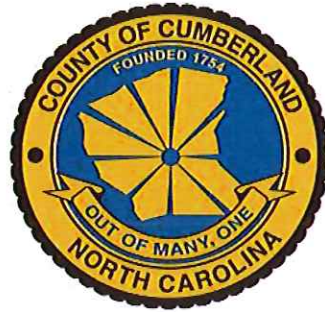


Members:
George Turner, Chair
Alfonso Ferguson Sr., Vice-Chair
Winton McHenry
Gregory Parks
Marva Lucas-Moore



Alternates:
Robert E Davis
Stacy Michael Long
Linda Amos
Quinsentina James

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

130 Gillespie Street
Fayetteville North Carolina 28301
(910) 678-7602

MINUTES
December 17, 2020
6:00 PM

Members Present

George Turner
Gregory Parks
Linda Amos
Stacy Long

Absent Members

Marva Lucas-Moore
Winton McHenry
Alfonso Ferguson

Staff/Others Present

David Moon
Dena Barner
Rob Hasty
(County Attorney)

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

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

1. INVOCATION

Mr. Long

PLEDGE OF ALLEGIANCE

Recited by all.

2. ROLL CALL

Mr. Moon called the roll. For the audience, Mr. Moon stated a quorum was present.

3. SWEAR IN STAFF

Chairman Turner swore in staff.

4. ADJUSTMENTS TO THE AGENDA

There were none.

5. APPROVAL OF THE NOVEMBER 19, 2020 MINUTES

Mr. Parks made a motion to approve the minutes from the November 19, 2020 meeting with any necessary corrections, seconded by Mr. Long. The motion passed unanimously.

	IN FAVOR
TURNER	YES
PARKS	YES
LONG	YES
AMOS	YES

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

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Presented by Mr. Moon.

9. PUBLIC HEARING(S)

P20-05-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A BORROW SOURCE OPERATION IN AN A1 AGRICULTURAL DISTRICT ON 201.50+/- ACRES, LOCATED ON THE SOUTH SIDE OF SR 2221 (GAINEY ROAD), EAST OF SR 2223 (MCFAYDEN ROAD) AND WEST OF THE CAPE FEAR RIVER, SUBMITTED BY SCOTT DICKSON ON BEHALF OF HANSON AGGREGATES SOUTHEAST, LLC (OWNER) AND MICHAEL BLAKELY ON BEHALF OF DRAFTING AND DESIGN SERVICES, INC. (AGENT).

Chairman Turner read the case heading for Case No. P20-05-C.

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

CHAIR TURNER: First speaker is Russ Patterson, is Russ here? Michael Blakely? Would you come forward and let me swear you in? Do you swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth so help you God?

MR. BLAKELY: I do. Michael Blakely, Drafting and Design services, I am the authorized agent/applicant for the project and I can run through it. Mr. Moon did a good job of outlining the information and in some of the questions that y'all have for the staff about the time of operation. Typically, we do 7 to 6 just because of the daylight savings time but if it's the wishes of the board we can comply to the requirements of dawn to dusk. We have no issue with changing that condition.

CHAIR TURNER: What would be the advantage for you in putting those specific times?

MR. BLAKELY: Typically we do 7 to 6 just because of getting trucks on the road, its kind of a industry standard. But with this operation, its solely going to be used, not for the public, its going to be for one identity, that 7 to 6 is soft and we can change that if we need to. It's just to get them an extra load on the road basically. To give them an extra hour in the morning and in the afternoon

MR. PARKS: With daylight savings time you can get an extra 2 and half or three hours.

MR. BLAKELY: Yes sir and most codes do not define a time so we feel like we need to set one and say hey Monday thru Friday from 7 to 6 because that's a common question that we get. We can do dawn to dusk, that is no issue for us.

CHAIR TURNER: Okay. Go ahead and keep going.

MR. BLAKELY: This project was previously had a mine permit on it and it was released and reclaimed in 2019. It was by Hanson Aggregates and basically they did not need, they have other sites and did not need the particular material on this site. Our client that is looking at potentially buying this property from Hansen does have a use for the material and basically has an option on the properties so Hansen is willing to re-permit the project otherwise it would have been grandfathered in with it already having an existing permit on free zoning. These properties have been mined since the 50's, so this actually has had a mine permit on it, I think the last time it was mined was in the late 80's. And if you'll notice on the map, we're showing some areas to the left side of the page, which would be the north that have already been reclaimed and we will leave those areas alone. They will be buffer trees, what they've already grown into. We have 99 acres proposed for the ultimate pit and we've shown the initial pit and pit expansion lines on here to just kind of illustrate that we're not going to go dig 99 acres at once, we'll dig 10 acre plots at a time, as we move out towards Gainey Road in the pit. So just to give the detail, we aren't going out there and disturb 100 acres, we will only be disturbing 10 acres at a time. And as we continue out to Gainey Road, obviously we'll be building a pond, essentially is what we're doing. One of the questions we got for one of the other projects, the project we did last month, was life of this project. We're looking at 15 to 25 years based on demand. Obviously construction materials depend on the economy and demand so at the time we are going to dig this out you kind of have to range it, so 15 to 25 for this size borrow source. We are showing a total 100 foot buffer with 50 feet of that buffer being undisturbed and then 50 feet will be a berm, that will be vegetative. That's 50 foot wide at the base and then goes up a little of 6 feet tall. Initially seeded with grass and then trees, it will be allowed to grow, it won't be maintained. It will undisturbed also once that mound is in place. We are required to get a mine permit from the state, we are also required to get do a NcDOT driveway permit for the access even though there was an access there previously, we'll have to resubmit for this new access since the site has been dormant since the late 80's. Are there any questions? Or anything that I missed that you guys would like more detail on?

CHAIR TURNER: Board members have any questions? I think last month you talked about the water table in this area, are you going to have the same situation here? Same depth?

MR. BLAKELY: Yes sir. And we will be mining it wet. There won't be any dewatering of the pit.

CHAIR TURNER: Okay. Any questions from anyone? If you'll stand down, we may call you back. Our next speaker is Franklin Johnson. Franklin to you swear or affirm the testimony you are about to give this board will be the truth, the whole truth and nothing but the truth so help you God?

MR. JOHNSON: So help me God. I'm Franklin Johnson, a local commercial real estate broker that represents Hansen and I am here to state that I do not feel that there will be any negative impact on the surrounding property values or loss of value. This property is pretty much tucked in the woods and joins an old pit. I spoke

to all the property owners out there and nobody has any problem with it or that have not spoken to me if they have a problem with it. I do not see any negative impact it would have on any of the adjoining properties.

CHAIR TURNER: I did notice on the first map you do have a body shop and a home very close to it, are they aware?

MR. JOHNSON: There's one home that's very close that almost abuts the old driveway permit. I talked to him and he said 'Franklin I would rather it be that than a hog operation or a mobile home park.' He said I have no problem with the lake. I talked to Palmer Williams that owns the other huge track which is the previous mining operation. He was not happy with us because he was afraid we were going to steal his ducks away where he hunts because he was just joking. He's totally fine with it. But he didn't want anymore water or lakes out there.

CHAIR TURNER: Now who is this?

MR. JOHNSON: The Williams, they own the eleven hundred acres, but he's totally fine with this.

CHAIR TURNER: Is he here tonight?

MR. JOHNSON: No he's not here, he's not in opposition. He was just joking, you're going to dig a lake and steal my ducks.

CHAIR TURNER: Okay, anything else?

MR. JOHNSON: That's it.

CHAIR TURNER: Any questions from board members? Stand down, we may call you back. Next speaker is Tracy Davis. Ok. There are no other speakers to speak for or against, I'll close the public hearing or the hearing. And open it up to the board. Do y'all have any questions or would you like to call anybody back? Discussions.

MR. LONG: I just have a comment. I think I would rather see the time of 7 to 6 than dawn to dusk because in the summer time the sun comes up like at 4:30 in the morning and could give an excuse to be there really really early or really really late so they could have longer hours in the summer and shorter in the winter but I think the 7 to 6 makes more sense not being an early morning or late night nuisance to any residences around there.

CHAIR TURNER: Well we have four findings of fact, have you read those? I'm assuming from staff that everyone was notified, the body shop, that staff notified, there's no one who doesn't know what we're doing?

MR. MOON: Staff received copies of plans from the Fire Marshall's office, the Engineer's office, to the planners with planning and inspections as well as some others based on the comments that our department received the site plan that's part of the staff report is consistent with the zoning code and standards that are required by a borrow source operation subject to them complying with the requirements outlined within the special use permit.

CHAIR TURNER: I think my simple question was exhibit C-1 shows nine properties owners within 1,000 feet, they were all properly notified and mailed to and they got everything they needed?

MR. MOON: Yes sir and the property was also posted, out there off of Gainey Road, with a notice of hearing.

CHAIR TURNER: Okay, any further discussion? Is there a motion?

MR. PARKS: I'll make a motion that we approve with the Special Use Permits complied with. Also, if they want to 7 to 6, I think that is fine. What other specifications did you tell me besides the Special Use Permit?

MR. MOON: Acknowledge the site plan as well as the Special use Permit and a motion to accept the findings of fact.

CHAIR TURNER: So just go through the four findings of fact based on testimony by everyone. You've got those on page 3.

MR. HASTY: Also they've submitted their exhibit H, they have responses to those and you could, if you agree with those, incorporate those in your motion.

MR. PARKS: So I'm not a professional at making a motion but we're going to

CHAIR TURNER: So far so good.

MR. PARKS: Ok, I don't see the use will not materially endanger the public health or safety, do you want me to read through these, attorney?

MR. HASTY: Yes sir and then whatever back support is needed.

MR. PARKS: the public health or safety if located according to the plan submitted and recommended. The use meets all required conditions and specifications. With the compliance with the special, do I say Special use permit in that particular case? The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity, and not going to change any of that. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan. I make a motion we accept that with the compliance with the special use permit and the other conditions that were set forth. Will that work? Thank you.

CHAIR TURNER: Do we need to add anything to that?

MR. HASTY: No you could, if you wanted to incorporate the specific findings to support the general findings. Just say I incorporate Exhibit H.

MR. PARKS: I incorporate Exhibit H into that motion.

CHAIR TURNER: Got a complete motion, is everybody good with that?

MR. HASTY: That's a good motion, needs a second.

CHAIR TURNER: Do we have a second?

Mr. Parks made a motion in case P20-05-C to approve that the Special Use Permits complied with, also if they want to 7 to 6 that is fine with allow a borrow source operation, incorporated exhibit H, seconded by Ms. Amos. The motion passed unanimously.

