

**Members:**  
George Quigley, Chairman  
John R. Swanson, Vice  
Chairman  
Joseph M. Dykes  
Horace Humphrey  
Melree Hubbard Tart



**Alternates:**  
Martin J. Locklear  
Randy Newsome  
William L. Tally  
Carrie Tyson-Autry

## ***CUMBERLAND COUNTY BOARD OF ADJUSTMENT***

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

TENTATIVE AGENDA  
OCTOBER 21, 2010  
7:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, October 21, 2010, at 7:00 p.m. in Hearing Room #3 of the Historic Courthouse at 130 Gillespie Street, Fayetteville, North Carolina. The agenda is as follows:

1. ROLL CALL
2. ADJUSTMENTS TO THE AGENDA
3. APPROVAL OF THE SEPTEMBER 16, 2010 MINUTES
4. ABSTENTIONS BY BOARD MEMBERS
5. PUBLIC HEARING DEFERRALS
6. BOARD MEMBER DISCLOSURES
7. POLICY STATEMENT REGARDING APPEAL PROCESS
8. PUBLIC HEARING(S):

**A. P10-14-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1002, INCIDENTAL USES, SUBSECTION E. ACCESSORY STRUCTURES 4; FOR A 20 FOOT SETBACK VARIANCE WHERE FIVE FEET IS REQUIRED, ALLOWING AN EXISTING STORAGE BUILDING TO ENCROACH 15 FEET ONTO THE ADJACENT PROPERTY; IN AN R15 RESIDENTIAL DISTRICT ON 1.10+/- ACRES, LOCATED AT 430 SHEP DRIVE; SUBMITTED BY J. THOMAS NEVILLE, THORP, CLARKE, NEVILLE & KIRBY, PA ON BEHALF OF THOMAS AND NANCY POULOS (OWNER), AND GREEN POND INC.(AFFECTED OWNER)

**B. P10-15-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1102 YARD REGULATION, SUBSECTION G. BUFFER REQUIREMENTS 1-A, WHICH REQUIRES A SOLID BUFFER WHEN A NON-RESIDENTIAL USE ABUTS A RESIDENTIALLY-ZONED PROPERTY

ALONG THE SIDE AND/OR REAR PROPERTY LINES FOR A DAY CARE FACILITY;  
AND THE ADDITION TO AND MODIFICATION OF AN APPROVED SPECIAL USE  
PERMIT (NEÉ SPECIFIED CONDITIONAL USE) FOR A DAY CARE FACILITY IN AN  
R10 RESIDENTIAL DISTRICT ON 1.42+/- ACRES, LOCATED AT 3230 LEGION  
ROAD; SUBMITTED BY BETTY ALLEE ON BEHALF OF CHURCH OF GOD OF  
PROPHECY (OWNER).

9. MEMBERSHIP

Elect Vice-Chairman

Recommend new board member

10. DISCUSSION

11. UPDATE(S)

Case No. WS08-04

12. ADJOURNMENT

**Members:**

George Quigley, Chairman  
John R. Swanson, Vice-Chair  
Joseph Dykes  
Horace Humphrey  
Melree Hubbard Tart



**Alternates:**

Martin J. Locklear  
Randy Newsome  
William Lockett Tally  
Carrie Tyson-Autry

*Cumberland County Board of Adjustment*

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

MINUTES  
SEPTEMBER 16, 2010  
7:00 P.M.

**Members Present**

George Quigley, Chair  
John Swanson  
Horace Humphrey  
Randy Newsome  
Carrie Tyson-Autry

**Absent Members**

Joseph Dykes (excused)

**Staff/Others Present**

Patricia Speicher  
Pier Varner  
Melodie Robinson  
Angela Perrier  
Rick Moorefield (County  
Attorney)

Chair Quigley called the meeting to order at 7:00 p.m. in Public Hearing Room # 3 of the Historic Courthouse.

1. ROLL CALL

Mrs. Varner called the roll and stated a quorum was present.

2. ADJUSTMENTS TO THE AGENDA

There were none.

3. APPROVAL OF THE AUGUST 19, 2010 MINUTES

A motion was made by Mr. Humphrey and seconded by Mr. Swanson to approve the minutes as submitted. The motion passed unanimously.

CHAIR QUIGLEY: If you should go through the minutes and find a correction, you have up to two years to make the correction.

4. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board Members.

5. PUBLIC HEARING DEFERRALS

There were no deferrals.

6. BOARD MEMBER DISCLOSURE

There were none.

7. POLICY STATEMENTS REGARDING APPEAL PROCESS

Mrs. Varner read the Board's policy regarding the appeal process to the audience.

8. PUBLIC HEARING(S)

**Opened Public Hearing**

- **P10-13-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A COMMUNITY CENTER IN AN RR RURAL RESIDENTIAL DISTRICT ON .95+/- ACRES, LOCATED AT 7108 ORA COURT, SUBMITTED BY LEON REVELS JR. ON BEHALF OF LUMBEE TRIBE OF NORTH CAROLINA (OWNER).

Mrs. Varner presented the zoning, land use and photos of the site to the Board.

Chair Quigley recessed the meeting to allow Mrs. Autry to be seated. The roll call was reopened to record that Ms. Autry is in attendance. Chair Quigley resumed the meeting.

MRS. VARNER: I would like to make a remark. Particular attention should be paid to conditions #1 and #6, which the applicant has agreed to those conditions. That is the presentation and any questions are welcome.

MR. SWANSON: I've got one question, please. In relation to the proposed site plan, is there any special consideration in terms of the number of off-street parking that is allocated in the site plan? It appears that there is eleven regular spaces and two handicapped accessible spaces.

MRS. VARNER: The applicant spoke with Ken Sykes in Code Enforcement and he's the one who interpreted the Zoning Ordinance and according to one section in the ordinance for parking spaces, Ken calculated the amount of spaces. The applicant needs a minimum of ten spaces and he's proposing thirteen.

MR. SWANSON: Okay, thank you.

CHAIR QUIGLEY: Is this property recently agricultural, do we know?

MRS. VARNER: It's always been Rural Residential.

CHAIR QUIGLEY: Okay, thank you.

MR. SWANSON: The site profile indicates that the influence area is within the influence of the town of Stedman, was there any comments or feedback?

MRS. VARNER: The feedback from Stedman was that they welcomed this community center. That's the comment I received from Jennifer Wilson-Kersh.

CHAIR QUIGLEY: Do we know if they are going to develop those other plots in that tract for residential use?

MRS. VARNER: I don't know that answer, sir.

MS. SPEICHER: The same organization did submit for and get the subdivision approved. If I could for the record, we do have the town administrator, Jennifer Wilson-Kersh's comments in writing. If the board would like to see; please note, they are in the file as part of the record.

CHAIR QUIGLEY: The only thing I would be concerned about is traffic on Ora Court.

MRS. VARNER: I can check for the comments from the Department of Transportation.

CHAIR QUIGLEY: I'm sort of familiar with Beaver Dam Road and there is not a lot of traffic on it.

MRS. VARNER: Mr. Chairman, for the record, there are no comments from the Department of Transportation.

CHAIR QUIGLEY: Are there any comments or questions for staff?

MR. SWANSON: I've got a question about how the fifty participants were calculated, but I'll wait for the applicant, that's a better question for the applicant.

MRS. VARNER: The applicant is not here tonight.

MS. SPEICHER: If I could, I did address it to staff; how can we say the parking is okay with an assembly for fifty people; I verified that with the Fire Marshal and it was about 287 people in that size structure. How could we do that and our parking standards are not consistent either.

CHAIR QUIGLEY: Alright, there are eleven parking spots plus two handicapped.

MS. SPEICHER: Exactly, they do meet the minimum standard of the ordinance and it is something I noted for the 2010 Zoning Ordinance Update, for us to take a look at.

MR. SWANSON: My question would have been, and it may not be a fair question, I don't want to put anybody on the staff on the spot, but if the staff knows the answer, that would be good. How do they determine fifty participants? In other words, all day long, during a particular period, from this time to that time, in and out, an average?

MS. SPEICHER: I cannot answer that.

MR. SWANSON: Okay.

CHAIR QUIGLEY: There does not appear to be any prohibition of anything that they intend to use the property for.

MS. SPEICHER: That is true. We do have ordinance related conditions addressing noise. They still have to get approval of the driveway permit and things of that nature which of course is all geared toward the public safety and the affect on the public surrounding property.

CHAIR QUIGLEY: In an [inaudible] conversation, the County Attorney and I had just earlier, it appears that the court is leaning in favor of if there is no prohibition of how a landowner wants to use their property then it's their prerogative to use the property as they choose. So, I don't see any problem with this case at all.

CHAIR QUIGLEY: Does anybody want to make a motion?

MR. SWANSON: I move that the plan as submitted to the board be approved based on the following case facts:

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

**In the application and the notice that is typically given to the community, we do not have any information that the proposed use of the land as a cultural and community center would materially endanger public health and safety. The information received from staff indicates that all the prerequisite types of safety things; Fire Marshal coordination and any objection of the surrounding communities within that area of influence; all those hurdles have been carefully met and overcome.**

2. The use meets all required conditions and specifications;

**The use meets all the conditions and specifications as laid out in the packet as submitted for P-10-13-C.**

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

**One of the most telling things that I've seen is that in the sign-up sheet to speak for or against; is that there was no one to speak against the proposed use of the parcel, and to me that speaks very loudly. The absence of someone speaking against is a very, very strong indicator that the proposed use will not have an adverse impact on the value of the surrounding properties;**

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

**I would conclude from the absence of anyone speaking against the plan that its use is in fact within the harmony of the area; and we've heard information from the staff that the Town of Stedman welcomes and embraces the idea.**

CHAIR QUIGLEY: Do I have a second?

MR. HUMPHREY: Second.

CHAIR QUIGLEY: It has been properly moved and seconded. Is there any other case discussion? All in favor of approving the request for a Special Use Permit in Case P10-13-C, signify by saying aye. Any opposed?

IN FAVOR

QUIGLEY:	Yes
SWANSON:	Yes
NEWSOME:	Yes
HUMPHREY:	Yes
AUTRY:	Yes

There was no opposition.

CHAIR QUIGLEY: Thank you very much. We'll delay the naming of our next vice chair until next month.

9. DISCUSSION

[This is Mr. Swanson's last Board of Adjustment meeting]

Mr. Swanson expressed it has been a privilege to serve the residents of Cumberland County. Also, he has enjoyed the fellowship of the board members and he will particularly miss the staff.

