

**Members:**

George Turner, Chair  
Alfonso Ferguson Sr., Vice-Chair  
Winton McHenry  
Gregory Parks  
Nathan Galbreath



**Alternates:**

Robert E Davis  
Stacy Michael Long  
Marva Lucas-Moore  
Quinsentina James  
Linda Amos

***CUMBERLAND COUNTY BOARD OF ADJUSTMENT***

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

*TENTATIVE AGENDA*  
NOVEMBER 21, 2019  
7:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, November 21, 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 OCTOBER 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):  
  
**P19-05-C: CONSIDERATION OF A VARIANCE TO ALLOW AN 8 FOOT FRONT YARD SETBACK WHERE 30 FEET IS REQUIRED IN AN R10 RESIDENTIAL DISTRICT ON 0.38+/- ACRES, LOCATED AT 2902 W CRAMER DRIVE, SUBMITTED BY RONALD & JOYCE ENGLISH (OWNERS) & YOUR WAY CONSTRUCTION (AGENT).**
10. DISCUSSION/UPDATE(S)
11. ADJOURNMENT

**Members:**

George Turner, Chair  
Alfonso Ferguson Sr., Vice-Chair  
Winton McHenry  
Gregory Parks  
Nathan Galbreath



**Alternates:**

Robert E Davis  
Stacy Michael Long  
Marva Lucas-Moore  
Quinsentina James  
Linda Amos

**CUMBERLAND COUNTY BOARD OF ADJUSTMENT**

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

MINUTES  
October 17, 2019  
7:00 PM

**Members Present**

George Turner  
Alfonso Ferguson  
Stacy Long  
Nathan Galbreath  
Marva Lucas-Moore

**Absent Members**

Winton McHenry  
Gregory Parks

**Staff/Others Present**

Betty Lynd  
Dena Barner  
Robert Hasty  
(Asst. County Attorney)

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

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

1. INVOCATION

Stacy Long

PLEDGE OF ALLEGIANCE

Recited by all.

2. ROLL CALL

Chair Turner called the roll. For the audience Mrs. Lynd stated a quorum was present.

3. SWEAR IN STAFF

Chair Turner swore in staff.

4. ADJUSTMENTS TO THE AGENDA

There were none from staff.

5. APPROVAL OF THE SEPTEMBER 19, 2019 MINUTES

Mr. Ferguson made a motion to approve the minutes from the September 19, 2019 meeting with any necessary corrections, seconded by Ms. Lucas-Moore. The motion passed unanimously.

	<b>IN FAVOR</b>
TURNER	YES
FERGUSON	YES
GALBREATH	YES
LONG	YES
LUCAS-MOORE	YES

6. APPROVAL 2020 DEADLINE MEETING SCHEDULE

Mr. Long made a motion to approve the 2020 Deadline/Meeting Schedule, seconded by Mr. Ferguson. The motion passed unanimously.

	<b>IN FAVOR</b>
TURNER	YES
FERGUSON	YES
GALBREATH	YES
LONG	YES
LUCAS-MOORE	YES

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

There were none.

8. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

9. POLICY STATEMENT REGARDING APPEAL PROCESS

Mrs. Lynd read the policy statement.

10. PUBLIC HEARING(S)

**P19-04-C:** CONSIDERATION OF A VARIANCE TO ALLOW A 40 FOOT BY 60 FOOT ACCESSORY STRUCTURE LARGER THAN THE PRINCIPAL STRUCTURE IN AN A1 AGRICULTURAL DISTRICT ON 2.50+/- ACRES, LOCATED 5409 J. T. MATTHEWS ROAD, SUBMITTED BY ZACHARY S. LAPENE (OWNER).

Chair Turner read the case heading for Case No. P19-04-C.

Mrs. Lynd reviewed the zoning, sketch map, and land use of the area surrounding subject property. She briefly reviewed board packet material. Mrs. Lynd entered section of the zoning ordinance reference Section 203 on Definitions of specific terms and words referencing on page 7. According to Cumberland County zoning ordinance Accessory Building or Use: A building or use, not including signs, which is:

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

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

C. Either in the same ownership as the principal use or clearly operated and maintained solely for the comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use. The application submitted by the owner is complete. The applicants are here and staff

asked when making a motion if you could make the motion subject to the findings of facts tab located behind the variance tab in your binder.

CHAIR. TURNER: You know in some ways this seems fairly simple, but when you read the findings of fact that actually becomes kind of difficult, I think.

MRS. LYND: We just ask that you do your best.

CHAIR TURNER: Do what?

MRS. LYND: We just ask that you do your best.

CHAIR TURNER: Okay. We'll do all that we can even if we do it wrong. I will open the public hearing, first speaker, and I'll need you to be sworn in sir, Zachary Lepene, am I saying that right?

MR. LEPENE: Yes sir.

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

MR. LEPENE: Yes sir, I do.

CHAIR TURNER: You sir are Zachary Lepene and you live on the site don't you?

MR. LEPENE: Yes sir.

CHAIR TURNER: Have you had a chance to read the requirements we have?

MR. LEPENE: Yes sir, whenever I did the application I read through them, yes sir.

CHAIR TURNER: Okay. Alright we'll let you tell us everything. If you could speak into the mic too, we're being recorded.