IN FAVOR

TURNER	YES
PARKS	YES
LONG	YES
AMOS	YES

P20-06-C: CONSIDERATION OF A VARIANCE TO ALLOW A ZERO FOOT FRONT YARD SETBACK FOR A SHED, POOL AND FENCE INSTEAD OF A REQUIRED MINIMUM FIFTY FEET SETBACK FOR PROPERTY LOCATED IN AN A1 AGRICULTURAL DISTRICT AND CONTAINING 0.50+/- ACRES, LOCATED AT 7607 DOCUMENTARY DRIVE, SUBMITTED BY LESLIE WILLIFORD KELLY & WESLEY KELLY (OWNERS).

Chairman Turner read the case heading for Case No. P20-06-C.

MR. HASTY: Mr. Chair before you begin, a variance does require 4/5 of a vote to pass and since there are only four board members present it means you would have to be unanimous I am just reminding you.

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

MR. PARKS: Can you go back a couple of pictures and let me look? Keep going. Hold right there. Above ground pool, moveable storage building, trampoline, so all those are moveable.

CHAIR TURNER: Did I understand you to say the applicant is here?

MR. MOON: Correct.

CHAIR TURNER: The applicant is not signed up to speak. You're the applicant, did you wish to speak, or intend to speak? It's your call. If you want to speak we will find a way to make it work but if you have nothing to say, that will be alright. Okay, stand down and I will call you in just a minute. I have a question. You know you had sent me the, and I do know the area, probably more so than the one's we normally look at. On Rufus Johnson Road behind this house, is another house that looks like it's a mirror image of it. I've always noticed these houses, being in real estate, because both of them are odd to me because there's truly a front entrance on the one behind it on Rufus Johnson and there's is on approach and it looks like the front of the house is what you called it on the side for both of them. The applicant, behind their house, installed a fence. It appears to be new and I know that house sold about six months ago and I'm going to assume based on county's GIS that the fence wasn't there, in 2017 it wasn't there. Are they affected by what happens tonight? I want to be sure that we don't single out somebody and give them a hard time if the neighbor behind them did the same thing? How does that work David?

MR. MOON: Staffs not prepared tonight to address the conditions on abutting or nearby property related to the structure that occurred on the site. We would only do that if it occurred during our normal inspections or if complaint was filed by a property owner. So that situation on an adjacent property would not be considered as part of the case this evening.

CHAIR TURNER: Well I'm not thinking it would be part of the case, just looking at it, I'm thinking did the folks in the back get a permit and if they did to install their fence, then they installed it in line with the fence that we say is in violation. So, I don't want to pick on somebody and that's what it looks like.

MR. MOON: I can't tell you this evening whether that property owner, different property owner, obtained a permit for that fence. Staff would have to do the research on that.

CHAIR TURNER: I understand. Okay.

MR. MOON: If its not fronting the street, their allowed to locate it along the property, on the property line.

CHAIR TURNER: It's the mirror image of this. Long before any of this I always noticed when you turned in that little neighborhood these two houses there that are back to back versions of each other, its just something in real estate you just notice that. You know, we're funny. Any questions of the staff?

MR. PARKS: I don't have any questions. I have questions of the applicant.

CHAIR TURNER: Let me ask the board, I think we would need a motion, is that right, to allow them to speak? They did not sign up.

MR. HASTY: Yes it would need to be motioned and voted by the board.

Mr. Long made a motion in case P20-06-C to allow the applicants/owners to speak on behalf of this case, since they failed to sign up, seconded by Ms. Amos. The motion passed unanimously.

IN FAVOR

TURNER	YES
PARKS	YES
LONG	YES
AMOS	YES

CHAIR TURNER: Anything else from staff?

MR. MOON: No sir.

CHAIR TURNER: Okay, let me get situated here. Who wants to go first? Before we start talking, give me your name.

MRS. KELLY: Leslie Kelly.

CHAIR TURNER: Leslie Kelly, and you are one of the owners?

MRS. KELLY: Yes sir.

CHAIR TURNER: Okay. Do this for me, can I swear you in?

MRS. KELLY: Yes sir.

CHAIR TURNER: Do you swear or affirm the testimony you give this board will be the truth, the whole truth and nothing but the truth so help you God?

MRS. KELLY: Yes sir.

CHAIR TURNER: Alright, tell us your story.

MRS. KELLY: I actually purchased the home before we were married, I purchased the home, I was the first owner in 2007. My stepfather actually paid for the fence and he and my brother built it for me. Because I had a young son at the time and a little dog so they built the fence. So, the fence has actually been there since 2007. I don't know what process my stepfather went thru with permitting or anything. Honestly I'm not sure that he knew that a permit was required for a fence. My brother lived at the house next store at the time and we just lined my fence up with my brother's fence, so that's how the fence got there.

CHAIR TURNER: The one behind you?

MRS. KELLY: If you're looking at the picture it would be the one next door. The house closest to the road, that fence is brand new. Those people haven't lived there but a few months. And my brother, he doesn't live next door anymore but anyways.

CHAIR TURNER: Just so we don't lose track of what you're saying, so you're saying you've owned the house since 2007 and the house was new at that time? And your stepfather, as a gift to you, decided to give you the fence and we have no knowledge that he got a permit or called the county to say what do I do? He didn't do anything, he just put up a fence? Wonder how he picked the line?

MRS. KELLY: I just remember just knowing that it had to be ten feet off of the road, that's all I remember. He passed away a couple of years ago so there's no way I can ask him about that.

CHAIR TURNER: Where does the ten feet come from?

MRS. KELLY: The measurement off of the road.

CHAIR TURNER: Where did we decide it was ten feet? Somebody said it?

MRS. KELLY: That's just what we were under the impression that was the rule when you built a fence in a neighborhood. And at the time I had no idea that the house would be considered to have two front yards, you know that was definitely news to me. We got married in the following year then he lived there. Since then, this past summer, we got the pool, that came from my mom's house so it was a gift from my mom. We had a crew put that up and they told us the measurements off of the fence and made sure the measurements off of the fence were in accordance with what they normally do.

CHAIR TURNER: Define crew. What do you mean by crew?

MRS. KELLY: It was someone, that's a contractor that puts up pools. I will have to let my husband answer that question because he's the one that found them. But it's a company that has a website and everything, I want to say they're, I don't want to say anything wrong so I'll let you ask him.

CHAIR TURNER: Nothing's wrong, just tell us the truth.

MRS. KELLY: So I'm going to let you talk to him because I don't know for sure because he dealt with that. But then the buildings, they're not permanent structures, they're storage sheds that can be moved and so therefore, we did not ask for a permit for those because they weren't built so we didn't know that you had to have a permit for a storage shed until this came about so we got the storage sheds because of the pool. So we would have space to store things for the pool so that's where this came about.

CHAIR TURNER: And you have a trampoline.

MRS. KELLY: Yes it's right there.

CHAIR TURNER: Okay, you want to add anything else?

MRS. KELLY: I think that's about all, that's the background.

CHAIR TURNER: Do we have any questions from board members?

MR. LONG: Where's your septic lines and septic tank located on the property, do you know?

CHAIR TURNER: We have that in here.

MRS. KELLY: And that's another reason why the pool and the sheds are where they are. Because that would be the absolute only location in our entire yard where they could go and not interfere with the septic lines. That was another reason for our decision to put it there.

CHAIR TURNER: Well, I'm not a contractor but it appeared to me, looking at what was there, you've got a septic tank in place all the way to the inner fence and there's a repair area which does not have any lines in it at

this time but everything here is temporary so it looks as though you could use that repair area until you needed it and then you may have to move a building, that's what I thought.

MR. LONG: It looks like from the drawings here the setback of the front of house is fifty-one feet so the pool would actually be probably on one of those lines. Because it has to be fifty feet setback from the road, correct? For a pool?

MR. MOON: Correct.

MR. LONG: So it would be the edge of that pool would be lined up with the edge of the house basically right over that number four would be the front edge so it would be on lines but I don't know if that really matters with an above ground pool over leach line.

CHAIR TURNER: Would it be over a line or a repair?

MR. LONG: No it would be over a line. An active line.

MRS. KELLY: The septic tank is at the back of the house. The septic tank is right outside the kitchen window, the actual septic tank, so if you're looking at the picture here over to the left, right outside the kitchen window. So its on the opposite side of the pool and the shed that's on the right.

MR. MOON: Mr. Long, you're referring to exhibit C of the site plan review?

MR. LONG: Yes, I am looking at the driveway length, fifty-one feet, so it looks like if you put the edge of the pool right at the fifty foot mark it would put it right around that number four.

CHAIR TURNER: Number four now those aren't septic lines, that's a designated repair area.

MR. LONG: Right, but the pool, so that would be the edge of the pool, cause its got to be at the edge of the house basically and back towards the back fence so it would probably be over one of those leach lines. Cause there's three leach lines there?

CHAIR TURNER: Appears to be.

MR. LONG: It seems to me, unless I'm imagining the pool to be much bigger than it actually is that it will be sitting over a leach line but I don't know if that matters in an above ground pool.

MR. PARKS: It doesn't make any difference, just drain the water and move the pool and fix the leach line. I mean in that particular case. I wouldn't think but there again that's not our issue.

CHAIR TURNER: That's not our issue.

MR. LONG: Yeah not really.

CHAIR TURNER: Did you want to add anything?

MRS. KELLY: No not that I can think of. Thank you.

CHAIR TURNER: Well if you'll stand down, we may call you back. Sir you're next. Give me your name sir.

MR. KELLY: Wesley Kelly

CHAIR TURNER: Wesley Kelly. Okay I got you all signed up. Do you swear or affirm the testimony you are about to give this board will be the truth, the whole truth and nothing but the truth so help you God?

MR. KELLY: I do, so help me God.

CHAIR TURNER: Okay, Mr. Kelly tell us your story.

MR. KELLY: She pretty much filled you in pretty well. I main issue, other than ignorance of what we did was not exactly proper. Once I started talking to the planning board about it, and they started looking at it, especially the printout where it shows the sewer lines, there is just no room back there hardly for us to have anything. A whole lot of anything, so that is why we applied for a variance.

CHAIR TURNER: Okay, anything else? The folks that put the pool in, she said you would tell us about them, is that possible?