Chair Quigley presented Mr. Swanson with a Certificate of Appreciation for his time in service and as Vice Chair of the Board of Adjustment.

10. UPDATE(S)

MS. SPEICHER: Chair, I would like to pass out the current roster to the board members along with the pending applicants who have applied but have not been nominated. I took the liberty to go through and update and remove the gender specific rules out of the Rules of Procedure. Please read through it. Any comments are welcome. There are no major changes. What I did change is to have the secretary appointed by the Planning Director since this is really a staff position. That is the only change. We will get copies to the members who are not present tonight.

Ms. Speicher announced a visitor at tonight's meeting. A young man named Bryce, age 12, from the Boy Scouts, who is working towards earning his Eagle Scout Badge. He was observing tonight's meeting and he's going to write a report on the meeting towards earning the two ranks he needs to reach his goal.

Chair Quigley encouraged Bryce to contact him at the Cape Fear Botanical Garden when he is ready for an Eagle Scout project. Chair Quigley said he always has an Eagle Scout project waiting.

11. ADJOURNMENT

CHAIR QUIGLEY: I'll ask for a motion to adjourn.

MRS. TART: Motion to adjourn.

MR. SWANSON: Seconded.

There being no further business; the meeting adjourned at 7:30 pm.



**P10-14-C**  
**SITE PROFILE**

**P10-14-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1002, INCIDENTAL USES, SUB-SECTION E. ACCESSORY STRUCTURES 4; FOR A 20 FOOT SETBACK VARIANCE WHERE FIVE FEET IS REQUIRED, ALLOWING AN EXISTING STORAGE BUILDING TO ENCROACH 15 FEET ONTO THE ADJACENT PROPERTY; IN AN R15 RESIDENTIAL DISTRICT ON 1.10+/- ACRES, LOCATED AT 430 SHEP DRIVE; SUBMITTED BY J. THOMAS NEVILLE, THORP, CLARKE, NEVILLE & KIRBY, PA ON BEHALF OF THOMAS AND NANCY POULOS (OWNER), AND GREEN POND INC.(AFFECTED OWNER)

**Site Information:**

**Frontage:** 110.00'+/- on Shep Drive (SR 2534)

**Depth:** 290.00'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** No

**Current Use:** Residential structure

**Initial Zoning:** R15 - October 28, 1997 (Area 15B)

**Nonconformities:** Existing accessory structure on subject property encroaches onto neighboring property

**Zoning Violation(s):** Yes, Case # ZN5957-2009 received on 05/11/2009 for erecting an accessory structure violating the set back limits on the rear and side property lines

**Surrounding Zoning:** North, West, and East: R15; South: A1A, RR, AND R15

**Surrounding Land Use:** Residential, woodlands and wetlands

**Spring Lake Area Detailed Land Use Plan:** Low density residential

**Municipal Influence Area (County portion):** Town of Spring Lake

**Special Flood Hazard Area (SFHA):** None

**Water/Sewer Availability:** Well/Septic

**Soil Limitations:** None

**Subdivision/Site Plan:** In the event property lines are adjusted, recombination plat required

**Average Daily Traffic Count (2008):** 3,600 on SR 1607 (Elliot Bridge Road)

**RLUAC/POPE AFB:** No objection

**Highway Plan:** Elliot Bridge Road is identified in the Highway Plan as a Major Thoroughfare. This proposal calls for widening to a multi-lane facility (4 lane divide). Road improvements are not included in the 2009-2015 MTIP. This is a Priority Two Project under the LRTP

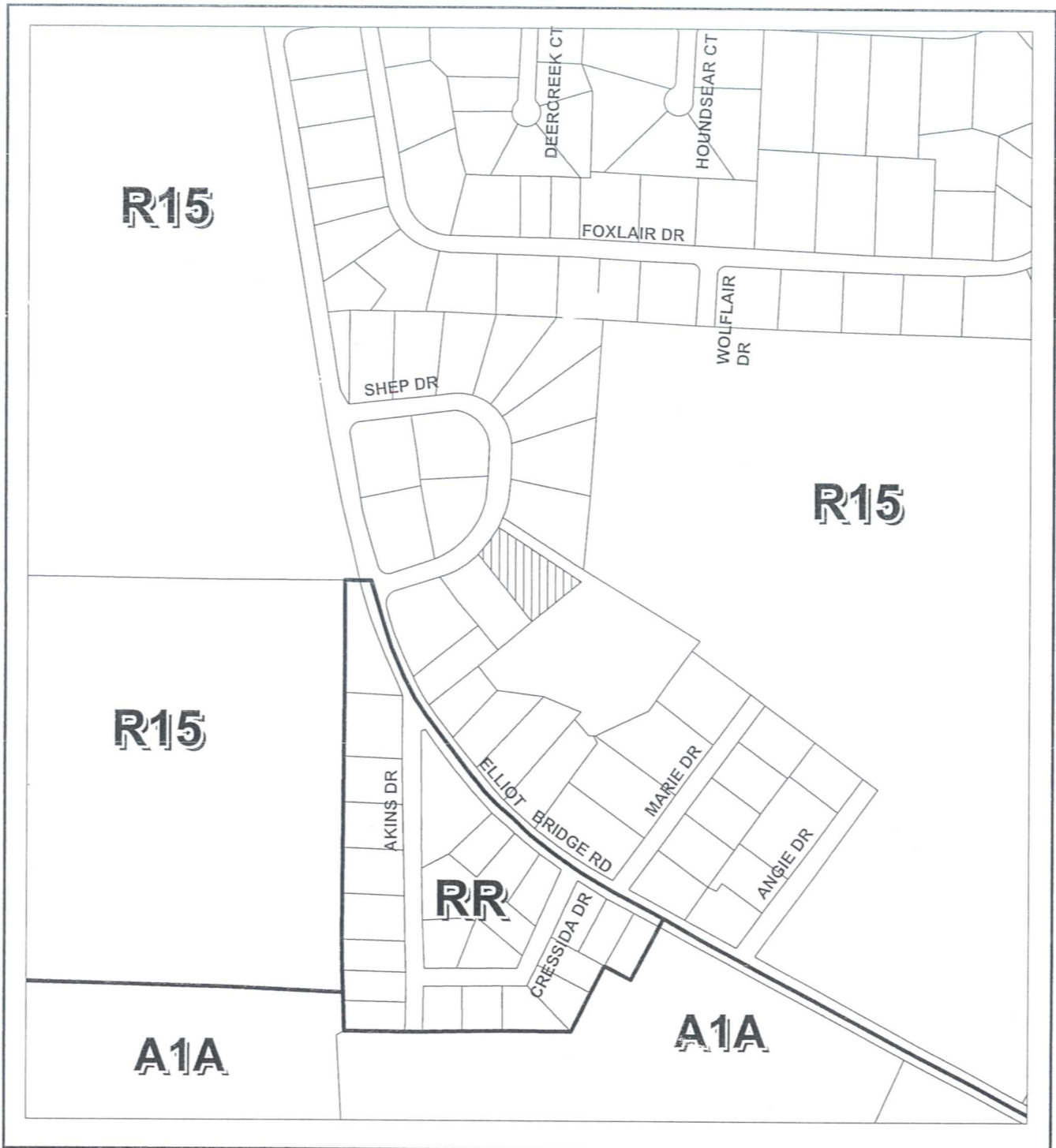
**Notes:**

- **County Zoning Ordinance Reference: Section 1002, Incidental Uses, Sub-Section E.**  
Accessory Structures-4: Accessory structures shall not be erected in any required front or side yard or within 20 feet of any side street line, or within five feet of any lot line not a street line, or within five feet of any accessory building or other building. In no case, however, shall an accessory building be placed closer to a street than the minimum setback requirements for a principal structure. Any accessory structure greater than 700 square feet in floor area must be located inside the building envelope. (Amd. 11-20-06; Amd. 02-19-08)

(Underlined provision was not in effect at the time the permit was obtained on July 18, 2006.)

**First Class and Record Owners' Mailed Notice Certification**

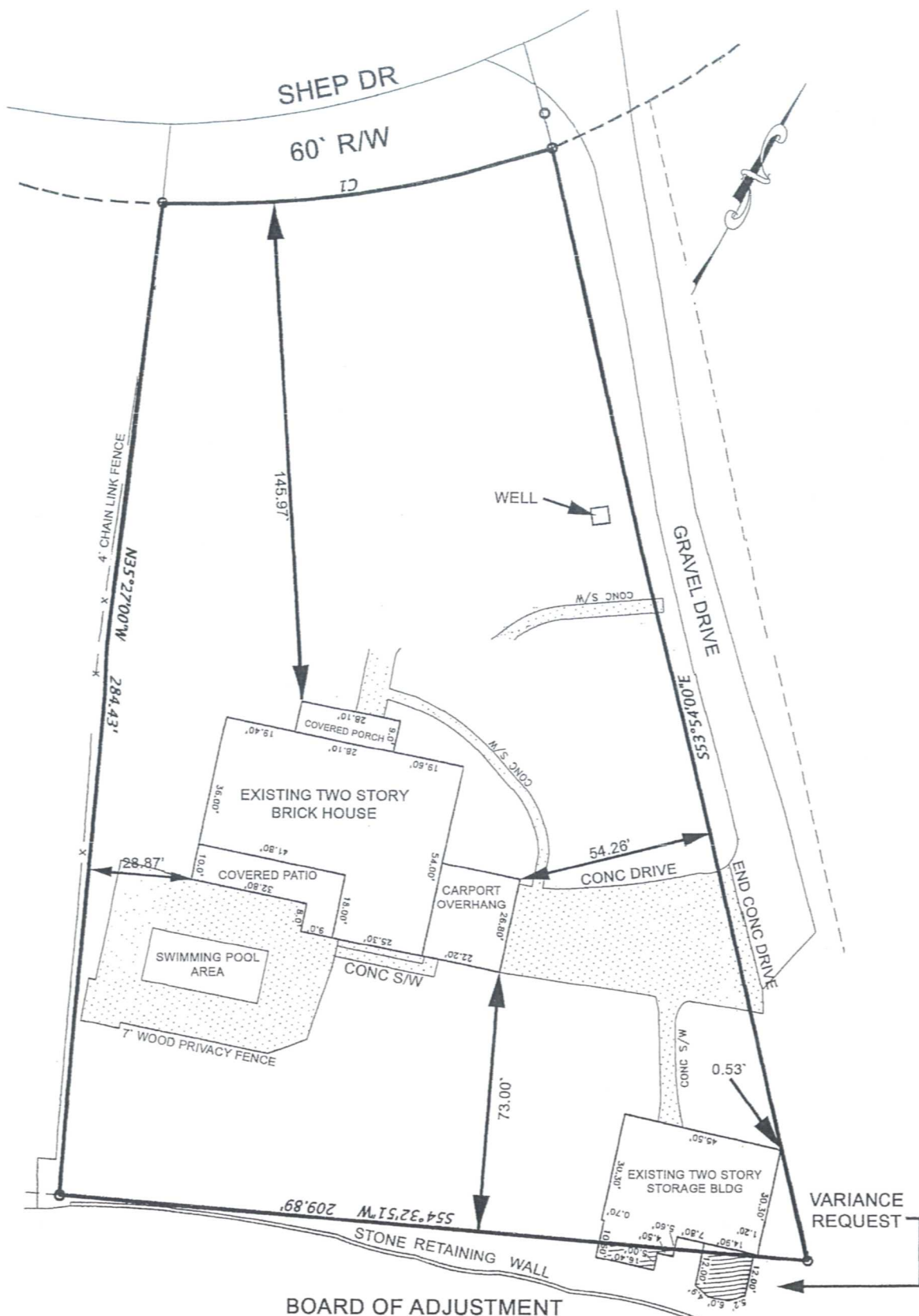
*A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith. The record owners' certified receipt of notice is also included.*



