0414-81-8058

Date purchased 7/15/2008

Expiration date: 7/15/2013

Applicant Name: Smith, James

Zoning Permit Number 0

Site Address: 5255 Church Street Lot
Hope Mills NC 28348-

Subdivision

Township

Directions:

Type of Establishment Residential

Design Flow 360 gpd

Site Classification: Provisionally Suits

Repairs 4 at 28 Innovative 25% Reduction

WASTEWATER SYSTEM The attached plot plan cannot be changed

Tank Capacity 900 gallons

Pump tank reserve capacity gallons

NITRIFICATION FIELD Type Conventional

Other

No Bedrooms 3

No Lines 3 Length of Each Line 50'

Width of Each Line 36"

Maximum Trench Bottom Depth 36"

Conditions OK for garage as located on plot

☐ Plat Provided - When a PLAT is provided, the Improvement Permit is valid without expiration

☐ Site Plan Provided - When a SITE PLAN is provided, the Improvement Permit is valid for five (5) years

Improvement Permit Expiration Date 7/15/2013

Improvement Permit Approved By Daniel Ortiz

Date 7/15/2008

AUTHORIZATION FOR WASTEWATER SYSTEM CONSTRUCTION (ATC)

An Authorization for Wastewater System Construction is required before any person shall commence or assist in the installation, construction or repair of a wastewater system and before any other permits (electrical, plumbing, heating, air conditioning or other construction) can be issued

AUTHORIZATION FOR WASTEWATER SYSTEM CONSTRUCTION IS VALID FOR FIVE (5) YEARS.

ATC Expiration Date 7/15/2013

ATC Approved By Daniel Ortiz

Date 7/15/2008

OPERATIONS PERMIT

Contractor _____

Pump Information _____

This septic tank and this nitrification field have been inspected and meet the requirements as set forth by Article 11 of Chapter 130A of the General Statutes of North Carolina, "Wastewater Systems" "Laws and Rules for Sewage Treatment and Disposal Systems" Title 10 NCAC, Subchapter 10A, Section 1900 and "Regulations Governing Sanitary Sewage, Collection, Treatment and Disposal in Cumberland County, NC", however, the signing of this form in no way guarantees the life of this system or that it will function under any or all conditions

Operations Permit Approved By _____

Date _____

Inspection of sewer line between house and septic tank connection thereto is the responsibility of Cumberland County Inspection Dept (910) 321-6636

Conventional Innovative 25% reduction

900 Septic Tank _____ Pump Tank

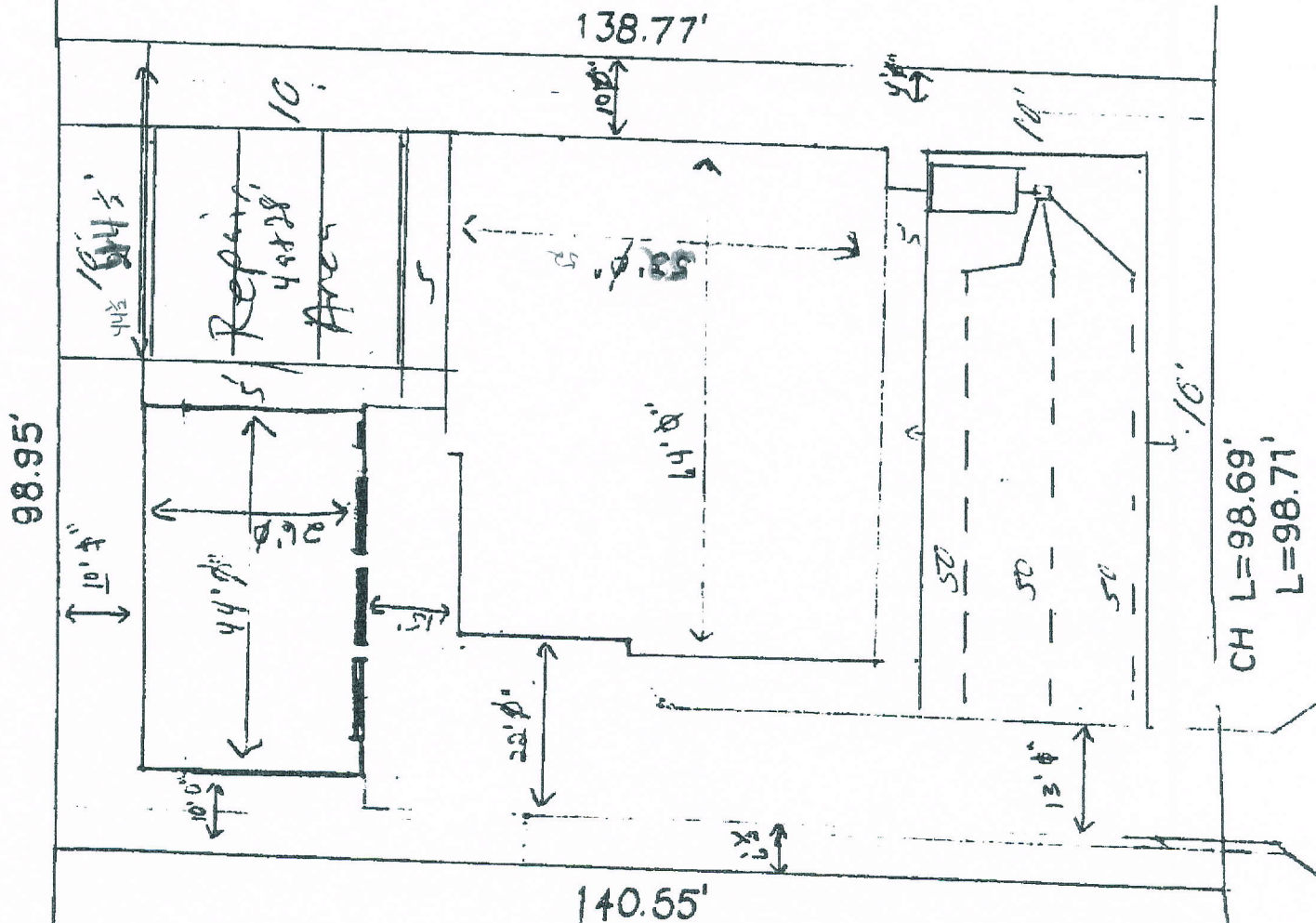
3 Drain lines 50 Length 36 Width

36" Trench depth max.

Comments 2008: 1237

7115108

D.O



P08-08-C
SITE PROFILE

P08-08-C: CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1403, SITE PLAN REVIEW, SUB-SECTION I, WHICH REQUIRES CONNECTION TO PUBLIC UTILITIES FOR A NON-RESIDENTIAL USE WHEN UTILITIES ARE PRESENT; FOR A GRAIN GRADING FACILITY IN A M(P) PLANNED INDUSTRIAL DISTRICT ON 16.14+/- ACRES; LOCATED AT 1754 RIVER ROAD, SUBMITTED BY NEAL PATE, NC DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES; OWNED BY CARGILL INC.

Site Information:

Frontage & Location: 870' +/- on River Road

Depth: 1610'+/-

Jurisdiction: Cumberland County

Adjacent Property: Yes, north of River Road and east side of subject property

Current Use: Soy processing plant and grain grading facility

Initial Zoning: M(P) – December 14, 1979 (Area 10)

Nonconformities: Yes, structures, pre-existing to zoning do not comply with the yard setbacks (legal nonconforming)

Zoning Violation(s): None

Surrounding Zoning: North: A1 & RR; South: A1(Eastover & County), RR & CD; West: C3, M(P) & AR (Fayetteville); East: R40 & RR

Surrounding Land Use: Industrial operations, borrow source operation, farmlands, and woodlands

Eastover Area Detailed Land Use Plan: Heavy industrial

Special Flood Hazard Area (SFHA): None

Urban Services Area: Yes

Water/Sewer Availability: PWC/PWC

Soil Limitations: Yes, hydric soil: WmB-Wickham fine sandy

Subdivision/Site Plan: See attached site plan conditional approval, Case No. 06-086