MR. KELLY: It's a company that I hired off the internet, I looked them up, called them, they came to my mother-in-law's house, took the pool down, took it to my house, and basically we just went over the yard to figure out where we wanted to put it. And the only place where I thought it made sense so it wouldn't be near the septic line was right there where we put it. It's a twenty-seven foot pool, so it's one of the larger above ground pools on the market, so it takes up quite a bit of space and a half acre there is only so much space to be had, and when your whole backyard is eaten up by septic lines then

MR. PARKS: Did they say anything about, or did you ask them anything about do I need to get a permit to put this pool in the backyard?

MR. KELLY: They didn't say a whole lot about it, they said if y'all are going to do a pool it always needs to be ten feet off the property line. So they made sure it was well over ten feet off the fence. So once we got the pool built and moved in a couple of sheds, next thing you know, I get a letter in the mail.

MR. PARKS: Was it a local company?

MR. KELLY: Yes.

CHAIR TURNER: It was, okay.

MR. PARKS: Very touchy. I've been involved with a hundred different things that people can't do because their on a corner lot.

CHAIR TURNER: Half acre lot on a corner lot is not much land. That's the problem, the way the setbacks are. I'm trying to understand the ten foot. Is that a city ordinance, by chance?

MR. PARKS: I have no idea about that.

CHAIR TURNER: I've never heard ten feet, I've never heard that. Want to add anything?

MR. KELLY: That's all I got.

CHAIR TURNER: Okay, any questions from anybody? Did you see the findings of fact that we have to come up with to make this work? Did you read those by chance?

MR. KELLY: Yes.

CHAIR TURNER: You did. Okay.

MR. MOON: Exhibit G is the applicant's written response to the variance criteria.

MR. PARKS: Exhibit G?

MR. MOON: Should be on page seven.

MR. PARKS: Thank you for the number.

MR. LONG: Is that something you've introduced because I don't remember that from before?

CHAIR TURNER: What's that?

MR. LONG: The applicants actually answering the four findings of facts.

CHAIR TURNER: Yes we always have that.

MR. LONG: Really, I guess I'm not paying attention.

CHAIR TURNER: The reason I ask for those, is to help us with the four findings of fact. Number three is the difficulty. We had this last month and we kind of have it very often, it says we have to find that the special circumstances are not the result of the actions of the applicant, see the problem?

MR. KELLY: I understand, the way I look at it, is the septic lines are where they are so it limits us on what we can do.

MR. PARKS: That's the problem with buying a corner lot.

MR. KELLY: That's the hardship. We would have no problem if our septic lines were in the front yard, if that's the way it had been setup. The problem with that is we're on a well and the well is in the front and you can't put septic where the well is.

CHAIR TURNER: Well of the four findings of fact, the reason I keep harping on it is because C is the problem for us, you do have a hardship based on the fact that you do have a lot of things that you do want to have in your yard and you only have half an acre of land and its on a corner, your setbacks are tighter than what they would be if it wasn't on the corner but it's the special circumstances are not the result of the actions of the applicant, that's the finding of fact problem that we have. That's our problem, I think. Does that mean you do have a hardship, there isn't anything about the location, size or topography that's peculiar, it's a standard platted lot. I'm not sure what you do. Do you want to add anything before we stop?

MR. KELLY: I can just say that our current setup doesn't endanger anyone. All of our neighbors like it. Kids came and swam all summer. We can enclose, we can shut up the kids in the backyard, they don't have to be worried about, they can play all day, there in no danger and I just hate to see that go away.

MR. LONG: The fence has been up for how many years?

MR. KELLY: Since 2007.

MR. LONG: So thirteen years but the pool has been in there for how long?

MR. KELLY: Just since April.

MR. LONG: April, okay.

MR. KELLY: We just had it moved, its an eighteen-year-old pool. But we had it moved from my mother-in-law's home because when my wife's stepdad passed she didn't want to have to take care of it anymore, it was just too much for her. She didn't want the kids to not have it so we moved it to our house.

CHAIR TURNER: Is there anyone in your neighborhood who has even complained about it or said anything to you?

MR. KELLY: No, quite the opposite.

CHAIR TURNER: Really? It isn't an issue for us but I am familiar with it and I've seen your house and been by a number of times. This looks like something that could only be before us today because someone complained. I don't know that we'll have that but.

MR. KELLY: Oh I can tell you how that came up.

CHAIR TURNER: Okay, tell me.

MR. KELLY: Gosh I don't know why I didn't think to tell you. When we bought those sheds, they're prewired, and you can just run a drop cord to them. We didn't really want to do that so we called a company that came out and quoted what it would cost to hook up the electrical, \$3,500. So we said no thank you. However, they went and applied for permits. That's how it came up. So nobody complained.

CHAIR TURNER: They applied for a permit before you hired them?

MR. KELLY: Yes they did. They sure did. And I was like, why did they do that. It didn't make any sense but.

CHAIR TURNER: I mean something has to raise the flag

MR. KELLY: I guess they were trying to get ahead of, I guess they really thought I was going to pay them but \$3500 for a hundred feet of wire, is a lot.

CHAIR TURNER: Okay, anybody else have any questions? If you want to stand down sir, we may call you back. Alright, there is no one else to speak for or against so I'll close that hearing and open it up for discussion.

MR. PARKS: The same scenario we had.

CHAIR TURNER: This is the same that we had last month. I mean the names have changed but the situation is exactly the same.

MR. LONG: Wasn't that guy over the setback though? There was something that I remember that he was like really really far.

CHAIR TURNER: His request was for zero and this request is for zero. Basically, the same setback.

MR. LONG: I remember how we ruled in that one but I guess my question, the hang up on number 3, if they were here today with no fence, and no pool and no shed and were asking for a zero foot setback would we be saying yes?

MR. PARKS: The answers no. You can't give it to one person and not give it to everyone. That's what happens with a corner lot. And this has been coming up forever.

CHAIR TURNER: It is the same and secondly when all this started even with the fence, if they had properly gone and tried to get a permit to put up the fence, the fence wouldn't be there. The fence would be somewhere else. So its an after the fact, I messed up, what do I do now, and that's what C is all about, the actions of the applicant have brought us here today. That's the problem. I can understand, if it was me I probably would've done it too, it doesn't mean that as a quasi-judicial board that we can ignore the findings of fact and try to make them something they're not. The applicants or someone has done that. What do you think Linda?

MS. AMOS: I think we are back in the same situation that we were last month. Same where they seek permission from the county to get a permit.

CHAIR TURNER: Any advice Mr. Attorney?

MR. HASTY: I think you understand the issue. Don't see any advice to give.

CHAIR TURNER: I'm open to a motion.

MR. LONG: We need to go through the findings of fact first right? Or is that good enough?

CHAIR TURNER: Well I think based on this.

MR. HASTY: Well I don't think you need to find facts, but its depends on what your motion is. If its to approve yes if not you just need to state the reason.

MR. LONG: I motion that we deny the special use permit because it violates the setbacks.

CHAIR TURNER: And this is actually a variance this isn't a special use permit.

MR. LONG: Okay, variance. I motion that we deny the variance.

CHAIR TURNER: Based on the fact that the circumstances are the direct result of the applicant.

MR. LONG: Correct and also the fact that even if this stuff wasn't here we still wouldn't be able to say yes. Based on setbacks.

CHAIR TURNER: There's a motion, is there a second?

MS. AMOS: Second.

Mr. Long made a motion in case P20-06-C to deny the variance to allow a zero foot front yard setback for a shed, pool, and fence, seconded by Ms. Amos. The motion passed unanimously.

IN FAVOR

TURNER	YES
PARKS	YES
LONG	YES
AMOS	YES

P20-07-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW RECREATION OR AMUSEMENT PUBLIC/PRIVATE NOT OPERATED AS A BUSINESS FOR PROFIT IN AN A1 AGRICULTURAL DISTRICT ON 2.83+/- ACRES, LOCATED AT 2105 WADE STEDMAN ROAD, SUBMITTED BY STEVE CORE ON BEHALF OF THE BETHANY HISTORICAL SOCIETY (OWNER) AND THE CITY OF FAYETTEVILLE (AGENT).

Chairman Turner read the case heading for Case No. P20-07-C.

CHAIR TURNER: Let me ask you right up front, how does the city fall into this?

MR. MOON: The applicant can explain that in more detail but my understanding is they assist in the operation of the park. If you want more detail regarding the relationship, the ownership and the operation of the park, there is a representative here with the city of Fayetteville that can explain that.

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

CHAIR TURNER: Let me ask you then if things changed through the way and they've been there for fifty years and nothing that their doing is any different, why are they not grandfathered?

MR. MOON: Because they're expanding. They had been grandfathered in for the existing recreation facility.

CHAIR TURNER: They're expanding, I missed that. I got it. Any questions from staff?

MR. LONG: I was just wondering why the city or the county, I guess the county zoning requires a special use permit for a park in an agricultural area? If the county says hey we want to put this here

CHAIR TURNER: Because of the expansion, they're expanding that park in the town of Bethany.

MR. LONG: If they were going to just put a brand new park here, it still says according to the sentence on the front page, that county zoning requires a special use approval for a public park to operate within the A1 zoning. I understand why we're here today but I guess I don't understand why that's a special use permit and not just hey the county decided to do it.

MR. MOON: At the time the zoning code went to an update either staff or others felt there was a need to protect adjacent land uses, and residence land use with an A1 category. That criteria or rather definition for recreation included private amusement parks. It could be a business, it would have to be non profit but it could be anywhere from a corn maze type thing

MR. LONG: Oh okay, I got that. That makes sense. Thank you.

CHAIR TURNER: Any other questions from staff? Alright, let me open the hearing, James McMillan. I think we do, we're pretty confused up here. I guess the situation is that there is a city and county parks and recreation, is that how that is? Okay, do this for me. Do you swear or affirm he testimony you are about to give our board will be the truth, the whole truth and nothing but the truth so help you God?

MR. MCMILLAN: Yes sir.

CHAIR TURNER: And you sir are James McMillan and you work for the city?

MR. MCMILLAN: I work with the Fayetteville – Cumberland parks and recreation department. It is a joint department. I can only reiterate what Mr. Moon said. It's been a park for the last fifty years. Bethany Historical Society took over ownership, from the local churches when they did that they approached the parks and recreation department and asked if we could help enhance the facility, so we went through the process of checking with our commissioners and management etc found the money to help them out and we've entered a local agreement where the two have a written agreement between the two that will help to improve the facility and it will remain free to the public to use. That's the short version.

MR. PARKS: Bethany Historic Society?

MR. MCMILLAN: Yes sir.

CHAIR TURNER: There's a lot of history down there.

