

**Members:**

George Lott, Chairman  
George Turner, Vice-Chair  
Alfonso Ferguson Sr.  
Winton McHenry  
Gregory Parks



**Alternates:**

Robert E Davis  
Nathan Galbreath  
Stacy Michael Long  
Marva Lucas-Moore  
Quinsentina James

**CUMBERLAND COUNTY BOARD OF ADJUSTMENT**

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

TENTATIVE AGENDA  
MAY 16, 2019  
7:00 PM

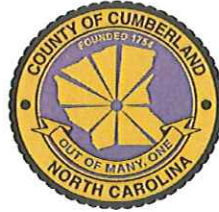
A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, May 16, 2019, at 7:00 p.m. in Hearing Room #3 of the Historic Courthouse at 130 Gillespie Street, Fayetteville, North Carolina. The agenda is as follows:

1. INVOCATION & PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. SWEAR IN STAFF
4. ADJUSTMENTS TO THE AGENDA
5. APPROVAL OF THE JANUARY 17, 2019 MINUTES
6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)
7. PUBLIC HEARING DEFERRALS/WITHDRAWALS
8. POLICY STATEMENT REGARDING APPEAL PROCESS
9. PUBLIC HEARING(S):

**P19-02-C:** CONSIDERATION OF A VARIANCE TO ALLOW A RIPARIAN BUFFER TO BE CREATED WITHOUT AN OWNERS' ASSOCIATION ALONG THE CAPE FEAR RIVER AS REQUIRED UNDER SECTION 1102.H, COUNTY ZONING ORDINANCE. PROPERTY ZONED A1 AGRICULTURAL & CD CONSERVANCY DISTRICT ON 11.06+/- ACRES, LOCATED AT 5352 & 7369 LIBBY LANE, SUBMITTED BY DORA J. WELKER (OWNER).

10. DISCUSSION/UPDATE(S)
11. ADJOURNMENT

**Members:**  
George Lott, Chair  
George Turner, Vice-Chair  
Alfonso Ferguson Sr.  
Winton McHenry  
Gregory Parks



**Alternates:**  
Robert E Davis  
Nathan Galbreath  
Stacy Michael Long  
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Quinsentina James

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

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

MINUTES  
January 17, 2019  
7:00 PM

### **Members Present**

George Lott  
George Turner  
Alfonso Ferguson  
Winton McHenry  
Nathan Galbreath

### **Absent Members**

Gregory Parks

### **Staff/Others Present**

Hope Ward Page  
Dena Smith  
Robert Hasty  
(Asst. County Attorney)

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

Chairman Lott

### PLEDGE OF ALLEGIANCE

Recited by all.

### 2. ROLL CALL

Mrs. Page called the roll and stated a quorum was present. For the audience Mrs. Page introduced Mr. Robert Hasty, Assistant County Attorney and Alternate non-voting members, Ms. Marva Lucas-Moore and Mr. Robert Davis.

### 3. SWEAR IN STAFF

Chair Lott swore in staff.

### 4. ADJUSTMENTS TO THE AGENDA

There were none from staff.

### 5. APPROVAL OF THE DECEMBER 20, 2018 MINUTES

**CHAIR LOTT:** The motion has been made, motion of a second has been made, all those in favor of approval? **Mr. Turner made a motion to approve the minutes from the December 20, 2018 meeting with any necessary corrections, seconded by Mr. McHenry. The motion passed unanimously.**

IN FAVOR	
LOTT	YES
TURNER	YES
FERGUSON	YES
MCHENRY	YES
GALBREATH	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

Mrs. Page read the policy statement.

9. PUBLIC HEARING(S)

**P19-01-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A BILLBOARD IN A C(P) PLANNED COMMERCIAL DISTRICT ON 5.28+/- ACRES, LOCATED SOUTH OF NC HWY 24, WEST OF MAGNOLIA CHURCH ROAD, SUBMITTED BY KEVIN CARROLL AND WESLEY S. CAMPBELL (AGENTS) ON BEHALF OF 4C DEVELOPMENT LLC (OWNER)

Chair Lott read the case heading for Case No. P19-01-C.

