

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



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

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

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

TENTATIVE AGENDA NOVEMBER 19, 2020 6:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, November 19, 2020 at 6:00 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 22, 2020 MINUTES
6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)
7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

P20-03-C: CONSIDERATION OF A VARIANCE TO ALLOW A ZERO FOOT FRONT YARD SETBACK FOR A GARAGE, STORAGE SHED AND FENCE INSTEAD OF A REQUIRED MINIMUM THIRTY FEET SETBACK FOR PROPERTY LOCATED IN AN A1 AGRICULTURAL DISTRICT AND CONTAINING 0.74+/- ACRES, LOCATED AT 1062 PALESTINE ROAD, SUBMITTED BY CHARLES & SHEENA ANNAN (OWNERS).

8. POLICY STATEMENT REGARDING APPEAL PROCESS
9. PUBLIC HEARING(S):

P20-04-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A BORROW SOURCE OPERATION IN AN A1 AGRICULTURAL DISTRICT ON 33.69 +/- ACRES, LOCATED AT 3778 GAINEY ROAD, SUBMITTED BY MICHAEL HARRIS ON BEHALF OF MURDOCK, LLC (OWNER) AND MICHAEL BLAKLEY ON BEHALF OF DRAFTING AND DESIGN SERVICES, INC. (AGENT).

10. DISCUSSION/UPDATE(S)
11. ADJOURNMENT

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



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

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

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

MINUTES
October 22, 2020
6:00 PM

Members Present

George Turner
Alfonso Ferguson
Gregory Parks
Marva Lucas-Moore
Linda Amos

Absent Members

Winton McHenry

Staff/Others Present

Betty Lynd
Dena Barner
Rob Hasty
(Asst County Attorney)
David Moon
Scott Walter
Jamie Bahneman
Gilbert Sanchez
Scott Flowers
(Attorney for staff)

Chair Turner called the meeting to order at 6:07 p.m. in Public Hearing Room #3 of the Historic Courthouse.

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

1. INVOCATION

Chair Turner

PLEDGE OF ALLEGIANCE

Recited by all.

2. ROLL CALL

Mrs. Lynd called the roll. For the audience, Mrs. Lynd stated a quorum was present. Mrs. Lynd also introduced Mr. Hasty, asst county attorney for the board.

3. SWEAR IN STAFF

Chairman Turner swore in staff.

4. ADJUSTMENTS TO THE AGENDA

There were none.

5. APPROVAL OF THE SETPEMBER 17, 2020 MINUTES

Mr. Parks made a motion to approve the minutes from the September 17, 2020 meeting with any necessary corrections, seconded by Ms. Lucas-Moore. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

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

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Mrs. Lynd read the policy statement.

9. PUBLIC HEARING(S)

P20-02-C: CONSIDERATION OF AN APPEAL FROM THE CODE ENFORCEMENT OFFICER'S DECISION REGARDING THE OPERATION OF AN OUTDOOR FIRING RANGE IN A RR RURAL RESIDENTIAL & CD CONSERVANCY DISTRICT ON 13.46+/- ACRES, LOCATED AT 1654 & 1675 VETERANS DRIVE, SUBMITTED BY DEREK ORENT ON BEHALF OF AMERICAN LEGION POST #230 (OWNER).

Chairman Turner read the case heading for Case No. P20-02-C.

Mrs. Lynd reviewed the zoning, sketch map, and land use of the area surrounding subject property. She briefly reviewed board packet material.

MR. FLOWERS: As Ms. Lynd said I am Scott Flowers, I am a lawyer with Hudson's Law Firm here in Fayetteville. I represent the Planning staff tonight. I'm going to be asking questions of the witnesses and possibly moving some documents into the record this evening. So at this time I would like to move into the record to the extent it's not already a part of the record the presentation that Mrs. Lynd just gave.

CHAIR TURNER: That's already in the record, isn't it?

MRS. LYND: You would need to make a motion to accept the packet material and the power point into the record.

Mr. Ferguson made a motion to accept the power point and the Board packet material of P20-02-C into the record, seconded by Ms. Lucas-Moore seconded. The motion passed unanimously.

IN FAVOR	
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

MR. FLOWERS: At this time we would like to ask Mr. Scott Walters, the Code Enforcement Manager to step up. Mr. Walters if you would introduce yourself and give us your title for the record.

MR. WALTERS: My name is Scott Walters. I'm the Code Enforcement Manager for Cumberland County.

MR. FLOWERS: Mr. Walters, are you familiar with the matter we are here about this evening?

MR. WALTERS: I am.

MR. FLOWERS: And how did you first become involved in this matter?

MR. WALTERS: We received a complaint on May the 5th, and based on that complaint, I sent two of my staff members out to the site to verify. They went to the site or visited the site on May the 13th, they collected the evidence there, which are the photographs we'll see here in a minute. They brought that information back to me, at that point I made the decision that the site was in violation.

MR. FLOWERS: And who are the two staff members that went out to the site on May 13th?

MR. WALTERS: Yeah, that was Officer Bahneman and Officer Sanchez.

MR. PARKS: Excuse me a second, can you either move up to the microphone or take your mask off so that we can understand you, whichever you prefer.

MR. WALTERS: Can you hear me now?

CHAIR TURNER: That mic is not on is it?

MR. PARKS: I think if you'll just talk now, we can understand you.

MR. FLOWERS: You said Code Enforcement Officers Bahneman and Sanchez, is that right?

MR. WALTERS: That's correct. Yes sir.

MR. FLOWERS: Alright. And while they were there did they take any pictures of the sight?

MR. WALTERS: They did, yes sir.

MR. FLOWERS: Okay. Do we have those pictures Mrs. Lynd?

MRS. LYND: We do.

MR. FLOWERS: I'd like for you to watch as she scrolls through the pictures and then I'll ask you a question or two about them. Okay. Are those the pictures that were taken by Officer's Bahneman and Sanchez?

MR. WALTERS: They were, yes sir.

MR. FLOWERS: Are those the pictures that you relied upon in making your decision that the site was in violation of the county ordinance?

MR. WALTERS: They were, yes sir.

MR. FLOWERS: At this time I would like to move those pictures into the record.

CHAIR TURNER: Okay. Is there a motion to accept?

Mr. Ferguson made a motion to accept the pictures into the record, seconded by Ms. Lucas-Moore seconded. The motion passed unanimously.

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



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

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

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

TENTATIVE AGENDA NOVEMBER 19, 2020 6:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, November 19, 2020 at 6:00 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 22, 2020 MINUTES
6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)
7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

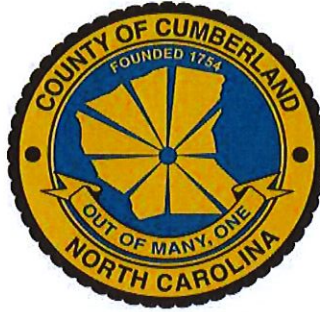
P20-03-C: CONSIDERATION OF A VARIANCE TO ALLOW A ZERO FOOT FRONT YARD SETBACK FOR A GARAGE, STORAGE SHED AND FENCE INSTEAD OF A REQUIRED MINIMUM THIRTY FEET SETBACK FOR PROPERTY LOCATED IN AN A1 AGRICULTURAL DISTRICT AND CONTAINING 0.74+/- ACRES, LOCATED AT 1062 PALESTINE ROAD, SUBMITTED BY CHARLES & SHEENA ANNAN (OWNERS).

8. POLICY STATEMENT REGARDING APPEAL PROCESS
9. PUBLIC HEARING(S):

P20-04-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A BORROW SOURCE OPERATION IN AN A1 AGRICULTURAL DISTRICT ON 33.69 +/- ACRES, LOCATED AT 3778 GAINEY ROAD, SUBMITTED BY MICHAEL HARRIS ON BEHALF OF MURDOCK, LLC (OWNER) AND MICHAEL BLAKLEY ON BEHALF OF DRAFTING AND DESIGN SERVICES, INC. (AGENT).

10. DISCUSSION/UPDATE(S)
11. ADJOURNMENT

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



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

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

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

MINUTES
October 22, 2020
6:00 PM

Members Present

George Turner
Alfonso Ferguson
Gregory Parks
Marva Lucas-Moore
Linda Amos

Absent Members

Winton McHenry

Staff/Others Present

Betty Lynd
Dena Barner
Rob Hasty
(Asst County Attorney)
David Moon
Scott Walter
Jamie Bahneman
Gilbert Sanchez
Scott Flowers
(Attorney for staff)

Chair Turner called the meeting to order at 6:07 p.m. in Public Hearing Room #3 of the Historic Courthouse.

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

1. INVOCATION

Chair Turner

PLEDGE OF ALLEGIANCE

Recited by all.

2. ROLL CALL

Mrs. Lynd called the roll. For the audience, Mrs. Lynd stated a quorum was present. Mrs. Lynd also introduced Mr. Hasty, asst county attorney for the board.

3. SWEAR IN STAFF

Chairman Turner swore in staff.

4. ADJUSTMENTS TO THE AGENDA

There were none.

5. APPROVAL OF THE SETPEMBER 17, 2020 MINUTES

Mr. Parks made a motion to approve the minutes from the September 17, 2020 meeting with any necessary corrections, seconded by Ms. Lucas-Moore. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

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

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Mrs. Lynd read the policy statement.

9. PUBLIC HEARING(S)

P20-02-C: CONSIDERATION OF AN APPEAL FROM THE CODE ENFORCEMENT OFFICER'S DECISION REGARDING THE OPERATION OF AN OUTDOOR FIRING RANGE IN A RR RURAL RESIDENTIAL & CD CONSERVANCY DISTRICT ON 13.46+/- ACRES, LOCATED AT 1654 & 1675 VETERANS DRIVE, SUBMITTED BY DEREK ORENT ON BEHALF OF AMERICAN LEGION POST #230 (OWNER).

Chairman Turner read the case heading for Case No. P20-02-C.

Mrs. Lynd reviewed the zoning, sketch map, and land use of the area surrounding subject property. She briefly reviewed board packet material.

MR. FLOWERS: As Ms. Lynd said I am Scott Flowers, I am a lawyer with Hudson's Law Firm here in Fayetteville. I represent the Planning staff tonight. I'm going to be asking questions of the witnesses and possibly moving some documents into the record this evening. So at this time I would like to move into the record to the extent it's not already a part of the record the presentation that Mrs. Lynd just gave.

CHAIR TURNER: That's already in the record, isn't it?

MRS. LYND: You would need to make a motion to accept the packet material and the power point into the record.

Mr. Ferguson made a motion to accept the power point and the Board packet material of P20-02-C into the record, seconded by Ms. Lucas-Moore seconded. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

MR. FLOWERS: At this time we would like to ask Mr. Scott Walters, the Code Enforcement Manager to step up. Mr. Walters if you would introduce yourself and give us your title for the record.

MR. WALTERS: My name is Scott Walters. I'm the Code Enforcement Manager for Cumberland County.

MR. FLOWERS: Mr. Walters, are you familiar with the matter we are here about this evening?

MR. WALTERS: I am.

MR. FLOWERS: And how did you first become involved in this matter?

MR. WALTERS: We received a complaint on May the 5th, and based on that complaint, I sent two of my staff members out to the site to verify. They went to the site or visited the site on May the 13th, they collected the evidence there, which are the photographs we'll see here in a minute. They brought that information back to me, at that point I made the decision that the site was in violation.

MR. FLOWERS: And who are the two staff members that went out to the site on May 13th?

MR. WALTERS: Yeah, that was Officer Bahneman and Officer Sanchez.

MR. PARKS: Excuse me a second, can you either move up to the microphone or take your mask off so that we can understand you, whichever you prefer.

MR. WALTERS: Can you hear me now?

CHAIR TURNER: That mic is not on is it?

MR. PARKS: I think if you'll just talk now, we can understand you.

MR. FLOWERS: You said Code Enforcement Officers Bahneman and Sanchez, is that right?

MR. WALTERS: That's correct. Yes sir.

MR. FLOWERS: Alright. And while they were there did they take any pictures of the sight?

MR. WALTERS: They did, yes sir.

MR. FLOWERS: Okay. Do we have those pictures Mrs. Lynd?

MRS. LYND: We do.

MR. FLOWERS: I'd like for you to watch as she scrolls through the pictures and then I'll ask you a question or two about them. Okay. Are those the pictures that were taken by Officer's Bahneman and Sanchez?

MR. WALTERS: They were, yes sir.

MR. FLOWERS: Are those the pictures that you relied upon in making your decision that the site was in violation of the county ordinance?

MR. WALTERS: They were, yes sir.

MR. FLOWERS: At this time I would like to move those pictures into the record.

CHAIR TURNER: Okay. Is there a motion to accept?