SCALE IN FEET

## BOARD OF ADJUSTMENT VARIANCE

ACREAGE: 1.10 AC.+/-	HEARING NO: P10-14-C	
ORDINANCE: COUNTY	HEARING DATE	ACTION
GOVERNING BOARD		



**BOARD OF ADJUSTMENT  
VARIANCE**

REQUEST: A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1002, INCIDENTAL USES, SUB-SECTION E. ACCESSORY STRUCTURES; FOR A 20 FOOT SETBACK VARIANCE WHERE FIVE FEET IS REQUIRED, ALLOWING AN EXISTING STORAGE BUILDING TO ENCR OACH 15 FEET ONTO THE ADJACENT PROPERTY  
CASE: P10-14-C ACREAGE 1.10 AC +/-  
ZONED: R15 SCALE: NTS

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

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 430 Shep Drive, Fayetteville, NC

OWNER: Thomas and Nancy Poulos

ADDRESS: 430 Shep Drive, Fayetteville, NC ZIP CODE: 28311

TELEPHONE: HOME 910-487-0878 WORK

AGENT: J. Thomas Neville, Thorp, Clarke, Neville & Kirby, PA

ADDRESS: P.O. Box 670, Fayetteville, NC 28302

TELEPHONE: HOME WORK 910-323-4111

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

A. Parcel Identification Number (PIN #) of subject property: 0543-02-9799-
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 110 Frontage: 109.6 +/- Depth: 299 +/-

C. Water Provider: Private well

D. Septage Provider: septic tank

E. Deed Book 5210, Page(s) 851, Cumberland County
Registry. (Attach copy of deed of subject property as it appears in Registry).

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: Notice of violation received by applicant does not identify said section and provision.

Said notice identifies a certain 5 foot set back. Annotated in code adopted on May 3, 1982 as articles VII
lot and yard regulations § 7.7 Yard Regulations.

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

Strict application of zoning ordinance would require the removal of a certain storage building/shop or a
significant portion thereof. The subject property was constructed and the specific site selected with the
permission of the adjacent land owner. The adjacent land owner is Green Pond, Inc, which is a
corporation consisting of landowners, including the applicant, having as their residence properties
adjacent to the lake.

The attached survey was obtained after the construction of the subject building and only after certain
members of Green Pond, Inc. complained to the county. The subject building existed in its current state
for approximately 6 years absent any objection from adjacent landowners. Upon information and belief,
Green Pond, Inc. has failed to properly obtain the permission of its members in complaining to the
county.

STATEMENT OF ACKNOWLEDGEMENT

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

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

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

✓ SIGNATURE OF OWNER(S) Thomas W. Poulos Nancy M. Poulos

PRINTED NAME OF OWNER(S) THOMAS W. POULOS NANCY M. POULOS

DATE 16 AUGUST 2010

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

Lori Epler,  
Chair  
Cumberland County

Roy Turner,  
Vice-Chair  
Cumberland County

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



## COUNTY of CUMBERLAND

*Planning & Inspections Department*

### CERTIFIED MAIL RETURN RECEIPT

MAILED 51 7108 2133 3937 1188 5671

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Walter Clark,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin  
Wade, Falcon, & Godwin

August 17, 2010

Green Pond INC  
640 Elliott Bridge Rd  
Fayetteville NC 28311

SUBJECT: Notice of County Application for Variance Request for Properties Identified by  
PINs 0543-02-9799 & 0543-12-2504

Dear Green Pond Representative,

This letter is to serve as official notice that this office is in receipt of an application for a variance that directly affects property as identified above, one tract of which is listed on the County tax rolls with your name and address.

Prior to considering this application is complete as submitted, we must be assured that you as an affected property owner have received adequate notice of the application. Once the US Postal Service has notified us that you are in receipt of this notice of application, the request will be scheduled for public hearing following the quasi-judicial procedures by the County Board of Adjustment. Shortly after the meeting is scheduled a follow up letter will be sent to you giving you notice of the date, time and location of the hearing on the variance.

Also attached to this letter for your information is an excerpt from the section of the County Zoning Ordinance listing the findings to be made by the Board of Adjustment for this type of hearing. If you have any questions, contact Pier Varner at 910-678-7602, email: [pvarner@co.cumberland.nc.us](mailto:pvarner@co.cumberland.nc.us) or myself at 910-678-7605, email: [pspeicher@co.cumberland.nc.us](mailto:pspeicher@co.cumberland.nc.us).

Sincerely,

*Patricia Speicher*  
Patricia Speicher  
Land Use Codes

#### Attachments:

- 1 - Cumberland County Board of Adjustment Application for Variance Request
- 2 - Excerpt from County Zoning Ordinance, Section 1605. Variance

cc: J. Thomas Neville, Thorp, Clarke, Neville & Kirby, PA, PO Box 670 Fayetteville NC 28302-0670  
James A. McLean, III, McCoy Wiggins Cleveland & O'Connor PLLC, PO Box 87009, Fayetteville NC 28304-7009  
Tom Lloyd, Director  
Cecil Combs, Deputy Director  
Harvey W. "Butch" Raynor, III, Deputy County Attorney  
130 Gillespie Street - Post Office Box 1829 - Fayetteville, North Carolina 28302-1829 - (910) 678-7600 - Fax: (910) 678-7631

# Thorp, Clarke, Neville & Kirby, P.A.

*Attorneys at Law*

Herbert H. Thorp (1932-1996)  
F. Stuart Clarke  
J. Thomas Neville  
Jennifer L. Kirby  
Sharon L. Tucker

150 N. McPherson Church Rd., Ste. B • Fayetteville, NC 28303  
Mailing Address: Post Office Box 670 • Fayetteville, NC 28302-0670  
Phone (910) 323-4111 and Fax (910) 483-1247

Surf City Office:  
13775 Ocean Hwy 50  
Suite 107  
Surf City, NC 28445  
Phone: (910) 329-4400  
Fax: (910) 329-1001

[jtnville@thornclarke.com](mailto:jtnville@thornclarke.com)

APR 20 2010

April 16, 2010

Harvey W. Raynor, III  
Cumberland County Courthouse  
117 Dick Street, Room 551  
Fayetteville, NC 28301

Re: *Green Pond, Inc./Poulos Matter*  
*430 Shep Drive, Fayetteville, Cumberland County, NC*

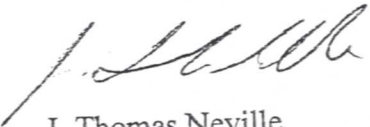
Dear Mr. Raynor:

I am writing to inform you of the status of the above referenced dispute between my clients Thomas and Nancy Poulos and Green Pond Homeowner's Association. On behalf of my clients, I recently made an offer to James McLean, legal counsel for Green Pond Homeowner's Association to settle this matter preventing litigation and what would surely be escalating costs to each party. Pursuant to our most recent meeting, counsel for both parties agreed that it was in the best interest of all that the county refrain from pursuing this matter or taking any action related thereto, thus allowing the parties to attempt to reach an amicable settlement. I appreciate the county's willingness to allow the parties to attempt to resolve this matter and I will continue to keep you informed as foreseeable negotiations progress.

Thank you.

Very truly yours,

**Thorp, Clarke, Neville & Kirby, PA**

  
J. Thomas Neville

cc: James A. McLean, III

Other Fayetteville Offices:  
5509 Yadkin Road, Fayetteville, NC, 28303, Phone (910) 826-7602, Fax (910) 826-7604  
2577 Ravenhill Road, Fayetteville, NC 28303, Phone (910) 429-2935, Fax (910) 429-2965

HL

LAW OFFICES OF  
McCOY WIGGINS CLEVELAND & O'CONNOR PLLC

Post Office Box 87009

RICHARD M. WIGGINS  
ALFRED E. CLEVELAND  
STEVEN J. O'CONNOR  
ANNE MAYO EVANS  
JIM WADE GOODMAN  
JAMES A. McLEAN, III  
NICOLE JONES

FAYETTEVILLE, NORTH CAROLINA 28304-7009

202 FAIRWAY DRIVE

FAYETTEVILLE, NORTH CAROLINA 28305

DONALD W. McCOY  
(1919-1995)

TELEPHONE 910-483-8104

FACSIMILE 910-483-0094

REAL ESTATE DEPT. FAX

910-483-9655

April 16, 2010

VIA US MAIL, FACSIMILE TRANSMISSION AND EMAIL

APR 19 2010

Harvey W. Raynor, III  
Deputy County Attorney For Cumberland County  
PO Drawer 1829  
Fayetteville, North Carolina 28301  
[f] 910-678-7758  
Email: [raynor@co.cumberland.nc.us](mailto:raynor@co.cumberland.nc.us)

Re: Green Pond, Inc. /Poulos Matter: 430 Shep Drive, Fayetteville, NC.