Mrs. Page reviewed the zoning, sketch map, and land use of the area surrounding subject property. She briefly reviewed board packet material. Mrs. Page asked if the section of the zoning ordinance reference Section 1307 on Billboards/ off premises signs which are referencing on pages 146 - 147. Chair accepted that section into the ordinance. The application submitted by the owner is complete and the owner has agreed to all the ordinance related conditions that were included in your packet. Staff asked when making a motion if you could make the motion subject to the findings of facts located behind the special use tab in your binders.

MR. TURNER: Can I ask just for clarity, the big city of Stedman was notified of this?

MRS. PAGE: Yes. We sent out comments to all the agencies and to the town as well. They were notified of it, I do believe someone from Stedman stopped into our office and we did clarify and let them know that it's on the county portion of the lot, not the Stedman portion of the lot and we let them know it was a billboard coming. They were okay with that. They were wondering what was happening.

MR. TURNER: All of those R10's it appears they're occupied by something there, they've all been notified. I'm just pointing out that no one is here to oppose this

MRS. PAGE: Yes, they've all been notified. Normally what happens with Board of Adjustment the mail classification is first class mail and it's sent to all the adjacent property owners.

CHAIR LOTT: And apparently they have met all the requirements?

MRS. PAGE: Yes the application has met all the requirements before we present it to the board and as well as agreed to the conditions that were sent out and attached in your packet.

CHAIR LOTT: Any questions by the board? Ok we have Mr. Carroll, you here to speak? Give us your name and address.



MR. CARROLL: My name is Kevin Carroll, I live at 250 Eastfield Avenue, in Stedman.

CHAIR LOTT: Place your hand on the bible and raise your hand. Do you swear to tell the truth the whole truth and nothing but the truth so help you God?

MR. CARROLL: My name is Kevin Carroll, my family and I, we are business owners in Stedman, we've been there since 1989. A lot has changed in Stedman since 1989. Not sure if y'all are familiar with the Stedman area but the reason I'm here tonight is because of the road that you see on the map right there. There's a new highway, that's not come thru Stedman, it's going around Stedman and if you see where this billboard's located at you'll notice that the road splits right before the billboard. To the right is the old 24, to the left is the new 24 and what my intentions are, is to put a billboard there that is going to highlight the businesses of Stedman. Most people zoom right pass 24 now and forget about the town of Stedman. This billboard will not only highlight my business, but I've set it up intentionally to be double-sided, two stacked boards so that I can put as many businesses that are in the town of Stedman as possible. I have several businesses who ask me every time they see me, how is your billboard process going? Do you have an update yet? Let me know it's ready because I would like to advertise out there with you. It's been a process to say the least. There's a lot to go thru and it's understandable, but I can meet all of your requirements there, setbacks, it's not facing any residential houses, if I can get this approved, I can get on to the next stop and I have confidence I can get all the way to the end.

CHAIR LOTT: Okay. Thank you. Any questions by the board? Public hearing is closed. We will go to the factors relevant to issuance of a Special Use Permit. The Board of Adjustment has discretionary review in deciding whether to grant or deny a Special Use Permit for land uses that cannot be adequately controlled by the general zoning regulations. The Board may authorize and set forth conditions, when deemed necessary, on the Special Use Permit if in its judgment the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured. Special uses, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and the neighborhood, shall be permitted only upon approval by the Board in accordance with the four (4) standards and conditions as set forth in the Zoning Ordinance of Cumberland County, Article XVI, Section 1606, as follows: so case facts.

MR. TURNER: Chairman, can I ask, I don't think you've said it, but are you actually making a motion to approve?

CHAIR LOTT: Based on the following findings of facts, yes.

MR. TURNER: Okay. I'm just clarifying.

CHAIR LOTT: I didn't state that but yes. Case facts as stated as approved by the planning staff have met all the requirements, 1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended. One more billboard on 24, that's what it's going to be. 2. The use meets all required conditions and specifications by the application. 3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and I think it was stated that the owner believes it will not only be a benefit to him but to the community at large.

MR. TURNER: This is really needed with the new 24, Stedman is a lost ball back there, if nobody knows its there, you just bypass it. This will bring them in.

CHAIR LOTT: . 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. Which I think by the other facts, meets that requirement.