Mr. Ferguson made a motion to accept the pictures into the record, seconded by Ms. Lucas-Moore seconded. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

MR. FLOWERS: Thank you. Prior to issuing or proving -

MR. HASTY: Mr. Flowers,

MR. FLOWERS: Yes?

MR. HASTY: I apologize, but just for the records sake, we need to keep a sequential number of these photographs in the evidence to refer to later for the sake of the record.

MR. FLOWERS: Okay, then Mrs. Lynd's presentation would be collectively marked as staff's exhibit 1 and then the photographs would be collectively marked as staff's exhibit 2. Thank you, Mr. Hasty. Mr. Walters prior to determining that the site was out of compliance, did you check to see if there was an approved site plan for a firing range at this location?

MR. WALTERS: We did. Yes sir.

MR. FLOWERS: And was there?

MR. WALTERS: No sir there was not.

MR. FLOWERS: And is the owner of this property required to have an approved site plan in order to operate a firing range at this location?

MR. WALTERS: They would be, yes sir.

MR. FLOWERS: May I ask you about the applicable ordinance? Do you have the zoning ordinance there with you Mr. Walters?

MR. WALTERS: I do, yes sir I got it.

MR. FLOWERS: And I'm specifically referring to section 907.1 of the Cumberland county zoning ordinance, would that be the appropriate section?

MR. WALTERS: Yes sir, it's labeled Firing Range – outdoor.

MR. FLOWERS: Mr. Walters is this the section that spells out the requirements to get a site plan approved for an outdoor firing range?

MR. WALTERS: It is, yes sir.

MR. FLOWERS: I just want to quickly go through this with you. Section A, as I read, it requires a detailed site plan and to be sealed by a North Carolina registered engineer. Attesting that a proposed plan incorporates the specific safety and design standards for an outdoor firing range provisions and live shoot house provisions. Did I read that correctly? Section A Mr. Walters?

MR. WALTERS: Yes sir, that's the way I read it.

MR. FLOWERS: And you testified that there was not an approved site plan for this property, is that right?

MR. WALTERS: That's correct sir.

MR. FLOWERS: Moving on Section B states that the site on which the outdoor firing range is proposed shall contain a minimum of 200 acres within a track or contiguous tracks owned or leased under a recorded lease to the owner/operator the outdoor firing range, did I read that correctly Mr. Walters?

MR. WALTERS: Yes sir.

MR. FLOWERS: And did this property comply with that requirement? The 200-acre requirement?

MR. WALTERS: No sir.

MR. FLOWERS: How many acres is this property?

MR. WALTERS: I believe it's 13.5, correct.

MR. FLOWERS: Okay, item C, surface danger zone shall be located entirely on the subject property and shall be designed to contain all projectiles and debris caused by the type of ammunition, targets and activities to be used or to occur on the property. Can you, Mrs. Lynd, can you go to the picture of the firing range? Did this firing range meet the requirement that I just read in section C, Mr. Walters?

MR. WALTERS: I don't believe so, no sir.

MR. FLOWERS: Also the last sentence of section c all firing station shall be set back in the minimum of 180 ft from the boundary of the subject property. Is that requirement met by this property?

MR. WALTERS: No sir, I don't believe so.

MR. FLOWERS: Item D, a 60 foot wide buffer undisturbed except for fence installation and vegetative planting shall be provided around the entire perimeter of the subject property and shall also be delineated on the detailed site plan. Was that requirement met by this property?

MR. WALTERS: No sir.

MR. FLOWERS: Item F, unauthorized access to the firing range facility shall be controlled while Firearms are being discharged. Was that requirement met?

MR. WALTERS: I would say, No sir.

MR. FLOWERS: Was there any fence around the firing range?

MR. WALTERS: There is not sir. Or not that I've seen.

MR. FLOWERS: Item G, the developer/operator of the firing range facility shall provide the code enforcement, at the time of application, with a building final inspection a certification prepared by a North Carolina registered engineer, that the firing range facility has an environmental stewardship plan which may include semi-annual Soil and Water sampling regular lining of the soil to prevent lead migration and is compliant with the best management practices specifically relating to lead management as specified and reclamation by the Environmental Protection agency's most current edition of best management practices for lead and outdoor shooting ranges. Was that requirement met Mr. Walters?

MR. WALTERS: No sir.

MR. FLOWERS: Mrs. Lynd will you go back to the pictures showing the casings on the ground? Are you familiar with the EPA's management practices that are referenced here?

MR. WALTERS: Yes sir.

MR. FLOWERS: I want you to take a look at that picture. Do you believe that shows compliance with the EPA's management practices for its environmental conditions out there?

MR. WALTERS: I would not think so sir but we are looking at casings and not the actual rounds, it would be the impact area that would be more effective on.

MR. FLOWERS: Do you have any evidence that the impact area is being maintained as required by the EPA?

MR. WALTERS: No sir, nothings been submitted to our office.

MR. FLOWERS: Item I - all outdoor firing range facilities shall maintain general liability insurance coverage in an amount not less than three million dollars through an insurance company licensed to do business in North Carolina. Was that requirement met about this property?

MR. YARBOROUGH: Object, how does he know?

MR. WALTERS: No sir.

MR. FLOWERS: Have you been provided with any evidence of insurance to comply with this requirement Mr. Walters?

MR. WALTERS: I have not. No sir.

MR. FLOWERS: Mr. Walters I think you testified that you were the one who decided to issue the notice of violation is that right?

MR. WALTERS: Yes sir.

MR. FLOWERS: And your decision was based upon, you said, the pictures and what else? Was it based upon conversations with the officers who visited the site?

MR. WALTERS: It was yes sir, And the site plan that was not present.

MR. FLOWERS: Thank you Mr. Walters, I don't have any question for you, Mr. Yarborough may.

MR. YARBOROUGH: I do.

CHAIR TURNER: Could the board clarify something before Mr. Yarborough starts? Would that be ok? Just to be sure that we don't get off base and that we understand this, a lot of this is written. Did you ask for any liability insurance?

MR. WALTERS: I did not sir.

CHAIR TURNER: They did not provide it but you didn't ask for it?

MR. WALTERS: That is correct.

CHAIR TURNER: The other question I had was the surface danger zone shall be located entirely on the subject property. Am I missing something? It looks like they have a berm back there and they shoot into the berm. What did I miss there?

MR. WALTERS: The only thing I could say to that sir is that if an engineer had certified the plan it would show that and we don't have that information to verify that.

CHAIR TURNER: Oaky, so that is something the site plan would show and if the engineer said that was acceptable then we're okay?

MR. WALTERS: That's correct, yes sir.

CHAIR TURNER: I think that was it I'm sorry, go ahead.

MR. YARBOROUGH: Mr. Walters, when is the first time you have ever walked out on this property? When is the first time you inspected this property?

MR. WALTERS: First time I went to the property, I made a site visit on September 11th.

MR. YARBOROUGH: When is the last time you looked at the property?

MR. WALTERS: I made a site visit earlier today sir.

MR. YARBOROUGH: Okay. What did you observe?

MR. WALTERS: There was no one firing on the range and there was no one at the property today or on my visit on September 11th, there was a gentleman there, he was cutting grass.

MR. YARBOROUGH: Did you see any targets out there today?

MR. WALTERS: I did not sir.

MR. YARBOROUGH: Did you see any signs other than to say range is closed?

MR. WALTERS: I did not sir.

MR. YARBOROUGH: I would like to ask you to go to your copy of the firing range ordinance please and I would like you to look at the definitional section of a firing range.

CHAIR TURNER: Where would that be found in our paperwork? Fourteen.

MR. YARBOROUGH: Can I sit there? Great. Thank you.

CHAIR TURNER: Alright, I'm up to speed, okay sorry.

MR. WALTERS: I'm here sir.

MR. YARBOROUGH: Would you read that into record please.

MR. WALTERS: Sure. A facility including its component shooting ranges.

MR. YARBOROUGH: Is this the code definition of firing range?

MR. WALTERS: Firing Range – outdoor, yes sir.

MR. YARBOROUGH: okay, go ahead.

MR. WALTERS: A facility including its component shooting ranges, safety fans, shortfall zones, parking areas, all structures for classrooms, Administrative Offices, ammunition storage areas and other associated improvements designed for the purpose of providing a place where the discharge of various types of firearms or other or the practice of archery for the purpose of this ordinance outdoor firing ranges are a principal use of the property and therefore shall not be considered incidental or accessory. This ordinance is exclusive of occasional target practice by individuals on properties owned or leased by the individuals, sighting of weapons for the purpose of hunting, or temporary turkey shoots conducted on property and no more than 12 days in any calendar year.

MR. YARBOROUGH: Now, did you, while you were out there, see any safety fans out there?

MR. WALTERS: I did not sir.

MR. YARBOROUGH: Did you see any classrooms?

MR. WALTERS: I did not.

MR. YARBOROUGH: Did you see any administrative offices?

MR. WALTERS: No sir.

MR. YARBOROUGH: Did you see any ammunition storage areas?

MR. WALTERS: No sir.

MR. YARBOROUGH: Now did you see anyone shooting out there?

MR. WALTERS: I did not sir.

MR. YARBOROUGH: Alright. Now I think you've already testified that you haven't asked for any insurance policies, that correct?

MR. WALTERS: That is correct sir.

MR. YARBOROUGH: And the only reason that someone would give you an insurance policy is if they were making an application for a firing range, is that correct?

MR. FLOWERS: Objection.

MR. WALTERS: That's correct sir.

MR. YARBOROUGH: Well you know why would you expect someone to provide you with a copy of insurance policy?

MR. WALTERS: If they were applying to operate an outdoor firing range.

MR. YARBOROUGH: Okay and have you ever received an application to develop a firing range from the Spring Lake American Legion post?

MR. WALTERS: Not to my knowledge.

MR. YARBOROUGH: That's all the questions of this witness. Thank you.

MR. FLOWERS: I have a couple follow up questions from Mr. Walters.

CHAIR TURNER: Yes sir. Before you do, lets see this. Any board member have any questions about what was just said? No. Go ahead sir.

MR. FLOWERS: So, I'm going to ask you to go back to the ordinance to section 907.1, section A. It says in the first sentence here a detailed site plan complying with the provisions of Article 14 shall be submitted for review and if approved, all applicable permits must be obtained prior to commencement of range activity. Did I read that correctly?

MR. WALTERS: You did sir.

MR. FLOWERS: It shall be submitted. I understand that to mean that the applicant is required to submit these things not that staff is required to go request them, is that how you understand it Mr. Walters?

MR. WALTERS: That is correct, yes sir.

MR. FLOWERS: I would like for you to go to C, first sentence, surface danger zone shall be located entirely on the subject property and shall be designed to contain all projectiles and debris caused by the type of ammunition, targets and activities to be used to occur on the property. Would you go back to the picture of the range, Mrs. Lynd? Okay, so we have a berm at the end, do you see that?

MR. WALTERS: Yes sir.

MR. FLOWERS: Now do you see a berm on the side?

MR. WALTERS: No sir.

MR. FLOWERS: So if I were to fire into the side, was there anything there that would contain that projectile?

MR. WALTERS: No sir.

MR. FLOWERS: If I was to fire straight over my head, there looks like a tin metal roof there, is that right?

MR. WALTERS: That's what it looks like to me sir.

MR. FLOWERS: Do you know if its bullet proof?

MR. WALTERS: I wouldn't believe it is sir.

MR. FLOWERS: Okay, Alright, I would like to direct your attention back to A. The second sentence of A says, the detail site plan shall be sealed by a North Carolina registered engineer attesting that the proposed plan incorporates the specific safety and design standards, where outdoor firing range provisions and live fire shoot house provisions, if applicable, as set out in section 4, outdoor range design, section 6, live fire shoot house, and attachments 1.2 thru 1.20 of the range design criteria, June 2012 as published by the US Department of Energy's office of Health, Safety and Security for the type of range proposed except that section 4B10 the words administrative in the first sentence of section 4C7, of the second sentence of section 4C7 and section 6A1 shall not be considered for the reasons that these sections are specific to the needs of the DOE. Did I read that correctly?

MR. WALTERS: That's the way I read it, yes sir.

MR. FLOWERS: Mr. Walters is it your understanding that based on what I just read that the site plan, sealed by the engineer, must be in compliance with the Department of Energy's standards set forth there in the ordinance?

MR. WALTERS: That's the way I understand it sir.

MR. FLOWERS: In other words, it's not up to the engineer, the engineer has to design a site plan that complies with these Department of Energy requirements for shooting ranges, is that right?

MR. WALTERS: That's my understanding sir.

MR. FLOWERS: I happen to have those requirements here.

MR. YARBOROUGH: Mr. Chairman we will stipulate that we have never applied for a firing range permit. Every question he said we will stipulate we've never done any of that stuff.