MR. LEPENE: So basically what happened is I had some storm damage to the shed that's on the property from, I believe, was Hurricane Matthew and some of the roof was damaged and some of the stuff inside was damaged also. So as I go to replace that building I want to do a larger structure because that's gotten too small with lawn equipment. I also have some personal stuff like motorcycles and stuff like that. I also enjoy exercising so I wanted a little bit more room so I have that and also my vehicles, somewhere to park those to get those out of the elements. I also enjoy working on vehicles. So that would also give me an area to be outside of the elements whenever it's too cold or whenever it's raining. Give me a concrete pad to work on and it meets all the setbacks to allow for building requirements. I believe that's everything,

CHAIR TURNER: Let me ask you this, the building that's damaged, how big is it?

MR. LEPENE: It's a 12 x 24.

CHAIR TURNER: 12 x 24 okay. Were there any questions? Board members?

MRS. LUCAS-MOORE: And you want to extend it and make it a 40 x 60 versus a 12 x 24 correct?

MR. LEPENE: That is correct. Whenever I do the new building I will be removing that 12 x 24 building, that'll no longer be there. The reason I'm wanting something this size is for 1 – I've got to put my vehicles in it and also the use since I'll be replacing it. What I don't want to do is a 20 x 20 and then put the vehicles in it and I don't have room for nothing else and then do another building. I just want to do one building and be done with it at that point. We do have a child and as he gets older obviously he'll want more things and that takes up more

space obviously and I see how people end up with multiple buildings. I don't like how that looks and I would rather avoid it if I can.

MRS. LUCAS-MOORE: Okay. Gotcha.

CHAIR TURNER: Anything else?

MRS. LUCAS-MOORE: No.

CHAIR TURNER: I'm not sure that when you filled everything out that you saw what we have to do and I don't even know if this is appropriate, if it's not, stop me. We have four findings of fact that we have to make to grant this that's why I said on the surface I'm with you I want a big building, it's a guy thing, but the board has to make findings of fact and we have four things we have to look at. 1 – is that it's in the boards conclusion that an unnecessary hardship would result from strict application of the ordinance. 2 – is that in the board's conclusion that the hardship results from conditions that are particular to your property, something unique about your property which is the location, size or topography. The other is that we have to conclude that the hardships did not result from actions taken by the applicant or the property owner. The last is that it's the board's conclusion that the requested variance consistence with the spirit, purpose and intent of the ordinance, public safety is secured, substantial justice is achieved. That was a lot for you to take in at once I guess but I don't have any problem with number four. We're out in the country, that kind of having a barn in the country seems pretty normal to me. How about the other three, could you address those?

MR. LEPENE: With the first one, something unique about the property, in my opinion, would be that

CHAIR TURNER: The first one would be that you would suffer a hardship from the strict application of the ordinance. How would you suffer a hardship from that ordinance?

MR. LEPENE: I really don't know how to answer that. I think you mentioned something about a unique application and one of the unique applications in my opinion would be that on Percy Strickland Road there's a hog farm and there's a unique odor that comes from that hog farm, so whenever I'm outside exercising or working on vehicles I'm subject to that unique smell. That's the biggest thing I could think of - a unique application.

MR. LONG: I'm not sure that this is appropriate either but I can think of a hardship that he mentioned, strict, I'm assuming that the one rule that this is breaking is that the proposed building is bigger than his house and if he does have to follow the letter of the law here he would have to build more than one shed, which would probably increase his cost a lot and you would probably have to get other permits and other things like that and he would have to build multiple sheds instead of just one and that is a hardship.

MR. LEPENE: I'm also under the impression that there's actually a limit on how many buildings you can have within the county.

MR. LONG: Is there?

CHAIR TURNER: There is.

MR. LEPENE: So as far as that goes, I know there's a lot of people who have multiple buildings but there probably not doing permits. I'm trying to do it the right way so in 10 years I don't have somebody come knocking on my door telling me there's an issue.

CHAIR TURNER: I can understand that. And like I said personally we're out in the country seems like having a big barn right in order to me. Item number 3 that I mentioned is that the hardship did not result from actions taken by the applicant. How would you address that?

MR. LEPENE: As far as having to replace the building that came from the damage from the Hurricane Matthew, I don't really feel like that was caused by me. Outside of that, I'm not really sure exactly how to

CHAIR TURNER: Have you ever considered maybe a smaller building than 40 x 60?

MR. LEPENE: I mean I could go a 30 x 49 and it's still bigger than my house. Honestly, I have considered smaller buildings but the problem is, if I go too small, down to like a 20 x 20 which would fall in the same size as the house, by the time I put 2 cars in it, it's full. In reality it would be really quick to fill up.

CHAIR TURNER: Yep, I understand.

MR. LEPENE: But I don't know if that's a good answer either.

CHAIR TURNER: No I understand completely, as I said, I see this kinda normal but when you look at what you have to come up with here, to me it's very difficult. Anybody have anything they want to add here?

MR. FERGUSON: It would cause him a hardship if he had to build more than one shed. So we can use that in that part to make our decision on. This is not anything commercial for you? It's just totally for you?

MR. LEPENE: It's totally for me. It's not commercial. It's just lawn equipment, tools. Somewhere to work to be out of the elements. It's not nothing commercial.

MRS. LYND: If he were to turn it into a commercial building he would have to go through a site plan review and all that and there are few non-residential uses that would be allowed in their current zoning district.

CHAIR TURNER: Did you read us the ordinance that requires this issue? Is that what you read earlier?