MR. PARKS: I know there is, I'm playing with you honestly and you're not even a part of it. What do you plan on doing there? When you say expand it?

MR. MCMILLAN: We have to have the building permit to put up a picnic shelter, that's what brought this about.

MR. PARKS: Okay, you answered my question, you want to put up a picnic shelter.

MR. MCMILLAN: It's just that simple.

MR. MOON: The staff site plan is approved with the special use approval, before it goes that direction, it is also special use permit that has zoning conditions, and other agencies they'll have to go through regarding the driveway improvements. If there is some major expansions at the site in the future there would have to be an amendment to this special use site plan, to address that change.

MR. PARKS: Your wearing us out. We can accept it but then you're going to have say that if later down the road, they will have to comply with everything. I'll get this motion stuff down pat before long.

CHAIR TURNER: Well this is basically an expansion of a long existing park that's been there. I've got property down in that area and the parks been there as long as I can remember. Is there any further questions? Alright, I'll close the hearing. Open it for discussion.

MR. PARKS: Great now I got some pictures. You didn't pull these up before did you David?

MR. MOON: Sorry.

MR. PARKS: Yeah. Now I can see. Just curious, let's go back to the pictures please. I'm a picture kind of guy.

CHAIR TURNER: Steve Core's house is right near there, across the street I think. I thought he would be here tonight.

MR. PARKS: I didn't know where that was. Is that the Core boy who's daddy was in the automobile accident?

CHAIR TURNER: Yeah, ML was his brother. Any further discussion? We are open to a motion.

MR. LONG: I'll do it again if you guys want.

MR. PARKS: Come on with it, it's your turn. You gotta figure out how to make these motions now. Come on now.

CHAIR TURNER: On page three is the findings of fact.

MR. LONG: I motion that we approve this special use permit based on the finding of facts and according to the Bethany park special use site plan and the conditions set forth in the special use permit. And I motion that we approve this special use plan, that it includes the special use permit and the Bethany Community park special use site plan, I guess I said that. Is that good enough?

CHAIR TURNER: And that the use will not materially endanger public health according to the plan, they have submitted a plan and if they follow this plan as expected it will not do that. The use meets all the required conditions and specifications from the special use permit plan that they have submitted and the use will maintain or enhance the value of adjoining properties and in this case the use would be considered a public necessity in that area; and the location and character of the use, if developed according to the plan as submitted will be in harmony with the area in which it is to be located and is in conformity with the County's most recent Comprehensive Land Plan and truly an improvement to the city of Bethany.

MR. LONG: I agree.

CHAIR TURNER: Which doesn't exist. A lot of history down there. Ron Matthews grew up there.

MR. LONG: So is that a proper motion?

MR. HASTY: If you accept the chairs motion.

MR LONG: Yes I accept the Chair's additions.

Mr. Long made a motion in case P20-07-C to approve the consideration of the Special Use Permit to allow recreation or amusement public/private not operated as a business for profit in an A1 district, seconded by Mr. Parks. The motion passed unanimously.

	IN FAVOR
TURNER	YES
PARKS	YES
LONG	YES
AMOS	YES

10. DISCUSSION/UPDATES

MR. MOON: I have one piece of information for the board, staff has not received any applications for variances or special uses or any appeals so at this point there will not be a BOA meeting for January.

11. ADJOURNMENT

Mr. Parks made a motion to adjourn, seconded by Ms. Amos. The motion passed unanimously. Meeting adjourned at 7:28pm.

	IN FAVOR
TURNER	YES
PARKS	YES
LONG	YES
AMOS	YES

Yolanda Bennett, Clerk to the Board

George Turner, Chairman

DRAFT

**CUMBERLAND COUNTY
BOARD OF ADJUSTMENT (BOA) HEARING
April 15, 2021**

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

REQUEST: Special Use Permit to allow a campground in an A1 Agricultural District on 40.58+/- acres, located on the north side of Concord Church Road, east of Cashwell Road

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

EXPLANATION OF THE REQUEST

Property Owner requests the BOA grant a Special Use Permit for a campground with sixty campsites supported by two bathhouses at the property illustrated in Exhibit "A". Twelve of the total campsites and one of the bathhouses are proposed to be installed in a second phase. Two residential buildings are located on the property, a single-family building at 780 sq. ft. and a manufactured home at 1,130 sq. ft.

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

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

A Special Exception for a campground in an A1 zoning district must comply with the requirements set forth in Section 921 of the Zoning Code. Refer to Exhibit "C" for the requirements set forth in Section 921. The applicant's proposed special use site plan appears in Exhibit "D".

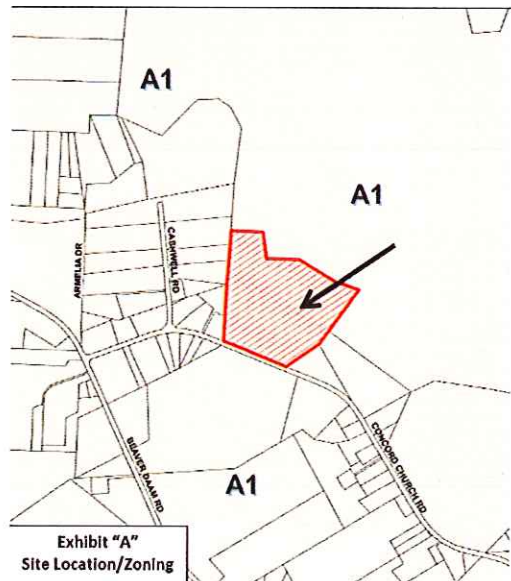
PROPERTY INFORMATION

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

Address/Location: 7715 Concord Church Road (Exhibit A), approximately 2.5 miles southeast of the Town of Stedman and approximately a mile west of the Sampson County line.

REID #: 1405106920000

Parcel Size: 40.58 acres. Frontage along Concord Church Road is approximately 820 feet in length.

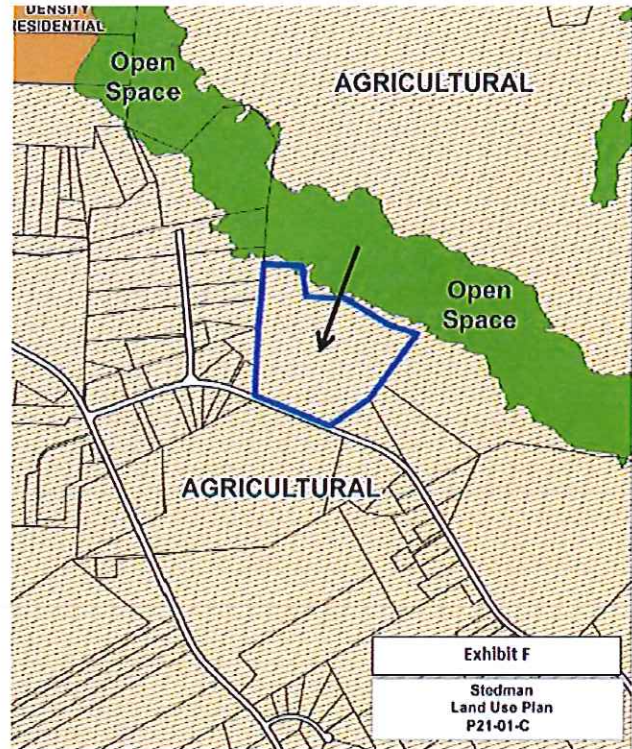
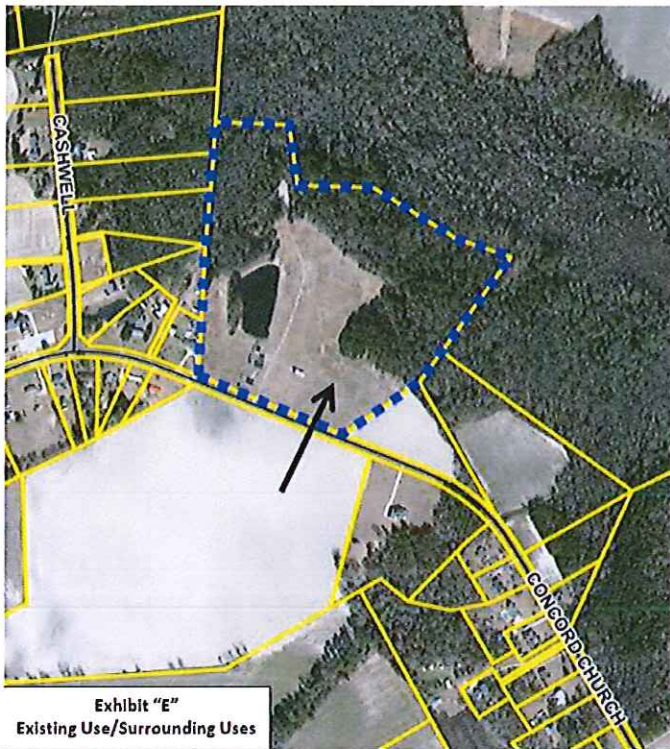


Existing Land Use: The subject property currently has two residential buildings comprised of a 780 sq. ft. single family home with a 1,380 sq. ft. detached "game room" and a 1,130 sq. ft. manufactured home.

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

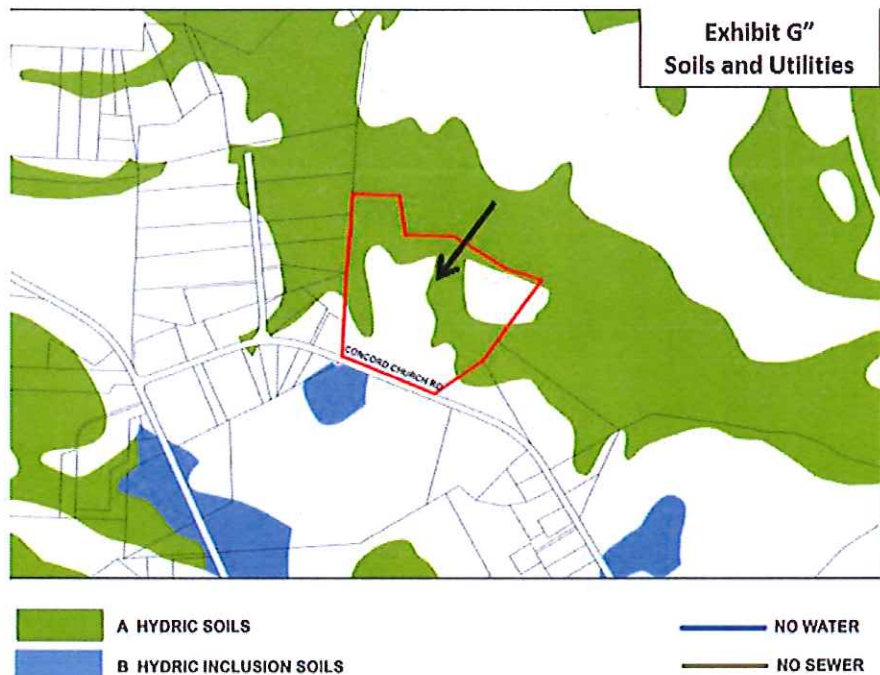
Surrounding Land Use: Agricultural uses and single-family homes are the predominant land uses abutting the property and occurring along Concord Church Road, as shown in Exhibit "E".