Dear Attorney Raynor:

I hope you are well. I sincerely appreciated you meeting with Thomas and me regarding this matter, and I know that it is a thorny and generally unpleasant issue. In any event, I relayed both the contents of the discussion and ultimately the County's position to my clients regarding both their insistence that the County proceed with the enforcement of the previous notice of violation against the Mr. and Mrs. Poulos and the fact that the County intends to take a close look at everybody who is on that lake and see what was going on if it is drawn further into this conflict.

To my knowledge, The Green Pond, Inc. has met and discussed the issue and has voted to formally ask the County to, again, proceed with the enforcement of the previous notice of violation, with the full understanding that the County will be scrutinizing at all of the parties who live on this lake. Accordingly, and as I agreed I would do, I, on behalf of The Green Pond, Inc. ask that the County proceed in writing. If I can be of any further assistance in that regard, please let me know.

Finally, The Green Pond, Inc. asked that I clarify a few issues. First and foremost, they feel that they are not using the County as a blunt instrument. Instead, they have worked with County Inspections since before the structure was erected in its present state. They have diligently and repeatedly sought the County's advice and assistance in resolving this issue. They, in turn, followed that advice to the best of their ability, apparently to no avail. Moreover, they also feel that they, in an attempt to resolve these thorny issues, previously negotiated in good faith and upon their own initiative with Mr. and Mrs. Poulos. In other words, they do not want to be portrayed as a fanatical bunch of interlopers who, out of spite and loathing, are trying to prevent Mr. and Mrs. Poulos from enjoying their property. Quite to the contrary and they do not want this forgotten, Mr. and Mrs. Poulos are trying to enjoy The Green Pond, Inc.'s property. While I personally worry that emotions may have gotten the best of everyone on both



Letter to Deputy County Attorney Raynor  
April 16, 2010  
Page 2 of 2

sides, I cannot think of many issues that can cause as visceral of an emotional response as boundary line issues between neighbors. In that respect, I do not think that The Green Pond, Inc.'s general reaction to this situation has been abnormal at all.

Also, as I have promised Thomas, I am informing him of the same by copying him on this letter.

Sincerely,

  
James A. McLean, III  
JAM/ab

CC: Attorney Neville via fax and mail

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Ken Sykes,  
Inspections Coordinator

Carol M. Post  
Planning and Inspections  
Office Support



Kim Reeves,  
Inspector  
Angela Perrier,  
Inspector  
George Hatcher,  
Inspector  
Joey Lewis,  
Inspector

## COUNTY of CUMBERLAND

*Planning & Inspections Department*

**RE:** Thomas and Nancy Poulos  
430 Shep Drive  
Fayetteville, NC 28311

**Case #:** ZN 5957-2008

- 9-07-2005 -** Environmental Health received a complaint stating that Mr. Sykes had received a complaint from Mr. Doug Maxwell (Atty) in reference to Mr. & Mrs. Poulos building a 2000 sq. ft. building without permits. There did not appear to be any supporting documentation to that affect in a file or in the computer system.
- 9-12-2005 -** Environmental Health went out to the property @ 430 Shep Drive, and left a card for Mr. & Mrs. Poulos to contact the department.
- 10-21-2005 -** Environmental Health went to the property again and left another card for Mr. & Mrs. Poulos to contact them as soon as possible.
- 11-10-2005 -** Environmental Health went back out to the property and have determined that there is/was no sewage on the grounds (see enclosed notes and photos).
- 7-10-2006 -** Property inspected by Ronnie Mosley and Angela Perrier. Angela states that she spoke with Mrs. Poulos and she admitted that she did not have a permit.
- 7-17-2006 -** Case CN 4619 was open.
- 7-18-2006 -** Mrs. Poulos came into the office and obtained the permit (see enclosed permit B-06-120788). She showed Angela Perrier a survey map of the property and it appeared to Ms. Perrier that it met the current set backs.
- 8-09-2006 -** Hearing was held @ 9:15 a.m.
- 9-21-2006 -** Case CN 4619 was closed.
- 8-06-2008 -** Inspector Carl Temple left contact card for Mr. & Mrs. Poulos at residence (see enclosed note).
- 8-07-2008 -** Mr. Temple met with Mr. & Mrs. Poulos. Mr. Temple found "Shop has electrical and water/commode. He couldn't find corner of easement. Refer to zoning, building appears to be on easement. Made note in reference to permit B-06-120788 (see enclosed note).

- 8-25-2008 -** Debra Simpson left note for Carl Temple and Larry Renfrow stating that she received a call from Mrs. Poulos requesting that inspections be done together, as she is caring for a sick mother and handicapped daughter (see enclosed note).
- 8-25-2008 -** Mr. & Mrs. Poulos pulled a permit for one bath addition/renovation (see enclosed permit P-08-130988 and inspection report) and for a renovation project (see enclosed permit E-08-130987 and inspection report).
- 11-05-2008 -** Inspector Mr. Carl Temple went out to the property @ 430 Shep Drive and found "concrete poured unable to test waste lines. Checked plumbing from slab to sinks only in reference to permit P-08-130988.  
On permit E-08-130987, he found "work completed prior to rough-in inspections. Service cable and romex in P pipe, separate ground and neutrals in subpanel, install grounding conductor to subpanel, outside light for side door, single device recept. For 220 plu.
- 11-06-2008 -** Note was made by Mr. Temple stating "monolithic slab" and "wall to slab – connection every 32". Handrail & guards on stairway. Bannister." and "Wall to slab – connection every 32". Handrail & guards on stairway. Bannister and guard around top of stairwell. Need vent in peak of roof." (see enclose inspections notes).
- 11-06-2008 -** In reference to permit B-06-120788, Mr. Carl Temple noted on the plumbing "2" vent for sewer system as close to commode as possible. Water line test to 100 lbs. shop only." And on the framing, he noted " 1) Bottom of steel exterior wall only @ 32" o.c.  
2) Handrail & guards on stairs.  
3) Vent top of roof. Remove cap and add ridge vent."
- 5-(5/6)-2009 -** Received another complaint from the Green Pond Association in reference to the building meeting the set backs on Mr. & Mrs. Poulos' property.
- 5-07-2009 -** Johnny Scott and Joey Lewis went out to inspect the property. It appeared (to the untrained eye) to be encroached on adjacent property, or at least not meeting the set backs. Building was not sited as per site plan attached to the 2006 permit.
- 5-11-2009 -** A Notice of Violation letter (see enclosed letter) was sent to Mr. & Mrs. Poulos. Mr. Poulos immediately came into the office once he received the letter and Mr. Scott explained to him why we needed an as built survey.
- 5-21-2009 -** Received the 1<sup>st</sup> letter from Mr. & Mrs. Poulos' attorney (see enclosed letter) stating that there is an on-going issue with property lines and that Mr. & Mrs. Poulos and the Green Pond Association are involved in it. He requested that no other correspondence(s) take place from us until these matters are resolved.
- 7-21-2009 -** Received an attorney letter from Mr. J. Thomas Neville from Thorp, Clarke, Neville, & Kirby, P.A. (see enclosed letter). They state that they are now representing Mr. & Mrs. Poulos in their endeavors. There apparently was a conflict of interest with the previous attorneys.
- 8-(13/14)-2009 -** Angela Perrier became involved with this case again, as Mr. Scott was transferred to another department.

- 8-17-2009 - Ms. Perrier spoke with Attorney Neville and was told that the County Attorney Raynor was working with him on this case.
- 9-16-2009 - Mr. Sykes left Ms. Perrier a note in reference to it being 2 months since the new attorney's have taken over the case and to touch base with them to see what was currently going on with the case.
- 9-25-2009 - Ms. Perrier called Attorney Neville's office and informed him that they have a couple of days to get something going on this case, or it would be forwarded to Environmental Court at our end, per Cecil Combs.
- 9-29-2009 - Ms. Perrier spoke with Mr. Raynor and was told that this was a civil case and should not go to Environmental Court at this time. She also spoke with Mr. Cecil Combs who advised her to make necessary notes and forward file to the County Attorney's Office.

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Ken Sykes,  
Inspections Coordinator

Carol M. Post  
Office Support, III



Code Enforcement Officers

Kim Reeves,  
Angela Perrier,  
George Hatcher,  
Charisse Brown,  
Johnny H. Scott,  
Joey Lewis,

## COUNTY of CUMBERLAND

*Planning & Inspections Department*

### NOTICE OF VIOLATIONS

91 7108 2133 3935 9755 9833 *Thomas*

May 11<sup>th</sup>, 2009

91 7108 2133 3935 9755 9826 *Nancy*

91 7108 2133 3935 9755 9819 *Douglas*

Thomas & Nancy Poulos  
430 Shep Drive  
Fayetteville, NC 28311

Reference: 430 Shep Drive, Fayetteville NC

Case: ZN-5957-2009

Mr. & Mrs. Poulos:

Regarding Building Permit B-06-120788, dated 07/18/2006, for an accessory building to be erected at 430 Shep Drive, Fayetteville, NC, more specifically identified by Cumberland County tax records as parcel identification number 0543-02-9799.

Throughout the course of normal inspections regarding your accessory building it has come to our attention that placement of the aforementioned structure is in violation of set back limits for your zoning classification. The set back required for accessory structures in your zoning classification, at the time your permit was issued, was five (5) feet from the rear and side property lines. You indicated on your permit application that your accessory structure would be at least five (5) feet from the rear and side property lines; however, visual inspection reveals that you have not placed the structure as applied for, and the location of the structure is violating the set back requirements, and you are possibly encroaching upon adjacent property lines.

For this reason, you are hereby issued a Notice of Violation of the Cumberland County Code, Appendix A, Zoning. The action(s) to remedy the violation are as follows:

- 1.) To resubmit a Survey to this office indicating that the set backs are being met OR,
- 2.) Move the structure to meet the set back requirements OR,
- 3.) To demolish the structure OR,

Thomas & Nancy Poulos  
May 11<sup>th</sup>, 2009  
Page 2

- 4.) Apply with Cumberland County Land Use Planning for a Variance of set back requirements. (This option is only available if you are not encroaching on adjacent property owners.)

In any instance except demolishing the structure (which requires a Demolition Permit from this office) a survey is required. With that being said, pursuant to Article I, Administrative Provisions, Section 107 of Cumberland County Zoning Ordinance, we are requiring that you produce to this office within **30 days (thirty) from receipt of this violation** an "As-Built" survey of your property prepared by a Registered Land Surveyor.

The Survey is to include:

- 1) The actual shape, location and dimensions of the lot.
- 2) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or structures already on the lot.
- 3) The existing and intended use of all such buildings or other structures.
- 4) Such other information concerning the lot of adjoining lots as may be essential for determining whether the provisions of this Ordinance and the County Subdivision Ordinance are being observed.