CHAIR TURNER: Give us a minute and we'll get back to you. Did you understand that Mr. Flowers? Are you okay with what he said?

MR. FLOWERS: I did. I appreciate his stipulation. May I approach you Mr. Chair and I've got one for Mr. Yarborough here. (passes out paper) Actually Mr. Chair I got one marked Exhibit 3. Mr. Walters are you familiar with this document sir?

MR. WALTERS: Yes sir.

MR. FLOWERS: Is this the range design criteria incorporated into the Cumberland county section 907.1 ordinance?

MR. WALTERS: It is sir.

MR. FLOWERS: I would like to move this document into the record as staff's exhibit 3 at this time.

Mr. Ferguson made a motion to accept the range design criteria into the record, seconded by Ms. Lucas-Moore seconded. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

MR. FLOWERS: Thank you Mr. Chair. So I'm going to ask you to turn to the third page of the document I just gave you. At the top it says design criteria, Section 1 Firing Line Items, B, Overhead Containment. The first sentence there says on partially or fully baffled ranges, a ballistic canopy (see Figure 9) should be provided over all locations where a weapon may be expected to be discharged (firing line by definition). So, Mr. Walters, is there anything about the inspection that suggest to you that the covering of the firing line is a ballistic canopy that would contain discharged firearms.

MR. WALTERS: No sir.

MR. FLOWERS: The next page, number 9, is titled, Impact Structures, does that detail requirements for the impact structures for the berms, Mr. Walters?

MR. WALTERS: It does sir.

MR. FLOWERS: And I'm not going to go thru all those but the rest of these if you go to what's marked page 14 at the top, these are excerpts, see Item 11 there, Overhead Baffles?

MR. WALTERS: Yes sir.

MR. FLOWERS: Is that the design criteria for the overhead baffle?

MR. WALTERS: Yes sir.

MR. FLOWERS: So Mr. Walters, if you can tell us in lay mans terms, what's the point of this range design criteria, what's it designed to do?

MR. WALTERS: Everything about its designed for safety and to keep rounds from leaving areas where they're not intended to go. So to stop somebody from firing, per say, directly up in the air or to stop a round from traveling off the property into an area where it was not intended to go.

MR. FLOWERS: So if the range is designed according to this criteria, you don't have to rely upon the user to fire it into the right location, is that right?

MR. WALTERS: That's correct sir.

MR. FLOWERS: Now looking at this firing range, are you required to rely upon the user to fire it into the right direction for it to be safe?

MR. WALTERS: Yes sir, I would think you would.

MR. FLOWERS: Alright, I don't have any other questions, thank you so much.

CHAIR TURNER: Let me ask one thing, I don't know if this is appropriate, if its not stop me. Mr. Yarborough attempted to stipulate that not only do they not comply, with any of these rules and regulations, but they have never at any time, applied for a permit of any kind to do this properly, should that not be part of the record, that he has acknowledged that?

MR. HASTY: It is in the record, he has made that stipulation on the record.

CHAIR TURNER: I'm not sure we caught it that way, but just to clarify he's acknowledging that. Go ahead sir.

MR. FLOWERS: I didn't understand his stipulation to be that they didn't comply with any of the requirements, I understood he stipulated that they didn't submit a site plan.

CHAIR TURNER: That may have been but that's why I don't want to move so fast, we're pretty simple folks up here and we want to be sure we understand. And I understood that he stipulated that they've not complied with anything in this ordinance. Is that correct? Mr. Yarborough is acknowledging that.

MR. FLOWERS: I appreciate that. At the 10,000 foot level, Mr. Chair, the point of this appeal is for you folks to allow them to continue operating this range.

CHAIR TURNER: I understand.

MR. FLOWERS: I think it's important to understand the safety issues associated with this range and it's continued operation and not only what the requirements are but why we have these requirements.

CHAIR TURNER: We understand that completely, the Board did but for the simple sake he's acknowledged that everything you said was correct and that they've not done any of that. And I just wanted that part of the record. That's all. Go ahead sir.

MR. YARBOROUGH: Once again for the record, Mr. Flowers I guess, has defined what our purpose is in appealing this, but that's not what our purpose is in appealing it. I'll move on and hopefully it will become more self-evident. Let me just cut to the chase. There's a 200 acre requirement for an outdoor firing range. This property is 13 acres, okay? Not going to happen. No application's been made as Mr. Walters has told you. There's no firing out there. We'll talk about it in a little bit more detail but just to kind of get the record straight on where we're heading in this thing. Now Mr. Walters, for example, I own a hundred acre farm out in Grey's Creek, if I go out in my backyard and start shooting at a can, it's not a firing range is it?

MR. WALTERS: No sir.

MR. YARBOROUGH: If somebody comes on my property to target their deer rifle, its not a firing range is it?

MR. WALTERS: No sir.

MR. YARBOROUGH: If somebody has a turkey shoot on my property, its not a firing range is it?

MR. WALTERS: No sir.

MR. YARBOROUGH: If somebody who has an ownership interest in my property goes out and target shoots on my property occasionally, that's not a firing range, correct?

MR. WALTERS: No sir.

MR. YARBOROUGH: I noticed in Mrs. Lynd's presentation there was an L3 Harris project going across the street from our property, is that correct? Do you see that L3 Harris Paragon Inc?

MR. WALTERS: Yes.

MR. YARBOROUGH: They're putting in firing ranges aren't they sir?

MR. WALTERS: I'm not familiar with that sir.

MR. YARBOROUGH: Do you know if they've put in an application to put in a firing range?

MR. WALTERS: I do not know.

MR. YARBOROUGH: Okay, just asking. No further questions.

CHAIR TURNER: Okay. Just to clarify, do we know what L3 Harris Paragon Incorporated is? I don't know that its important but who are they?

MR. FLOWERS: I would just object to that. That those comments are not relevant to this proceeding, Mr. Yarborough's comments about that.

CHAIR TURNER: I was trying to understand what it was.

MR. PARKS: Mr. Attorney if you have a turkey shoot in your backyard and you charge money for it, isn't that considered a firing range?

MR. FLOWERS: I think what Mr. Yarborough was referring to was the Agri business exemption for farm owners, specifically turkey shoots are exempted under the law.

MR. PARKS: Thank you.

CHAIR TURNER: Does anybody have any questions before we move on? No, go ahead.

MR. FLOWERS: Thank you Mr. Chair. I don't have any further questions, thank you Mr. Walters. I would like to ask Jamie Bahneman to come up. And I know I'm butchering your name so please correct me on how you say it.

MS. BAHNEMAN: Bahneman.

MR. FLOWERS: Bahneman. I always tend to add a syllable to every unknown word. Ms. Bahneman would you introduce yourself to the board and tell them what your title is.

MS. BAHNEMAN: Jamie Bahneman, I'm a code enforcement officer.

CHAIR TURNER: I'm sorry, speak up.

MS. BAHNEMAN: Jamie Bahneman, I'm a code enforcement officer.

CHAIR TURNER: Okay. Thank you.

MR. FLOWERS: Ms. Bahneman were you at any point asked to go out and inspect the property that's an issue tonight?

MS. BAHNEMAN: Yes.

MR. FLOWERS: And who asked you to do that?

MS. BAHNEMAN: It came in as a complaint.

MR. FLOWERS: And did you go out and inspect the property?

MS. BAHNEMAN: Yes.

MR. FLOWERS: Did you take pictures while you were there?

MS. BAHNEMAN: Yes.

MR. FLOWERS: Are those the pictures that Mrs. Lynd showed us this tonight?

MS. BAHNEMAN: Yes.

MR. FLOWERS: Are those the pictures accurate representation of what you saw while you were there?

MS. BAHNEMAN: Yes.

MR. FLOWERS: And did you issue a notice of violation in this matter?

MS. BAHNEMAN: Yes.

MR. FLOWERS: Were you instructed to issue that notice by anyone?

MS. BAHNEMAN: Yes.

MR. FLOWERS: Who instructed you to do that?

MS. BAHNEMAN: Scott Walters.

MR. FLOWERS: And why was that notice of violation issued, Ms. Bahneman?

MS. BAHNEMAN: Because the property is in violation.

MR. YARBOROUGH: That's a good answer, she's already said that.

CHAIR TURNER: We really can't hear you either. Yell at us.

MS. BAHNEMAN: I'm sorry, I speak kind of quiet.

MR. YARBOROUGH: Objection. Ask and answer. She's already testified why she did it. She was told to do it.

MR. FLOWERS: My question was, why was it issued to the extent she knows and her answer was because it was in violation.

CHAIR TURNER: Clarify your question and let her answer it.

MS. BAHNEMAN: It was in violation.

CHAIR TURNER: Sorry?

MS. BAHNEMAN: It was a violation of the county zoning ordinance.

CHAIR TURNER: Okay. Just to clarify, we are having a hard time hearing her. You went out to visit this because there was a complaint.

MS. BAHNEMAN: Yes.

CHAIR TURNER: Someone has complained about the firing range being there?

MS. BAHNEMAN: Yes.

CHAIR TURNER: Okay and everything we've seen picture wise is correct and there is nothing out of line. You issued your orders because someone instructed you to?

MS. BAHNEMAN: Yes.

CHAIR TURNER: And that would be?

MS. BAHNEMAN: Scott Walters, Manager.

CHAIR TURNER: Sorry?

MS. BAHNEMAN: The manager, Scott Walters.

CHAIR TURNER: So you were instructed by your manager to issue that, okay go ahead. I'm sorry Mr. Flowers I just wanted to be sure.

MR. FLOWERS: No you're fine. The notice of violation was it part of the packet? So you have that in your packet. I don't have any other questions for Ms. Bahneman. Thank you. Mr. Yarborough may have questions for you.

MR. YARBOROUGH: I think in powwows I have the Talking Stick. Ms. Bahneman, have you got a copy of your violation?

MS. BAHNEMAN: It's in the folder.

MR. YARBOROUGH: Now you have identified, does on the board members have copy of the

CHAIR TURNER: We do.

MR. YARBOROUGH: Now looking its dated May 14, 2020, correct?

MS. BAHNEMAN: Yes.

MR. YARBOROUGH: Okay. Looking at the number 1, the nature of the violation, you are in violation of your site plan case 98-005, you see that?

MS. BAHNEMAN: Yes.

MR. YARBOROUGH: Are you familiar with any site plan case number 98-005?

MS. BAHNEMAN: That was a I believe a rezoning case but it was only site plan that we had to go off of for this property.

MR. YARBOROUGH: What was the rezoning for?

MS. BAHNEMAN: I'm not quite sure exactly but that was the only . . .

MR. YARBOROUGH: Is there a site plan or do you have a site plan to put into evidence by which the Board of Adjustment may compare it to the allegations?

MS. BAHNEMAN: The only thing I had in the file was the layout they have drawn up for it.

CHAIR TURNER: Well you know, just for the record we've already acknowledged that there is no site plan Mr. Yarborough did and we accepted that, there is no site plan.

MR. YARBOROUGH: Do you know where you got this from?

MS. BAHNEMAN: Yes in the case File 98-005

MR. YARBOROUGH: And who was the applicant in case file 98-005?

MS. BAHNEMAN: I don't know off hand sir.

MR. YARBOROUGH: Was there a reference to a firing range in that file?

MS. BAHNEMAN: No sir.

MR. YARBOROUGH: And then you went on to say you are operating or allowing the operation of a shooting range on your property is that correct?

MS. BAHNEMAN: Yes sir.

MR. YARBOROUGH: Okay. And a shooting range is not permitted per the approved site plan correct?

MS. BAHNEMAN: Yes sir.

MR. YARBOROUGH: And there's nothing about a firing range or a shooting range or anything else about that particular site plan is there?

MS. BAHNEMAN: No sir.

MR. YARBOROUGH: That was just a rezoning wasn't it?

MS. BAHNEMAN: I believe so, yes.

MR. YARBOROUGH: So there was no site plan requirement was there?

MR. FLOWERS: Objection.

MR. YARBOROUGH: It's hard to violate a site plan that doesn't make a requirement. Do you know if that rezoning required a site plan or is that just something you found in the file?

MS. BAHNEMAN: It was in the file sir.

CHAIR TURNER: Could I clarify something again so we don't get confused? Mr. Yarborough if I understand you've acknowledged there's not a site plan, she's talking about a site plan here, there was a rezoning and we know there's a firing range so we're going in circles because we are already acknowledging that there's no site plan but they got a shooting range. Aren't we going in a circle?

MR. YARBOROUGH: Their going in a circle. I'll get to the end of circle in a minute. When was the firing range ordinance adopted?

MS. BAHNEMAN: Umm

MR. YARBOROUGH: Was it 2017?