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



Other Site Characteristics:

The property is not within a watershed area but a small portion of the property at the northwest corner is within a Special Flood Hazard Area, which does not appear to be near the campground site. Portions of the property contain hydric soils, as shown in Exhibit "G", particularly at the northwest and east central areas of the property.



IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES

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

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

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

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

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

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

FINDINGS OF FACT

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

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

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended.
2. The use meets all required conditions and specifications.
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan.

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

MOTION

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

Proceeding: Quasi-Judicial hearing

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

SECTION 403 USE MATRIX

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

LAND USES	ZONING CLASSIFICATIONS																					
	CO	A1	A1A	EAO	RAA	R30	R36A	RR	R23	R20A	R15	R75	RE	R6A	R5	R5A	OLEP	CLP	CHP	CP	MUP	MP
PUBLIC/COMMUNITY UTILITY STATIONS/SUBSTATIONS	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
PUBLIC UTILITY WORKS, SHOPS OR STORAGE YARDS (Sec. 918)		S																	P	P	P	P
PUBLISHING																						P
QUARRY (Sec. 919)	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
RADIO OR TELEVISION STUDIO ACTIVITIES ONLY																	P	P	P	P		
RAILROAD STATION/OPERATIONS																				P	P	P
RECREATION/AMUSEMENT INDOOR (Sec. 920) conducted inside building for profit, not otherwise listed & not regulated by Sec. 924								P											P	P		
RECREATION/AMUSEMENT OUTDOOR (Sec. 920) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924	P	P	S	S	S	S	S	S	S	S	S	S							S	P		
RECREATION/AMUSEMENT OUTDOOR (with mechanized vehicle operations) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924		P																		P		
RECREATION OR AMUSEMENT PUBLIC/PRIVATE (Sec. 920) not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, etc., & not regulated by Sec. 924	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
RECREATIONAL VEHICLE PARK AND/OR CAMPGROUNDS (Sec. 921)	S	S	S					S											P	P		
RELIGIOUS WORSHIP ACTIVITIES		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
REPAIR, RENTAL AND/OR SERVICING, of any product the retail sale of which is a use by right in the same district																			P	P	P	P
RESIDENTIAL HABILITATION SUPPORT FACILITY (Sec. 922)		S	S		S			S									P	P		P		
RESTAURANT, operated as commercial enterprise, except as regulated by Section 924																		P	P	P		
RETAILING OR SERVICING. With operations conducted and merchandise stored entirely within a building and not otherwise listed herein																			P	P		
SANITARIUM																	P					

EXHIBIT "C"

SECTION 921, ZONING CODE

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

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

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

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

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

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

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

C. *Repealed.*

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

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

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

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

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

SECTION 921. RECREATION VEHICLE PARK AND/OR CAMPGROUND.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 922. RESIDENTIAL HABILITATION SUPPORT FACILITY.

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

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

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

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

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

2. Rear yard: 35 feet; and

3. Side yard: 25 feet.

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

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

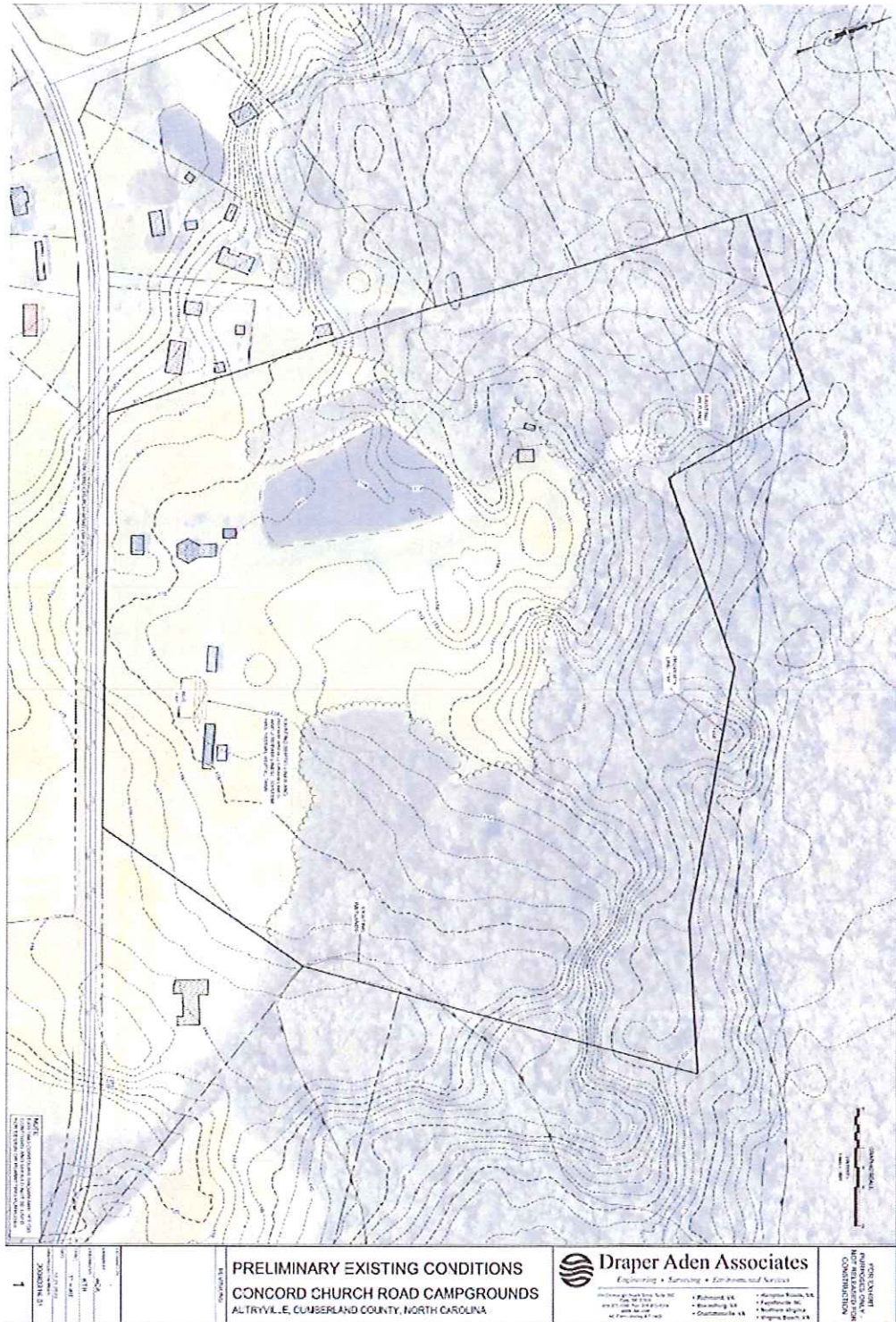
G. The facility shall provide a minimum of 100 square feet of living area per person, not counting the caregivers.

(Amd. 02-19-08; 01-19-10)

SECTION 923. SECOND HAND, PAWN AND FLEA MARKET.

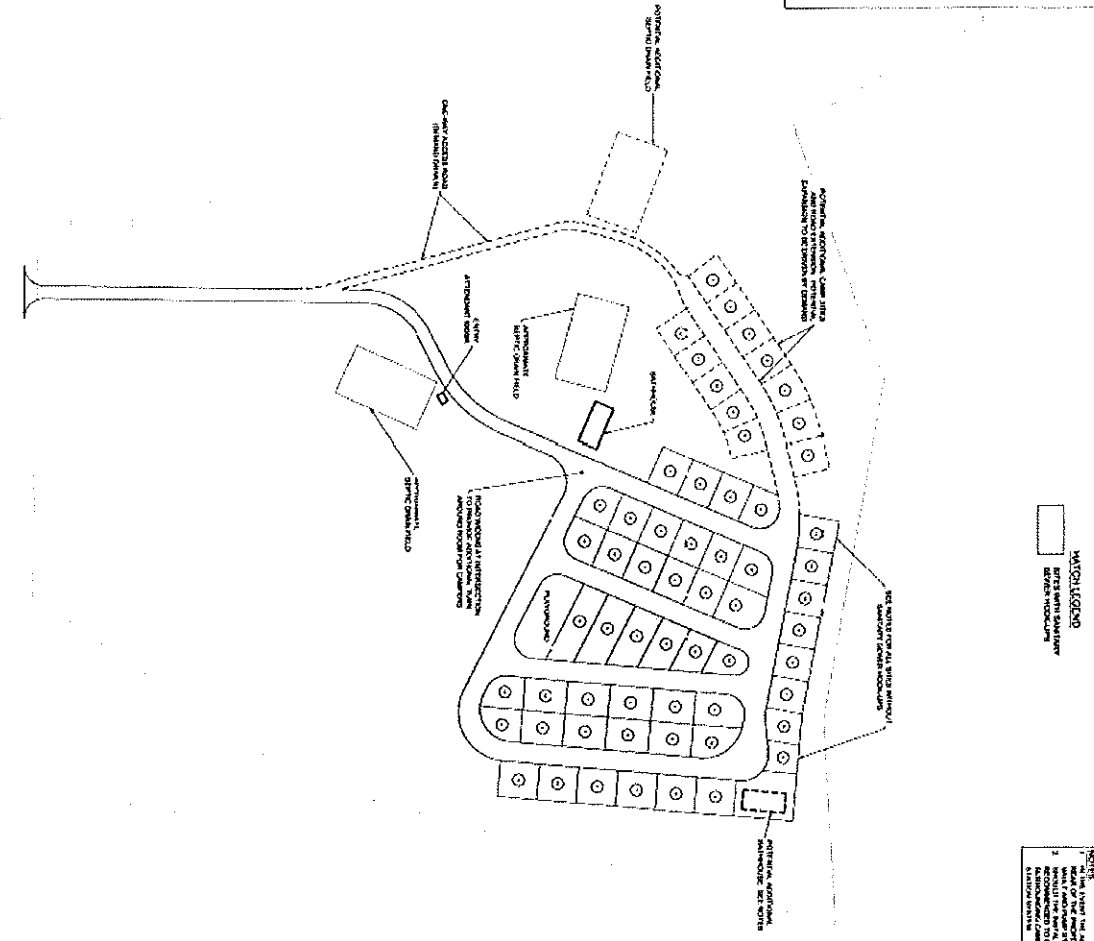
A. Outside storage of goods, equipment and material shall be prohibited; however, outside display of merchandise in conducting the commercial operation is permitted

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



NOTE: This layout and associated site plan shall be used only for the purpose of illustrating the proposed development and shall not be construed as a final plan. The final plan shall be subject to the approval of the appropriate regulatory agency. The final plan shall also be subject to the approval of the appropriate regulatory agency. The final plan shall also be subject to the approval of the appropriate regulatory agency.