Average Daily Traffic Count (2006): 2,200 on River Road

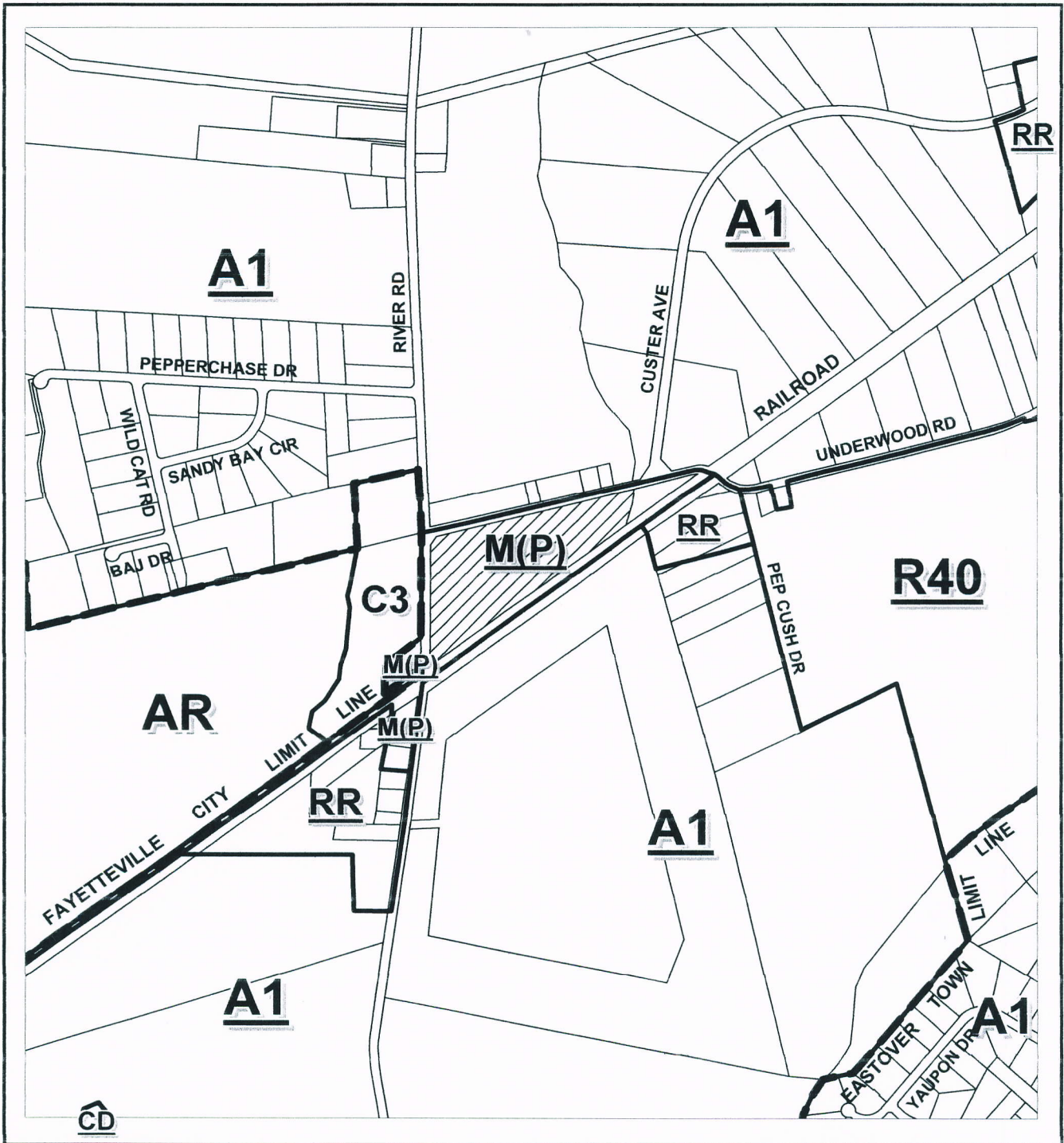
Highway Plan: River Road is identified as a major thoroughfare. This proposal calls for widening to a multi-lane facility with a proposed right-of-way of 100 feet. Road improvements are not included in the 2007-2013 MTIP (priority #1).

Notes:

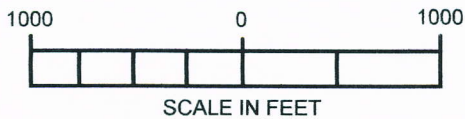
1. Variance request due to Condition No. 5 - see attached conditions of approval
2. Tom Cooney, County Public Utilities Director, in an e-mail dated July 31, 2008, states that he has no objection to the variance; however, would like a condition requiring that if in the future the septic system fails then repair should not be allowed and connection to public sewer required. (A copy of the e-mail is in the file and available for review upon request.)

First Class Mailed Notice Certification

A certified copy of the tax record owner(s) and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith.