You are hereby advised that the above listed violation is a Class 3 Misdemeanor, under the provisions of North Carolina General Statute 14-4, and must be corrected within thirty (30) days of receipt of this notification. Failure to correct this violation will subject you to a civil penalty of \$500 dollars per day (each day being a separate violation) and prosecution for a misdemeanor violation in Environmental Court. Also, be advised of your right to appeal this decision in accordance with Article XVII, Section 17.03(E), Appeal, Zoning Ordinance, Cumberland County, North Carolina.

If you have any questions, please contact the undersigned at (910) 321-6670.

Sincerely,



Johnny H. Scott  
Code Enforcement Officer

Cc: Douglas W. Stephenson  
7525 Marie Drive  
Fayetteville, NC 28311

CUMBERLAND COUNTY PLANNING & INSPECTION DEPT.  
130 Gillespie/PO Drawer 1829  
Fayetteville, NC 28302-1829  
(910)321-6636 Fax(910)321-6637

Building PERMIT  
B-06-120788 PAGE 1 of 1  
Issued by: TOR Prt by: CPOST

Permission is hereby granted for the construction or installation as identified herein. All work must comply with the North Carolina State Building Code and all other applicable State and Local Laws, Ordinances, and Regulations.

Date Issued: 07/18/2006 Pin: 0543-02-9799-  
Location: 430 SHEP DR Subdivision: HAMMOND ESTATE  
Lot: LOT 8 HAMMOND ESTS SEC 1 IMP SHEP DR Lot:8 Bldg: Unit:  
Owner: POULOS, THOMAS & WIFE NAN  
Address: 430 SHEP DR FAYETTEVILLE, NC 28311 Phone:  
Contractor: POULOS, THOMAS & WIFE NAN License:  
Address: 430 SHEP DR FAYETTEVILLE, NC 28311 Phone:  
Contact: Phone:

Structure: Residential Type Improvement: New Occupancy: STORAGE  
Construction Type: No of stories: 000  
Heated (SQ. FT.): Unheated: 864 Total Sq.Ft: 864  
Area (Sq. Ft.): First Floor: Second Floor: Third Floor:  
Water: Sewer: SEPTIC OK PER HLTH  
Zoned as: R15 Set Backs: Front: \* Rear: \* Left: \* Right: \*  
Fees: BLDG TO \$10K \$75.00  
RESIDENTIAL ZONING \$30.00  
Total Fees: \$105.00 Work Value: \$5,000  
STORAGE 24X36

TO BE SITED AS PER PLOT PLAN

All work will comply with the NC State Bldg. Code & all other applicable state & local laws, ordinances & regulations. The Inspection Dept. shall be notified of any changes in the approved plans or work as submitted. It is the permit holders responsibility to request all required inspections & ensure approval prior to continuing work.

Without further notice from this Dept., this permit will become void if work is not started within 6 mths. from issuance or if the work is discontinued for one year as determined by no inspection activity. These time periods are superseded by time limitations set by County ordinance and/or Code Enforcement Actions.

Call before you dig - 1-800-632-4949. A \$25 processing fee shall be charged for all returned checks. (NCGS25-3-506)

APPLICATION FOR PERMIT  
 BUILDING/ZONING

NOTE: Incomplete applications will not be processed 3/04

Parcel # 0543-02-9799 OFFICE USE: Bldg  Zoning  Zoned R15 Corner Lot NO

PROJECT ADDRESS: 430 Shep Dr City Fay Zip 28311

Subdivision/Development Hammond Estate Lot 8 Bldg \_\_\_\_\_ Unit \_\_\_\_\_

Directions: \_\_\_\_\_

PROPERTY OWNER: Thomas W/Nancy M. Poolos Phone # \_\_\_\_\_

Prop. Owner's Address 430 Shep Dr. City Fayetteville State NC Zip 28311

STRUCTURE IS:  Residential  Commercial  Multi-Family  Signs

IMPROVEMENT IS:  New Structure  Addition to Existing Structure  Renovation/Alteration/Upfit  Insulation

DESCRIBE WORK: Storage 24x36

PRIMARY BUILDING OCCUPANCY/USE (per NC State Building Code):  
 Condo/Townhouse  Apt/Duplex  Single-Family  Utility  Assembly  Institutional  
 Business  Mercantile  Educational  Storage  Factory/Ind.  Hazardous

The entire project cannot be permitted at this time. This application is for:  Foundation Only  Shell Only

CONTRACTOR Sane Phone # \_\_\_\_\_ # \_\_\_\_\_

Contractor Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

St. License # & Classification \_\_\_\_\_ Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

CONSTRUCTION TYPE: IA \_\_\_\_\_, IB \_\_\_\_\_, IIA \_\_\_\_\_, IIB \_\_\_\_\_, IIIA \_\_\_\_\_, IIIB \_\_\_\_\_, IV \_\_\_\_\_, VA \_\_\_\_\_, VB \_\_\_\_\_

Number of STORIES: \_\_\_\_\_ Heated Area: \_\_\_\_\_ Unheated Area: \_\_\_\_\_ TOTAL AREA: 864

Area per Floor: 1<sup>st</sup> \_\_\_\_\_ 2<sup>nd</sup> \_\_\_\_\_ 3<sup>rd</sup> \_\_\_\_\_ TOTAL CONSTRUCTION COST: \$ 5,000

WATER: Public \_\_\_\_\_ Provider: \_\_\_\_\_ Well \_\_\_\_\_ Permit #: \_\_\_\_\_ SEWER: Public \_\_\_\_\_ Provider: \_\_\_\_\_ Septic  Permit # Storage

I hereby certify that all information in this application is correct and all work will comply with the North Carolina State Building Code and all other applicable State and local laws, ordinances and regulations. The Planning and Inspection Department will be notified of any changes in the approved plans and specifications for the project permitted herein.

Owner/Agent Signature \_\_\_\_\_ Printed Name \_\_\_\_\_ Date \_\_\_\_\_

PAYMENT SUBMITTED BY:  
 Ck# \_\_\_\_\_ Crdt Card on File \_\_\_\_\_ Pay When Approved \_\_\_\_\_  
 PURSUANT TO NCGS 25-3-506, A \$25 PROCESSING FEE SHALL BE CHARGED FOR ALL RETURNED CHECKS

FEES: Building \$ 75.00  
 Zoning \$ 30.00  
 HORF \$ \_\_\_\_\_  
 Other: \_\_\_\_\_ \$ \_\_\_\_\_  
 TOTAL FEES: \$ 105.00

FOR OFFICE USE ONLY  
 SETBKS: Front: \_\_\_\_\_ Rear: \_\_\_\_\_ Left Side: \_\_\_\_\_ Ft Side: \_\_\_\_\_

COMMENTS:  
To be sited in accordance with approved site plan & all Conditions of Approval Case # \_\_\_\_\_  
Fire Damaged area must be inspected after damaged material is removed. Disposal must be in accordance w/all laws & reg.  
 Zoning Approval: [Signature] Date: 7/18/06 Bldg. Approval: \_\_\_\_\_ Date: \_\_\_\_\_



CUMBERLAND COUNTY PLANNING & INSPECTIONS DEPARTMENT

**THE APPLICANT'S RESPONSIBILITY – IDENTIFYING PROPERTY LINES**

I, \_\_\_\_\_, certify that I am authorized for myself or on behalf of \_\_\_\_\_, owner, to make this application for a permit. I agree to be responsible for placing stakes to indicate property boundaries, right-of-way boundaries and easement locations for the project location above. I agree to verify the accuracy of such stakes before requesting any inspection. I acknowledge that I will not receive any inspections if these markers are not in place when an inspector arrives.

I waive any claim against the county and release it completely from liability for any damages resulting from any structures that do not meet the county zoning ordinance criteria because of incorrect marking of property boundaries, right-of-way boundaries or easement locations.

\_\_\_\_\_  
Signature Date

**REQUIRED AFFIDAVIT FOR PROJECTS OF \$30,000 OR MORE**

The undersigned applicant for Building Permit # \_\_\_\_\_ being the \_\_\_\_\_ Contractor \_\_\_\_\_ Homeowner \_\_\_\_\_ Agent for Contractor or Owner

does hereby aver under penalties of perjury that the person(s), firm(s) or corporation(s) performing the work set forth in the permit:

**1. NCGS 87-1: NC General Contractors Licensing**

\_\_\_\_\_ has, since this project meets or exceeds \$30,000, a NC General Contractor's License in effect, # \_\_\_\_\_.

\_\_\_\_\_ owns the land on which the building is to be constructed and the building is solely for occupancy by the owner—not for rent, lease or sale. Occupancy by the owner must be for a period of at least one year.

**2. NCGS 87-14: Workers' Compensation Coverage**

\_\_\_\_\_ has three (3) or more employees and have obtained workers' compensation insurance to cover them.

\_\_\_\_\_ has one or more subcontractor(s) and have obtained workers' compensation insurance covering them.

\_\_\_\_\_ has one or more subcontractor(s), who have their own policy of workers' compensation covering themselves.

\_\_\_\_\_ has not more than two (2) employees and no subcontractors.