1. PROJECT INFORMATION
 - PROJECT NAME: CONCORD CHURCH ROAD CAMPGROUNDS
 - PROJECT LOCATION: ATRYVILLE, NORTH CAROLINA
 - PROJECT NUMBER: 2024-001
 - DATE: 10/27/2024
 - SCALE: AS SHOWN
 - DRAWN BY: [Name]
2. CLIENT INFORMATION
 - CLIENT NAME: [Name]
 - CLIENT ADDRESS: [Address]
 - CLIENT PHONE: [Phone]
 - CLIENT FAX: [Fax]
 - CLIENT EMAIL: [Email]
3. PROJECT INFORMATION
 - PROJECT NAME: CONCORD CHURCH ROAD CAMPGROUNDS
 - PROJECT LOCATION: ATRYVILLE, NORTH CAROLINA
 - PROJECT NUMBER: 2024-001
 - DATE: 10/27/2024
 - SCALE: AS SHOWN
 - DRAWN BY: [Name]



NOTES:

1. THIS SITE PLAN IS A SCHEMATIC LAYOUT AND DOES NOT REPRESENT THE FINAL DESIGN.
2. THE FINAL DESIGN SHALL BE SUBJECT TO THE APPROVAL OF THE APPROPRIATE REGULATORY AGENCIES.
3. THE FINAL DESIGN SHALL ALSO BE SUBJECT TO THE APPROVAL OF THE APPROPRIATE REGULATORY AGENCIES.



PROJECT NAME	CONCORD CHURCH ROAD CAMPGROUNDS
PROJECT LOCATION	ATRYVILLE, NORTH CAROLINA
PROJECT NUMBER	2024-001
DATE	10/27/2024
DRAWN BY	[Name]
CHECKED BY	[Name]
SCALE	AS SHOWN
TITLE	SCHEMATIC SITE LAYOUT PLAN

SCHEMATIC SITE LAYOUT PLAN
CONCORD CHURCH ROAD CAMPGROUNDS
 ATRYVILLE, CUMBERLAND COUNTY, NORTH CAROLINA

Draper Aden Associates
Engineering • Surveying • Environmental Services

1450 Highway 100, Suite 100, Durham, NC 27701
 Phone: 919.489.4400
 Fax: 919.489.4401
 Email: info@draperaden.com

• Raleigh, NC
 • Durham, NC
 • Charlotte, NC
 • Winston-Salem, NC
 • Greensboro, NC
 • Asheville, NC
 • Salisbury, NC
 • Rocky Hill, CT
 • Springfield, MA
 • Portland, ME

EXHIBIT "H"

DRAFT SPECIAL USE PERMIT – CONCORD CHURCH RD CAMPGROUND

Special Use Permit- Board of Adjustment

DRAFT

(Concord Church Rd Special Use Permit and Site Plan)

Ordinance Related Conditions

SUP- Campground Park in an A1 District

Pre- Permit Related:

1. Three copies of a revised SUP site plan must be submitted to staff review and approval and include the following:
 - a. Landscaping shall be provided in accordance with the provisions of Section 1102.N, Landscaping, County Zoning Ordinance. The following are the minimum standards for the required landscaping of the site:
 - 1) Seventeen canopy trees within fifty feet of the southern property line along Concord Church Road but no closer than 25 feet to any power lines.
 - 2) Two canopy trees and a minimum of 10 shrubs for each bathhouse.
 - 3) Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and
 - 4) All yard and planting areas shall be maintained in a neat, orderly and presentable manner and kept free of weeds and debris.

Note: The developer is encouraged to retain as many existing trees of significant stature as possible, particularly to screen the campground from residential homes to the east and west of the property.

- b. This conditional approval is not approval of any freestanding signs. If a freestanding sign is desired, the sign location must be shown on the SUP site plan. 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).
- c. The campground park is limited to one manager's/caretaker's residence. The SUP site plan must denote the residential building that will be used for the manager's/caretaker's residence and the location of the campground business office. The business office shall not be closer than 100 feet from Concord Church Road. Access to the manager's/caretaker's home shall occur from an internal service driveway or road and shall not occur from Concord Church Road.
- d. The residential manufactured home will need to be platted as a separate lot complying with the A1 zoning district requirements if not used as the manager's/caretaker residence.

Permit-Related:

2. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits. (NCGS § 130A-338 & Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)
3. The *Special Flood Hazard Area* (SFHA) exists on this tract. The SUP Site Plan does not appear to place any development within the SFHA. Any development within SFHA must have first flood elevations, including all mechanical and electrical equipment above base flood elevation (BFE) plus two feet of freeboard. Proper Floodplain Development Permits are required, issued by the County Engineer, prior to any building/permit

application. A copy of the approved Floodplain Development Permit must be provided to County Code Enforcement at the time of building/zoning permit applications. [Sec. 6.5-21, County Code]

4. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Department of Energy, Minerals and Land Resources, NC Department of Environmental Quality (DEMLR NCDEQ). If one acre or more of land is to be disturbed, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement prior to the issuance of the Certificate of Occupancy. (Note: If any retention/detention basins are required for state approval of this plan, three copies of a revised plan (and \$25/\$50 revision fee) must be submitted and approved by Planning & Inspections.) (Sec. 2306.D, County Subdivision Ord. & 2006-246, NC Session Law)
5. The owner/developer(s) of the Concord Church Road RV/Campground Park must obtain detailed instructions from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street on provisions of the County Zoning Ordinance and any permits that may be required to place any structure within this development or to commence any use of the subject property. For additional information, the developer should contact a Code Enforcement Officer. (Chpt. 4, County Code & Sec. 107, County Zoning Ord.)
6. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application. [Sec. 4-8(b)(2), County Code]
7. Driveway Permit Required. Construction of any new connection or alteration of any existing connection to Concord Church Road may require an approved Driveway Permit. For additional information contact the NC Department of Transportation's (NCDOT) Division 6/District 2 office.

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

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

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

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

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

Site-Related:

9. Development and use of the project site shall occur consistent with the "Concord Church Road Special Use Permit" site plan (Exhibit "A") and as set forth in Exhibit "B". All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance, and County Zoning Ordinance for the A1 zoning district must be complied with, as applicable.
10. Any swimming pool must comply with any minimum fencing requirements.
11. Landscaping placed near the entrance driveway or road must be installed and maintained to provide adequate sight distance for along Concord Church Road.

12. This conditional approval is not approval of any freestanding signs. If a freestanding sign is desired, re-submittal of the site plan is required prior to application for any freestanding sign permits. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is not approval of the size, shape, or location of any signs.) (Art. XIII, County Zoning Ord.)
13. "Concord Church Road" must be labeled with the assigned State Road number on all submitted future site plans. (Sec. 2203, County Subdivision Ord.)
14. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environmental Quality (NCDEQ) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2307.A, County Subdivision Ord.)
14. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306.C, County Subdivision Ord.)
15. In the event a stormwater utility structure is required by the NC Department of Environmental Quality (NCDEQ), the owner/developer must secure the structure with a four foot high fence with a lockable gate, and is required to maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation. (Sec. 1102.O, County Zoning Ord.)
16. Turn lanes may be required by the NC Department of Transportation (NCDOT). [Art. XIV, County Zoning Ord. & NCGS §136-18(5) & §136-93]

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

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

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

20. All required parking spaces for vehicles other than RV's are required to be a minimum of 9' wide x 20' long within the site plan.
21. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site and landscape areas are kept free of litter and debris, all grass areas mowed, all buffers and shrubbery kept trim and maintained, so that the site remains in a constant state of being aesthetically and environmentally pleasing. (Sec. 1403, County Zoning Ord.)
22. Operation of the site must occur consistent with the Noise Regulations of the County Code Chpt. 9.5, Art. II.

23. The use of the site as an RV/Campground Park, as shown in Exhibits "A", is limited to a maximum of sixty (60) campground and recreation vehicles sites for temporary occupation by transients and/or vacationers. Any residential structure occurring on the property at the time of the Special Use Permit shall not be used only for permanent occupation and not as temporary occupation related to the operation of the RV/Campground Park. Only one permanent residential structure shall be used for a manager's/caretaker residence.

Advisories:

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

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

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

Other Relevant Conditions:

- This conditional approval is contingent upon continued compliance with the County's Subdivision and Development Ordinance and Zoning Ordinance. Development of the property must comply with all applicable local, state and federal laws and ordinances.
- The owner/developer be aware that every deed created for a lot being served by an on-site water and/or sewer system must contain the following disclosure when filed with the County Register of Deeds:

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

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

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

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

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

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

EXHIBIT "B"
SECTION 921 REQUIREMENTS – RVCAMPGROUND PARKS

As appearing in Exhibit "C" of the Staff Report

EXHIBIT "I"
Applicant's Response to Sec. 1606 Special Use Criteria

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

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

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

2. The use meets all required conditions and specifications.

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

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

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

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

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

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

harmony with the surrounding area, and will often go unnoticed by citizens who aren't actively looking for the campgrounds.





County of Cumberland
BOARD OF ADJUSTMENT

CASE #:	P20-08-C P21-01-C
CUMBERLAND COUNTY BOA MEETING DATE:	_____
DATE APPLICATION SUBMITTED:	2-16-21
RECEIPT #:	76384
RECEIVED BY:	JB

**APPLICATION FOR
SPECIAL USE PERMIT**

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

The Board of Adjustment is a quasi-judicial review board and all persons wishing to appear before this Board should be prepared to give sworn testimony on relevant facts. Applicants for Special Use Permits are encouraged to read Section 1606 "Special Use Permits" of the Zoning Ordinance to ensure the technical requirements of the Ordinance are met before submission to the Board of Adjustment (see next page).