CD



BOARD OF ADJUSTMENT VARIANCE

ACREAGE: 16.14 AC.+/-

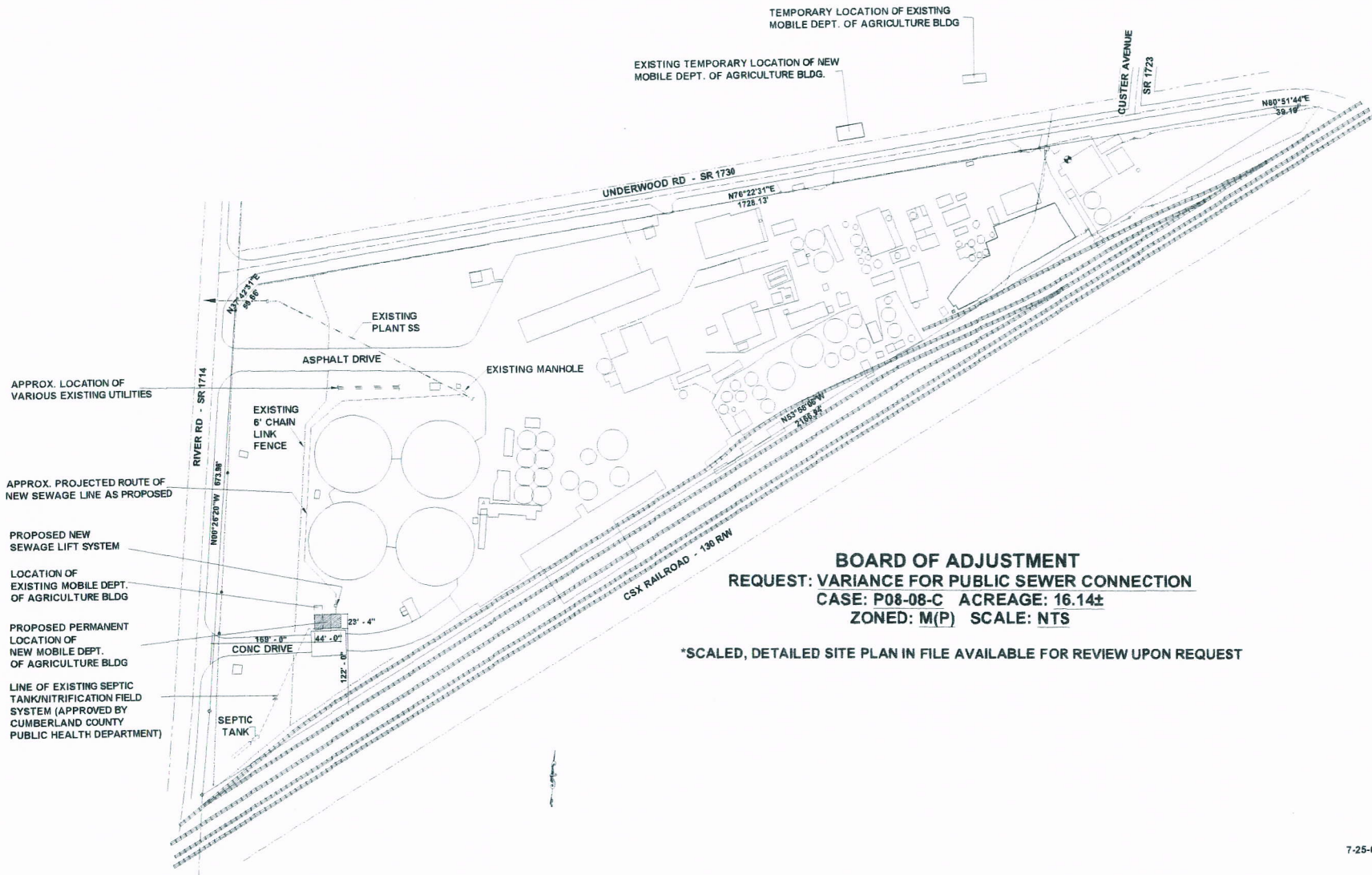
HEARING NO: P08-08-C

ORDINANCE: COUNTY

HEARING DATE

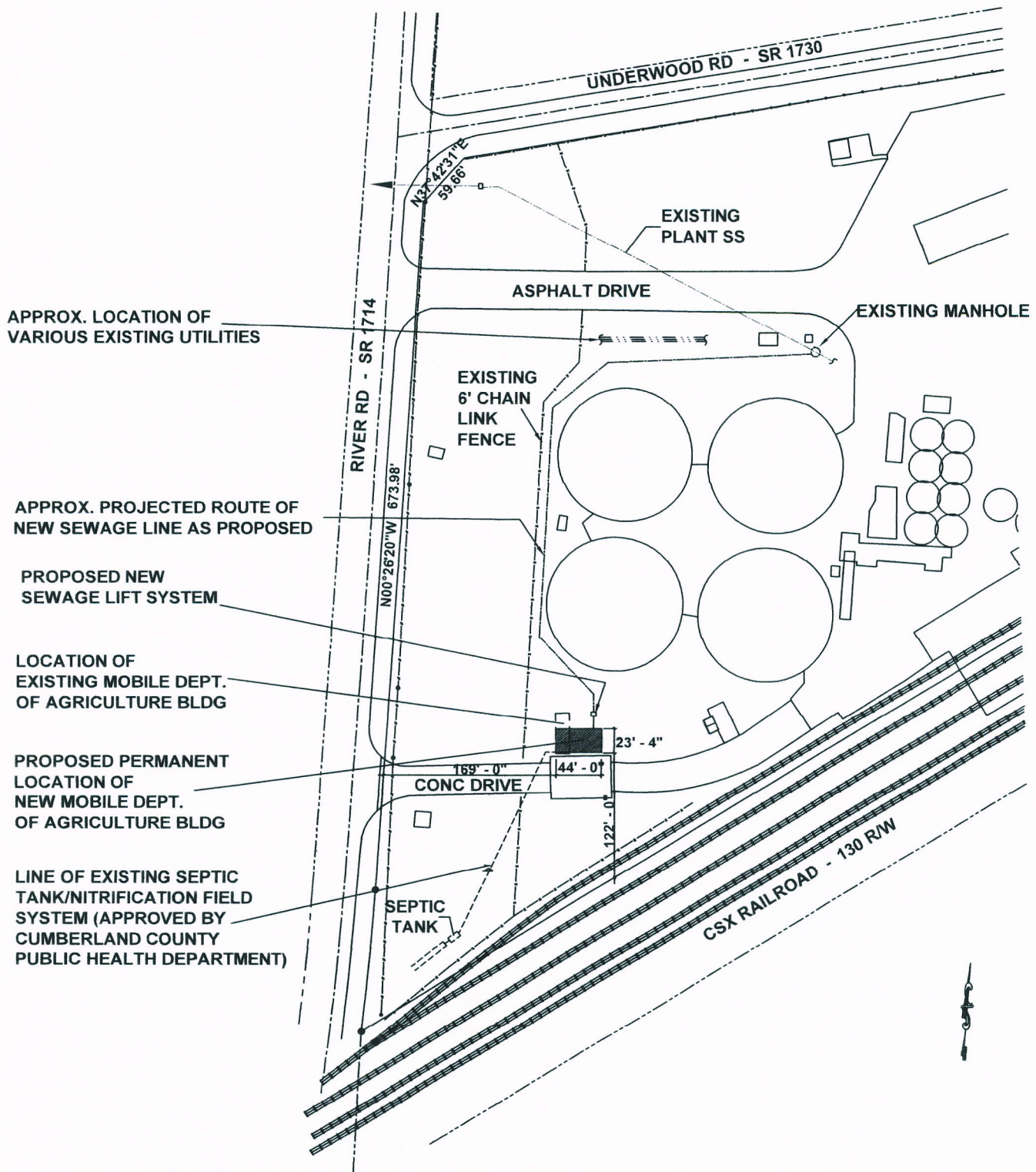
ACTION

GOVERNING BOARD



BOARD OF ADJUSTMENT
REQUEST: VARIANCE FOR PUBLIC SEWER CONNECTION
CASE: P08-08-C ACREAGE: 16.14±
ZONED: M(P) SCALE: NTS

*SCALED, DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST



BOARD OF ADJUSTMENT
REQUEST: VARIANCE FOR PUBLIC SEWER CONNECTION
CASE: P08-08-C ACREAGE: 16.14±
ZONED: M(P) SCALE: NTS

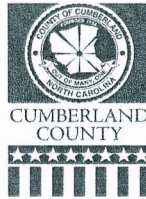
*SCALED, DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST

7-25-08

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

Lori Epler,
Vice-Chair
Cumberland County

Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman
Patricia Hall,
Town of Hope Mills
Charles C. Morris,
Town of Linden



COUNTY of CUMBERLAND

Planning and Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Walter Clark,
Roy Turner,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Revision/Extension: 08-07-08

PLANNING STAFF DECISION: 5-18-06	PLANNING BOARD DECISION: N/A	COUNTY OR COUNCIL MEETING: N/A
CASE NO: 06-086	NAME OF DEVELOPMENT: CARGILL, INC M(P) SITE PLAN REVIEW	
LOCATION: SOUTH SIDE OF SR 1730 (UNDERWOOD ROAD), EAST SIDE OF SR 1714 (RIVER ROAD).		ZONING: M(P) PIN: 0448-66-0860-; 77-0205-
OWNER OR DEVELOPER: CARGILL, INC	ENGINEER OR DESIGNER: JACK A. FARRIOR, INC.	
<input checked="" type="checkbox"/> COUNTY ORDINANCE	<input type="checkbox"/> GODWIN ORDINANCE	<input type="checkbox"/> STEDMAN ORDINANCE
<input type="checkbox"/> SPRING LAKE ORDINANCE		<input type="checkbox"/> FALCON ORDINANCE
PLANNING DEPARTMENT ACTION	PLANNING BOARD ACTION	TOWN BOARD
<input checked="" type="checkbox"/> PRELIMINARY	<input type="checkbox"/> PRELIMINARY	<input type="checkbox"/> PRELIMINARY <input type="checkbox"/> FINAL
<input checked="" type="checkbox"/> EXTENSION <input checked="" type="checkbox"/> REVISION	<input type="checkbox"/> EXTENSION <input type="checkbox"/> REVISION	<input type="checkbox"/> EXTENSION <input type="checkbox"/> REVISION
<input checked="" type="checkbox"/> APPROVED CONDITIONALLY	<input type="checkbox"/> APPROVED CONDITIONALLY	<input type="checkbox"/> APPROVED CONDITIONALLY
<input type="checkbox"/> DENIED	<input type="checkbox"/> DENIED	<input type="checkbox"/> DENIED

The development plat/plan you submitted to this office is conditionally approved. Your approval is subject to the following conditions:

Pre-Permit-Related:

1. A recombination plat (also known as a "No Approval Required" or "NAR") must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.
2. Five copies of a revised site plan must be submitted, which includes three off-street parking spaces, measuring 9' x 20' and the revision must be approved prior to application for any permits.
3. This conditional approval is not approval of the temporary location of the existing mobile office; storage of non-residential structures is not a permitted use in the A1 Agricultural district. The developer must contact Code Enforcement to determine the options related to the use of the property.

Permit-Related:

4. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
5. Connection to public water and sewer is required, the Public Works Commission (PWC) must approve water and sewer plans prior to application for any permits. A copy of the PWC approval must be provided to Code Enforcement at the time of application for building/zoning permits.
6. New development that will disturb one acre or more of land or is part of a larger plan that will disturb at least an acre of land is subject to the post-construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's post-construction permit must be provided to County Code Enforcement.
7. The developer may have to provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.

8. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
9. 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 plans.
10. Any addition and/or revision to this site plan shall require an additional review and approval by the Planning & Inspections Department prior to application for any permits.

Site-Related:

11. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the M(P) zoning district must be complied with, as applicable.
12. All corner lots and lots fronting more than one street must provide front yard setbacks from each street.
13. This conditional approval is not approval of any new 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.)
14. If driveways are changed or added, the developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). If required, a copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
15. 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.
16. The approval is not conditioned upon the typical buffer provisions due to the tract being surrounded completely by public rights-of-way.
17. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
18. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site is 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.

Advisories:

19. The applicant is advised to consult an expert on wetlands before proceeding with any development.
20. 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.

Plat-Related:

21. "Underwood Road" must also be labeled as "SR 1730" on the NAR.
22. "River Road" must also be labeled as "SR 1714" on the NAR.
23. Dedication of 10 feet of right-of-way and reservation of 10 feet of right-of-way along SR 1714 (River Road) is required and the metes and bounds for both dedication and reservation is required to be shown on the final plat and/or reflected on any future site plans. The location of all improvements, required or otherwise, and all building setback lines are to be measured from the ultimate right-of-way line.
24. Any/All easements shall be reflected on the NAR and labeled as to type of easement, reference number for document creating the easement, and the name of the agency, individual, etc. who holds the easement.
25. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the NAR when submitted for final approval.

Plat-Required Statement(s):

26. All structures shall be shown on the NAR or the NAR shall reflect the following statement:

"Nonconforming structures have not been created by this recombination."

Advisories:

27. The applicant is advised to consult an expert on wetlands before proceeding with any development.
28. 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.

29. 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.

If you need clarification and/or negotiation of conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605.

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

Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement:	Ken Sykes	321-6654
County Engineer's Office:	Wayne Dudley	678-7636
County Health Department:	Danny Soles	433-3685
PWC:	Heidi Maly	483-1401
Corp of Engineers (wetlands):	Ronnie Smith	(910) 251-4829
NCDENR (E&S)	Sally McKinney	433-3300
E911 Site-Specific Address:	Ron Gonzales	678-7616
E911 Street Naming/Signs:	Diane Shelton	678-7665
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curbcuts)	Gary Burton	486-1496
N.C. Division of Water Quality:	Mike Randall	(919) 733-5083 Ext.- 545

OFFICIAL PRELIMINARY STAMP

CUMBERLAND COUNTY

CASE NO: **06-086**

THIS PLAN APPROVED BY THE CUMBERLAND COUNTY PLANNING &
INSPECTION DEPARTMENT ON: 07-30-08

COMMENTS: SUBJECT TO CONDITIONS

I CERTIFY THAT THIS PLAN HAS BEEN APPROVED BY THE CUMBERLAND
COUNTY PLANNING & INSPECTIONS DEPARTMENT AS DRAWN HEREON
AND MAY BE USED FOR ANY OFFICIAL PURPOSE AS PERMITTED BY LAW.
THIS APPROVAL IS VALID UNTIL: 07-30-10

Patricia S. Speicher

EMB
SUPERVISOR, LAND USE CODES

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 1754 RIVER RD. FAYETTEVILLE, NC

OWNER: CARGILL INC

ADDRESS: PO BOX 5626 MINNEAPOLIS, MINNESOTA ZIP CODE: 55440

TELEPHONE: HOME _____ WORK _____

AGENT: NORTH CAROLINA DEPT OF AGRICULTURE + CS NEAL PATE

ADDRESS: 2 WEST EDENTON ST, RALEIGH, NC 27601

TELEPHONE: HOME 919-715-0424 EXT 226 WORK 9AME

APPLICATION FOR A VARIANCE
As required by the Zoning Ordinance or Code

A. Parcel Identification Number (PIN #) of subject property: 0448 66 0860
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 16.14 Frontage: 2060' Depth: 850'

C. Water Provider: PWC

D. Septage Provider: PWC

E. Deed Book 2209, Page(s) 245, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing and/or proposed use of property: SOYBEAN PROCESSING
GRAIN GRADING

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: 1403-I VARIANCE FROM COMEC TO PUBLIC
SEWER

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: SEE ATTACHED "H"

STATEMENT OF ACKNOWLEDGEMENT

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 arguments 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;
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- 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 acknowledgement that the Planning and Inspections Staff has explained the application process and procedures regarding this request and the public hearing procedure stated above.