CHAIR TURNER: I show 2005. Is that right? Page 14 is what I'm looking at. Based on what we have here it says June 20th 2005 with amendments through August 23 2017 so I mean we don't know anywhere in between at times we don't have any details on exactly when.

MR. YARBOROUGH: Just to save everybody some time in 1998 there was no firing range ordinance, correct?

MS. BAHNEMAN: I'm not sure sir.

MR. YARBOROUGH: Does anybody with your staff know, the entire playing board staff, know if there was a firing range ordinance in 1998?

MR. WALTERS: Specifically no there was not.

MR. YARBOROUGH: Thank you, in fact the only ordinance that dealt with firing range with fire arms at all was the Firearms ordinance of the county, is that correct? Are you familiar with the County's firearm ordinance?

MR. FLOWERS: Are you saying firearms ordinance? Objection. That's not relevant.

MR. YARBOROUGH: Oh, but it is.

CHAIR TURNER: I mean I don't know any, you're giving us stuff that we don't know anything about. Where do we go from there? You brought up the date 1998 is there some reason for that date?

MR. YARBOROUGH: Yes, because that's the site plan date, the date of the site plan this county is alleging my clients violated. This whole case is based . . .

MR. PARKS: The site plan that they had was just a similar site plan to go from correct?

MR. YARBOROUGH: Yes.

MR. PARKS: Not necessarily the one but a similar one to go from.

MR. YARBOROUGH: The point is it was a 1998 site plan to go from for a rezoning that didn't have anything to do with firing ranges. Now while we're on this one right here, I'm having trouble reading it maybe I just can't see very well. Okay now let me ask you this and we'll get to some other questions in a minute. What you have directed our board to do, what it would take to correct this violation, is to cease operation and remove the shooting range or seek to add it to an approved site plan, is that correct?

MS. BAHNEMAN: Yes.

MR. YARBOROUGH: Okay, now it is and we just heard evidence from Mr. Walters that he saw no indication of a site of a range going on right now. So in other words if nobody is out there operating a firing range we would have complied correct?

MS. BAHNEMAN: Yes.

MR. YARBOROUGH: Okay just want to make sure, thank you. Now let's just go to the next slide, that's just the appeal, keep going now this is the property but we're going to keep going, keep going. Now, you have, I've asked you some questions about the firing range, about the Firearms ordinance and I believe you've testified that you don't know anything about the Firearms ordinance. Okay. Well looking keep going, Mrs. Lynd keep moving forward okay, now go back one, go back one. Now Section 9.5 100 of the Cumberland County code is firearms, and it identifies how people can shoot on private property, doesn't it? You've never read this before?

MS. BAHNEMAN: Sir, I'm not the police, I don't enforce that.

MR. YARBOROUGH: You don't compare various ordinances to see how they apply with other ordinances before you write people violations? Can you see how this ordinance would be relevant?

MR. FLOWERS: This is irrelevant. There was a court of appeals case that you were the lawyer in Mr. Yarborough where you said this is not relevant, to this proceeding.

MR. YARBOROUGH: I don't think it said that.

MR. FLOWERS: It did say that. This is a firearms ordinance that these folks don't enforce, it doesn't have anything to do with this. It is not enforced by this board, it is not interpreted by this board, has nothing to do with this.

MR. YARBOROUGH: I object to his statement and I'll go back and keep on going. It shall be unlawful for any person or discharge to discharge a firearm within the county when the fire such firearm is/or reasonably appears to be 100 yards of any dwelling unit, house, trailer, building, lot not his own without the consent of the occupant of such unit, house, trailer or building.

MR. FLOWERS: Just to clarify my objection is to this line of questioning, Mr. Chair. I'm objecting to him asking her questions about the firearm ordinance.

MR. YARBOROUGH: Suffice to say you don't know anything about the firearm ordinance?

MR. FLOWERS: Objection.

CHAIR TURNER: Well I'm not honestly at this point not very sure where to go. This ordinance that he's showing me here, I'm assuming is still current but I'm assuming was put in place before the ordinance that defines the range. I don't know that that's an issue in either but could I just simply ask, what is the purpose of this questioning, Mr. Yarborough? We're not talking about a range and this doesn't say anything about a range so what's?

MR. YARBOROUGH: That's right. The point of it is, this isn't a range.

CHAIR TURNER: Is that your contention?

MR. YARBOROUGH: It is our contention. This isn't a range.

CHAIR TURNER: What I'm going to do then is rule in Mr. Flowers case, I think he's correct. I understand what you're saying and you want us to accept is, based on the fact that nothing has been applied for this now doesn't apply to be a range and it is not now a range is just what your contention is but I agree with Mr. Flowers. Take it to the next level.

MR. YARBOROUGH: Next question, so for example, it is your position Ms. Bahneman, that this is a firing range correct?

MS. BAHNEMAN: Yes sir it appeared to be a firing range.

MR. YARBOROUGH: To cure this problem, and to cure this violation my clients need to cease operation of what you perceive to be a firing range, correct?

MS. BAHNEMAN: Cease operation, remove the shooting range or seek to add it to an approved site plan.

MR. YARBOROUGH: Well, the shooting range there's no targets there's no targets out there, correct? When's the last time you were out there?

MS. BAHNEMAN: I haven't been out there.

MR. YARBOROUGH: According to Mr. Walters, there's no targets out there correct?

MS. BAHNEMAN: I can't speak for him so I haven't been able to see it for myself.

CHAIR TURNER: I don't think this board sees this as an issue. It's set up for someone to shoot into whether there's a target or not, is irrelevant. Go ahead sir.

MR. YARBOROUGH: Have you seen the canopy that's out there?

MS. BAHNEMAN: The carport, Yes.

MR. YARBOROUGH: It's a typical carport isn't it? That's all the questions I have for this witness. At a later time, I'll move to introduce my evidence.

CHAIR TURNER: Questions?

MS. AMOS: I was looking at exhibit 513 there's a sign that states free range with Legion membership, can someone answer that question about the advertisement if its not a range?

CHAIR TURNER: So what it appears is that they have signage on the property that when if you will join the American Legion that you have free use of their firing range and that its on site. Is that what you saw?

MS. AMOS: Yes sir.

MR. YARBOROUGH: Is it still there? Is that sign still there?

MS. BAHNEMAN: Again sir, I haven't been there.

CHAIR TURNER: She wasn't there, she's acknowledged that.

MR. YARBOROUGH: And you don't know if that sign is still there?

MS. BAHNEMAN: No I don't sir.

MR. YARBOROUGH: Thank you.

CHAIR TURNER: Can we assume its been removed? Is that what you're saying?

MR. YARBOROUGH: We're getting there.

MS. AMOS: Also there is a memo that states American Legion Post 230 range rules .

CHAIR TURNER: Those are just the rules you have to abide by when you're shooting on the shooting range, is that what you're saying?

MS. AMOS: Yes.

MR. YARBOROUGH: Are those rules still posted? Do you know?

MS. BAHNEMAN: Again sir, I haven't been out there.

CHAIR TURNER: I think at this point, unless somebody was out there today at 5:30 we don't know what signage is there, we don't know what's there, based on what Mr. Yarborough said, the signage has been removed. We have no way of knowing that. Do you happen to have any pictures of that Mr. Yarborough?

MR. YARBOROUGH: We've got testimony coming.

MR. FERGUSON: I've got a question. We were talking about the site plan, the numbers site plan, what I'm trying to find out when we are saying the site plan, are we saying the site was now being used as a shooting range so the numbers wouldn't make a difference or are we saying the site plan she used was irrelevant? Because we see proof of shooting so are we saying that it was not used for a shooting range or the numbers she used were irrelevant?

MR. YARBOROUGH: What I'm saying is, what the technical charge that my client has been charged with is not a charge. They may one day go back and redraft one that is a violation but saying it's in violation of site plan 98-005 is not a charge and to that extent as soon as they close their evidence, I'm going to move this forward to dismiss this violation because of that.

MR. FLOWERS: I just have a follow up question for Ms. Bahneman if that's okay? Thank you sir. Ms. Bahneman I would like to address your attention back to the notice of violation. Paragraph 1 it says, do you have that in front of you? You are in violation of your site plan case #98-005 that's the first sentence, right?

MS. BAHNEMAN: Yes

MR. FLOWERS: It doesn't stop there does it?

MS. BAHNEMAN: No sir.

MR. FLOWERS: It goes on to say, you are operating or allowing the operation of a shooting range on your property, is that right?

MS. BAHNEMAN: Yes sir.

MR. FLOWERS: A shooting range is not permitted per the approved site plan, is that right?

MS. BAHNEMAN: Yes sir.

MR. FLOWERS: Okay now it references case #98-005 is that right?

MS. BAHNEMAN: Yes sir.

MR. FLOWERS: Was that the only file that your office had for this property?

MS. BAHNEMAN: That I'm aware of, yes.

MR. FLOWERS: And was there any approved site plan for a firing range in that file?

MS. BAHNEMAN: No.

MR. FLOWERS: And does the ordinance require this property to have an approved site plan for a firing range?

MS. BAHNEMAN: Yes sir.

CHAIR TURNER: So just to clean that up for us, 98-005 should have included a site plan for a firing range and it did not include that.

MR. FLOWERS: In order for it to be in compliance, yes.

CHAIR TURNER: Based on the statement they are in violation of that 98-005 simply by the fact that they operate a firing range without having applied for a site plan in that situation. Is that how we see it?

MR. FLOWERS: That's correct, Mr. Chair. And I have the file 98-005 and I would like to move that into the record as staff exhibit 4. Mr. Yarborough I understand you've seen it before so it shouldn't be a surprise. Yes sir.

Mr. Ferguson made a motion to accept case file 98-005 into the record, seconded by Ms. Lucas-Moore seconded. The motion passed unanimously.

	IN FAVOR
<u>TURNER</u>	YES
<u>FERGUSON</u>	YES
<u>PARKS</u>	YES
<u>LUCAS-MOORE</u>	YES
<u>AMOS</u>	YES

MR. FLOWERS: Than you Mr. Chair, I would like to call next Debora Johnson.

CHAIR TURNER: I don't think Ms. Johnson is sworn in.

MR. FLOWERS: No she's not.

CHAIR TURNER: Are you Ms. Johnson?

MS. HUDSON: I am.

CHAIR TURNER: Can I swear you in?

MS. HUDSON: You may.

CHAIR TURNER: Do you swear or affirm this testimony you are about to give with be the truth, the whole truth and nothing but the truth, so help you God?

MS. HUDSON: I do.

CHAIR TURNER: Okay. And you're Debora Johnson?

MS. HUDSON: I am Debora Johnson Hudson.

CHAIR TURNER: Okay, go ahead.

MR. FLOWERS: Okay so Ms. Hudson, can you give us your address for the record?

MS. HUDSON: My address is 1223 Wilderness Drive. I am speaking on behalf of my mom who is 81 years old and she's over there and her address is 356 Vass Road. V as in Victor a as in apple S as in Sam S as in Sam.

CHAIR TURNER: Would you prefer her to take that mask off or maybe just pull it down? We really can't hear you. You don't live close to the site but your Mother does, is that what you were saying?

MS. HUDSON: My mother lives right there near the site.

CHAIR TURNER: On Vass Road?

MS. HUDSON: On Vass Road.

MR. FLOWERS: Ms. Hudson have you ever lived there on Vass Road? At your mother's property?

MS. HUDSON: I have.

MR. FLOWERS: Mrs. Lynd do you mind putting that map back up? When did you live there?

MS. HUDSON: I was born and raised there. Been there on and off since 1964.

MR. FLOWERS: And you live in Fayetteville now?

MS. HUDSON: I live in Spring Lake.

MR. FLOWERS: In Spring Lake so how far are you from this property where you live?

MS. HUDSON: From my mom's house? Less than a mile.

MR. FLOWERS: How often do you go to your mom's house?

MS. HUDSON: Everyday.

MR. FLOWERS: When did you last live at this address at your mom's address?

MS. HUDSON: I moved out in 1994 but I'm in and out of there because she's elderly.

MR. FLOWERS: Do you see your mom's property on here? Sorry, it's kind of hard.

MS. HUDSON: I don't have my glasses sorry.

MR. FLOWERS: Don't worry about it. Have you ever heard the shooting on this firing range at this property here?

MS. HUDSON: Absolutely.

MR. FLOWERS: Tell me about what you heard.

MS. HUDSON: It's very loud. Noise is almost unbearable because of the shooting a lot of times it sounds like machine guns going off and it's just like da da da da da back to back. It's very very loud, and in fact the last time I was with her I heard it and I said to her what in the world is that because it sounded like it was directly in her yard and she's complained about it on a regular basis and it keeps them up. It frightens them because it just comes out of nowhere a lot of the time and it and it was all the time.