MRS. LYND: I did, yes sir. It's the definition section of the zoning ordinance and under the definition for an accessory use or building, item B underneath that says that accessory buildings are clearly incidental to subordinate an area and purpose to/in serving the principle use which in this case the principle use is their home.

MR. GALBREATH: So a subordinate area has to be less than the square footage of the home?

MRS. LYND: Right. Correct. Their home is 1,440 square feet so any accessory structure that they desire to put on there in order to meet the ordinance requirements would have to be subordinate to that.

CHAIR TURNER: We are still in the public hearing. Anything? Any questions?

MR. LONG: You are replacing the current one?

MR. LEPENE: Correct. Whenever the new one's built and I'm able to move everything in, I'll take that other one down. I have no interest in having it after everything else is stored safely.

MR. LONG: okay.

CHAIR TURNER: Anybody else? Do you want to add anything sir before you leave?

MR. LEPENE: No sir.

CHAIR TURNER: Thank you, we may call you back. There is no one else signed up to speak for or against, so I'll close the public hearing and open it for discussion or a motion.

MR. FERGUSON: If there is no other discussion, I'll make a motion that we approve on the 40 x 60 with the contingencies of the board with all we have on there. You said all was passed right?

MRS. LYND: Right. So what I'm going to need you to do is make a motion to approve and then state finding fact number 1, what you all are stating supports finding of fact number 1, 2, 3, 4.

CHAIR TURNER: You're going to have to go those four, and that's the problem I had.

MR. FERGUSON: So in Fact 1 - the board's conclusion that an unnecessary hardship would result from the strict application of the ordinance the only thing we came up with that would happen is that he would have to build more than one. But the Hurricane caused the fact of the structure to be damaged, so the hardship came from the hurricane, not him. Fact 2 - the board concludes that the hardship results from conditions that are peculiar to the property, such as location, size, or topography, in our ordinance it says that it has to be no larger than the structure there so we're doing a variance so that he may build it on the size that he's needing to accommodate his home size and what he needs it for there. So that should be granted. Fact 3 - And the board concludes that the hardship did not result in any action from him, like we said it came from the hurricane and the building of two or three of those would be an enormous cost to him and his family so we won't require that. Fact - 4 And the board concludes that the requested variance is consistent with the spirit, purpose and intent of the ordinance, no one is here to speak against that what he's offering and the sign was posted so it would cause him to be consistent with the spirit and community for him and his family to use therefore on the basis going forward I say that we approve it. Anything else?

MRS. LYND: Just a second.

**Mr. Ferguson made a motion to approve Case P19-04-C Consideration of a variance to allow a 40 ft by 60 ft accessory structure in an A1 Agricultural District, Ms. Lucas-Moore seconded. The motion passed with a vote of four to one.**

	<b>IN FAVOR</b>
<b>TURNER</b>	<b>NO</b>
<b>FERGUSON</b>	<b>YES</b>
<b>GALBREATH</b>	<b>YES</b>
<b>LONG</b>	<b>YES</b>
<b>LUCAS-MOORE</b>	<b>YES</b>

#### 11. DISCUSSION/UPDATES

MRS. LYND: Staff has a discussion. There will be a meeting November 21<sup>st</sup>, a case was received before the November deadline. We have had the joy of meeting our new planning director, Rawls Howard. He has been a great addition to our building. He comes to us from Mooresville. With that being said, it's a great time to discuss, and it's been proposed to whether or not you all would like to see the meeting time potentially changed to something like 5:30 or 6:00. And before we offer it up as a suggestion for him to maybe consider, I wanted to confirm that would not conflict with most of you all's schedules so that we could continue to have a quorum present here.

CHAIR TURNER: Would anybody have an issue if we meet at some other time? My suggestion was that if we have it earlier, I don't think they need to stay half the night. This is the only board I've ever served on that starts at 7 at night. Most all of them are earlier than that and I would like to see it changed if I could.

MRS. LYND: Right. So I'll definitely bring that up with him and suggest it and see what avenue he wants to pursue. I did invite him tonight but obviously he just started Monday and he's trying to get his house that he goes to in order and all that. Especially since we are going to have a meeting in November, he said he would love to meet you all then. So do expect him to be there as well. I'll make the suggestion and we will see what we can do from here on out. I don't know if we can change it for November or December only because that meeting schedule has already happened and we may have you all approve an adopted deadline schedule cause I don't know if addresses, it doesn't seem to address time, so we should be okay with that.

MRS. LYND: We've got kids we've got to get home to also.

MR. HASTY: The only update I have is the Hampton case we did get a decision of sorts from the Supreme Court, that Mr. Ferguson was the only one on the board then, and they basically said they shouldn't have heard the case so the Court of Appeals ruling stands. The Court of Appeal ruling mandated to send it back to you. So what will happen next, I don't know. I will be discussing the case with Mr. Yarborough next week. And go from there.

CHAIR TURNER: So based on what was said, it is expected to come back to this board? Start all over.

MR. HASTY: Yes, unless it is resolved somehow in the meantime.

MR. LONG: Is this the gun range one? That is still going?

MR. FERGUSON: Yeah and we were here until 11:00 pm.

CHAIR TURNER: And I don't see after it's already been done this far how you can. Their going to come in and know what to say and what not to say and I don't know that any of us could actually make a reasonable decision unless we could hide in the trees out there and watch what they do. Isn't this really based on the fact of whether they are paying people?