SIGNATURE OF OWNER(S)

Terry Crawford

PRINTED NAME OF OWNER(S)

Terry Crawford

DATE

7/16/08

Only expressly authorized agents or assigns may sign this acknowledgement in lieu of the tax record owners' signatures.

Please mail to:



CUMBERLAND
COUNTY



*Celebrating Our Past
Embracing Our Future*

PLANNING & INSPECTIONS
DEPARTMENT

PATTI SPEICHER

Planner III
Land Use Codes Supervisor

130 Gillespie Street
Fayetteville, NC 28301
Phone: 910-678-7605
Fax: 910-678-7669
pspeicher@co.cumberland.nc.us

Hand written statement submitted as attachment to P08-08-C application, typed for clarity; original is in the case file and available for review upon request

Attachment "H"

Nature and Extent of hardship involved:

The NC Department of Agriculture & Consumer Services requests a variance to Cumberland County Ordinance 1403-I (Connection to existing county sanitary sewage system adjacent to property). The department is replacing the existing structure with a newer structure which is located on the Cargill, INC. property and would simply like to connect the replacement structure to the existing septic tank system for the following reasons:

1. The NCDA&CS has maintained a small mobile grain grading facility on the Cargill property since 1980, at that time, Cargill provided our facility with a septic tank system as there was no County system available in the area at that time.

The NC Department of Agriculture is simply replacing the aged unit with the newer unit with no increase as to the number of employees (3) or bathrooms (1). Assuming septic tank inspection approval by the Cumberland County Public Health Department, the NCDA&CS would prefer to simply reconnect to the existing septic tank system in lieu of complying with the 1403-I ordinance or would be subject to the following hardships and difficulties in complying with the ordinance:

- 1) Size of lot, location and distance of NCDA&CS facility to existing sewage system lines on the Cargill property. Compliance with the ordinance would force us to install approximately (700) linear feet of new sewage line along with a lift system to connect to the closest available sewage manhole on the property. This is due to the distances involved, the location of existing tanks & structures on the property & the location of multiple existing underground utilities in the projected path of the new septic line. The new line would have to cross multiple existing utility service trunk lines including electrical service, gas service & water service to the facility. (Cargill)

- 2) Construction/installation timeframe for installing any new septic line:

The North Carolina Department of Agriculture has been given a two week (maximum) timeframe to replace the [unknown] structure & to connect to existing utilities during their annual plant shutdown which begins on September 8, 2008 & ends on September 19th 2008. All work must be completed during this (1 time) annual shutdown of the plant to ready the facility for the annual soybean harvest/market season which runs October thru March. At this time, the NCDA&CS Grain Grading Service by law is required to be a third party inspection service and will be providing grain grading services for up to 200 grain trucks per day. during this time. Failure to complete the replacement & installation of the laboratory during this two week time frame would mandate the NCDA&CS to delay the replacement of the facility for (1) year until the next Cargill plant shutdown occurs the following year in September of 2009.

Cumberland County Department of Public Health
227 Fountainhead Lane
Fayetteville NC 28301-5417
(910) 433-3660

Improvement Permit

This permit is subject to revocation if the site plan or plat, whichever is applicable, or the intended use changes.

Date: 7/16/2008

OCCUPANCY

Permit #: 2008 - 1248

Private well to be installed prior to wastewater system installation.

Pin Number: 0448-66-0860

Date purchased: 7/16/2008

Expiration date: 7/16/2013

Applicant Name: NC Dept. of Agriculture

Zoning Permit Number 0

Site Address: 1754 River Road Lot
Fayetteville NC 28312-

Subdivision:

Township:

Directions:

Type of Establishment: Other

Design Flow: 0 gpd

Site Classification:

Repairs:

WASTEWATER SYSTEM: The attached plot plan cannot be changed.

Tank Capacity: 0 gallons

Pump tank reserve capacity: 0 gallons

NITRIFICATION FIELD: Type:

Other:

No. Bedrooms:

No. Lines: Length of Each Line:

Width of Each Line:

Maximum Trench Bottom Depth

Conditions: Occupancy OK
OK to use existing septic tank

☐ Plat Provided - When a PLAT is provided, the Improvement Permit is valid without expiration.

☐ Site Plan Provided - When a SITE PLAN is provided, the Improvement Permit is valid for five (5) years

Improvement Permit Expiration Date: 7/16/2013

Improvement Permit Approved By: Daniel Ortiz

Date: 7/16/2008

AUTHORIZATION FOR WASTEWATER SYSTEM CONSTRUCTION (ATC)

An Authorization for Wastewater System Construction is required before any person shall commence or assist in the installation, construction or repair of a wastewater system and before any other permits (electrical, plumbing, heating, air conditioning or other construction) can be issued.

AUTHORIZATION FOR WASTEWATER SYSTEM CONSTRUCTION IS VALID FOR FIVE (5) YEARS.

ATC Expiration Date: 7/16/2013

ATC Approved By: Daniel Ortiz

Date: 7/16/2008

OPERATIONS PERMIT

Contractor:

Pump Information:

This septic tank and this nitrification field have been inspected and meet the requirements as set forth by Article 11 of Chapter 130A of the General Statutes of North Carolina, "Wastewater Systems" "Laws and Rules for Sewage Treatment and Disposal Systems" Title 10 NCAC, Subchapter 10A, Section .1900 and "Regulations Governing Sanitary Sewage, Collection, Treatment and Disposal in Cumberland County, NC", however, the signing of this form in no way guarantees the life of the system or that it will function under any or all conditions.

Operations Permit Approved By: 

Date: 7/16/08

Inspection of sewer line between house and septic tank connection thereto is the responsibility of Cumberland County Inspection Dept. (910) 321-6636

Cumberland County Department of Public Health

227 Fountainhead Lane

Fayetteville NC 28301-5417

(910) 433-3660

Application Date: 7/16/2008

Application Number: 2008-1248

Reason(s) for Application: OCCUPANCY

THIS IS NOT A PERMIT

Pin Number: 0448-66-0060

Site Address: 1754 River Road Fayetteville NC 28312

Subdivision: _____ Lot: _____ Phase: _____ Section: _____

☐ vacant ☐ Occupied

APPLICANT INFORMATION:

Name: NC Dept. of Agriculture

Applicant Status: Owner

Phone: 9104661630

Alt. Phone: _____

Address: 1754 River Road Fayetteville NC 28312

Type of Well: Drilled

Type of Establishment: Other

Bathroom: _____

Square Footage: 1030

Year House Built: _____

Date Property Originally Deeded/Recorded: _____

☐ APPROVED ☐ DENIED

☐ Plat / Property Approved Conditionally by Planning Department

☐ Property Zoned _____ Zoning Permit No.: 0

PLEASE NOTE:

If the information in the application for an improvement permit is falsified, changed or the site is altered, then the Improvement Permit and Authorization to Construct shall become invalid.

Copy of Zoning Permit or Zoning Status Form from County Zoning Office MUST BE SUBMITTED with Application for Soil Evaluations.

* A Plat drawn by a Registered Land Surveyor (RLS) to a scale of 1 inch equals no more than 60 feet is valid with expiration. Authorization for Wastewater System Construction (ATC) is good for only five (5) years, at which time it must be renewed.

** A Site Plan (drawing) is valid for five (5) years. A new application must be filed for the expired improvement permit. Authorization for Wastewater System Construction (ATC) is good for only five (5) years.

**** CLEARLY STAKE ALL CORNERS AND LINES OF THE PROPERTY! STAKE ALL CORNERS OF ALL PROPOSED STRUCTURES. SURVEY PLAT OR SITE PLAN MUST BE ATTACHED TO THIS APPLICATION ****

House Bill 33: (D) If a Local Health Department repeatedly fails to issue or deny improvement permits for conventional septic tank systems within sixty (60) days of receiving completed applications for the permits, then the Department of Environmental, Health and Natural Resources may withhold public health funding from that local health department. **Plat also means, by subdivisions, lots approved by the local planning authority and recorded with the County Register of Deeds, a copy of the recorded plat/decree that is drawn to scale.

I hereby make application to the Cumberland County Health Department for a site evaluation for the on-site sewage disposal system for the above-described property. I agree that the contents of this application are true and represent the maximum facilities to be placed on the property. I understand if the site is altered, or the intended use changes, the permit shall become invalid. I understand that as applicant, I am responsible for identifying and marking property lines and make the site accessible for the personnel of the Cumberland County Health Department to conduct their evaluations. I additionally understand that I am responsible for notifying the Health Department if my property contains any wetlands as designated by the Army Corps of Engineers, and if the site is subject to approval by other public agencies.