MR. FLOWERS: Is your mother here tonight?

MS. HUDSON: Yes she is.

MR. FLOWERS: Is she able to speak to us? There are folks here who live near the property? Don't worry I'm not going to call everybody. Raise your hand if you or a family member live near that property and you would like to speak. If we could have one person who lives there who would like to speak, who would that be? You sir, come on up sir. Is there anything else you would like to tell the Board about this?

MS. HUDSON: Just that this is a senior citizens neighborhood/community, people have been there since 1960 and it's been a quiet community and the noise that we're hearing from the range is just unbearable and it's unacceptable and I just say to each and every one of you making a decision tonight to consider it bring in your neighborhood and see how you would like it.

MR. FLOWERS: Mr. Yarborough may have some questions for you.

CHAIR TURNER: Before you do Mr. Yarborough, let me clarify this. Your mother lives on Vass Road and she is a mile away from this? Is that what you said?

MS. HUDSON: I live less than a mile from my mom.

CHAIR TURNER: And where is she in relation to this?

MS. HUDSON: She's on Vass Road.

CHAIR TURNER: If you walked out of her front door, how far would you walk to get to this location? 500 feet or 500 miles?

MS. HUDSON: It's the next street over but it backs up.

MR. PARKS: And through the woods as a crow flies, how far is it? Take a guess,, 1000 feet?

MS. HUDSON: Maybe a 1000 feet. Maybe.

MR. FLOWERS: Can she walk up there and point at it?

CHAIR TURNER: Be fine by me. We are really just trying to see how close she is.

MS. HUDSON: For the sake of time I can tell you this, Mr. Chase is a little closer.

CHAIR TURNER: Okay, we'll get with them then. Don't go away. Stay with us up here.

MR. YARBOROUGH: I have one question?

CHAIR TURNER: Before we get to you, let's see what he says.

MR. FERGUSON: You said you heard the shots and all that, what time are you hearing the shots?

MS. HUDSON: It's all the time, all the time and the last time I at her house and I heard it, it was like 7 or 8 o'clock in the evening.

CHAIR TURNER: Was that a month ago? Or how long ago was that? Rough guess.

MS. HUDSON: It was when we first, maybe June.

CHAIR TURNER: So at 8 o'clock at night it was still light and your contention is they were firing down there.

MS. HUDSON: And it's Monday thru Sunday, its always.

CHAIR TURNER: Just a question, you may object to, is there any possibility that it doesn't come from the range, it comes from Ft. Bragg?

MS. HUDSON: We know the difference. We've lived there long enough we know the difference. Now for the record, we've not heard anything lately.

CHAIR TURNER: Okay. They haven't been firing. Stand by. Go ahead sir.

MR. FERGUSON: That's it, that's all I wanted to know.

CHAIR TURNER: Where did you go Mr. Yarborough?

MR. YARBOROUGH: Betty would you put up one of my maps please? Ma'am would you mind coming over and pointing out where your mother's property s? This is the biggest map, this map will do it. Where's a bigger map? This one, yes, is there one bigger than that? I don't think so. Okay. Can you show me where Vass Road is on this map?

MS. HUDSON: I don't have my glasses.

MR. YARBOROUGH: You can go up there and look. Here you go. Let me say this, can you even see Vass Road on this map? Can you see where Manchester Road is? Alright, maybe this gentleman can help you. Yes. It is Vass Road. Let me show you this this is Manchester Road.

MR. CHASE: This is the power station on Vass Road, the very next house right here, this is Ms. Johnson's house right here.

MR. YARBOROUGH: I got you.

MR. CHASE: My residence is right across the street right there.

MR. YARBOROUGH: Now what's all that green stuff beside it? Is that the Ft Bragg reservation?

MR. CHASE: Yes.

MR. YARBOROUGH: All this over here is the Ft Bragg reservation? Okay, thank you.

MR. FLOWERS: Just for the record sir, what's your name?

MR. CHASE: Michael Chase.

MR. FLOWERS: Michael Chase. He pointed out Ms. Johnson's house and his own house just for the record.

CHAIR TURNER: He's not be sworn in yet. Are you going to speak sir? To you swear or affirm the testimony you will give will be the truth, the whole truth and nothing but the truth so help you God?

MR. CHASE: Yes I will.

CHAIR TURNER: And you are?

MR. CHASE: Michael Chase.

CHAIR TURNER: Thank you sir. Go ahead.

MR. FLOWERS: Thank you Mr. Chair. Mr. Chase would you mind giving us your address for the record.

MR. CHASE: My address is 435 Vass Road

MR. FLOWERS: 435 Vass Road, would you mind pointing that out with the laser pointer?

MR. CHASE: Right here.

MR. FLOWERS: Okay now Mr. Chase how long have you been living there?

MR. CHASE: I'm 55, 55 years.

MR. FLOWERS: All your life. And have you heard this firing, what you believe to be this firing range?

MR. CHASE: Yes I have.

MR. FLOWERS: Tell us about what you've heard.

MR. CHASE: I can hear it in my backyard. I also attend my home church is Bethel AME Zion Church which is point two miles down the road from my house. Around 2015 to 2017 our church had after school programs for the kids,, we had music academy and tutoring. We could also hear the firing at our church also. After the kids would finish their assignments we would let them come out and play at the church and then we started hearing the firing so we had to usher them back into the church because we were scared, we weren't sure which direction bullets are going to be flying thru the woods or anything. It's very uncomfortable hearing these loud pow pow pow pow pow pow constant shooting. Another situation, my cousin Yolander Blakely, her graveside service heard also gun firing. There's a cemetery, Lucas Cemetery right adjacent to the church during her graveside service we heard constant firing pow pow pow pow pow explain that.

MR. FLOWERS: Let me ask you this, Mr. Chase, I appreciate that you mentioned hearing the gunfire in 2015-2017 you mention here that recently I think, was there a gap in time there between those two periods where you didn't hear the gunfire as much or at all?

MR. CHASE: No, it was on a regular basis you could hear the shooting.

MR. FLOWERS: Pretty much regular since that time?

MR. CHASE: Yes.

MR. FLOWERS: And is there anything else that you'd like to tell the Board?

MR. CHASE: Other than I've had other family members to complain about it. I have a cousin her name is Ms. Ernestine Nichols she's complained about the shooting also.

MR. FLOWERS: Have you ever heard the the shooting at night?

MR. CHASE: Yes, late in the evening yes. Not midnight or nothing like that.

MR. FLOWERS: What's the latest you recall having heard the shooting range?

MR. CHASE: 7 or 8 o'clock in the evening.

MR. FLOWERS: Alright I don't have any further questions these folks might. Mr. Yarborough might.

MR. FERGUSON: Does anybody on the Board have any questions?

MR. PARKS: I don't at this time.

MR. YARBOROUGH: Just one question sir, do you ever hear automatic weapon fire?

MR. CHASE: That sounds like it to me pow pow pow, semi automatic

MR. YARBOROUGH: What about and the latest you've heard is at 8 o'clock at night? Never heard any later than that in the evening?

MR. CHASE: I can't recall any later than that no.

MR. YARBOROUGH: You know this lady has said she's heard it late into the night and she's heard it going pow pow pow, do you remember hearing her say that? Thank you.

MR. FERGUSON: The record on that is she said she's heard it as late as 8 o'clock pm. For the record.

CHAIR TURNER: Just a clarity question again. How would we distinguish between automatic weapon firing someone just firing rapidly? How do you distinguish that? You ask the question that's why.

MR. YARBOROUGH: I don't know.

CHAIR TURNER: You don't know. I just want to be sure.

MR. YARBOROUGH: I know if you give me two H & K's I could simulate automatic weapon fire.

CHAIR TURNER: Well I'm just I'm just thinking automatic weapon fire and then you could actually fire rapidly and someone would think it was that, that's just a question. Anybody have any questions? Did you want to add anything sir?

MR. CHASE: I just want to say that looking at the pictures of that firing range and the distance from my house to the to our church is .2 miles I think that will be a large area of shooting. I get the feeling they're shooting more areas than this where they have the firing range set up at. That's my opinion.

CHAIR TURNER: Mr. Flowers did you want to ask anything else? I'm sorry I stepped out so I don't know what to do next.

MR. FLOWERS: I don't have any further questions

CHAIR TURNER: Thank you sir. We may call you back, you never know.

MR. FLOWERS: I don't have any further witnesses at this time. Thank you.

CHAIR TURNER: Mr. Yarborough?

MR. YARBOROUGH: Betty would you pull up the Affidavit of Mr. Herschel Lee Boyd, please.

MR. FLOWERS: I object to this affidavit because we don't have the opportunity to cross examine.

MR. YARBOROUGH: Oh you do. He's right here.

MR. FLOWERS: When he testifies then I won't object but

CHAIR TURNER: We didn't have that in our packet either. This is something we've not seen.

MR. YARBOROUGH: Mr. Boyd, come up here please. Get your cane.

CHAIR TURNER: Mr. Boyd, thanks for coming out tonight. Can I swear you in?

MR. BOYD: Yes.

CHAIR TURNER: Do you swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth so help you God?

MR. BOYD: I do.

CHAIR TURNER: And you are Herschel Boyd?

MR. BOYD: Yes.

MR. YARBOROUGH: Mr. Boyd, look up at that screen there, you see that screen or let me show it to you here,

CHAIR TURNER: That screen is not very clear from our side.

MR. BOYD: Not to clear.

MR. FLOWERS: Would you like to sit down sir?

MR. YARBOROUGH: He can stand there for as long as I'm going to talk to him.

MR. BOYD: No, I can stand.

MR. YARBOROUGH: Wait just a second. I'm going to approach. Mr. Boyd, see this piece of paper I have here in front of my hand, I want to show you this. Is this your signature?

MR. BOYD: Yes.

MR. YARBOROUGH: Okay. And have you prepared this affidavit and sworn that it was true?

MR. BOYD: Yes.

MR. YARBOROUGH: And is this your testimony?

MR. BOYD: Testimony yes.

MR. YARBOROUGH: We want to move to introduce Mr. Boyd's affidavit into evidence and I will turn Mr. Boyd over for a rigorous interrogation by Mr. Flowers.

MR. FLOWERS: Can I have just a moment to make sure I don't have an objection to the item Mr. Chair.

CHAIR TURNER: Okay, go ahead.

MR. FLOWERS: Okay, I don't have any objection to this Mr. Chair.

CHAIR TURNER: We need a motion to accept this in the record. Mr. Boyd has acknowledged that he wrote this.

MR. HASTY: Mr. Yarborough will this be exhibit number 1?

MR. YARBOROUGH: This will be our exhibit number 1.

Mr. Ferguson made a motion to accept Mr. Boyd's statement, Exhibit #1 be entered into the record, seconded by Ms. Amos seconded. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

MS. LUCAS-MOORE: I have a question, can we go back to page number 1, number 6? At least since 1992 members of the post have used the area directly behind the post for discharging firearms, so has this range, the VFW been used for a firing range since 1992?

CHAIR TURNER: The best of your knowledge they've been firing there since at least 1992, at the VFW? That's what your statement says.

MR. BOYD: American Legion.

CHAIR TURNER: I'm sorry, the American Legion.

MR. BOYD: Been firing there since 1992.

CHAIR TURNER: Your affidavit says at least since 1992, members of the post have used the area directly behind the post building for discharging firearms. So, you're acknowledging that this has gone on since at least 1992?

MR. BOYD: Yes.

CHAIR TURNER: Okay. Thank you. Does that answer your question?

MS. LUCAS-MOORE: That's correct, thank you sir.

CHAIR TURNER: Who's next?

MR. FLOWERS: Thank you. Mr. Boyd good evening, my name is Scott Flowers and first of all thank you for your service. My father is retired Navy and my grandfather is retired Army so we take that seriously in my family. I'll try not to keep you long sir, okay. Has the shooting range moved around any during that time and then different places on the property?

MR. BOYD: Well as far as the shooting range go the only place I ever, see the shooting range started with the people of Spring Lake, when they couldn't use that as a turkey shoot no more. So they come down to the Legion. That's how the firing house started. It was the turkey shoot for Spring Lake.

MR. FLOWERS: Was that in 1992 when that happened? The first turkey shoot there? Is that why you use that year?

MR. BOYD: 92, that should be about right.

MR. FLOWERS: When did y'all start using it for more than just the seasonal turkey shoot?

MR. BOYD: I moved out to Harnett County and I haven't been to the American Legion in a long time because I'm not physically able to go, be there at night and so forth.

MR. FLOWERS: Your last sentence says, no one was ever been hurt due to firearm usage at the property, we're thankful for that and the area where people shoot is at the back of the property where there is a berm, then the Little River, and then a wooded area at Fort Bragg. I'm trying to understand that are you saying there's three areas where folks shoot out there or just one area?