**Mr. Lott made a motion to approve Case P19-01-C Special Use Permit to allow a billboard in a C(P) Planned Commercial District on 5.28 +/- acres, subject to the finding of facts and ordinance related conditions, Mr. Turner seconded. The motion passed unanimously.**

	<b>IN FAVOR</b>
LOTT	YES
TURNER	YES
FERGUSON	YES
MCHENRY	YES
GALBREATH	YES

10. DISCUSSION/UPDATES

MRS. PAGE: There were no cases received by the February deadline, so there will not be a February Board of Adjustment meeting.

MR. HASTY: The Hampton case which some of y'all were on the board it is in the Supreme Court now and will be heard on February 4<sup>th</sup>, so after the decision, who knows when the decision will be coming down, so the court of appeals had remanded it ultimately back to this board for additional findings of facts so if they uphold that it will come back here, we'll discuss that later. If not, we might have to deal with that.

CHAIR LOTT: If I recall this is a gun range?

MR. TURNER: The Court of Appeals wanted to send it back to us; the Supreme Court wants to do what?

MR. HASTY: We don't know what the Supreme Court wants. Our position was to just go with the Court of Appeals, have it come back here, and see if more findings are in order or the Hampton's say they should just win out right.

CHAIR LOTT: Sure they should.

11. ADJOURNMENT

**Mr. Turner made a motion to adjourn, seconded by Mr. Ferguson. The motion passed unanimously. Meeting adjourned at 7:18pm.**

	<b>IN FAVOR</b>
LOTT	YES
TURNER	YES
FERGUSON	YES
MCHENRY	YES
GALBREATH	YES

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Dena L Barner, Clerk to the Board

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George Lott, Chairman



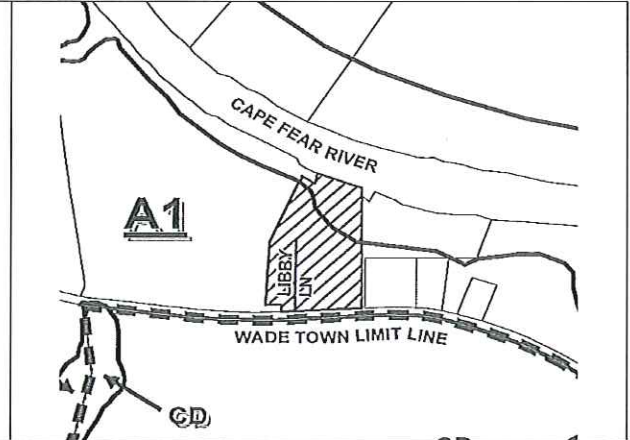
# SITE PROFILE: P19-02-C

**P19-02-C:** CONSIDERATION OF A VARIANCE TO ALLOW A RIPARIAN BUFFER TO BE CREATED WITHOUT AN OWNERS' ASSOCIATION ALONG THE CAPE FEAR RIVER AS REQUIRED UNDER SECTION 1102.H, COUNTY ZONING ORDINANCE. PROPERTY ZONED A1 AGRICULTURAL & CD CONSERVANCY DISTRICT ON 11.06+/- ACRES, LOCATED AT 5352 & 7369 LIBBY LANE, SUBMITTED BY DORA J. WELKER (OWNER).

**Cumberland County Zoning Ordinance Reference:** Section 1102. Yard Regulation; Sub-Section H. Riparian Buffer (124-125)

**Notes:**

1. On February 12, 2019; Case 19-023 Subdivision review submitted by the applicant to create four lots requires an owners association under County Zoning Ordinance Section 1102. H. Riparian Buffer
2. The applicant is requesting a variance to allow a riparian buffer to be created without an owners' association