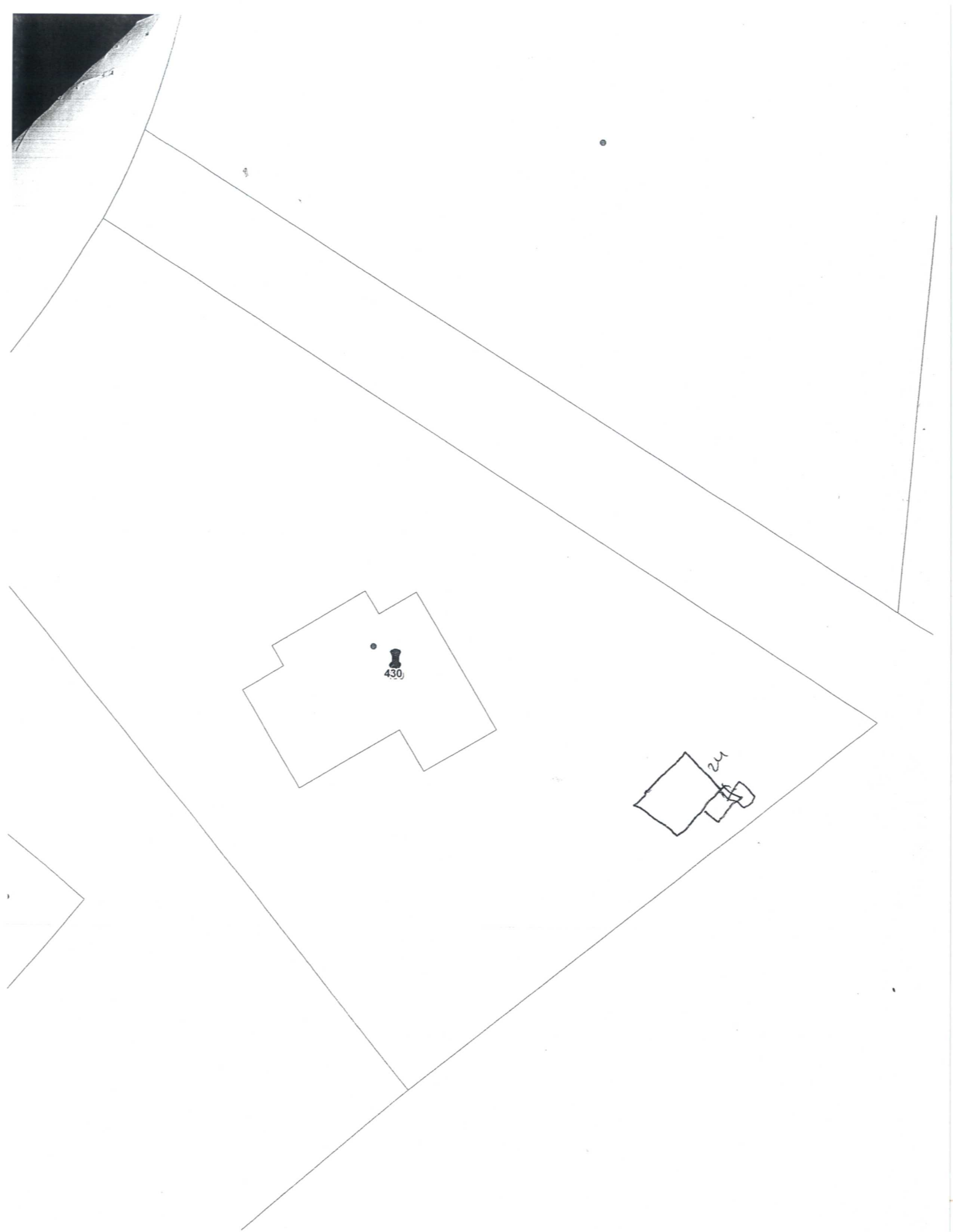
It is understood that the Planning and Inspections Department issuing the permit may require certificates of coverage and/or waivers compensation insurance coverage or copies of other licenses and taxes prior to issuance of the permit and at any time during the permitted work from any person, firm, or corporation carrying out the work.

**PLEASE PRINT:**

Firm Name: \_\_\_\_\_ Date: \_\_\_\_\_

Phone \_\_\_\_\_

By: \_\_\_\_\_ Signature: \_\_\_\_\_ Title: \_\_\_\_\_



430

24

**P10-15-C**  
**SITE PROFILE**

**P10-15-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1102 YARD REGULATION, SUB-SECTION G. BUFFER REQUIREMENTS 1-A, WHICH REQUIRES A SOLID BUFFER WHEN A NON-RESIDENTIAL USE ABUTS A RESIDENTIALLY-ZONED PROPERTY ALONG THE SIDE AND/OR REAR PROPERTY LINES FOR A DAY CARE FACILITY; AND THE ADDITION TO AND MODIFICATION OF AN APPROVED SPECIAL USE PERMIT (*néé* SPECIFIED CONDITIONAL USE) FOR A DAY CARE FACILITY IN AN R10 RESIDENTIAL DISTRICT ON 1.42+/- ACRES, LOCATED AT 3230 LEGION ROAD; SUBMITTED BY BETTY ALLEE ON BEHALF OF CHURCH OF GOD OF PROPHECY (OWNER).

**Site Information:**

**Frontage & Location:** 192.8'+/- on Legion Road

**Depth:** 198.5'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** Yes, 2 tracts on the northeast side of subject property

**Current Use:** Day care facility

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

**Nonconformities:** Yes, no buffer along the side and rear property lines abutting residential zoning district and some existing off-street parking in right-of-way

**Zoning Violation(s):** None

**Surrounding Zoning:** North: M(P), M(P)/CU (mini storage using M2 setbacks), C(P), & C(P)/CUD (Ice house & other permitted uses), C1(P), & R10; South: R10, R5A, & R5A/CU (insurance office space); West: RR, R10, & R6A; East: M(P), C(P), C1(P), R10/CU (barbering hairdressing) & R10

**Surrounding Land Use:** Industrial operation, 2-trade contractor, restaurant, salon, day care facility, public substation, religious worship facility, and residential

**2030 Growth Vision Plan:** Urban area

**Special Flood Hazard Area (SFHA):** None

**Soil Limitations:** None

**Water/Sewer Availability:** PWC/Septic

**School Capacity/Enrolled:** Elizabeth Cashwell Elementary: 675/746; South View Middle: 900/802; South View High: 1,800/1,848

**Subdivision/Site Plan:** "Ordinance Related Conditions" attached, particular attention to Condition No. 2 & 6

**Average Daily Traffic Count (2006):** 15,000 on Legion Road (SR 1132)

**Airport Overlay District:** Yes

**Municipal Influence Area:** City of Fayetteville

**Highway Plan:** Legion Road is identified in the Highway Plan as Major Thoroughfare. This proposal calls for a multi-lane facility (U-2809) with a right-of-way of 100 feet. Road improvements are included in the 2009-2015 MTIP

**Notes:**

**1. Variance Section 1102 Yard Regulation; sub-section G. Buffer Requirements 1-a:**

A solid buffer shall be installed, when a non-residential use abuts a residentially-zoned property along the side and/or rear property lines.

**2. Section 906 Day Care Facility**

- Proposed addition to and modification request for an approved Day Care Facility (*néé* Specified Conditional Use):
  - a. Children:
    - Building A: Current 36 Children / 4 employees (**Case No. P01-17-C approved on 06/21/2001**)
    - Building B Main Center: Requesting 96 children
    - Building C Other Facility: Current 15 children/Adding 5 = Total 20
  - b. Employees: 14 full time / 2 part time
  - c. Hours and days of operation: 6:00 am to 5:30 pm, Monday through Friday

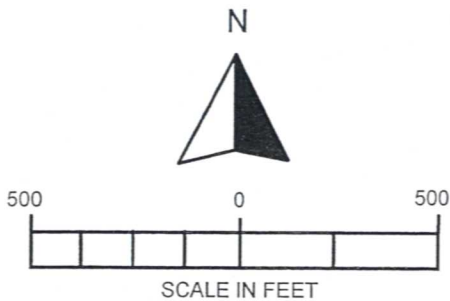
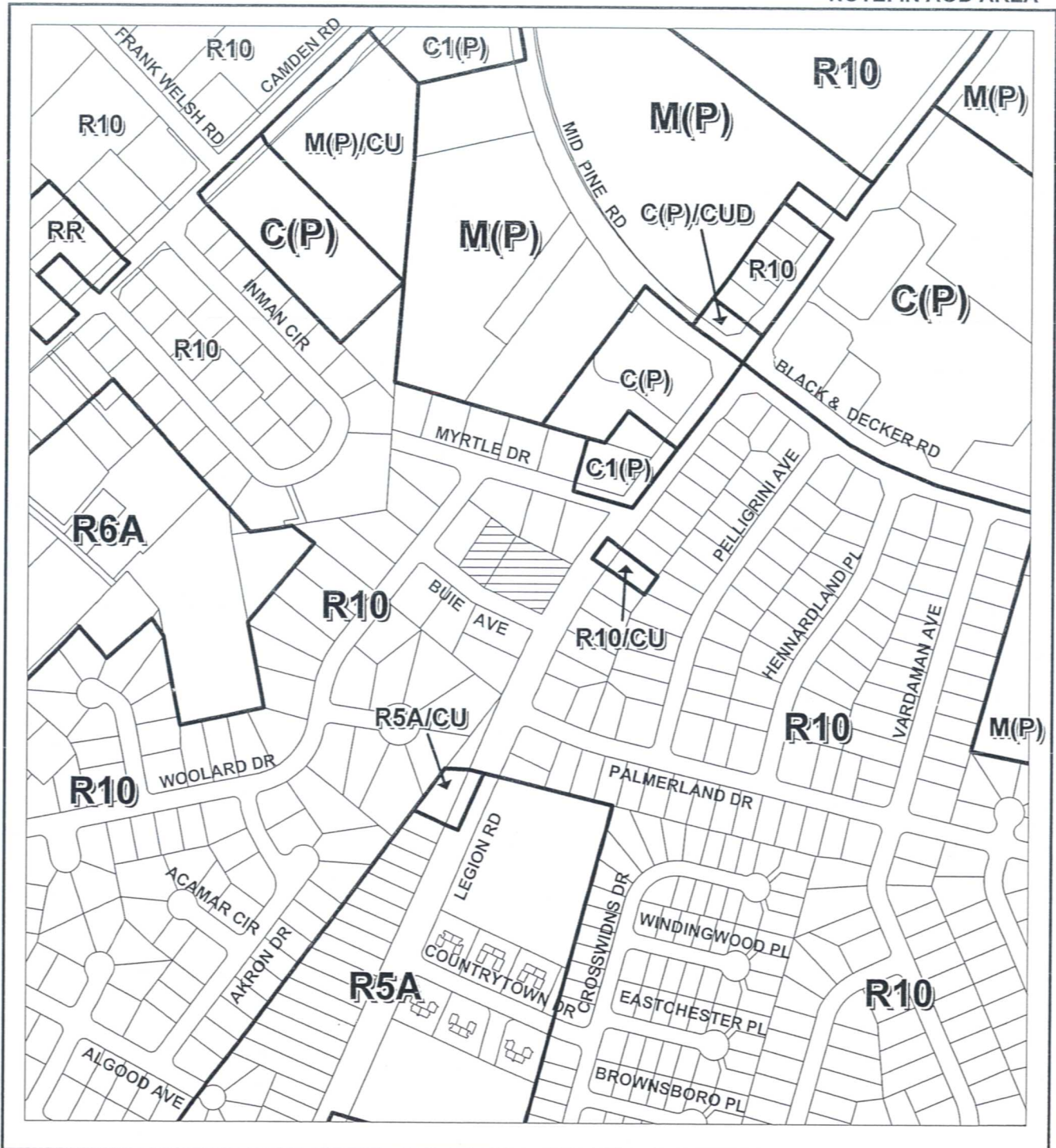
**Total children:** 152