MR. HASTY: No it's based on whether they had a permit or not. Which they did not, to whether they need a permit or not. Which they argued they didn't.

CHAIR TURNER: That was based on whether they charged people. Wasn't it?

MR. HASTY: Yes and no. That came up but I don't think that was relevant because the ordinance doesn't discuss charging at all. One way or the other. Use of the land not charging, it kinda got thrown in the mix.

MRS. LYND: Right, The outdoor firing range standards state that if anybody other than the person who owns the property is doing the firing, then its considered an outdoor firing range.

CHAIR TURNER: I think their land is too small too, isn't it?

MRS. LYND: It would be if it is considered an outdoor firing range.

MR. HASTY: It is now. At the time if they had applied for a permit at the time they may have gotten one but since there is a new ordinance that requires 200 acres. I don't know yet exactly what's going to happen.

CHAIR TURNER: I know I heard a lot of talk. I know this board was scrutinized pretty heavily for what they did or didn't do. It was one of the things that made me think we really need to get this down. We should operate this like a courtroom, in my opinion. And we need to tighten it up so we don't end up with situations. You get a bulldog like Neil Yarborough, you cannot mess up. He's not going to let you mess up and walk away from it. Anybody have anything else



12. ADJOURNMENT

Mr. Long made a motion to adjourn, seconded by Mr. Ferguson. The motion passed unanimously. Meeting adjourned at 7:32pm.

	IN FAVOR
TURNER	YES
FERGUSON	YES
GALBREATH	YES
LONG	YES
LUCAS-MOORE	YES

---

Dena L Barner, Clerk to the Board

---

George Turner, Chairman

DRAFT

PLANNING STAFF REPORT  
BOA CASE # P19-05-C  
Board of Adjustment Hearing: November 21, 2019

**EXPLANATION OF THE REQUEST**

This is a request to allow an 8 foot front yard setback where 30 feet is required in an R10 Residential district. The property is a corner lot. The applicant is proposing a carport addition to be attached to their home. The proposed carport is not able to meet the required front yard setback from Orton Drive.

**OWNER/APPLICANT**

**OWNER/APPLICANT:** Ronald & Joyce English (owners) & Your Way Construction (agent)

**PROPERTY INFORMATION**

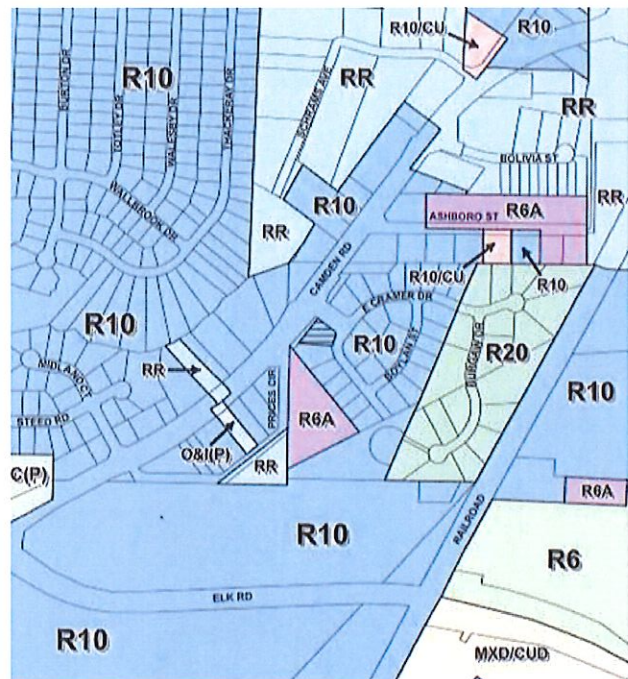
**ADDRESS/LOCATION:** 2902 W Cramer Drive; more specifically PIN 0415-72-0791

**SIZE:** The request includes one parcel, totaling an approximately 0.38 acres.

**EXISTING LAND USE:** The subject property is currently developed with a stick-built residential home and accessory structures.

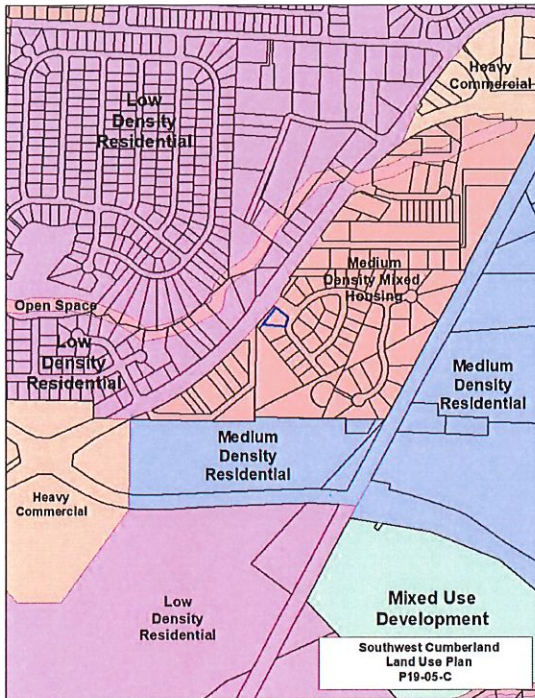
**OTHER SITE CHARACTERISTICS:** This property has approximately 194' of street frontage along W Cramer Drive and Orton Drive and is approximately 119' in depth. The property is also not within the watershed or Special Flood Hazard Area. There are no soil limitations to development on this site.