MR. BOYD: There's just one area. I think it's 1,100 and something feet from the back of American Legion to the river down there. It's a wooded area where I fixed about 400 or 500 feet from that.

MR. FLOWERS: Do you know when that dirt berm was put up there, was built there like that?

MR. BOYD: Long time ago.

MR. FLOWERS: How about the, did you see the roof like a carport roof in the picture you familiar with that carport roof being out there?

MR. BOYD: A long time ago.

MR. FLOWERS: Would you say more than five years ago?

MR. BOYD: Oh yes.

MR. FLOWERS: Has it been there the entire time do you know?

MR. BOYD: As far as been attending the American Legion meetings.

MR. FLOWERS: Has that roof been there the entire time do you know?

MR. BOYD: Oh that carport hasn't been.

MR. FLOWERS: Okay. Do you know when they first put that carport roof on there?

MR. BOYD: No but its been there a long time.

MR. FLOWERS: Alright, I don't have any more questions for you, thank you very much.

CHAIR TURNER: What would be the relevance of the time frame of that shelter? Is there a relevance so that we'll understand up here.

MR. FLOWERS: Sure. I think that one thing is the ordinance says that if the there's an exception for ranges that were in operation since 2005 or earlier you know that been in as I interpreted continuous operation and so you have to look at the ordinance there's more requirements than just that as I recall but I think maybe, in terms of time frame, that is irrelevant question.

CHAIR TURNER: Okay, I think we're understanding, y'all correct me if I'm wrong, directly at the back of this property it's the little river that separates this property from Fort Bragg, is that right sir? It's the Little River that separates this from Ft Bragg?

MR. BOYD: The Little River don't have nothing to do with it.

MR. YARBOROUGH: Little River on the property line doesn't have anything to do with it, is what he said.

CHAIR TURNER: There was a question there were there three different locations?

MR. FLOWERS: He answered that. Yes sir. I do have one more question. Have you ever been to a concealed carry class out there, are you familiar with those?

MR. BOYD: No.

MR. YARBOROUGH: Objection. There is nothing in the affidavit that says it's a concealed carry.

MR. FLOWERS: Have you ever been to a concealed carry out there at the American Legion? Are you aware that the American has concealed carry classes out there?

MR. BOYD: Well see I haven't been done there in so long, I live out in Harnett County now.

MR. FLOWERS: When is the last time you think you were down there?

MR. BOYD: At a meeting? About five years ago.

MR. FLOWERS: Alright, okay thank you.

CHAIR TURNER: I've taken a concealed carry class not from there but most of that is classroom even if they had a class there no, unless someone attest to the fact that they were there and the shooting went on there when I took it I took it in Lillington NC and then they bussed us to a range in Lillington so there's nothing to show that

shooting was there. I understand what you're saying but never mind. I'm just trying to clarify and keep it simple for us.

MR. FLOWERS: We can go back to the pictures that Ms. Bahneman took of the rules and the things that were posted and they reference concealed carry classes and group use of the facility. Yes sir.

CHAIR TURNER: Okay. Mr. Yarborough, you're next I think.

MR. YARBOROUGH: Matt Shipley.

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

MR. SHIPLEY: Yes sir.

CHAIR TURNER: And you are?

MR. SHIPLEY: F Matthew Shipley Law Enforcement Instructor for Ft Bragg police department and also a member of post 230

CHAIR TURNER: Go ahead Mr. Yarborough.

MR. YARBOROUGH: You heard me ask the question and you heard Mr. Boyd talk about they've been firing out it the American Legion Post at least since 1992, correct?

MR. SHIPLEY: Yes sir, I heard that.

MR. YARBOROUGH: Can you tell us how long you been a member?

MR. SHIPLEY: I'd have to check my membership records to be exact but it's been at least six years.

MR. YARBOROUGH: And during the six years you've been a member, members have gone out and shot behind the building right?

MR. SHIPLEY: Yes sir.

MR. YARBOROUGH: Betty would you put up the biggest the other one that actually shows a little bit more, that one, yes. Now, Mr. Shipley you work on Fort Bragg is that correct?

MR. SHIPLEY: Yes sir.

MR. YARBOROUGH: And I believe you said you were Firearms instructor is that correct?

MR. SHIPLEY: Yes sir, NRA and Federal.

MR. YARBOROUGH: And an part of your duties is to be familiar with the firing ranges out at Ft Bragg?

MR. SHIPLEY: Yes sir.

MR. YARBOROUGH: Can you go to this or standing where you are, can you go and point out a couple of the or 1 or 2 of the firing ranges that are on Fort Bragg?

MR. SHIPLEY: Sure. If everybody will bare with me basically what you're looking at here is Manchester Road. Manchester Road continues down here to the reservation that's why you have all the green is obviously it's not going to be on Google. The gate is there, Pope Air Force Base and the apron is all in this area. This is a housing area right here civilian housing area. So the range itself which is range one alpha and range one which is used predominately by the Air Force Special Forces and special ops group school that's there, off of Manchester it would be just my basic guess probably right around where that dot is. It's just slightly off your picture.

CHAIR TURNER: I'm missing the dot, where's the dot?

MR. SHIPLEY: Right above the curtain. I need a little bit of imagination here. It's not on this particular map. But if you take if you split where our property is and go to basically as the crow flies it's about a mile to a mile and a half to range one and range Alpha on the back side of Fort Bragg near McKellar's Lodge and everything else is in the woods.

CHAIR TURNER: Direct distance is only a mile or so?

MR. SHIPLEY: A mile about a mile and a half as the crow flies.

MR. YARBOROUGH: You've been around firearms all your life, is that correct?

MR. SHIPLEY: Yes sir.

MR. YARBOROUGH: And because you're a member of the American Legion, you're a veteran of the United States Military services, is that correct?

MR. SHIPLEY: Yes sir over 20 years retired and I've lived in the Fayetteville area was born here in 1961.

MR. YARBOROUGH: And are you familiar with how the noise and sound of firearms travels?

MR. SHIPLEY: Sure and it's also a characteristics of that is also a lot of the weather conditions. When you have low cloud cover, my background is I was an aviator in the military so I know a lot about weather and clouds but as you have lower cloud cover the reflection of the sound of fire gun ranges artillery range is like the Marines have been here for the last 2 weeks pretty loud everybody has probably heard those guys when you have those low cloud cover you get more sound reflecting off of the clouds and bouncing in. The higher the cloud cover the farther sound will travel but the lower the cloud cover the more intense the sound will be to those closer areas within a mile or two of where they're shooting. The Marines shoot 10 15 miles out there on Ft Bragg but they'll rattle the plates right here in Spring Lake and I'm sure people who live here could attest to that.

MR. YARBOROUGH: As far as small arms fire with the would it be possible to hear Small Arms firing two miles away?

MR. SHIPLEY: Yes, if the weathers all right because it's just a sound wave like anything else.

MR. YARBOROUGH: Once again would you point to the, I guess you're going to have to point on the curtain, where the closest Firearms range is to the American Legion building?

MR. SHIPLEY: Closest Ft Bragg?

MR. YARBOROUGH: Yes, the closest one on Ft Bragg.

MR. SHIPLEY: Like I said, the property of 230 is right here, Manchester Road comes down to Manchester gate, this is where your military boundary is, the road turns off here up into this area which is predominantly houses and some trailer parks the old water treatment plant is back up in here so basically as the crow flies the range itself is going to be just about my estimate just about right there I would say no more than a mile and a half straight line.

MR. YARBOROUGH: I want to ask you one more question. Do you see this white area right here right?

MR. SHIPLEY: Yes that's a substation, Vass Road is patrolled by our people it's dual use as far as law enforcement and I believe that's an electrical substation.

MR. YARBOROUGH: Thank you, that's all the questions I have.

CHAIR TURNER: Well as usual can you tell me what the relevance of that was?

MR. YARBOROUGH: Yes. Two things it shows there have been members of the organization shooting out on the property consistently since at least 1992 that's number one number two that was my primary reason and seeing how Mr. Flowers started talking about noise I thought it'd be nice to share a little bit of noise information with the board but my primary purpose in calling this witness is just so it has been in continuous the property has been used continuously for the discharge of firearms.

CHAIR TURNER: Since 1992 at least.

MR. YARBOROUGH: At least since 1992. So he has acknowledged that and we understand that. Anybody have any questions? Go ahead Mr. Flowers.

MR. FLOWERS: Thank you Mr. Chair. Mr. Shipley, I'm sorry I didn't catch your first name and thank you for your service. So you said you've been a member since six year ago, that's 2014?

MR. SHIPLEY: Right I believe it's been almost six years now.

MR. FLOWERS: You didn't testify to anything about what's happening back to 1992.

MR. SHIPLEY: No, but I have been at Fort Bragg in the military since 1979 and I know that building there in the property there has been since 1943.

MR. FLOWERS: Now has that firing range been used continuously in the six years that you've been a member of the American Legion there?

MR. YARBOROUGH: Objection. To the use of the term firing range.

MR. SHIPLEY: People shot behind the building I wouldn't say it's a firing range.

MR. FLOWERS: Can you go to the picture of the firing range? I'm going to call it a firing range, you don't have to but I am.

MR. SHIPLEY: Common terminology for military folks was we would call just about anywhere we shoot a range.

MR. FLOWERS: That's what's in all the rules and everything that the American Legion published, you called it a range. Is that right?

MR. SHIPLEY: On slide 11 it said range rules yes sir.

MR. FLOWERS: And range is short for firing range, right? Or shooting range, is that right?

MR. SHIPLEY: In that predominant thing with the instructions, yeah.

MR. FLOWERS: Has this that we're looking at this picture of this firing range been there in the six years that you've been a member continuously been there?

MR. SHIPLEY: That berm the tires everything around that has been exactly that's just about exactly what it look like when I became a member which is one of the reasons I joined that Legion itself because they had an ability for people to go out who belong to the Legion which basically we all own the Legion all the membership owns the Legion somewhere we could actually shoot rather than try to shoot in our backyards or whatever.

MR. FLOWERS: Was that berm washed away by a hurricane by any point?

MR. SHIPLEY: We had 2 hurricanes, the first hurricane was probably halfway up the berm, the second hurricane was just under 9 inches inside the building, but the berm was not washed away at all. Everything else

was damaged the LP tank everything was floated and I was actually standing in that actual spot during the second hurricane when the LP tank basically took flight and started floating went down and chained it up so it will not float it away and disconnected it so is not the fire hazard but the berm never washed away there's plenty of vegetation behind that and it's all swampland back there fed by the Little River.

MR. FLOWERS: So you're an NRA firearms instructor?

MR. SHIPLEY: Yes sir.

MR. FLOWERS: Does this shooting range meet NRA specs?

MR. SHIPLEY: As far as an actual operational range?

MR. FLOWERS: Yes sir.

MR. SHIPLEY: You've got a berm, you've got a good area right there you don't have anything behind there except the cleared area if you go ahead and run you a fan straight off of that berm right across the Little River it's nothing but vacant land back there the housing area that they're talking about and was on the map and you'll see is actually, if you can think of a clock is to the 2 o'clock or 2:30 position off the straight line of that range which would be your trajectory.

MR. FLOWERS: You're range rules say that you can fire up to a 7.62 mm round at this range, are you familiar with that?

MR. SHIPLEY: Correct.

MR. FLOWERS: Are there any side berms on this range?

MR. SHIPLEY: No, you seen what it is right there.

MR. FLOWERS: Do NRA requirements require side berms for that caliber ammunition?

MR. SHIPLEY: I do not know that they don't require it in the Federal end though because we don't have side berms even on Fort Bragg.

MR. FLOWERS: Do you have that caliber ammunition in close quarters like this to civilian areas on Fort Bragg?

MR. SHIPLEY: Sure. We shoot multiple multiple rounds all the way up to 50 cal 50 caliber that's where they draw the line for small arms ammunition 50 caliber and below is considered small arms, known distance firing, above 50 caliber is considered heavy armor which does require longer distances in ultimate protection.

MR. FLOWERS: Are those ranges secured? I mean can people walk onto that range?

MR. SHIPLEY: People do it all the time, sir I put them in jail everyday.

MR. FLOWERS: So you're out the patrolling that area but Ft Bragg is fenced off right?

MR. SHIPLEY: Not the range portion of it, is not. We have people walk out there all the time.

MR. FLOWERS: When the Range is live, is there is a range officer present?

MR. SHIPLEY: When the range is live there is a range officer present required by range control.

MR. FLOWERS: You don't have that at the American Legion do you?

MR. SHIPLEY: No, we don't need it because we don't run the range we just go out there and shoot.

MR. FLOWERS: Right and you don't have any fence to keep trespassers off the property right?