**Proposed total employees:** 14 full time / 2 part time

**First Class and Record Owners' Mailed Notice Certification**

*A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith. The record owners' certified receipt of notice is also included.*

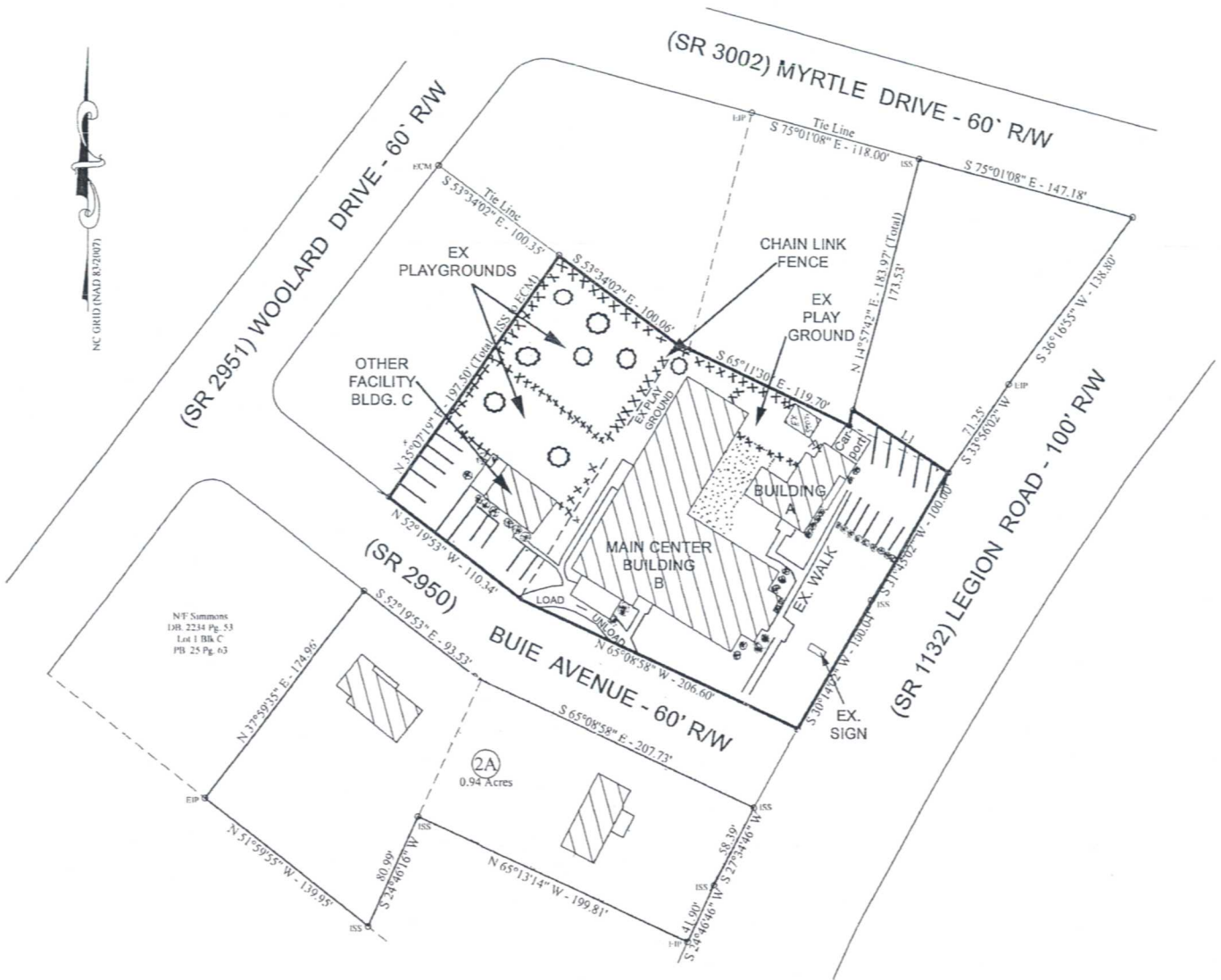
NOTE: IN AOD AREA



**BOARD OF ADJUSTMENT  
VARIANCE & ADDITION/MODIFICATION  
TO A SPECIAL USE PERMIT**

ACREAGE: 1.42 AC.+/-		HEARING NO: P10-15-C	
ORDINANCE: COUNTY		HEARING DATE	ACTION
GOVERNING BOARD			

PIN: 0425-45-4508,2665



**BOARD OF ADJUSTMENT**  
**VARIANCE & SPECIAL USE PERMIT**  
REQUEST: BUFFER VARIANCE AND ADDITION/  
MODIFICATION FOR DAY CARE FACILITY  
CASE: P10-15-C ACREAGE: 1.42 AC +/-  
ZONED: R10 SCALE: NTS  
PARKING: AS SHOWN

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

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 3230 Legion Road, Hope Mills, N.C. 2834

OWNER: Church of God of Prophecy

ADDRESS: 3230 Legion Rd, Hope Mills, NC ZIP CODE: 28348

TELEPHONE: HOME 910 425-3096 WORK

AGENT: Betty Allee

ADDRESS: 4018 Village Dr., Fayetteville, NC 28304

TELEPHONE: HOME 910 425 5078 WORK Cell 910 624 7592

APPLICATION FOR A SPECIAL USE PERMIT

As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 0425-45-4508, 2665 (also known as Tax ID Number or Property Tax ID)

B. Acreage: 1.42 Frontage: 510' Depth: 310'

C. Water Provider: Public Works Commission

D. Septage Provider: Septic Tanks

E. Deed Book 2365 2007, Page(s) 797 393, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: Day Care

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.)

See Attachment No I

**BOARD OF ADJUSTMENT**

LOCATION OF PROPERTY: \_\_\_\_\_  
OWNER: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_  
TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_  
AGENT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_

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

- A. Parcel Identification Number (PIN #) of subject property: \_\_\_\_\_  
(also known as Tax ID Number or Property Tax ID)
- B. Acreage: \_\_\_\_\_ Frontage: \_\_\_\_\_ Depth: \_\_\_\_\_
- C. Water Provider: \_\_\_\_\_
- D. Septage Provider: \_\_\_\_\_
- E. Deed Book \_\_\_\_\_, Page(s) \_\_\_\_\_, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
- F. Existing and/or proposed use of property: \_\_\_\_\_

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: Section 1102-G-1-a

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: See Attached # II

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATEMENT OF ACKNOWLEDGEMENT

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

- That although appearance before the Board is not required, it is strongly encouraged;
- The Board will hear any and all arguments for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the Board has the authority to approve, deny, or defer the request for additional information to be provided;
- If the petitioner or their representative for this application does not appear personally before the Board, whether there is opposition or not, the Board has full authority to consider the case.
- If the Board's decision is to deny the matter before them, **the aggrieved party shall file a "Notice to Intent to Appeal" with the Planning & Inspections Staff on the next business day following the meeting in which the Board's decision was made final, or the next business day following receipt of the written copy there of.**
- Any petition for review by Superior Court shall be file with the Clerk of Superior Court within 30 days after the decision of the Board is made final.

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

*Church of God of Prophecy*



SIGNATURE OF OWNER(S) Betty Allee

PRINTED NAME OF OWNER(S) Betty Allee

DATE Sept. 8, 2010

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



**Board of Adjustments**

**Attachment 1**

Page 3

G:

- |    |                            |                          |
|----|----------------------------|--------------------------|
| 1. | Hours of operation         | 6:00am-5:30pm            |
| 2. | Days of operation          | Monday-Friday            |
| 3. | Number full time employees | 14                       |
| 4. | Number part time employees | 2                        |
| 5. | Parking for employees      |                          |
| 6. | Use of buildings           | <u>Child Care Center</u> |

**Enrollment Building A:**

	Current	19
	Increase	<u>9</u>
Total		28

**Enrollment Main**

	Current	73
	Increase	<u>23</u>
Total		96

**Enrollment Building C**

	Current	15
	Increase	<u>5</u>
Total		20

7. Landscaping:  
We currently have well maintained shrubs along several areas of each building.  
We have trees on each playground to provide adequate shade for the children. We have designated circle drive for loading and unloading children.
8. Existing sign in front of main building.

Breezewood Church of God of Prophecy Child Care  
3230 Legion Road  
Hope Mills, NC 28348

September 15, 2010

To Whom It May Concern:

**Attachment 2**

Breezewood Child Care has been a State Licensed Center since 1971. We are presently operating as a 3 star center and working toward 4 stars. We installed a new 5' chain link fence in May 2010 in order to meet regulations of State license Child Care Division. We have never had complaints from any of our surrounding neighbors. Church of God of Prophecy has a good reputation in the community. I was not aware of the requirement from our County to have 6' buffer.

Thank you for your consideration of approving this request.

Sincerely,

Church of God of prophecy Child Care

Betty Allee

**Special Use Permit**  
**(Addition & Modification)**

**DRAFT**

Ordinance Related Condition

**Permit-Related:**

1. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
2. The County Health Department must approve 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.) (Section 2306 A, Water and Sewer, County Subdivision Ordinance)

Note: Environmental Health will require a room addition permit and possibly an expansion permit. The septic system will have to be sized for the number of employees and number of children. A plan review of the building is required for the Food and Lodging Section of Environmental Health.

3. Connection to public water is required, the Public Works Commission (PWC) must approve water sewer plans prior to application for any permits. A copy of the PWC approval must be provided to Code Enforcement at the time of application for building/zoning permits. (Section 2306 A.1, Public Water and Sewer Systems County Subdivision Ordinance)

Note: Due to an existing agreement between the PWC and the City of Fayetteville, an annexation petition most likely will be required prior to the PWC's review of any utility plans.

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 Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.
5. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.
6. A concrete sidewalk, complying with the City of Fayetteville and the *Americans with Disabilities Act* (ADA) standards, must be constructed along SR1132 (Legion Road) prior to the final building inspection. Once the sidewalk is constructed, contact Jeff Barnhill for an inspection.
7. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.

**Site-Related:**

8. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the R10 zoning district and the provisions of the Airport Overlay District must be complied with, as applicable.