<p><b>INITIAL ZONING</b> A1 – October 24, 1990 (Area 18) CD – December 17, 2001 (Area 16)</p> <p><b>JURISDICTION</b> County</p> <p><b>MUNICIPAL INFLUENCE AREA</b> Wade</p>	<p><b>ADJACENT PROPERTY</b> No</p> <p><b>CURRENT USE</b> Residential</p>	<p><b>NONCONFORMITIES</b> None</p> <p><b>ZONING VIOLATIONS</b> None</p>	<p><b>WATER/SEWER AVAILABILITY</b> Private Well/Septic</p> <p><b>SOIL LIMITATIONS</b> Yes Hydric Soil: Ro; Roanoke &amp; Wahee Loams Hydric Inclusion Soil: WmB; Wickham Fine Sandy Loam</p> <p><b>WATERSHED</b> Yes</p> <p><b>SPECIAL FLOOD HAZARD AREA</b> Yes</p>	<p><b>SIZE OF PROPERTY</b></p> <p><b>Frontage &amp; Location:</b> SR 1714 (River Rd) 517 +/- <b>Depth:</b> 930 +/-</p>
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<p><b>SURROUNDING ZONING</b></p> <p>North: A1, CD East: A1, CD, Wade: A1, M2 South: A1, CD, Wade: CD, R30, R15, RR, R6A, R20, M(P), M2 West: A1, CD</p> <p><i>*All surrounding zoning is County, unless otherwise noted*</i></p>	<p><b>SURROUNDING LAND USE:</b> Subject Property: Residential</p> <p>Religious Worship Facility, Public/ Community Utility Station/Substation</p>
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<p><b>COMPREHENSIVE PLANNING:</b> PIN 0571-48-9079- <b>Wade Area Land Use Plan:</b> One Acre Residential &amp; Open Space <b>2030 Growth Strategy:</b> Community Grown Area and Conservation Area</p>	<p><b>TRANSPORTATION PLANNING:</b> The subject property lies on Libby Lane, which is identified as a local road in the 2040 Metropolitan Transportation Plan with no constructions/improvements planned. The subject property will have no impact on the Transportation Improvement Plan.</p>
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**OTHER PROPERTY INFO:**

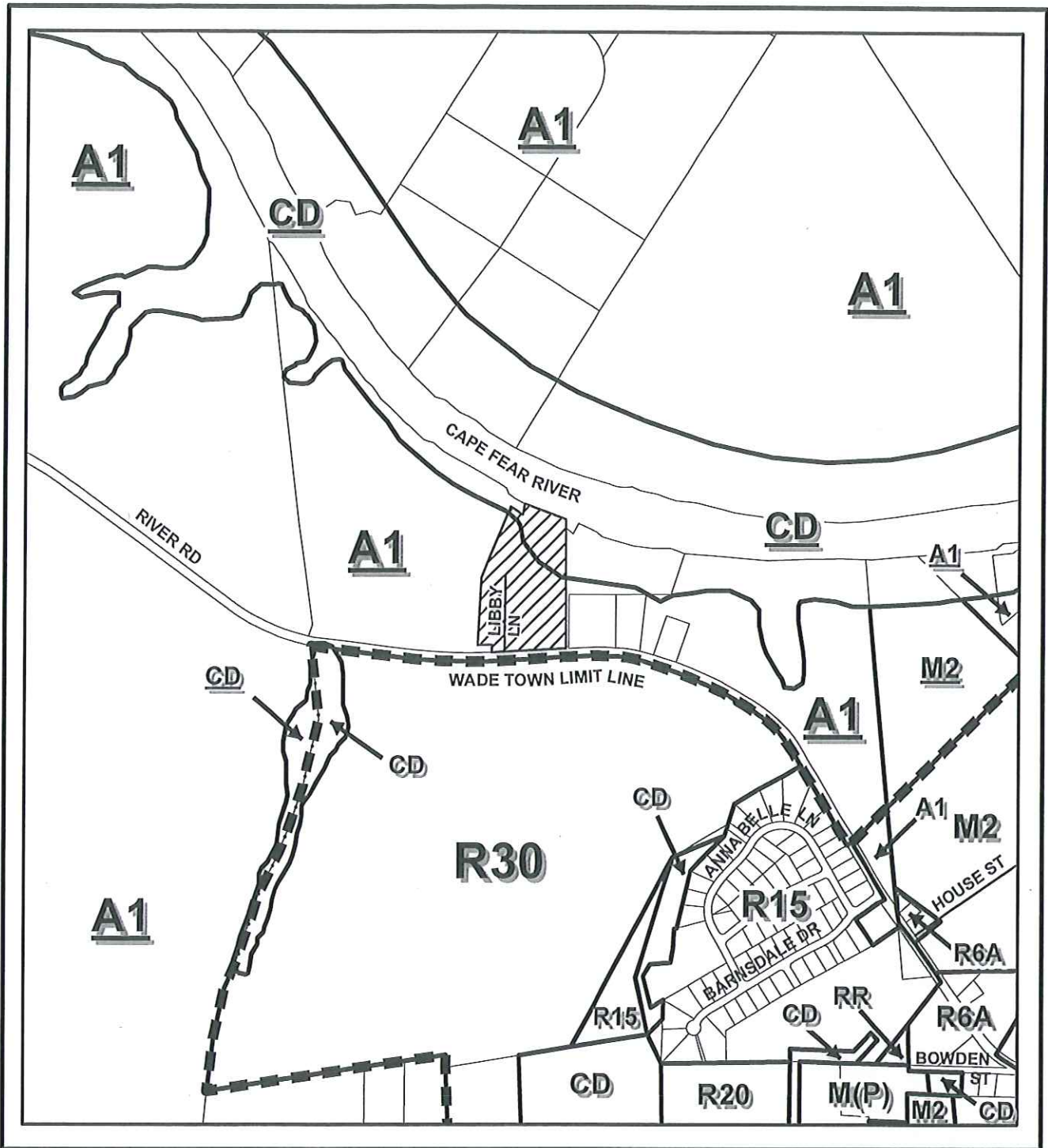
**School Capacity/Enrolled:** Eastover Central Elementary 46/383; Mac Williams Middle 1270/1153; Cape Fear High School 1425/1436  
**Subdivision/Site Plan:** Lot was platted on 8/11/11; Plat Book 129, Pg. 39. This property was submitted for a four lot subdivision located along the Cape Fear River, per Case 19-023. The final approval of the subdivision is pending the outcome of the Board of Adjustment case P19-02-C  
**Average Daily Traffic Count:**  
**US Fish & Wildlife:** No comments related to red-cockaded woodpecker recovery efforts