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

1. A copy of the recorded deed and/or plat,
2. If a portion of an existing tract, an accurate written legal description of only the area to be considered;
3. A copy of a detailed site plan drawn to engineering scale, showing the location of all buildings, yard dimensions, driveways, fencing, lighting parking areas, landscaping, and all other pertinent data to the case; and
4. Cash or check payable to "Cumberland County" in the amount of \$ 250.00 (see attached Fee Schedule)

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

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

**EXCERPT FROM
THE CUMBERLAND COUNTY ZONING ORDINANCE**

Section 1606 SPECIAL USE PERMIT (portion of)

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

The owner or owners of all property included in the petition for a Special Use Permit shall submit a complete application and three copies of a site plan (drawn in accordance with the specifications listed in Section 1402) to the Planning and Inspections Staff. The Staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule. The Planning and Inspections Staff shall also notify the Commanders of Fort Bragg, and Pope U.S. Army Field of any application affecting the use of property located within a five miles or less of the perimeter boundary of said bases in accordance with the N.C. Gen. Stat §153A-323.

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

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

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

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;
2. The use meets all required conditions and specifications;
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan.

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

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 7715 Concord Church Road, Autryville, NC

OWNER: Michael D. Joyal and Marie Joyal and Judith A. Murach

ADDRESS: 7715 Concord Church Road, Autryville, NC ZIP CODE: 28318

TELEPHONE: HOME 989-984-7731 WORK 989-305-1131

AGENT: Draper Aden Associates - Alex Amavizca

ADDRESS: 114 Edinburgh S. Drive, Suite 200, Cary, NC 27511

TELEPHONE: HOME 919-826-0864 WORK _____

E-MAIL: aamavizca@daa.com

APPLICATION FOR A SPECIAL USE PERMIT

As required by the Zoning Ordinance

MB
40.58
KC

A. Parcel Identification Number (PIN #) of subject property: 1405-10-6920
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 40.6 Frontage: 822' Depth: 1268'

C. Water Provider: None (private well)

D. Septage Provider: None (Existing Septic System)

E. Deed Book 3821, Page(s) 780, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: Agricultural, A-1 zoning district

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.) _____

Campground with approximately 50 campsites. Parking will be individual camp site based, with a maximum of 1 recreational vehicle and one personal vehicle estimated per camp site.

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

MICHAEL D JOYAL and MARIE JOYAL and JUDITH A MURACH
NAME OF OWNER(S) (PRINT OR TYPE)

7715 Concord Church Road, Autryville, NC 28318
ADDRESS OF OWNER(S)

mariejoyal@gmail.com
E-MAIL

989-984-7731
HOME TELEPHONE #

989-305-1131
WORK TELEPHONE #

Alex Amavizca - Draper Aden Associates
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)


114 Edinburgh S. Drive, Suite 200, Cary, NC 27511
ADDRESS OF AGENT, ATTORNEY, APPLICANT

aamavizca@daa.com
E-MAIL

N/A
HOME TELEPHONE #

919-827-0864
WORK TELEPHONE #

Michael D Joyal
SIGNATURE OF OWNER(S)


SIGNATURE OF AGENT, ATTORNEY
OR APPLICANT

M Joyal Judith A Murbach
SIGNATURE OF OWNER(S)

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

STATEMENT OF ACKNOWLEDGMENT

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

- That although appearance before the board is not required, it is strongly encouraged;
- The board will hear any and all argument for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the board has the authority to 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 thereof.
- 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 acknowledgment 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) Michael D Joyal M Joyal Judith A Murbach

PRINTED NAME OF OWNER(S) Michael D Joyal and Marie Joyal and Judith A Murbach

DATE 2/4/2021

ATTACHMENT: MAILING LIST

OWNER_NAME	ADDRESS	CITYSTATEZIP
WYNNE, SUSAN B	159 ST JUDE RD	FAYETTEVILLE, NC 28312
BLACKMAN, MARY L LIFE ESTATE	647 JUDSON CHURCH RD	FAYETTEVILLE, NC 28312
OKELL, CHERYL ANN	170 ST JUDE RD	FAYETTEVILLE, NC 28312
BLACKMAN, BRANDON	120 ST JUDE RD	FAYETTEVILLE, NC 28312
BROWN, MELBA F HEIRS	4649 CHELTENHAM DR	FAYETTEVILLE, NC 28304
HAYES, RONALD EDWARD	4621 DOMINION RD	FAYETTEVILLE, NC 28306
HOLLINGSWORTH, KENNETH W;HOLLINGSWORTH, SYLVIA R	2637 CLINTON RD	FAYETTEVILLE, NC 28312
BLACKMAN, JOHN D;BLACKMAN, SUSAN	111 ST JUDE RD	FAYETTEVILLE, NC 28312
KNOWLES, TAMMY S.;KNOWLES, DONALD D.;STROCK, BOBBY E.;STROCK, ANN C.	2705 CLINTON RD	FAYETTEVILLE, NC 28312
BLACKMAN, JOHN D	111 ST JUDE RD	FAYETTEVILLE, NC 28312

P21-02-C

1st CLASS

**CUMBERLAND COUNTY
BOARD OF ADJUSTMENT HEARING
APRIL 15, 2021**

Exhibits

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

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

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

EXPLANATION OF THE REQUEST

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

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

- A. Conducted or located on the same zoning lot as the principal building or use, or off-street parking, as specifically provided for in this ordinance;
- B. Clearly incidental to, subordinate in area and purpose to, and serving the principal use; [emphasis added]

And

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

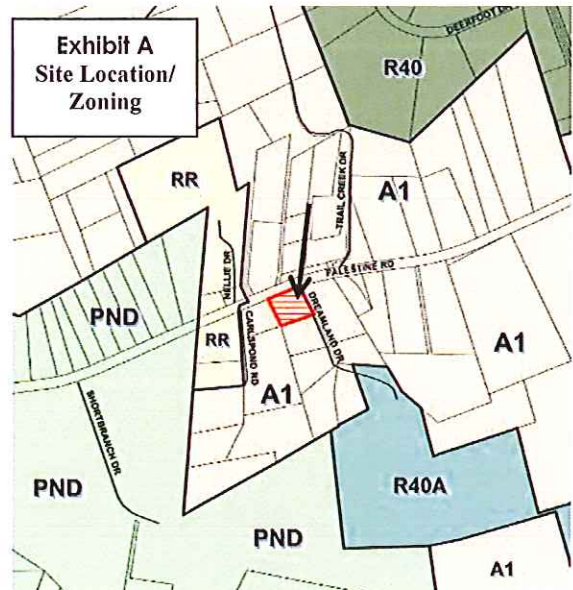
With a floor area of approximately 2,000 sq. ft., the shed/storage building floor area needs to be smaller than the floor area of the primary residential structure, which is approximately 988 sq. ft., in order to meet the intent of Section 203. Construction of the storage building occurred without the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

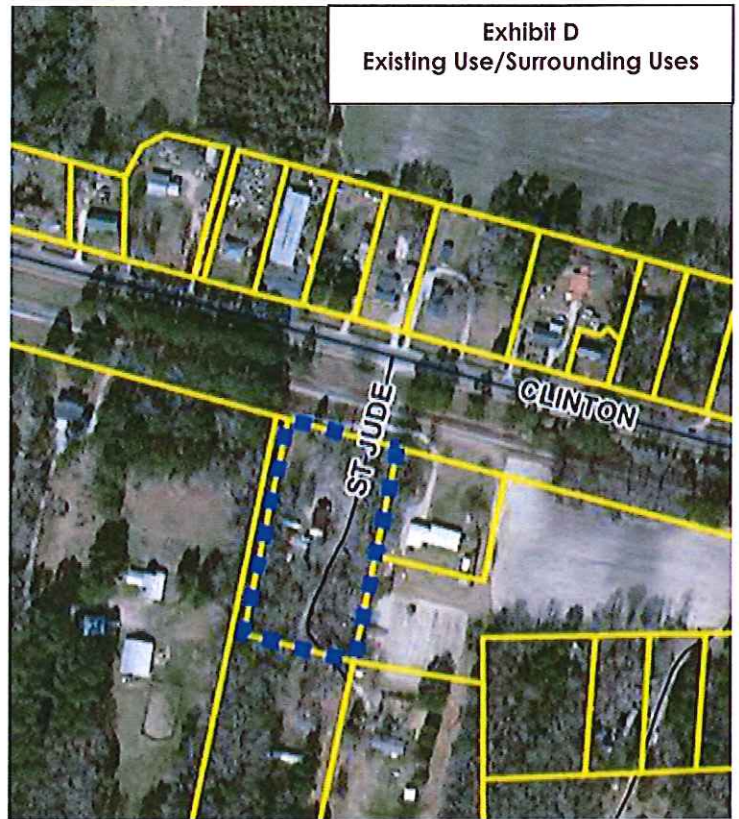
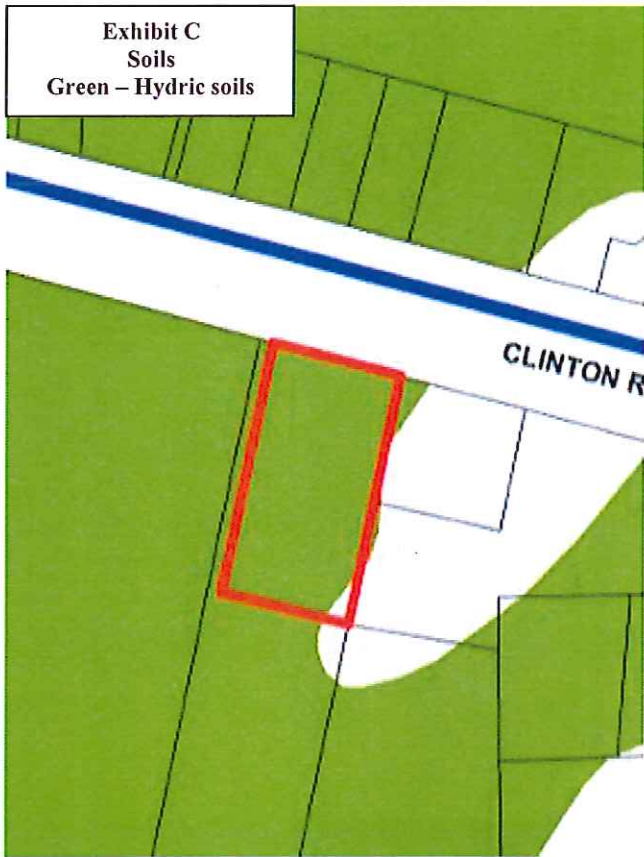
PROPERTY INFORMATION