MR. SHIPLEY: Again, private ownership it's not a range.

MR. FLOWERS: My question was you don't have a fence out there do you?

MR. SHIPLEY: There's a fence on the side but does not keep a lot off of it, no.

MR. FLOWERS: And in fact y'all have had problems with trespassers going out there on that property, isn't that right?

MR. SHIPLEY: I'm not aware of any but then again I'm not the Commander. He would be more aware of that than I would be. I'm just a member.

MR. FLOWERS: Are you aware that the literature posted on your property talks about problems with trespassers?

MR. SHIPLEY: As far as when it occurred?

MR. FLOWERS: Sure.

MR. SHIPLEY: I'm not real sure.

MR. FLOWERS: The fact that y'all have had trespassers on there.

MR. SHIPLEY: In all honesty, I haven't memorized the entire document of the range rules I would review it before I would go out there and shoot especially if there's somebody out there.

MR. FLOWERS: Let's go right there, you can go over closer, your eyes are better than mine. Please note this is private property our property and range are only open to members and their guests unfortunately we have had our property damaged and things stolen so if you have no intention of becoming a member we politely ask you to leave and not return. Did I read that correctly?

MR. SHIPLEY: Sure.

MR. FLOWERS: If you would go to the range rules. You might want to get closer.

MR. SHIPLEY: That one I may have to walk up to. Go ahead.

MR. FLOWERS: I'm looking at under range rules the paragraph number three.

MR. SHIPLEY: Number three, members using.

MR. FLOWERS: Yes sir about halfway down it says, see where it says we want to support our Legionnaires while taking care of our property, see that?

MR. SHIPLEY: Correct.

MR. FLOWERS: It says we have had numerous and recent instances of trespassers and non-members using our range and damaging or stealing our property, did I read that correctly?

MR. SHIPLEY: Yes sir.

MR. FLOWERS: Alright if you'll look at number 13, if members want to use the range for weapon classes, have a large group more than 5, need it for an extended period, more than 2 hours, have more than two guests, need to fire outside of the designated time window or have any other unique situation obtained permission from the post leadership at least 48 hours in advance. Did I read that correctly?

MR. SHIPLEY: Yes sir.

MR. FLOWERS: That's all the questions I have about the range rules. I'm going to mark this, I think we're on five and Mr Shipley what I showed you is a series of Google Earth images.

MR. SHIPLEY: Okay.

MR. FLOWERS: Do you recognize the property there on the first page as being the property that would hear about tonight the American Legion Post

MR. SHIPLEY: Yes sir.

MR. FLOWERS: And do you see the shooting range there in the back, the blue carport building?

MR. SHIPLEY: Yes sir.

MR. FLOWERS: And this is a picture taken February 2020 so does that look like basically what the property looks like now or what it look like for February 2020?

MR. SHIPLEY: Yes sir.

MR. FLOWERS: Then if you turn the page this is a picture of Google Earth from July 2017 now do you see the shooting range in that picture?

MR. SHIPLEY: I see a cleared area I don't see a shooting range.

MR. FLOWERS: If you'll turn the next page I'm sorry y'all don't have this, my apologies, may I approach?

MR. SHIPLEY: If the question you're asking me so if I see the berm at the back of the property, I see it right there in the tree line which is what you're predominately saying is a shooting range, am I correct?

MR. FLOWERS: So which page are you looking at?

MR. SHIPLEY: I'm looking at your 2017 July I'm looking at the if you draw straight line from the Red Roof from the Gable in the room straight to the back just slightly to the 11 o'clock of the fire Circle you will see the berm right there at the tree line.

MR. FLOWERS: Okay, no carport there though?

MR. SHIPLEY: No.

MR. FLOWERS: Next page is from September 2018 do you see the berm in that picture?

MR. SHIPLEY: Yes I do.

MR. FLOWERS: Do you see the carport in that picture?

MR. SHIPLEY: The carport is up there next to the building.

MR. FLOWERS: Was it being used at that location as a shooting?

MR. SHIPLEY: No they were not shooting from next to the building they are using carport as a shelter.

MR. FLOWERS: All right, in May there was a sign out front, can we get the sign out front from? This sign here was this picture was taken May 13th oh by the way I like to move these pictures into the record as staff's exhibit 5

CHAIR TURNER: This is 5?

MR. FLOWERS: Yes Mr. Chair. Is there a motion to accept these?

Mr. Ferguson made a motion to accept these pictures as exhibit 5 into the record, seconded by Mr. Parks seconded. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

MR. FLOWERS: Thank you Mr. Chair. Are you familiar with this sign?

MR. SHIPLEY: Yes sir.

MR. FLOWERS: Free range with Legion membership \$40 a year and I read that correctly?

MR. SHIPLEY: That's what the sign says.

MR. FLOWERS: When was that, if you know, those words put on that sign?

MR. SHIPLEY: I couldn't tell you exactly when I would say it was if memory serves me it was after the last hurricane when we began to recover and what was it 2 years ago the last hurricane that went through there and wipe everything out when we begin to do the recovery and we were on a big membership drive. Free range membership also includes everything on the property that's the fishing pond, the circles, little camping area, all that stuff is part of being a member of the Legion along with being a member of the Legion with your magazine in your membership and all the benefits for Americanism in veterans.

MR. FLOWERS: Go back to that packet, the fourth page there's a picture that sign from June 2019, the words about a membership with a free range of membership aren't on that sign there, are they?

MR. SHIPLEY: No there's nothing on that sign what that sign was blank because its one of those towable signs looks like a trailer that was the sign that we used for everything for announcing our meetings and all that but that disappeared during the last hurricane that's down range or down river somewhere.

MR. FLOWERS: The last page is the same sign from a year earlier June 2018 and it seems to say something about breakfast, Sunday breakfast maybe?

MR. SHIPLEY: Right, breakfast is our veterans fundraiser so that we can support the veterans program all in Cumberland County.

MR. FLOWERS: So in 2018 and 2019 the sign didn't say free range with Legion membership?

MR. SHIPLEY: Correct but that's always been one of the benefits you're allowed to shoot on the property again ownership of the Legion of being a member.

MR. FLOWERS: Now who is it that maintains American Legion Post you have a Facebook page right?

MR. SHIPLEY: Yes.

MR. FLOWERS: And who is it that maintains that?

MR. SHIPLEY: I imagine that would be I don't think the title correct title is secretary but that would be the administrative person I'm not sure what that person's name is again I'm not an officer in the legion I'm just a member.

MR. FLOWERS: Who is Matt Norris?

MR. SHIPLEY: Matt Norris? I have no idea sir.

MR. FLOWERS: Never met him before?

MR. SHIPLEY: I may have met but I don't recognize the name sir. Usually I remember someone with my same first name.

MR. FLOWERS: Were you aware he was conducting concealed carry classes on this shooting range?

MR. SHIPLEY: No.

MR. FLOWERS: I would like to show you what I've marked as staff exhibit 6, I'm sorry I might have given you more than one copy of that. Do you recognize this from the American legion's Facebook page?

MR. SHIPLEY: I very rarely ever get on the legions page sir.

MR. FLOWERS: But you have been before?

MR. SHIPLEY: Last time was probably a couple weeks ago so I can find out when we're have our first meeting that we open the building back up after the flood.

MR. FLOWERS: So you go on the Facebook page for information then?

MR. SHIPLEY: When we're getting ready to have a meeting to find out what time it is yes sir because we're doing meetings both in our area clean up and we're also using the VFW over in Spring Lake they are donating their time and their buildings for us so we're not really sure where they're going to be during the meeting so that's about the only time I checked Facebook page.

MR. FLOWERS: So I'm going to ask you to turn to the one that's got the stapled copy okay first you say that that this is the page American Legion 230's Facebook page, are you familiar with that?

MR. SHIPLEY: Yes sir.

MR. FLOWERS: Then if you'll turn to the last page there see that there's a post that says the range will be closed on February 29th, 2020 from 10:30 to 13:30 for a concealed carry course if you are enrolled in the course please do not be at the at the range during this time it's supposed to say if you are not that did I read that correctly and then the other page that I've given you here it's another post says it's got a picture of the business card for Mr. Norris I gave you.

MR. SHIPLEY: The single page right number 6 okay.

MR. FLOWERS: It's got a business card from Mr. Norris' concealed carry class.

MR. SHIPLEY: Yes sir and I don't see anywhere on that card when he's advertising that the Legion is conducting that class that's a personal card.

MR. FLOWERS: Okay. Do you see there that its on this post. It says, we have gotten comments about the concealed carry class on this post asking questions about the classes it is not to the public you must sign up for the class contact instructor for all the details, did I read that correctly?

MR. SHIPLEY: That is correct sir.

MR. FLOWERS: This time then I like to move these items into the record as staffs exhibit 6.

MR. YARBOROUGH: Objection. It's not been authenticated.

MR. FLOWERS: He has said that he sees this site and that he goes there for information and this is their site.

MR. YARBOROUGH: Have you ever seen this?

MR. SHIPLEY: I've not seen this posting personally myself and there's also another American Legion Post 230 and it's in Hollywood Florida.

MR. FLOWERS: Yes sir but you also testified that this picture is your Facebook.

MR. SHIPLEY: That's it but you asked me if I had seen that, and my answer to you sir is that I have not seen this particular posting no.

MR. FLOWERS: He's admitted that he's seen this and that it came from their Facebook site and I think that is sufficient.

CHAIR TURNER: What is the purpose of the posting other than you're trying to emphasize that they're having concealed carry classes? That's the only thing this is for?

MR. FLOWERS: That's correct. That's the evidence that's being used for a commercial purpose.

CHAIR TURNER: Alright and I think we can almost acknowledge that it's a commercial purpose and I'm going to agree with Mr. Yarborough on that. I'm sorry.

MR. FLOWERS: There's no motion is just overruled by the chair.

CHAIR TURNER: Yes. I see your purpose but this meeting is sort of drifting off base, clarify if I'm wrong we are actually here to determine whether the actions taken by the inspectors were proper or improper.

MR. HASTY: That's correct.

MR. FLOWERS: Let me tell you why I'm asking about this Mr. Chair, if you look at that appeal that they filed

CHAIR TURNER: The appeal?

MR. FLOWERS: The notice of appeal filed by the American Legion, they don't give a basis for the appeal and Mr. Yarborough has ask questions about well can I shoot guns on my Hundred Acre Farm such as that because there is an exception in the ordinance for individual owners occasional use by those individuals. So to the extent that the American Legion is saying that they fall into that exception for individual owners occasionally used by those individuals this is evidence that they are using it for commercial purposes which shows that they do not fit that exception so that is as why that's important.

MR. YARBOROUGH: And my objection is that it still hasn't been authenticated.

MR. FLOWERS: I'm not sure what else he's got to do other than he's already said this is their Facebook page but in any event I understand your ruling.

CHAIR TURNER: In any case from our side I think we can openly, the Board, y'all stop me if I say this wrong, Mr. Hasty, but I think we can acknowledge that this group has used this facility as a shooting range since at least 1992 based on the testimony that was there. They've acknowledged that. We've also found that they've submitted no site plan, no plans to do it. I think they made use of it because nobody said anything about it and it probably was no big deal and I can understand that but we're sort of going beyond pushing the issue when the issues kind of already been accepted. Mr. Yarborough has accepted they have no site plan. They've just gone out there and shot. We're trying to determine whether the inspectors have done what they should do and talking over here when we should be over here. It's my thought. I'm not arguing with you. I can understand what you're saying but I think we can acknowledge that they've used the ability if you want to spend \$40 in joining this group you get to use the range well that's kind of like advertising and so it is a commercial venture for them in my mind. Correct me if I'm wrong.

MR. HASTY: There is some indication the American Legion may argue its not a range.

CHAIR TURNER: With all the documents that I've seen the word range has been everywhere so and they may argue that point now but there's lots of documents that they use the term range it's a range. I think it's a range, that's my opinion. Y'all go ahead.

MR. FERGUSON: My understanding what he's talking about is that because of the fact if we read into what they're saying they're not doing, we have him doing classes there, that we should accept it into the record because they are using that and the wording is saying that its not a commercial entity, in here where you are advertising that you are using it to train a conceal weapon classes and that you can't come during that time as a member that it should go into the record that is a fact that we need to consider.

CHAIR TURNER: Okay, everybody agree with that?

MS. AMOS: It's also part of the definition for outdoor firing range that is has instruction in classrooms.

CHAIR TURNER: Sounds as if the board would like to accept what you want to present so against Mr. Yarborough's wishes we're going to accept that as item number 6. I need a motion.

Mr. Ferguson made a motion to accept Mr. Flowers proof of concealed weapons classed, Exhibit #6 be entered into the record, seconded by Ms. Lucas-Moore seconded. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

MR. FLOWERS: Thank you Mr. Chair, I just have one copy I apologize.