Applicant Signature: B. Q. [Signature]

Date: 7-16-08

Fees: \$50.00

Received By: [Signature]

Date: 7/16/08

FIELD WORK RESULTS BASED ON ATTACHED PLAT/SITE PLAN:

AREA: _____

LTAR: _____

Site Classification: _____

Design Flow: _____

god

Soil Type: _____

Repair: _____

Wastewater System:

Septic Tank: _____

gallons

Pump Tank: _____

gallons

Nitrification Field:

Type: _____

Species: _____

Number of Lines: _____

Length of Each Line: _____

Width of Each Line: _____

Trench Depth: _____

Conditions: _____

Soil/Site Evaluation By: _____

Date: _____

P08-02-E
SITE PROFILE

P08-02-E: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN AN O&I(P) PLANNED OFFICE AND INSTITUTIONAL DISTRICT ON 2.19+/- ACRES, LOCATED AT 3135 DUNN ROAD, SUBMITTED BY CRAIG S. WHEELER, OWNED BY GREGORY AND LAURIE D. BARNES. (EASTOVER)

Site Information:

Frontage & Location: 240' +/- on Dunn Road

Depth: 430' +/-

Jurisdiction: Town of Eastover

Adjacent Property: No

Current Use: Private school (approved on 08/05/08; Case No. 08-109, Eastover Town Council)

Initial Zoning: R6A - April 26, 1979 (Area 8)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: RR, A1, C(P) & RR/CU (day care facility); South: C(P), R6A, C(P)/CUD (heating/air conditioning business & other permitted uses) & C1(P); West: R6A & RR; East: C(P) & R6A

Surrounding Land Use: Manufactured home park, residential (including manufactured homes, multi-family and abandoned dwelling), nursing home, wholesale sales, vacant commercial, motor vehicle service station (2), and hotel

Eastover Area Detailed Land Use Plan: Medium density residential & activity node

Special Flood Hazard Area (SFHA): None

Water/Sewer Availability: ESD/Septic (ESD sewer under construction, should be available October to November 2008)

Soil Limitations: None

School Capacity/Enrolled: Armstrong Elementary: 450/426; Mac Williams Middle: 1270/1162; Cape Fear High: 1425/1470

Subdivision/Site Plan: See attached "Ordinance-Related Conditions"

Average Daily Traffic Count (2006): 4,700 on Murphy Rd; 12,000 on US HWY 301

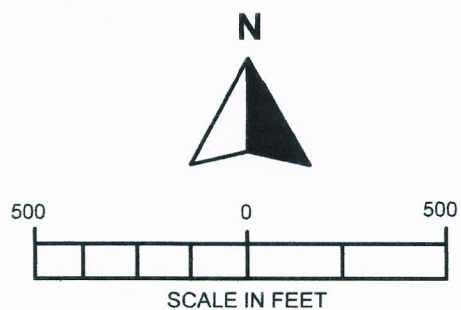
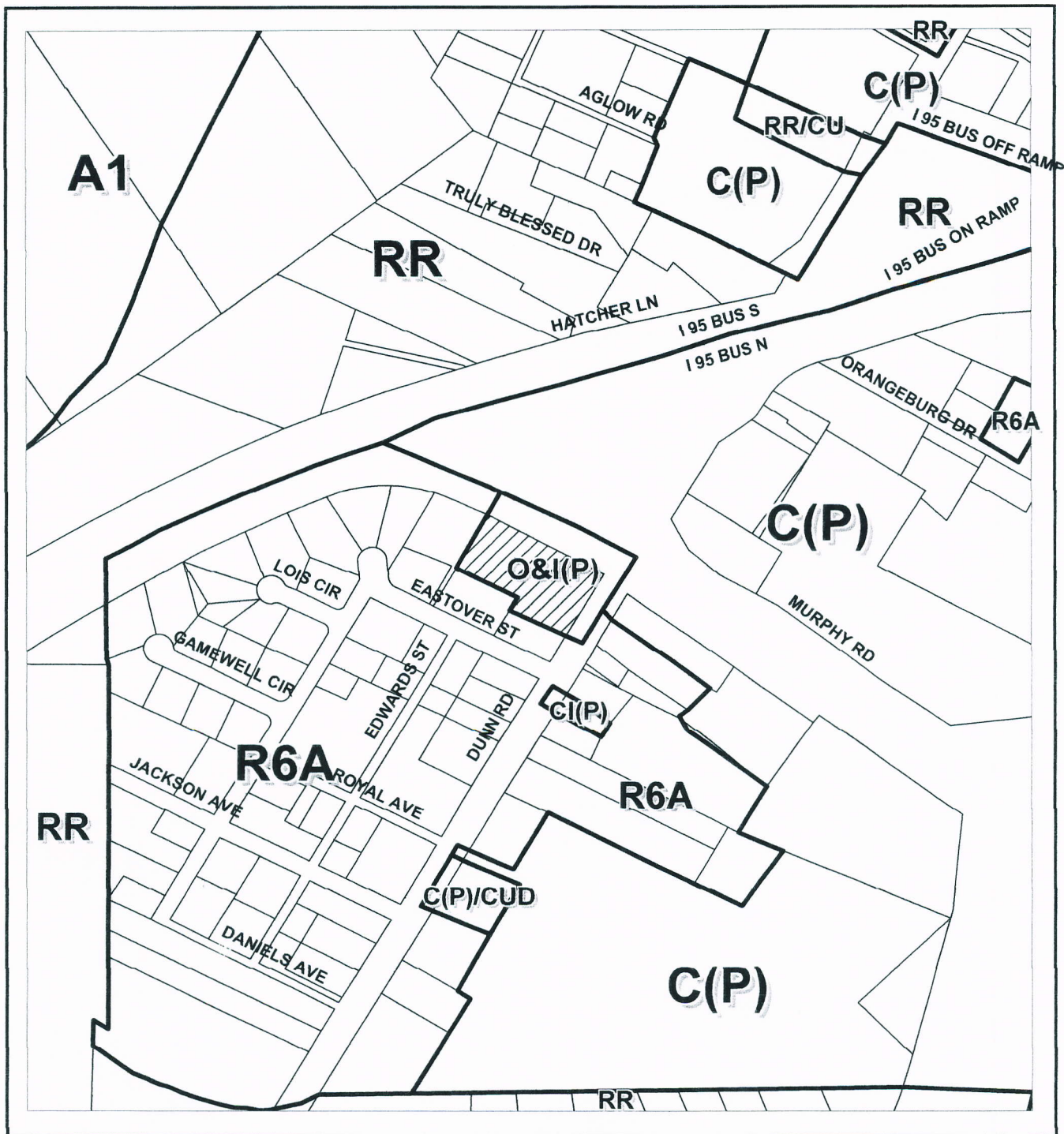
Highway Plan: No impact on the current Highway Plan. SR 1838 (Dunn Road is a major thoroughfare)

Notes:

1. County Zoning Ordinance: Section 906, Day Care Facilities
2. Contents of the application (attached):
 - a. Children: 1 to 4 years old
 - b. Number of Employees: 5
 - c. Hours of operation: 7:00 am to 6:00 pm, Monday thru Friday

First Class Mailed Notice Certification

A certified copy of the tax record owner(s) and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith.