9. All corner lots and lots fronting more than one street must provide front yard setbacks from each street.
10. This conditional approval is not approval of any new freestanding signs. If a new freestanding sign is desired, re-submittal of the site plan for staff review and approval 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.)
11. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources' (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2306 D, County Subdivision Ordinance)
12. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
13. In the event a stormwater utility structure is required by the NC Department of Environment and Natural Resources (NCDENR), 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.
14. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
15. Turn lanes may be required by the NC Department of Transportation (NCDOT).
16. 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.
17. A solid buffer must be provided and maintained along the side and rear property lines where this tract/site abuts residentially zoned properties in accordance with the provisions of Section 1102 G, Buffer Requirements, County Zoning Ordinance. (Note: Chain link fencing cannot be used to satisfy the buffer requirement.) **VARIANCE REQUEST WITHIN APPLICATION**
18. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
19. All newly required off-street parking spaces are required to be a minimum of 9' x 20' and surfaced, with a permanent material such as asphalt or concrete, and striped prior to application for the building final inspection. A minimum of 16 off-street parking spaces are required for this development.

**Note: The on-street parking spaces located within the State right-of-way of SR 2950 (Buie Avenue) and the first four (two on each side) parking spaces in the parking located along SR 1132 (Legion Road) (inadequate back out area) cannot be counted to meet the minimum off-street parking requirements. If the extra parking spaces located on Lot 2A across SR 2950 (Buie Avenue) are to be used to meet the parking regulations for this development, a recorded copy of a long term parking lease agreement must be provided to Code Enforcement prior to or at the time of application for permits.**

20. A minimum of two loading/unloading spaces be provided for the daycare facility.
21. Noise levels shall not exceed 60 dB(A) between the hours of 10:00 pm and 7:00 am. In any event, the noise level, regardless of the time of day, shall not become a nuisance to neighboring properties and strict compliance with the County's Noise Ordinance is required.
22. All notes and calculations as shown on the site plan and contained within the application are to be considered as a part of this conditional approval.

**Advisories:**

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

24. 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.
25. The property owner is strongly advised to cease the use of and remove the existing on-street parking and other spaces which require backing into the public right-of-way for turnaround. With the backing of motor vehicles onto a public street for turnaround purposes, the property owner has created a highly probable hazard to the public's safety and the safety of their clients, employees, visitors and guests.
26. 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.
27. Because the subject property is located within the Airport Overlay District and prior to drafting of plans for any future development, the developer is strongly encouraged to discuss their development plans with Land Use Codes Section and/or the Fayetteville Regional Airport Director early in the planning stage to ensure that the proposed height of any proposed structure can be found to be no obstruction or hazard to air navigation.

**Other Relevant Conditions:**

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

“Public 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 Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605; otherwise, contact the appropriate agency at the contact numbers below.**

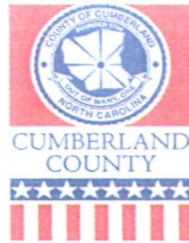
Contact Information (Area Code is 910 unless otherwise stated):

Improvements Inspections:	Jeff Barnhill	678-7765
Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Environmental Health:	Daniel Ortiz	433-3680
Food & Lodging, Co Env. Health:	Tony Ferguson	433-3678
PWC:	Heidi Maly	223-4737
Fayetteville Planning:	Marsha Bryant	433-1416
Fayetteville Engineer (Sidewalks):	Jeff Riddle	433-1661
County Public Utilities:	Tom Cooney	678-7682
Corp of Engineers (wetlands):	Crystal C. Amschler	(910) 251-4170
NCDENR (E&S):	Sally McKinney	433-3300
E911 Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
N.C. Division of Water Quality:	Mike Randall	(919) 733-5083 ext. 545

Lori Epler,  
Chair  
Cumberland County

Roy Turner,  
Vice-Chair  
Cumberland County

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



## COUNTY *of* CUMBERLAND

*Planning & Inspections Department*

### CERTIFIED MAIL

October 5, 2010

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Walter Clark,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin  
Wade, Falcon, & Godwin

Mr. Brian Andrews  
Andrews Mini Storage  
6506 Butlers Crest Drive  
Bradenton, FL 34203

**SUBJECT:** Notice of Pending Violation - Watershed Security Performance Bond  
Case No. WS08-04, Andrews Mini Storage

Dear Mr. Andrews:

This letter is to serve as official notice that the performance bond posted by you as a guarantee under the Cumberland County Water Supply Watershed Management and Protection Ordinance (*hereinafter:* Ordinance) for the above referenced case is set to expire October 14, 2010. A replacement bond must be posted with this office prior to the October 14, 2010 expiration.

As you are aware, on May 15, 2008 the Cumberland County Board of Adjustment conditioned the high density approval of this development on compliance with several conditions. Condition No. 1 of the board's approval required the posting of a security performance bond in the amount of \$15,625.00, which was the amount found to be sufficient by the County Engineer for the construction, maintenance and necessary repairs of the stormwater control structures required for this development. The conditional approval is attached to this letter.

For the past couple of months, I have been trying to unofficially resolve this matter by putting you on notice through email and telephone conversations, to no avail. Aware that you and/or your engineer have stated the stormwater structures are "substantially in" does not qualify for forgiveness of the requirement for a valid current bond nor does the Ordinance allow for proration of the approved bond amount. The Ordinance specifically restricts this office from prorating any portion of the approved bond amount – see Section 31A-63(b)(1) of the Ordinance – until all watershed related conditions are complied with and your engineer certifies that the stormwater structures are built and operating as approved. At that time, if there are no deficiencies found, up to 75% of the bond amount could be released.

Our acceptance of the bond enabled you to begin the permitting process for construction of the mini-storage site and failure to remain in compliance will be cause for revocation of your High Density Watershed approval. In addition, the Planning and Inspections Director may issue a civil citation in the amount of \$500 per day for each and every day the violation continues, and if not paid within 72 hours of the notice, a civil proceeding in the nature of a debt will be initiated in court. The director may also institute any other remedy that is available at law or in equity.

If you have any questions concerning this letter, you may contact me at [jbarnhill@co.cumberland.nc.us](mailto:jbarnhill@co.cumberland.nc.us) or 910-678-7765.

Sincerely,



Jeff Barnhill  
Watershed Review Officer

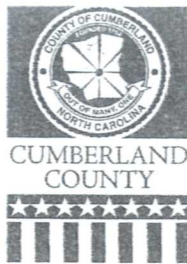
Attachment

cc: Tom Speight, Larry King & Associates, 1333 Morganton Road, Suite 201, Fayetteville NC 28305  
Cumberland County Board of Adjustment  
Bob Stanger, County Engineer  
Tom Lloyd, Director  
Cecil Combs, Deputy Director  
Patti Speicher, Land Use Codes  
Ken Sykes, Code Enforcement Coordinator

Donovan McLaurin,  
Chair  
Wade, Falcon & Godwin

Lori Epler,  
Vice-Chair  
Cumberland County

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



## COUNTY of CUMBERLAND

*Planning & Inspections Department*

**CERTIFIED MAIL**

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Clifton McNeill, Jr.,  
Roy Turner,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

May 16, 2008

Brian Andrews  
Andrews Mini Storage  
1630 McArthur Road  
Fayetteville, North Carolina 28311

Dear Mr. Andrews:

This is to inform you that the Cumberland County Board of Adjustment met on May 15, 2008 and approved the high density development watershed review requested for the below noted case.

**WS-08-04.** CONSIDERATION FOR HIGH DENSITY DEVELOPMENT WATERSHED REVIEW FOR ANDREWS MINI STORAGE, IN A C(P)/CUD ZONING DISTRICT, CONTAINING 8.32 +/- ACRES, LOCATED AT THE SOUTHEAST QUADRANT OF SR 1611(ANDREWS ROAD), AND SR 1600(MCARTHUR ROAD). SUBMITTED BY LARRY KING & ASSOCIATES, RLS, PA.

**The high density development watershed review requested was approved subject to the following conditions:**

1. Prior to the granting of a *Watershed Protection Permit*, a financial security in the amount of \$15,625.00 for the maintenance and necessary repairs of the existing storm water control structures, as defined in section 31A-63 of the *Cumberland County Water Supply Watershed Management and Protection Ordinance* must be posted with Cumberland County.
2. Prior to issuance of the *Watershed Occupancy Permit*, a description of the area containing the storm water control structures along with any easements necessary for general access shall be recorded at the Cumberland County Register of Deeds. NOTE: The deed description shall grant perpetual access to government agencies to all storm water control systems, in order to accomplish or fulfill any service or function for which the agency is responsible to perform in their duties.
3. The detention pond will be inspected annually by the Watershed Review Officer for compliance of maintenance and upkeep of the storm water control systems.
4. The detention pond is required to be fenced and buffered in accordance with Section 31A-23 of the *Cumberland County Water Supply Watershed Management and Protection Ordinance*.
5. Building permits cannot be issued until a *Watershed Protection Permit* has been issued.

file

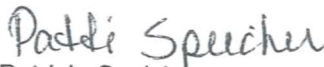


6. Prior to final building permits being issued, the Watershed Review Officer must first issue a *Watershed Occupancy Permit*. NOTE: The developer will need to contact Jeff Barnhill at 678-7765 to schedule an inspection of the site for compliance prior to issuance of the any permits.
7. If any revisions to the approved plan, three copies of the revised plan must be submitted to the staff for review and dependant upon the extent of revision, may require final approval by the Board of Adjustment.
8. In addition to vegetative filters required for the overflow and discharge of the stormwater detention pond, all land areas outside the pond shall be provided with a ground cover sufficient to restrain erosion within 30 days after any land disturbance.
9. The maximum built-upon area shall not exceed 70 percent of the entire development. (Note: This condition is accounting for all properties delineated on the sketch labeled as "Watershed Area for Existing Pond" and consisting of a total of 15.74 +/- acres.
10. All conditions of approval of the site plan, Case No. 08-069, must be complied with.
11. The inspection and the release of the performance guarantee shall be in accordance with Section 31A-66 of the *Cumberland County Water Supply Watershed Management and Protection Ordinance*.

IF YOU NEED CLARIFICATION OF CONDITION(S), PLEASE CONTACT JEFF BARNHILL AT 910-678-7765.

If you have any questions, please call me at 678-7605.

Sincerely,



Patricia Speicher  
Land Use Codes Section

cc: Code Enforcement Section  
Tom Speight, Larry King & Associates