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

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

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





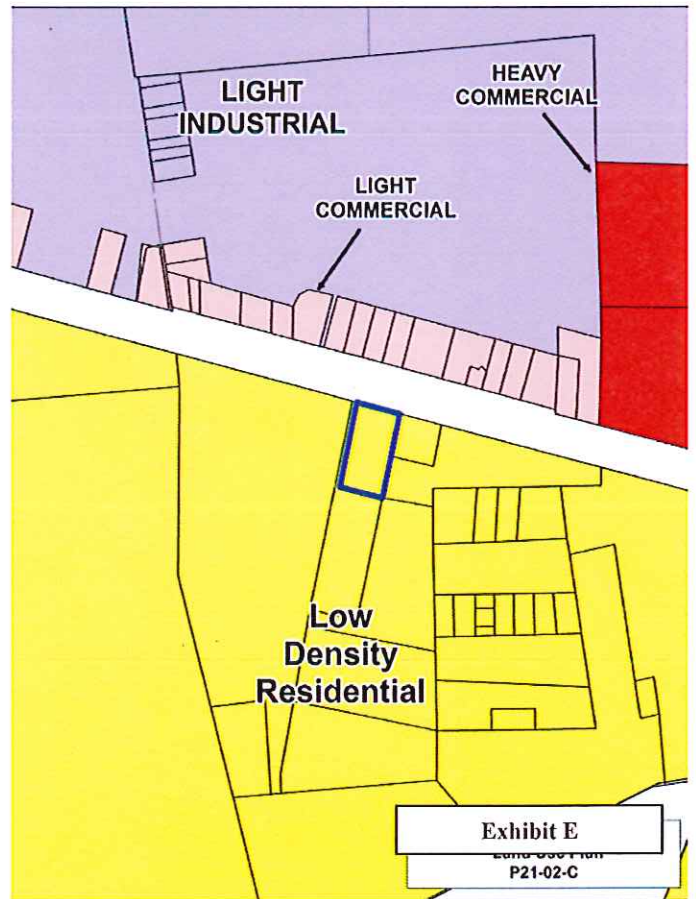
Other Site Characteristics: A site plan of the property with the shed is provided in Exhibit "B" attached. The property is not within the Special Flood Hazard Area. The property is within the watershed. Hydric soils cover most of the property with exception to a small portion of its southeast corner,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

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

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

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

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



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

IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES

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

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

FINDINGS OF FACT

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

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

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

:

**EXHIBIT B
SITE PLAN**

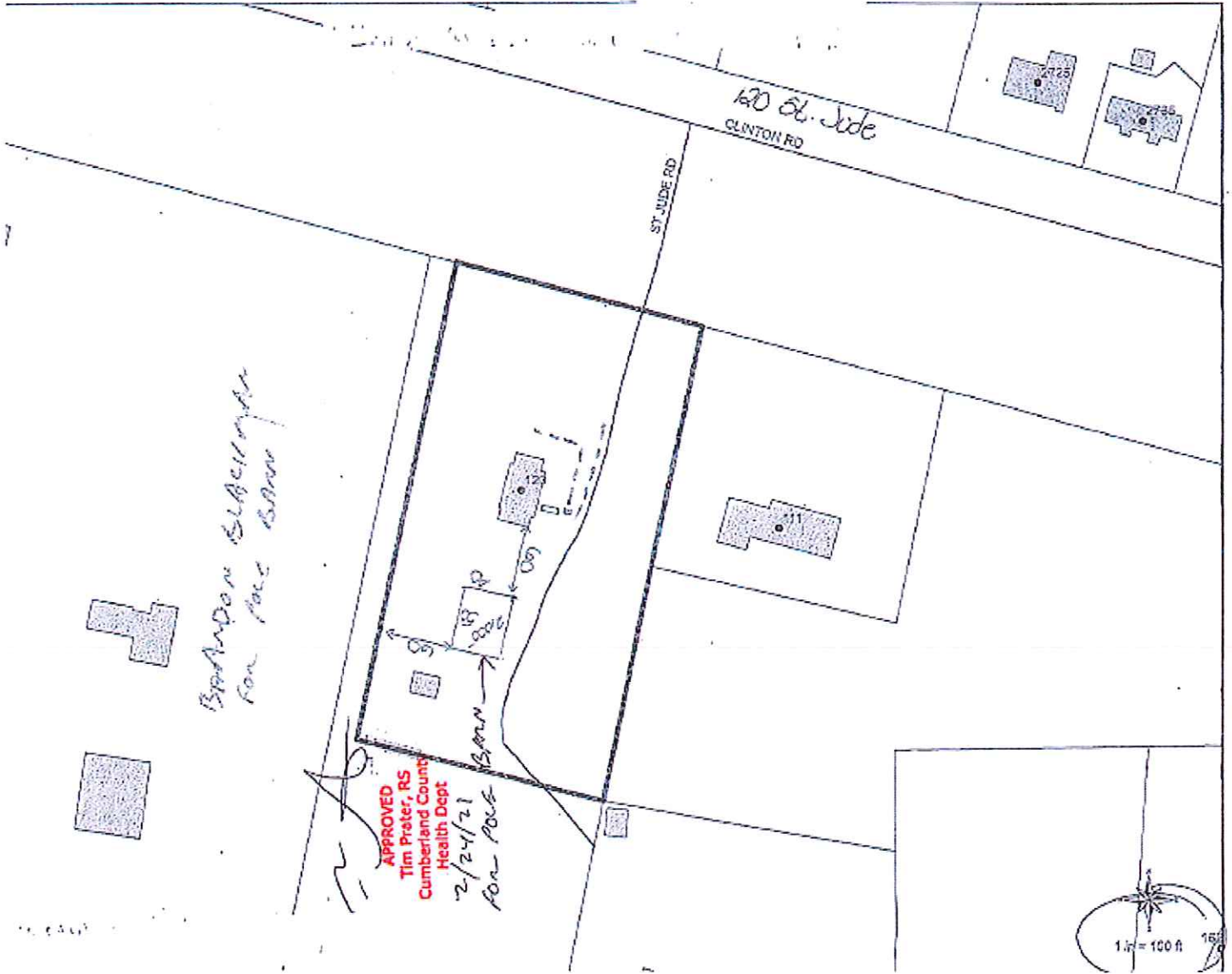


EXHIBIT F
APPLICABLE ZONING CODES

SECTION 203. DEFINITIONS OF SPECIFIC TERMS AND WORDS.

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

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

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

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

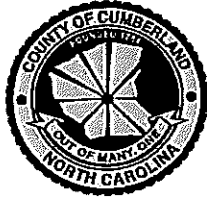
D.

SECTION 1002. INCIDENTAL USES.

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

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

EXHIBIT G
VARIANCE APPLICATION



County of Cumberland
BOARD OF ADJUSTMENT

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

**APPLICATION FOR
VARIANCE REQUEST**

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

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

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

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

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

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

**EXCERPT FROM
THE CUMBERLAND COUNTY ZONING ORDINANCE**

(PENDING ADOPTION)

Section 1605 VARIANCE

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

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

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

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

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 120 St Jude Rd Fayetteville NC 28312

OWNER: Brandon M. Blackman

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

TELEPHONE: HOME 910-977-7639 WORK _____

AGENT: _____

ADDRESS: _____

TELEPHONE: HOME _____ WORK _____

E-MAIL: _____

APPLICATION FOR A VARIANCE
As required by the Zoning Ordinance

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

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

C. Water Provider: well

D. Septage Provider: septic

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

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

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

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

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

Brandon M. Blackman
NAME OF OWNER(S) (PRINT OR TYPE)

120 St. Jude Rd. Fayetteville N.C. 28312
ADDRESS OF OWNER(S)

firemanblackman@yahoo.com
E-MAIL

910-977-7639
HOME TELEPHONE #

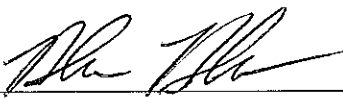
WORK TELEPHONE #

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

ADDRESS OF AGENT, ATTORNEY, APPLICANT

HOME TELEPHONE #

WORK TELEPHONE #


SIGNATURE OF OWNER(S)

SIGNATURE OF AGENT, ATTORNEY
OR APPLICANT

SIGNATURE OF OWNER(S)

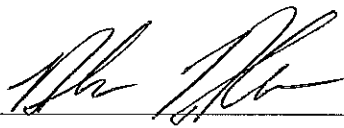
The contents of this application, upon submission, become "public record."

STATEMENT OF ACKNOWLEDGMENT

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

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

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

SIGNATURE OF OWNER(S) 

PRINTED NAME OF OWNER(S) Brandon Blackman

DATE 2-24-21

**CUMBERLAND COUNTY BOARD OF ADJUSTMENT
FEE SCHEDULE**

BOARD OF ADJUSTMENT

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

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

Dear Members of the Zoning Board,

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

Respectfully,

Brandon Blackman



ATTACHMENTS

SITE PICTURES





MAILING LIST

OWNER_NAME	ADDRESS	CITYSTATEZIP
WYNNE, SUSAN B	159 ST JUDE RD	FAYETTEVILLE, NC 28312
BLACKMAN, MARY L LIFE ESTATE	647 JUDSON CHURCH RD	FAYETTEVILLE, NC 28312
OKELL, CHERYL ANN	170 ST JUDE RD	FAYETTEVILLE, NC 28312
BLACKMAN, BRANDON	120 ST JUDE RD	FAYETTEVILLE, NC 28312
BROWN, MELBA F HEIRS	4649 CHELTENHAM DR	FAYETTEVILLE, NC 28304
HAYES, RONALD EDWARD	4621 DOMINION RD	FAYETTEVILLE, NC 28306
HOLLINGSWORTH, KENNETH W;HOLLINGSWORTH, SYLVIA R	2637 CLINTON RD	FAYETTEVILLE, NC 28312
BLACKMAN, JOHN D;BLACKMAN, SUSAN	111 ST JUDE RD	FAYETTEVILLE, NC 28312
KNOWLES, TAMMY S.;KNOWLES, DONALD D.;STROCK, BOBBY E.;STROCK, ANN C.	2705 CLINTON RD	FAYETTEVILLE, NC 28312
BLACKMAN, JOHN D	111 ST JUDE RD	FAYETTEVILLE, NC 28312

P21-02-C

1st CLASS