Attached: Sketch Map, Site Plan, Application

All documentation required by the ordinance is attached to the application or contained within the case file, and is available for review upon request.

First Class and Record Owners' Mailed Notice Certification

A certified copy of the listing with the tax record owner(s) of the subject and adjacent properties, along with their tax record mailing addresses, is contained within the case file and incorporated by reference as if delivered herewith

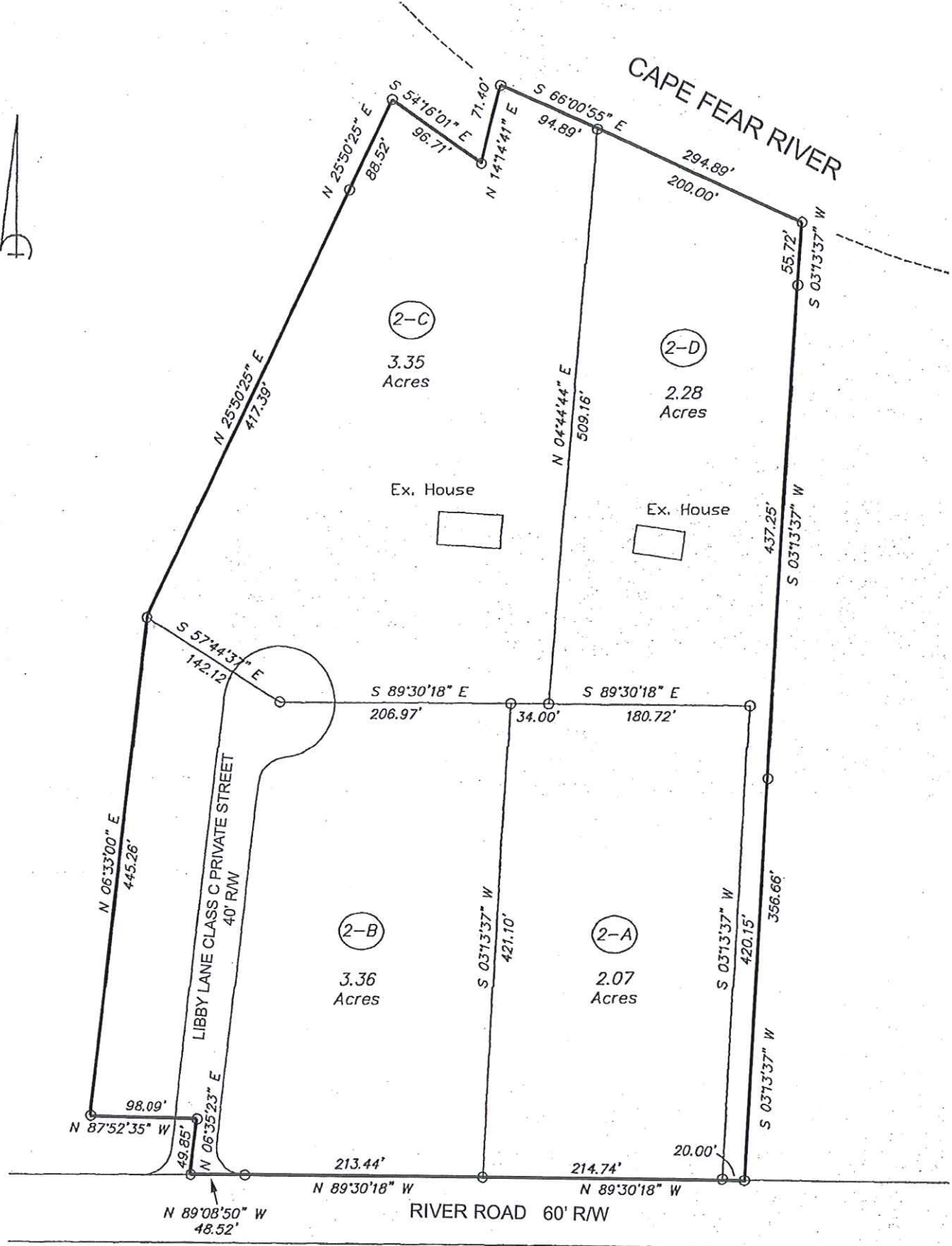


## BOARD OF ADJUSTMENT VARIANCE

<b>ACREAGE: 11.06 AC. +/-</b>	<b>HEARING NO: P19-02-C</b>	
<b>ORDINANCE: COUNTY</b>	<b>HEARING DATE</b>	<b>ACTION</b>
<b>GOVERNING BOARD</b>		

PIN: 0571-48-9079

MB



**BOARD OF ADJUSTMENT VARIANCE**  
 REQUEST: CONSIDERATION OF A VARIANCE TO ALLOW  
 A RIPARIAN BUFFER TO BE CREATED  
 WITHOUT AN OWNERS ASSOCIATION  
 CASE: P19-02-C ACREAGE: 11.06 AC +/-  
 ZONED: A1 & CD SCALE: NTS  
 \*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST



BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 5348 & 5352 Libby Ln, Wade NC 28395

OWNER: DORA J. WELKER

ADDRESS: P.O. Box 326, Wade ZIP CODE: 28395

TELEPHONE: HOME 910-984-7176 WORK 910-897-3943

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

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

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

E-MAIL: dora.welker@yahoo.com

APPLICATION FOR A VARIANCE  