BOARD OF ADJUSTMENT SPECIAL USE PERMIT

ACREAGE: 2.19 AC.+/-

HEARING NO: P08-02-E

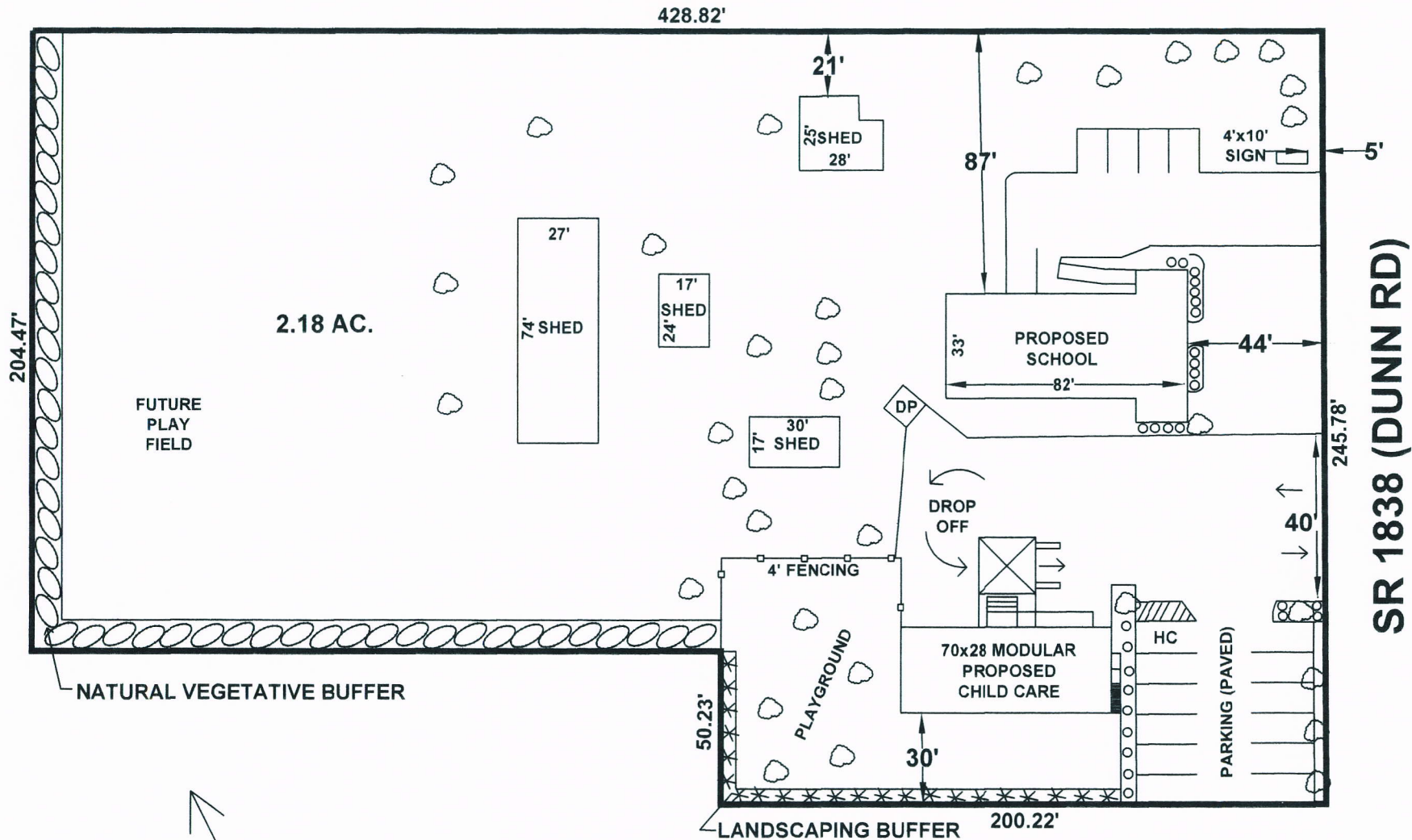
ORDINANCE: COUNTY(EASTOVER)

HEARING DATE

ACTION

GOVERNING BOARD

I95 BUS N



**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**
REQUEST: ALLOW A DAY CARE FACILITY
CASE: P08-02-E ACREAGE: 2.19±
ZONED: O&I(P) SCALE: NTS
PARKING: AS SHOWN

*SCALED, DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST
SITE PLAN AS SUBMITTED BY APPLICANT

DRAFT

Board of Adjustment - Special Use Permit

Ordinance-Related Conditions

Revision Required:

1. The number of off-street parking spaces as shown on the site plan does not satisfy the required off-street spaces for the private school and the day care facility. Based on the information contained in the application, an additional two spaces are required and three copies of a revised site plan must be submitted for staff review and must be approved prior to application for any permits for the day care facility. Also see related Condition No. 20 below.

Permit-Related:

2. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
3. Connection to public water and sewer is required, the Eastover Sanitary District must approve water and sewer plans prior to application for any permits. A copy of the Eastover Sanitary District's approval must be provided to Code Enforcement at the time of application for building/zoning permits.
4. New development that will disturb one acre or more of land or is part of a larger plan that will disturb at least an acre of land is subject to the post-construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's post-construction permit must be provided to County Code Enforcement.
5. The developer may have to provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.
6. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
7. Landscaping must be provided as shown on the site plan and also conditionally approved for the private school (Case No. 08-109). The following are the minimum standards for the required landscaping for the entire site for both uses of this site:

- a. Five large shade trees or ten small ornamental trees within the front yard setback area; and
- b. Two ornamental trees and 16 shrubs are required in the building yard area;

In addition:

- a. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and
 - b. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.
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 plans.

Site-Related:

9. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the O&I(P) zoning district must be complied with, as applicable.
10. This conditional approval is not approval of the permit for the freestanding sign. 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.)
11. "Dunn Road" must be labeled as "SR 1838 (Dunn Road)" on all future plans.
12. "Hwy 301 N (Exit Ramp)" must be labeled as "I-95 BUS N" on all future plans.
13. An adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources' (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris.
14. Any new utilities, except for 25kv or greater electrical lines, must be located underground.
15. If driveways are changed or added, the developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). If required, a copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
16. Turn lanes may be required by the NC Department of Transportation (NCDOT).
17. 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.
18. A solid buffer must be provided and maintained along the southern and western property lines, where this development abuts residentially zoned property, including where the off-street parking area abuts the residential district, in accordance with the provisions of Section 1102 G, Buffer Requirements, County Zoning Ordinance.

19. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
20. All required off-street parking spaces shall be a minimum of 9' x 20' and shall be surfaced, with a permanent material such as asphalt or concrete, and striped prior to application for the building final inspection. A minimum of two spaces plus one space for each employee of parking spaces are required for the daycare portion of this development.
21. The "unloading drop off" area as shown on the site plan must be paved and sufficient to accommodate two motor vehicles at the same time for the purpose of loading and unloading passengers in addition to the required off-street parking.

Advisories:

22. The applicant is advised to consult an expert on wetlands before proceeding with any development.
23. 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.

Other Relevant Conditions:

24. All applicable conditions for the conditional approval of the private school (Case No. 08-109) apply.
25. The children's play area must be secured with at a minimum, a 4 foot high fence with horizontal/vertical spacing in the fence being a maximum of four inches and the fence must comply with the guard opening limitations for spacing established in the NC BLDG CODE§ R312.2 (2006) and the gate must be kept closed while children are at play.

If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605; otherwise, contact the appropriate agency at the contact numbers below.

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

Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
Eastover Sanitary District:	Morgan Johnson	323-3973
Planning & Inspections, Eastover Rep:	Matt Rooney	678-7625
Town of Eastover (Clerk):	Jane Faircloth	323-0707
Corp of Engineers (wetlands):	Ronnie Smith	(910) 251-4829
NCDENR (E&S):	Sally McKinney	433-3300
E911 Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
N.C. Division of Water Quality:	Mike Randall	(910) 733-5083 ext. 545

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 3135 Dunn Rd Fay NC 28312
OWNER: Greg Barnes
ADDRESS: 1114 Fourwood Dr Fay ZIP CODE: 28312
TELEPHONE: HOME 484-6359 WORK 486-3545
AGENT: Craig S. Wheeler
ADDRESS: 333 Baylor Dr Fay NC 28306
TELEPHONE: HOME 910-339-4563 WORK 910-864-4447

APPLICATION FOR A SPECIAL USE PERMIT

As required by the Zoning Ordinance

- A. Parcel Identification Number (PIN #) of subject property: 0468-16-9122
(also known as Tax ID Number or Property Tax ID)
- B. Acreage: 2.19 Frontage: 245.78 Depth: 428.82
- C. Water Provider: PWC
- D. Septage Provider: PWC
- E. Deed Book 4451, Page(s) 585, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
- F. Existing use of property: Christian School
- G. It is proposed that the property will be put to the following use: (Describe proposed use/activity in detail including hours of operation, number of employees, signage, parking, landscaping, etc.) A private Christian grade School (K-5 thru 8th grade) with an after school program and a child development center for ages 1-4 with operating hours of 7am until 6 pm. The number of employees should be around 5. Other details according to site plan (attached)

STATEMENT OF ACKNOWLEDGEMENT

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 arguments 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 approve, deny, or defer the request for additional information to be provided;
- If the petitioner or their representative for this application does not appear personally before the Board, whether there is opposition or not, the Board has full authority to consider the case.
- If the Board's decision is to deny the matter before them, **the aggrieved party shall file a "Notice to Intent to Appeal" with the Planning & Inspections Staff on the next business day following the meeting in which the Board's decision was made final, or the next business day following receipt of the written copy there of.**
- Any petition for review by Superior Court shall be file with the Clerk of Superior Court within 30 days after the decision of the Board is made final.

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

SIGNATURE OF OWNER(S)