**SURROUNDING LAND USE:**  
There are residential uses adjacent to the property.



**ZONING HISTORY:** This property was initially zoned R10 as part of the Area 4 initial zoning on November 17, 1975.

**UTILITIES:** This site is currently served by community water and a septic tank for sewage. PWC water is available along Camden Road.



**OTHER JURISDICTIONAL INFORMATION:** The property is within the Hope Mills 20 year Municipal Influence Area. Hope Mills had no objection to the request.

**COMPREHENSIVE PLANS:** The 2030 Growth Vision Plan designates this parcel for "Urban". The Southwest Cumberland Land Use Plan designates this parcel as "Medium Density Mixed Housing". "Medium Density Mixed Housing" calls for a density of six to 15 units/acre and includes stick built and manufactured homes.

**IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES**

**TRAFFIC:** Camden Road is identified as an existing thoroughfare in the 2045 Metropolitan Transportation Plan with no constructions/improvements planned. The subject property will have no impact on the Transportation Plan.

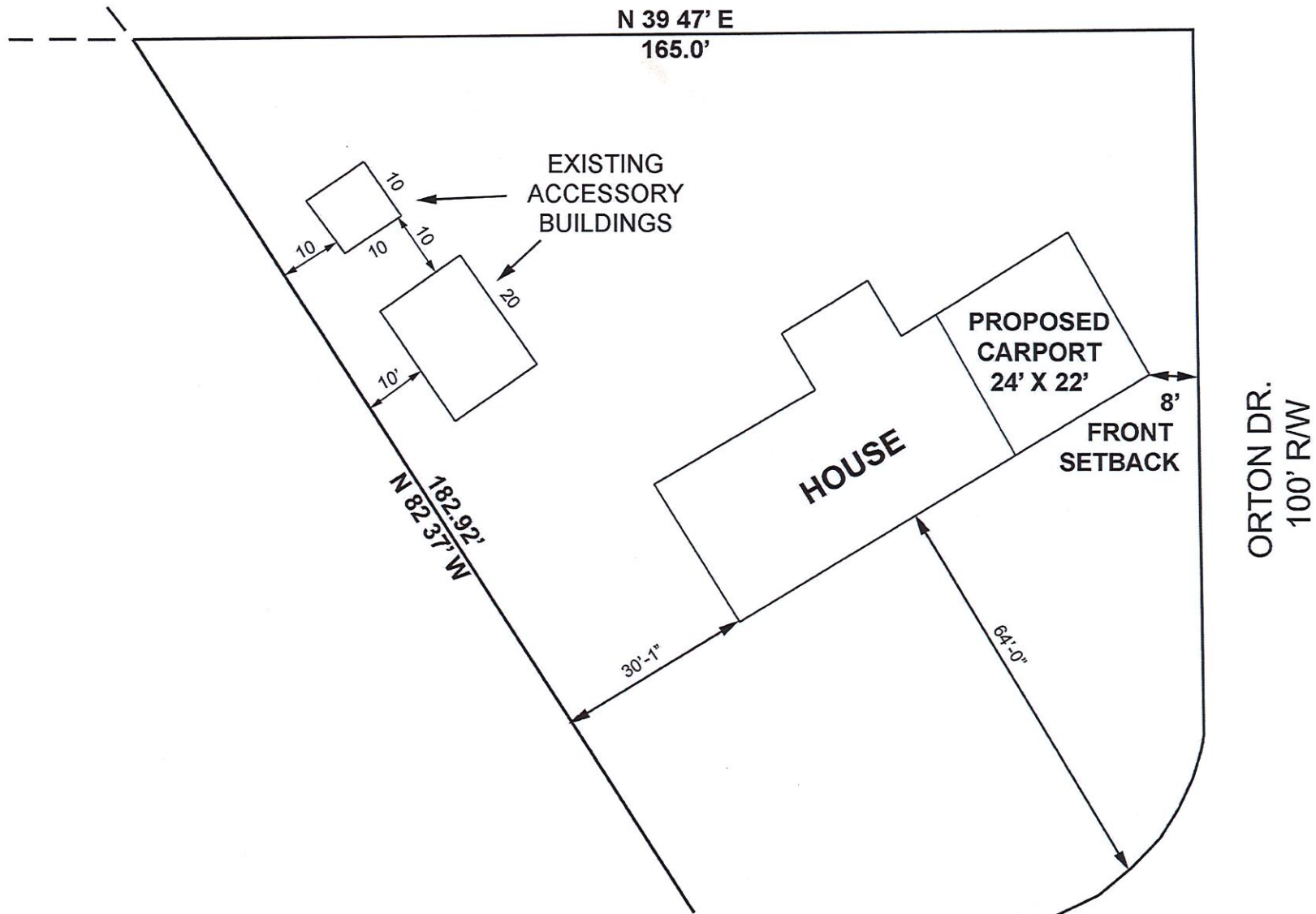
**SCHOOLS CAP/ENROLL:** Cumberland Mills Elementary: 660/635; Douglas Byrd Middle: 600/562; Douglas Byrd High: 1280/1005

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

**FINDINGS OF FACT**

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

Attachments:  
 Detailed Site Plan  
 Variance Application  
 District Dimensional Requirements- Section 1104  
 Notification Mailing List