As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 0571-48-9079  
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 11.06 Frontage: 496.7 Depth: 849.63±

C. Water Provider: Private Well

D. Septage Provider: SEPTIC TANK

E. Deed Book 08581, Page(s) 253, Cumberland County

F. Existing and/or proposed use of property: Agriculture/RESIDENTIAL

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: ARTICLE XI SECTION 1102 H2b

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: Creation of a Homeowner's Association, IN ORDER TO MAINTAIN THE RIPARIAN Buffer, CREATES AN ONGOING Financial hardship including Attorney, Accounting AND Insurance FEES FOR MY FAMILY MEMBERS. I PROPOSE THE RIPARIAN BUFFER BE MAINTAINED BY SEPARATE EASEMENTS ON THE 2 RIVER FRONT LOTS BEING CREATED FOR THE EXISTING HOMES.

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.

DORA J. WELKER  
NAME OF OWNER(S) (PRINT OR TYPE)

5352 Libby Ln Wade, NC 28395  
ADDRESS OF OWNER(S)

dora.welker@yahoo.com  
E-MAIL

910-984-7176                      910-897-3943  
HOME TELEPHONE #                      WORK TELEPHONE #

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

\_\_\_\_\_  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

\_\_\_\_\_  
HOME TELEPHONE #                      WORK TELEPHONE #

Dora J. Welker                      \_\_\_\_\_  
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) Dora J. Welker

PRINTED NAME OF OWNER(S) DORA J. Welker

DATE 4-9-1819