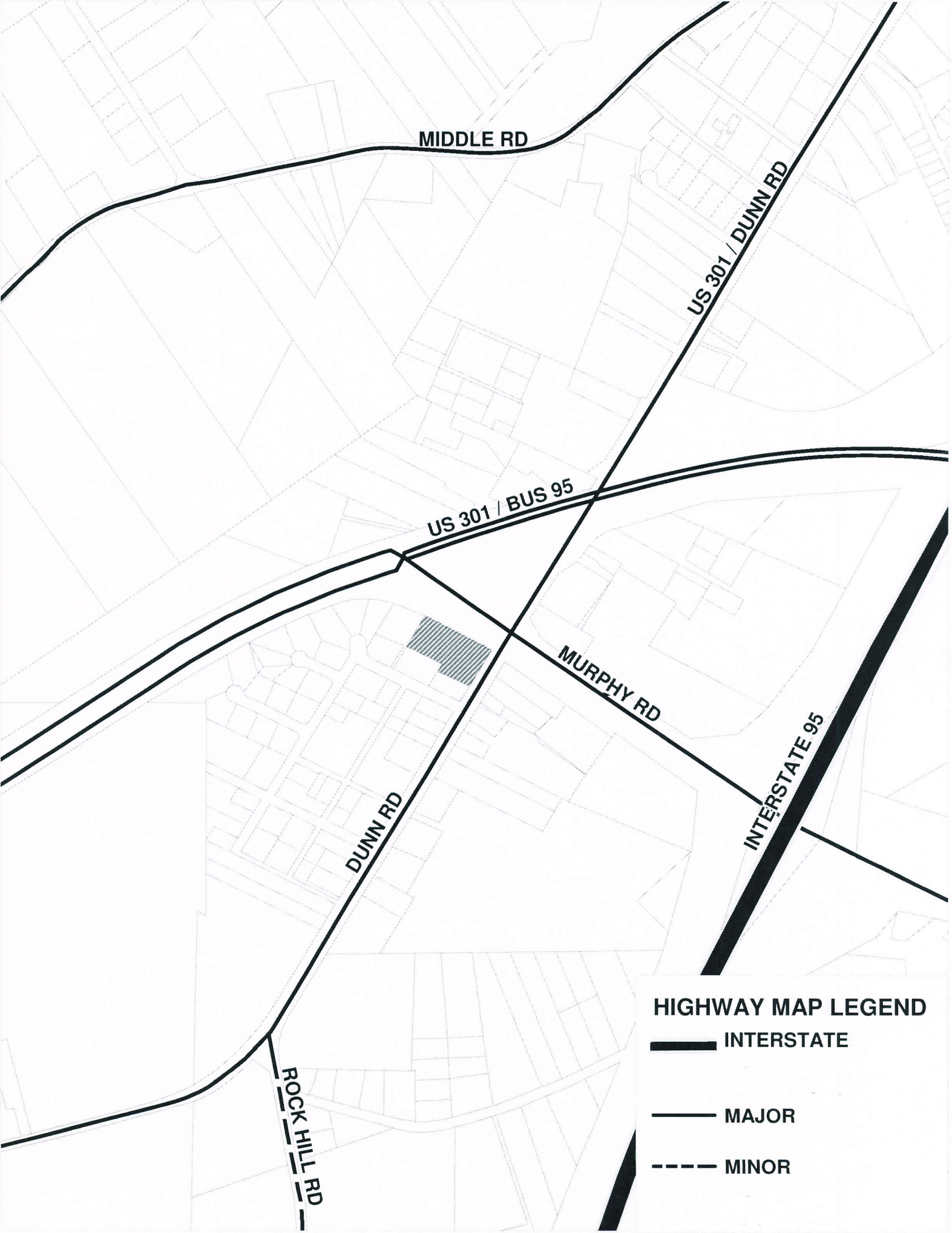
PRINTED NAME OF OWNER(S)

GREG BARNES

DATE

6/17/08

Only expressly authorized agents or assigns may sign this acknowledgement in lieu of the tax record owners' signatures.



MIDDLE RD

US 301 / DUNN RD

US 301 / BUS 95

MURPHY RD

DUNN RD

INTERSTATE 95

ROCK HILL RD

HIGHWAY MAP LEGEND

INTERSTATE

MAJOR

MINOR

CITIZENS OF CUMBERLAND COUNTY

The Cumberland County Board of Commissioners believes that all citizens should have the opportunity to participate in governmental decisions. One way of participating is by serving as a citizen member of one of the County's Advisory Boards listed below. If you wish to be considered for appointment to one of these boards, please complete the form below ENTIRELY and mail to the Office of the County Commissioners, P.O. Box 1829, Fayetteville, NC 28302-1829, or you may fax it to 678-7770. **YOU MUST BE A RESIDENT OF CUMBERLAND COUNTY TO APPLY.** Please note some of these boards meet during the day. If you are unable to attend meetings during the day, you may want to check the meeting schedule of the particular board you wish to apply to before submitting an application. Information on the boards/commissions listed below can be found on the County's web page at co.cumberland.nc.us, or you may call 678-7772.

Application for Boards/Commissions Appointment

A.B.C. Board

Adult Care Home Community Advisory Committee
Air Quality Stakeholders Committee
Board of Adjustment
Civic Center Commission
Community Child Protection/Fatality Prevention Team
Cumberland Cemetery Commission
FTCC Board of Trustees
Human Relations Commission
Industrial Financing Authority
Joint Appearance Commission
Joint Planning Board
Joint Senior Citizens Advisory Board
Jury Commission
Library Board of Trustees
Mid-Carolina Aging Advisory Committee
Minimum Housing Appeals Board
Nursing Home Advisory Board
Recreation Advisory Board
Social Services Board
Southeastern Economic Development Commission
Storm Water Advisory Board
Wrecker Review Board

The following boards have specific categories of membership*:

*Animal Control Board
*Board of Health
*Cape Fear Valley Health System Board of Trustees
*Crim. Justice Partnership Advisory Board
*Emergency Planning Committee
*Equalization and Review Board
*Farmland Advisory Committee
*Fayetteville Area Convention & Visitors Bureau Board of Trustees & Occupancy tax Advisory Committee
*Home & Community Care Block Grant Committee
*Juvenile Crime Prevention Council
*Mental Health Board
*Tourism Development Authority
*Transportation Advisory Board
*Workforce Development Board (business representatives)

** PLEASE PRINT OR TYPE **

NAME A. Johnson Chestnutt DATE 11/10/06

ADDRESS 578 Milden Road CITY/STATE Fayetteville, NC ZIP 28314

TELEPHONE: Home 910 484 6365 Work 910 223 1040

OCCUPATION Accountant

PLACE OF EMPLOYMENT Faircloth & Company, LLP RACE/SEX White/Male

EDUCATIONAL BACKGROUND BSBA

Board/Commission Interested In:

1. ABC Board 2. BOARD of Adjustments
3. Cape Fear Valley Health System 4. FTCC Board of Trustees

Are you currently serving in one or more appointed or elected positions in any Federal, State or local government agency? Yes If so, please give the following information: Position: Financial Expert
Organization: Advisory Board Date Term Ends: 12/31/06
When openings occur, your application will be considered along with the others received.

NO

12-28-07
Continue
updated

AUG-07-2008(THU) 14:11 TALLY & TALLY ATTY

(FAX)910 485 4878

P.001/001

CITIZENS OF CUMBERLAND COUNTY

If you are a Cumberland County citizen interested in serving as a member of one of the County's Advisory Boards, please **ENTIRELY** complete the form below and mail to the Office of the County Commissioners, P.O. Box 1829, Fayetteville, NC 28302-1829, or fax to 678-7770. **YOU MUST BE A RESIDENT OF CUMBERLAND COUNTY TO APPLY.** Some of these boards meet during the day. Please check the meeting schedule of the particular board you wish to apply to before submitting an application. Information and a listing of upcoming vacancies on the boards listed below can be found on the County's web page at co.cumberland.nc.us, or you may call 678-7772.

Application for Cumberland County Boards Appointment

ABC Board
Adult Care Home Community Advisory Committee
Air Quality Stakeholders Committee
Board of Adjustment
Civic Center Commission
Community Child Protection/Fatality Prevention Team
Cumberland Cemetery Commission
FTCC Board of Trustees
Human Relations Commission
Industrial Financing Authority
Joint Appearance Commission
Joint Planning Board
Joint Senior Citizens Advisory Board
Jury Commission
Library Board of Trustees
Mid-Carolina Aging Advisory Committee
Minimum Housing Appeals Board
Nursing Home Advisory Board
Recreation Advisory Board
Social Services Board
Southeastern Economic Development Commission
Storm Water Advisory Board
Wrecker Review Board

The following boards have specific categories of membership:
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Child Homicide Identification & Prevention Council
Criminal Justice Partnership Advisory Bd.
Emergency Planning Committee
Equalization and Review Board
Farmland Advisory Committee
Fayetteville Area Convention & Visitors Bureau Board & Occupancy Tax Advisory Committee
Home & Community Care Block Grant Committee
Juvenile Crime Prevention Council
Mental Health Board
Tourism Development Authority
Transportation Advisory Board
Workforce Development Board (business representatives)

** PLEASE PRINT OR TYPE **

NAME William Lockett Tally DATE 8/7/08

ADDRESS 414 Vista Dr. CITY/STATE Fayetteville, NC ZIP 28305

TELEPHONE: Home (910) 489-3533 Work (910) 483-4175

OCCUPATION Attorney, Tally and Tally and Management of Tallywood Shopping Center

PLACE OF EMPLOYMENT Tally and Tally Law Firm RACE/SEX White/Male

EDUCATIONAL BACKGROUND BA in Political Science from Wake Forest Univ. 1997 2003
JD Cumberland School of Law 2006

Board/Commission Interested In:

1. Board of Adjustment 2. Workforce Development Board
3. Convention and Visitors Bureau Board 4. Southeastern Economic Development Commission

Are you currently serving in one or more appointed or elected positions in any Federal, State or local government agency? No If so, please give the following information: Position: _____

Organization: _____ Date Term Ends: _____

Are you a graduate of a leadership program? Please name: _____

When openings occur, your application will be considered along with others received.

P08-44

REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE, AMENDING ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS, SECTION 203 DEFINITIONS OF SPECIFIC TERMS AND WORDS REGARDING THE DEFINITION OF "KENNEL"; ARTICLE IV PERMITTED, CONDITIONAL AND SPECIAL USES, SECTION 403 USE MATRIX, CREATING A FOOTNOTE TO THE USE LISTED AS "KENNEL OPERATIONS"; AMENDING ARTICLE IX INDIVIDUAL USES, SECTION 912 KENNEL OPERATIONS, BY CREATING SUB-SECTION G TO ALLOW IN CERTAIN CIRCUMSTANCES THE TEMPORARY USE OF RESIDENTIALLY-ZONED PROPERTIES AS A KENNEL OPERATION.