**BOARD OF ADJUSTMENT  
VARIANCE**

**REQUEST: TO ALLOWAN 8 FOOT FRONT YARD SETBACK  
WHERE 30 FEET IS REQUIRED  
CASE: P19-05-C ACREAGE: 0.38 AC +/-  
ZONED: R10 SCALE: NTS**

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

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: Cope land Acres #1

OWNER: Ronald + Joyce English

ADDRESS: 2902 W. Cramer Dr. ZIP CODE: 28306

TELEPHONE: HOME 910-818-1681 WORK \_\_\_\_\_

AGENT: Yoww Way Construction

ADDRESS: 1873 Wilmington Hwy Fayetteville NC 28306

TELEPHONE: HOME 910 429-1032 WORK 910 237-6321

E-MAIL: gone call does it all@gmail.com

APPLICATION FOR A VARIANCE  
As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 0415-72-0791  
(also known as Tax ID Number or Property Tax ID)

B. Acreage: .38 Frontage: 67.06 Depth: 182.92

C. Water Provider: COMMUNITY WATER

D. Septage Provider: SEPTIC TANK

E. Deed Book 2414, Page(s) 128, Cumberland County

F. Existing and/or proposed use of property: Single Family

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: L Side

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: Due to shape of lot it is causing owner not to be able to use property the way they would like they would like to add a covered carport so they dont get wet bringing things in to the home and to keep cars out of the shed. House built in 1973, and WAS not zoned until 1975. so this is not right because we bought it in 1973, now we can't do anything with it. I don't want just anything thrown on my house.

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.

✓ Ronald + Joyce English  
NAME OF OWNER(S) (PRINT OR TYPE)

2902 W. Cramer DR. FAY. N.C. 28306  
ADDRESS OF OWNER(S)

rdenglish@aol.com  
E-MAIL

910-818-1681 \_\_\_\_\_  
HOME TELEPHONE # WORK TELEPHONE #

✓ Your Way Construction  
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

1873 Wilmington Hwy Fayetteville NC 28306  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

910429 1032 \_\_\_\_\_  
HOME TELEPHONE # WORK TELEPHONE #

Ronald B English  
SIGNATURE OF OWNER(S)

[Signature]  
SIGNATURE OF AGENT, ATTORNEY OR APPLICANT

Joyce English  
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) Ronald B. English Joyce English

PRINTED NAME OF OWNER(S) Ronald + Joyce English

DATE 10-14-18

**SECTION 1104. DISTRICT DIMENSIONAL PROVISIONS.<sup>1</sup>**

Except for the special provisions as previously noted in this article and any special provisions provided for elsewhere within this ordinance, the following district dimensional requirements shall be complied with:

DISTRICT	DENSITY <sup>2</sup> (SQ FT PER DWELLING)		UNIT (DU) FOR CONDOS & GROUP DEVELOPMENTS <sup>3</sup>			WIDTH (in feet)	MINIMUM YARD SETBACK REGULATIONS <sup>2</sup>				
	MINIMUM LOT SIZE (square feet unless otherwise stated)	2 <sup>nd</sup> , 3 <sup>rd</sup> , & 4 <sup>th</sup> DUs	1 <sup>st</sup> DU	5 + DUs	FRONT <sup>5</sup> YARD (measured from R/W line)		SIDE YARD		REAR YARD		
							(1 story)	(2 story)	(each add greater than	(In feet)	
A1 <sup>3</sup>	2 acres	2 acres	2 acres	2 acres	100	50	20	25	25ft/story	50	
A1A <sup>4</sup>	1 acre	1 acre	1 acre	1 acre	100	50	20	25	25ft/story	50	
R40	40,000	40,000	40,000	40,000	100	30	15	15	10ft/story	35	
R40A	40,000	40,000	40,000	40,000	100	30	15	15	10ft/story	35	
R30	30,000	30,000	30,000	30,000	100	30	15	15	10ft/story	35	
R30A	30,000	30,000	30,000	30,000	100	30	15	15	10ft/story	35	
R20	20,000	20,000	20,000	20,000	100	30	15	15	10ft/story	35	
R20A	20,000	20,000	20,000	20,000	100	30	15	15	10ft/story	35	
RR	20,000	20,000	20,000	20,000	100	30	15	15	10ft/story	35	
R15	15,000	15,000	15,000	15,000	75	30	10	15	10ft/story	35	
R7.5	7,500	7,500	7,500	7,500	75	30	10	15	8ft/story	35	
R6	6,000	6,000	5,000	4,000	60	25	10	12	6ft/story	30	
R6A <sup>2</sup>	6,000	6,000	5,000	4,000	60	25	10	12	6ft/story	15 <sup>6</sup>	
R5A	5,000	3,000	3,000	3,000	60	25	10	12	4ft/story	30	
R5	5,000	5,000	3,000	1,500	60	25	10	10	4ft/story	30	

<sup>1</sup> All signs are regulated by Article XIII.

<sup>2</sup> Exceptions: See Section 1103 for special exceptions to this chart.

<sup>3</sup> Minimum lot size for non-residential uses is one acre.

<sup>4</sup> Maximum district size for rezoning request is 10 acres.