AMEND Article II Interpretations, Calculations, and Definitions, Section 203 Definitions of Specific Terms and Words, specifically the definition of "Kennel" to read as follows:

Kennel: Any premises where four or more dogs which are five months old or older are kept permanently commercially or as pets or temporarily if approved under Section 912 G, excluding pet grooming shops, veterinary clinics and veterinary hospitals. (Section 912)

AMEND Article IV Permitted, Conditional, and Special Uses, Section 403 Use Matrix, by inserting a footnote to "Kennel Operations" to read:

¹See Section 912.g for allowed temporary use of a kennel operation in all residential zoning districts.

AMEND Article IX Individual Uses, Section 912 Kennel Operations, by creating sub-section G to read as follows:

G. Occupants of property in residential districts which do not allow kennel operations may submit an application to the Director to allow the temporary housing/boarding of four or more dogs, but in no circumstance more than six dogs, more than five months of age or older, for a period not to exceed 12 calendar months, renewable for a maximum period of 12 additional calendar months. The Director shall consider other relevant County Code of Ordinances pertaining to the housing of dogs including but not limited to noise, sanitation, etc. when permitting or denying any request under this section. Factors that the Director shall consider include, but shall not be limited to:

1. The nature of the hardship and purpose of the request;
2. Duration of housing/boarding the dogs;
3. The accommodations available for housing/boarding the dogs to be temporarily housed;

4. Whether the dogs to be temporarily housed/boarded are neutered;

5. Any history the applicant has of being cited for violations of the County's noise, zoning or animal control ordinances or of animal cruelty laws;

6. Any history the dog(s) to be temporarily housed/boarded have of aggressive behavior towards other pets or towards people, and

7. The effect on and character of surrounding property.

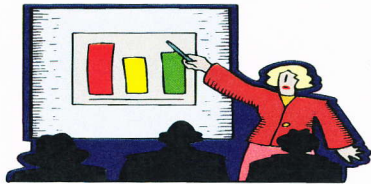
All applications must list the number of dogs, provide verification that the dogs are listed with the County Tax Department and all vaccinations are current. A zoning permit will be required for all approved temporary housing or boarding.

Any application for the temporary housing/boarding of dogs allowed under the provisions of this section shall be revoked if the temporary permit is found to be issued in error or due to fraud, or if at any time, the situation is found to be in contradiction with the factors considered by the Director which enabled or supported the issuance of the temporary permit. In the event that the Director denies or revokes the request for temporary housing/boarding of dogs, any aggrieved person/persons may file an appeal with the County Board of Adjustment pursuant to Section 1604 of this ordinance.

Special Use Permit

Special Uses may be granted only upon approval by the Board of Adjustment in accordance with the standards and conditions set forth in the County Zoning Ordinance. In granting a Special Use Permit, the Board must find that:

- The use will not materially endanger the public health or safety if located according to the plan submitted and proposed;
- The use meet all required conditions and specifications;
- The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
- 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 small area plan.



Noncompliance

If any condition found to be illegal or invalid, the Special Use Permit will be null and void and of no effect, and the Planning and Inspections Staff will institute proceedings for the case to be reheard by the Board of Adjustment.

Expiration of Permits

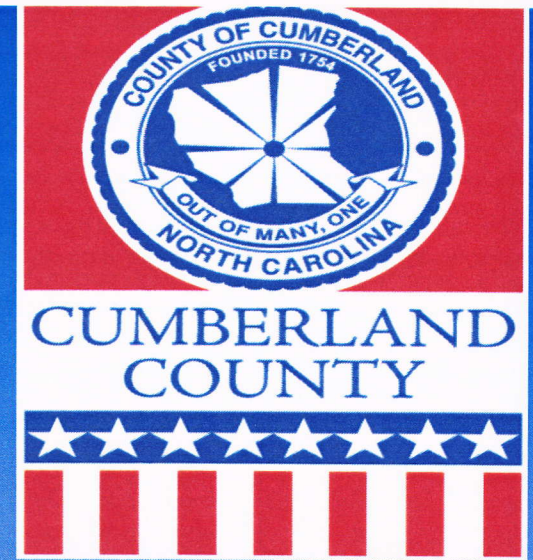
Any Special Use granted becomes null and void if not exercised within the time specified in such approval or if no date is specified, within one calendar year from the date of such approval.

Variance

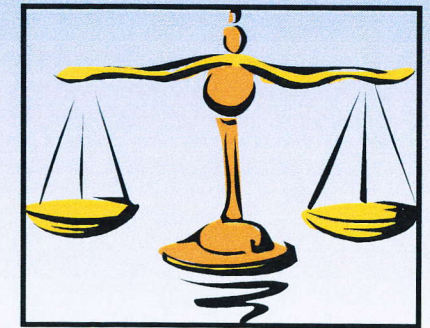
Before the Board may grant or deny a variance, relevant evidence must be presented to them so that a determination can be made regarding the request. The Board must find the following conclusions for an individual case:

- There are extraordinary and exceptional conditions to the particular piece of property in question;
- Granting the variance requested will not confer upon the applicant any special privileges;
- Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents in which the property is located;
- The variance request is the minimum variance that will make possible the legal use of the land, building or structure;
- The requested variance has to be in harmony and will not be injurious to the neighborhood or to the general welfare;
- The special circumstances are not the result of the actions of the applicant;
- The variance request is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved and will not constitute any change in district boundaries; and
- The existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts does not constitute a reason for approval of the requested variance.

The Board of Adjustment is not authorized to grant variances to a Conditional Use Permit issued in conjunction with a Conditional Use District rezoning or to the specific conditions or other performance criteria imposed upon such use.



BOARD OF ADJUSTMENT



**130 Gillespie Street
Fayetteville, NC, 28301**

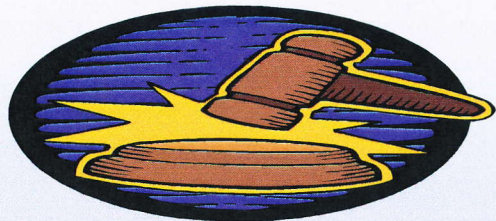
Phone:

(910)678-7002 (910)678-7003

Fax: (910) 678-7669

www.co.cumberland.nc.us

COUNTY BOARD OF ADJUSTMENT



The Board of Adjustment is a quasi-judicial administrative body that is established by the Board of Commissioners, pursuant to N.C. GEN. STAT. §153A-345. The Board consists of five regular members along with five alternate members to serve in the absence of any regular member and all are appointed by the County Commissioners.

Required Vote

The concurring vote of four-fifths of the members of the Board is necessary to reverse any order, requirement, decision, or determination of the Zoning Enforcement Officer or to decide in favor of the applicant for a variance from the ordinance or to approve a Special Use Permit.

Meeting

The Board meets on the **third Thursday** of every month at **7:00 pm** in the Historic Court House located at 130 Gillespie Street, Fayetteville, NC 28301.

- The meeting will be advertised in the legal section of the newspaper.
- Cases are presented for the Board's consideration upon application submission.
- All adjoining property owners will be notified by first class mail and will be given an opportunity to present any evidence or arguments they may have at the meeting.
- Other property owners in the general area may also be noticed by third class mail.

The Board of Adjustment shall have the powers and duties to:

- Act in all matters relating to the administrative review;
- Hear and grant variances;
- Grant permit exceptions, called "Special Uses";
- Interpret the official zoning maps;
- Rule on matters concerning nonconforming uses;
- Rule on matters related to the County's Water Supply Watershed Management and Protection Ordinance; and
- Hear and rule on appeals and variance requests from the County's Flood Damage Prevention Ordinance.

Administrative Review

- Appeals may be taken to the Board of Adjustment by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of an administrative official charged with the interpretation of the County Zoning Ordinance thought to be in error.
- Appeals must be filed within six months from the date of the action being appealed.

Appeal of Final Decision

Any decision of the Board is subject to review by the Superior Court by proceedings in the nature of certiorari (review of the record of the proceeding). The aggrieved party should file a "Notice of Intent to Appeal" with the Planning and Inspections Department on the next business day following the meeting in which the Board's decision was made final. Any petition for review by the Superior Court must be filed with the Clerk of Superior Court within 30 days after notice of the Board's decision.



THE HEARING

- The hearing is to follow quasi-judicial proceedings including sworn testimony, the reliance on competent evidence, avoiding ex parte contact and bias and matching up evidence to findings of fact;
- All persons speaking before the Board, such as the applicant, a representative of the applicant, an adjoining property owner or a member of the general public, must testify under oath, establish their "standing" as related to the case and be subject to cross examination;
- The Board can only consider facts and evidence relevant to the case; signed petitions or letters from neighbors, which at the discretion of the Board, generally cannot be admitted;
- The Code Enforcement Officer will be at the Board meeting to explain the technical aspects of the ordinance as it pertains to each case. Once the Board has heard and received all necessary evidence, the Board will then openly discuss the facts and take a vote;
- Any documents and pictures submitted as evidence to clarify facts pertaining to the case will become part of the official record and will be retained as evidence; and
- The findings cannot be based on conjectures, assumptions, or non-expert opinions.