<sup>5</sup> Exception: Avasboro Battlefield Viewshed Frontage (Section 1102 L)

<sup>6</sup> See Section 1102 K for Rear Yard Exception for Manufactured Homes in the R6A District.  
(Amd. 3-21-06; Amd. 11-20-06)



ENGLISH, RONALD B & WIFE JOYCE  
2902 W CRAMER DR  
FAYETTEVILLE, NC 28306

EVANS, EILZABETH ANN  
2818 E CRAMER DR  
FAYETTEVILLE, NC 28306

HORNE, DOUGLAS L  
6210 ROCKFISH RD  
HOPE MILLS, NC 28348

MIDDLETON, MARTHA ANN  
2901 W CRAMER DR  
FAYETTEVILLE, NC 28306

N C DEPT OF TRANSPORATION  
1546 MAIL SERVICE CTR  
RALEIGH, NC 27611

NELSON, TIMOTHY A & WIFE BREND  
2906 W CRAMER ST  
FAYETTEVILLE, NC 28306

SANTOS, LIDIA  
3164 AMPERE AVE  
BRONX, NY 10465

WALKER, LOIS F  
2821 E CRAMER DR  
FAYETTEVILLE, NC 28306

**Cumberland County, North Carolina  
Board of Adjustment**

**Rules of Procedure**

I. GENERAL RULES

The Board of Adjustment shall be governed by the terms of the *General Statutes of North Carolina*, § 153A-345.1, including subsequent amendments, and by the *Cumberland County Zoning Ordinance*, adopted June 20, 2005 as it may be amended from time to time. All members of the board shall thoroughly familiarize themselves with these regulations.

II. OFFICERS AND DUTIES

- A. *Chairman.* The chairman shall be elected by majority vote of the membership of the board from among its regular members. The chairman's term of office shall be for one calendar year beginning on July 1 and ending on June 30, and until the successor is qualified. The chairman shall be eligible for reelection provided that the individual remains qualified as a regular member and the term limit has not expired. Subject to these rules, the chairman shall rule upon all points of order and procedures, unless overruled by a majority of the board in session at the time.
- B. *Vice-Chairman.* A vice-chairman shall be elected by the regular board members in the same manner and for the same term as the chairman. The vice-chairman shall serve as acting chairman in the absence of the chairman and at such times when so acting, the vice-chairman shall have the same powers and duties as the chairman.
- C. *Secretary.* The individual fulfilling the duties as secretary shall be a County Planning and Inspections staff member and shall be assigned to serve the board by the County Planning and Inspections Director (hereinafter *director*) or the director's designee. The secretary shall act in this capacity so long as the staff member assigned is performing in an acceptable manner as determined by the director or the director's designee. The secretary, subject to the direction of the chairman and the board, shall keep all records, shall conduct all correspondence of the board, shall arrange for all public notices required to be given, shall notify members of pending meetings and their agenda, shall notify parties to cases before the board of its decision on such cases, and shall generally supervise and ensure the administrative work of the board is properly and efficiently accomplished. The secretary shall ensure that a complete set of minutes of the record for every board meeting is kept in a permanent volume in a secure location. The minutes shall show the record of all material facts pertaining to each meeting and hearing, every resolution acted on by the board, and all votes of members of the board on any resolution or on the final

determination of any question, indicating the names of members who are absent or fail to vote. The secretary shall not be eligible to vote on any matter coming before the board.

### III. MEMBERS

- A. Membership on the Board of Adjustment shall be governed by the terms of the *General Statutes of North Carolina*, § 153A-345.1, as in effect, and by the *Cumberland County Zoning Ordinance* adopted June 20, 2005, and as amended from time to time.
- B. Individual board members, whether appointed as a regular member or an alternate, may be removed for cause, including violation of these rules, by majority vote of the County Board of Commissioners.
- C. Faithful attendance at all meetings of the board and conscientious performance of the duties required of members of the board shall be considered a prerequisite of continuing membership on the board. Regular members missing three consecutive meetings without good cause shall be requested to resign immediately, and if a resignation is not submitted may be removed by the County Board of Commissioners.
- D. Board members shall not take part in the hearing, consideration or determination of any case in which the board member is personally or financially interested or as to which the board member may have a bias making it inappropriate for the board member to participate in consideration of such case.
- E. Board members shall not vote on any matter deciding an application or appeal unless the board member attended the meeting in which the hearing on the application or appeal occurred.
- F. Board members shall not discuss any case with any parties or independently investigate any case prior to the hearing on that case. While prior knowledge or modest communications prior to a hearing does not automatically disqualify a board member from participating in a case, board members must not enter the hearing with a fixed opinion about the case and each board member must disclose on the record at the start of the hearing any personal prior knowledge and/or communications.
- G. Members of the board shall not express individual opinions on the proper judgment of any case with any parties thereto prior to its determination of that case. Violations of this rule will be reported to the County Board of Commissioners and could be cause for removal from the board.

#### IV. MEETINGS

- A. *Regular Meetings.* Regular meetings of the board shall be held monthly on the third Thursday of the month, except that if no application is filed by the application deadline schedule prior to a meeting date, the secretary shall notify all members that no meeting will be held for that month. The meetings shall be held in Public Hearing Room #3 at the Historic Courthouse, 130 Gillespie Street at 6:00 p.m., except as specified for special meetings below.
- B. *Special Meetings.* Special meetings of the board may be called at any time by the chairman. At least 48 hours written notice of the time and place of special meetings shall be given by the secretary or the chairman, to each member of the board, and notice shall also be given in compliance with the *North Carolina Open Meetings Law*. Special meetings can only be called if it is pre-determined that a quorum of the board members can be present.
- C. *Quorum and Voting.* A quorum shall consist of four members of the board. However, the concurring vote of four-fifths of the members of the board for the hearing of a particular case shall be necessary to: reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of any County ordinance in which the Board of Adjustment has been designated as the appeals board; to grant any variance from any County ordinance that the board has the authority to vary; to rule on matters concerning nonconforming uses; to interpret the official zoning maps; and pass upon disputed questions of lot lines or district boundary lines as they arise in the administration of the *County Zoning Ordinance*. A simple majority vote is required to find in favor of an application for a Special Use Permit and for matters subject to approval as high density developments under the provisions of the *Cumberland County Water Supply Watershed Management and Protection Ordinance*.
- D. *Conduct of Meetings.* All Board of Adjustment meetings shall be open to the public. Except for consideration of high density development applications subject to the provisions of the *County Water Supply Watershed Management and Protection Ordinance*, all board meetings shall follow quasi-judicial protocol. The order of business at regular meetings generally shall be as follows:
1. Roll call;
  2. Adjustments to the agenda;
  3. Approval of the minutes of the previous meeting;
  4. Abstentions by board members;
  5. Public hearing deferrals;

6. Board member disclosures;
7. Board policy statement regarding appeal process read to audience;
8. Hearing of cases;
9. Discussion by board members and staff;
10. Updates on previously heard cases; and
11. Adjournment.

## V. APPLICATIONS

- A. *Type of Applications.* The board shall hear and decide all matters referred to it and as enumerated in Section 1603 of the *County Zoning Ordinance*.
- B. *Procedure for Filing Applications.* All applications for hearings shall be filed with the secretary, or with the administrative official, acting as secretary for the board for purposes of receiving this notice. All applications shall be made upon the form furnished for that purpose, and all required information shall be provided thereon before an application shall be considered as complete and having been filed.
- C. *Fees.* Applications shall not be considered as having been submitted until there has been paid to "Cumberland County" a filing fee as set forth in the *Cumberland County Fee Schedule*.
- D. *Hearings:*
  1. *Date and Time of Hearing.* Upon receipt of a completed application, the secretary will schedule the case to be heard in accordance with the board's adopted *Deadline/Meeting Schedule*.
  2. *Notice.* The secretary shall ensure public notice of the hearing by publishing or advertising in a newspaper of general circulation within the County the date, time and location of the hearing along with specific information from the application to afford the public actual notice of the matter applied for. The notice of the hearing is to be published a minimum of ten days and not more than 25 days prior to the meeting in which the case is to be heard.
  3. *Conduct of Hearing.* Any party may appear in person or by attorney at the hearing. The order of business for hearing each case shall be as follows: (a) the chairman, or such person as he shall direct, shall give a preliminary statement of the case, (b) after being sworn in by the chairman, the applicant

will present evidence relevant to this application together with his/her contentions as to why the application shall be granted; (c) persons opposed to granting of the application will be allowed to present relevant evidence and contentions against the granting of this application; (d) both sides if desired, will be allowed to present rebuttal evidence and arguments; (e) following presentation of a case, the board shall make its decision setting forth its findings of fact, its conclusions, and any conditions of approval. Witnesses may be questioned following presentation of their testimony by board members, and thereafter by any other interested persons.

4. *Rehearings.* An application for a rehearing may be made in the same manner as provided for an original hearing. Evidence in support of the application shall initially be limited to that which is necessary to enable the board to determine whether there has been a substantial material change in the facts, evidence, or conditions of the case. A rehearing shall be denied by the board if in its judgment there has been no substantial material change in the facts, evidence, or conditions of the case. If the board finds that there has been such a change, the request for rehearing shall thereupon be scheduled and heard in the same manner as any other application.

E. *Decisions:*

1. *Time.* Decisions by the board shall generally be rendered at the same meeting in which the case was heard. In the event, the board has requested additional information or by consensus among its members agree that additional time is warranted for the applicant or opponents, the case may be rescheduled for a date certain, typically should be set for the following month regularly scheduled board meeting.
2. *Form.* The final decision of the board for each case shall be shown in the record of the minutes of the meeting in which the case is heard. The formal approval of the minutes shall be ascertained in the minutes following the month in which a case is heard. The record shall show the reasoning for the decision, with a summary of the evidence introduced and the findings of fact, if required, and conclusions made by the board.
3. *Public Record of Decisions.* The decisions of the board, as filed in the board's record book shall be a public record, available for inspection at all reasonable times.

VI. ANNUAL REPORT TO BOARD OF COUNTY COMMISSIONERS AND COUNTY JOINT PLANNING BOARD

The secretary shall prepare and submit in July of each calendar year to the Board of County Commissioners and County Joint Planning Board a summary of the Board of Adjustment's activities for the preceding fiscal year. Such report shall contain a statement of the cases heard and a summary of the actions taken, along with any other matters which the board deems appropriate for inclusion in such report.

VII. AMENDMENTS

These rules may be amended at any time by an affirmative vote of not less than four members of the board, provided that such amendment be presented in writing at a regular meeting preceding the meeting at which the vote is taken.

\*\*\*\*\*

Read, approved, and adopted by the Board of Adjustment on this 26th day of September, 1972, the following board members voting AYE: Chairman Hill, Vice-Chairman Lytton, Mr. Averitte, Mr. Huggins, and Mr. Starling.

Amended on this 16<sup>th</sup> day of July, 1987.

Amended on this 19<sup>th</sup> day of July, 2007.

Amended on this 20th day of January, 2011.