CHAIR TURNER: Just a thought, would there be anyone here other than him who can acknowledge that is or is not, I think the question is it's not been verified.

MR. YARBOROUGH: My next witness.

CHAIR TURNER: Okay, okay.

MR. PARKS: I'll identify that's the Facebook page, is that what you're saying?

MR. YARBOROUGH: I don't know what he's going to say, maybe it is may not be but my next witness can answer the question. That's all I'm saying.

CHAIR TURNER: Okay, thank you sir.

MR. YARBOROUGH: And I'll ask him that.

MR. FLOWERS: I don't have any other questions for Mr. Shipley thank you sir.

MR. YARBOROUGH: I want to call Derek Oreck as my next witness.

MR. PARKS: Can I ask a question? Can I ask what Mr. Yarborough is asking for in this particular case can you tell me in layman's terms what you're asking for right now?

MR. YARBOROUGH: Yes. We are discontinuing the use of this property as a range.

MR. PARKS: You said it wasn't a range to start off with sir.

MR. YARBOROUGH: I still think that way sir. It's not a range.

MR. PARKS: Why did you just say that? But earlier you said there wasn't a range. Let me let you finish, I'm sorry. So tell me in layman's terms where you're going with this.

MR. YARBOROUGH: Okay. Where I'm going with this is this gentleman right here is going to testify that they're going to take down and give you a little bit more current history on what's happening at the American

Legion building. He's going to tell you that they have closed the range as you have seen in some of these photos and that they are putting the garage or the carport back to where it was.

MR. PARKS: So why do you need to appeal all this? I'm sorry, I may be talking but why are you appealing all this? If that's all you want, why don't you just instead of I mean I just asked what you know one of you don't want to run a range out there in the future anyhow do you?

MR. YARBOROUGH: No, I just want I just want to make sure I just want to make sure if one of members wants to go out there and shoot on an occasional basis they can go out and shoot.

MR. PARKS: Well then, okay, okay. Thank you in layman's terms of what you are trying to ask. Now Neal we'll know where to go from there.

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

MR. ORECK: I do.

CHAIR TURNER: And you are?

MR. ORECK: Derek Oreck, I'm the Commander of Post 230, retired US Army 20 years, originally from Michigan, I decided to stay in North Carolina.

CHAIR TURNER: Okay sir. What is it Mr. Yarborough?

MR. YARBOROUGH: Let's cut right to this, do you know who operates the Facebook page of this Facebook page?

MR. ORECK: I believe it is the daughter of one of our members.

MR. YARBOROUGH: Do you as the Commander have any editorial control over what they say on this Facebook page? Did you edit or have you reviewed any of these advertisements?

MR. ORECK: I have not. I asked her to locate like we were posted, I asked her to post a flyer for our trunk or treat we are throwing on Halloween. Are I ask her to post times for meetings.

MR. YARBOROUGH: Is the person, is this young lady who makes these post and using the American Legion Post number 230 is she the daughter of Mr. Norris?

MR. ORECK: No. Mr. Norris is a member of our Post and we allow our members to use the property.

MR. YARBOROUGH: Now, I want to show you a couple pictures here and this exhibit here okay. If you see this was February of 2020. You see this carport. This carport is in an area where you shoot, correct?

MR. ORECK: Yes.

MR. YARBOROUGH: Let's go to the next page. See the one dated July 2017?

MR. ORECK: Yes.

MR. YARBOROUGH: Okay is that the same carport?

MR. ORECK: Yes.

MR. YARBOROUGH: What was it used for over there?

MR. ORECK: Junk storage. We had a bunch of junk under there that was left over from the flood.

MR. YARBOROUGH: And so you moved it over to the back side of the property correct?

MR. ORECK: Yes.

MR. YARBOROUGH: And looking at the next picture, which is September 2018, what's all that white stuff?

MR. ORECK: Trash. It was junk from the flood, with a building that was under 9 feet of water and the property was destroyed. That shed used to be over here just to give you an idea.

MR. YARBOROUGH: In other words, the red

MR. ORECK: That red square

MR. YARBOROUGH: This Red Square?

MR. ORECK: That was a shed and used to be over here, the flood picked it up and moved it all the way over there.

CHAIR TURNER: Mr. Yarborough can you tell me why that's pertinent?

MR. YARBOROUGH: Well, if they have made it appear as though the carport is part of a range facility and the only thing they've done is move the carport from one place to another place. Now are you in the process of moving the carport back?

MR. ORECK: Yes.

MR. PARKS: Back to where, to the range or to the other part of the property?

MR. ORECK: Some where else on the property sir.

MR. YARBOROUGH: To its original point or its pre flood place. of my way back to the place

CHAIR TURNER: It would be realistic to acknowledge that the shelter was moved to where the shooting area is so-called range so that the folks using it would be under a shelter when they use the range. And now you're moving it back because Mr. Yarborough said you're going to discontinue the range. we will decide if

MR. ORECK: We decided to move it before. It's our shed we can move it anywhere we want to on the property.

MR. YARBOROUGH: As we sit here today the range is closed, correct? And you're not allowing anyone to fire on it, is that correct?

MR. ORECK: Yes sir.

MR. YARBOROUGH: During the flood, did the berm provide any protection from the flood waters?

MR. ORECK: The waters were too high.

MR. YARBOROUGH: In a normal flood would the berm had provided your property some protection from the flood waters?

MR. ORECK: I wasn't a member when the last flood happened, well far as I know there's only two floods to hit the property and they were back-to-back and I'm not a flood expert sir.

MR. YARBOROUGH: Is it your intention to rescind any of the rules related to the range or rescind any of the rules, like range rules to the extent that our range rules is it your intent to have those rescinded?

MR. ORECK: Yes.

MR. YARBOROUGH: I have no other questions.

CHAIR TURNER: Okay.

MR. FLOWERS: How long have you been a member?

MR. ORECK: I joined in February 2019.

MR. FLOWERS: So you've been a member since February 2019.

MR. ORECK: Yes sir.

MR. FLOWERS: And had you used the shooting range prior to that?

MR. ORECK: I had fired on the property sir.

MR. FLOWERS: When was the first time you fired on the range?

MR. ORECK: It was back in 2019.

MR. FLOWERS: Was that before you were a member?

MR. ORECK: No, after I joined.

MR. FLOWERS: That's what I was asking. Before you became a member, had you ever been out there?

MR. ORECK: I was aware of the building actually sir. I didn't know it was over there.

MR. FLOWERS: Do you ever get in and what member is it that has a daughter that operates the Facebook page?

MR. ORECK: She's our finance officer.

MR. FLOWERS: And what's her name?

MR. ORECK: Jackie Caldwell.

MR. FLOWERS: And she's a member as well?

MR. ORECK: Yes.

MR. FLOWERS: And do you ever give Miss Caldwell or her daughter information that you want posted on the Facebook page?

MR. ORECK: Yes.

MR. FLOWERS: Are you familiar with a petition that was posted on the Facebook page about this range?

MR. ORECK: Yes.

MR. FLOWERS: Did you prepare that petition?

MR. ORECK: I did.

MR. FLOWERS: I want to show that to you, I think we're on 7. Mr. Oreck is this the petition that you prepared and posted on Facebook?

MR. ORECK: Yes it is.

MR. FLOWERS: I would like to move this into the record as staffs exhibit 7.

CHAIR TURNER: Have we seen that?

MR. FLOWERS: No sir, I apologize and I'll reserve that until you've had an opportunity to see it. Mr. Oreck, I'm just going to read the first paragraph and you tell me if I read it properly or correctly. American Legion Post 230 at 1654 Veterans Drive in Spring Lake NC has a small private gun range on land owned by the American Legion that has operated for our members without incident since at least 1992. It was recently shut down by the Cumberland County planning and inspection department because of a zoning ordinance. Did I read that correctly?

MR. ORECK: Yes you did.

MR. FLOWERS: So when you use the term gun range here, you're talking about the one we're looking at earlier with the shelter, the carport shelter, is that right? This one in this picture? Is that what you're talking about?

MR. ORECK: More of the dirt hill.

MR. FLOWERS: So all that other stuff there is not part of the gun range?

MR. ORECK: I mean it's part of the property.

MR. FLOWERS: What is that board thing there, is that something you rest a gun on? Can I see the pointer? What's that thing?

MR. ORECK: Those are target stands.

MR. FLOWERS: That's not part of the range.

MR. ORECK: It's a target stand. You can move it back and forth or wherever you want to put it.

MR. FLOWERS: And this one here?

MR. ORECK: That's a target stand.

MR. FLOWERS: What's that thing?

MR. ORECK: That's a barrel.

MR. FLOWERS: What do you put in it?

MR. ORECK: Nothing, both ends are closed, more of a table. It's something I don't know.

MR. FLOWERS: Was there something over here to put casings in?

MR. ORECK: There is a trash can, that yellow thing is a trash can or other little thing you're pointing at down down down that's a box that somebody left there.

MR. FLOWERS: Is this thing here to keep rain off people when they're outside shooting? Or sun?

MR. ORECK: For weather, yes.

MR. FLOWERS: For when you're shooting?

MR. ORECK: For when you're using the property.

MR. FLOWERS: For when you're shooting also? I'm sure everybody in this room knows what that's there for, is it there to protect from weather when you shoot?

MR. ORECK: It's there to stand under sir.

MR. FLOWERS: I'm sorry.

MR. ORECK: It's there for people to stand under.

MR. FLOWERS: When you're shooting?

MR. ORECK: When every you're doing whatever you want. If you want to smoke cigarettes, you can smoke cigarettes.

MR. FLOWERS: May I approach.

CHAIR TURNER: I'm not sure I see the relevance of that it's obvious, it's a shelter.

MR. FLOWERS: Obvious to everybody but Mr. Oreck.

MR. YARBOROUGH: Objection.

CHAIR TURNER: Is this number 7?

MR. YARBOROUGH: And I have no objection to the introduction of this exhibit.

MR. FLOWERS: Thank you Mr. Yarborough. Mr. Oreck if I understand what Mr. Yarborough said correctly, will you tell me what that the American Legion wants to do out here with this gun range? What is it that you're asking for? To allow y'all to do?

MR. ORECK: Use our property as we see fit.

MR. FLOWERS: I don't have any further questions.

MR. YARBOROUGH: I have a couple of questions. Betty will you start on my power point? I'm going to be introducing some documents into the record. Just start with the very first one. Do you want me to go ahead?

Ms. Amos made a motion to accept Mr. Flowers Staffs Exhibit #7 be entered into the record, seconded by Mr. Parks seconded. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

MR. YARBOROUGH: Mr. Oreck, I want to start by I want to show you the document called entitled notice of violation. See that?

MR. ORECK: I see it yes.

MR. YARBOROUGH: Is that an accurate copy of the violation you received?

MR. ORECK: Yes.

MR. YARBOROUGH: We will move to introduce this as exhibit number 2, Mr. Boyd's was number 1, I'm going to just read through the list and hopefully you can compile. Is this the, looking at the next document, is this a copy of your appeal?

MR. ORECK: Yes it is.

MR. YARBOROUGH: We will move that into evidence.

MR. FLOWERS: These documents are already in evidence.

MR. PARKS: Yeah both of them are in evidence already.

MR. YARBOROUGH: I understand but I'm just going through the list. Showing you the next map, does this accurately reflect where your property is?

MR. ORECK: Yes it does.

MR. YARBOROUGH: I would move this evidence as exhibit 4. Showing you the next photograph, the next one. I'm sorry. Showing you this next exhibit. Does this also reflect the accurate location of your property?

MR. ORECK: Yes it does.

MR. YARBOROUGH: The next one is Mr. Boyd's affidavit

CHAIR TURNER: Would this be number 5?

MR. YARBOROUGH: Yeah that would, that second picture would be number 5, let's move along. Now showing you the definition in the ordinance of firing range – outdoor, you heard me cross examine Mr. Walters about this, is that correct?

MR. ORECK: Yes.

MR. YARBOROUGH: I just want to ask you one question about that. Look at the very last sentence the exception. This ordinance is exclusive of occasional target practice by individuals on property owned or leased by the individuals is that correct?

MR. ORECK: Yes.

MR. YARBOROUGH: Sighting of weapons for the purpose of hunting, correct?

MR. ORECK: Yes.

MR. YARBOROUGH: Or temporary turkey shoots conducted on the property for more no more than Twelve Days in any calendar year, correct?

MR. ORECK: Yes.

MR. YARBOROUGH: You understand that you couldn't, you now understand, that it would be improper for any concealed carry classes to be use it for firing range is that correct?

MR. ORECK: Yes.

MR. YARBOROUGH: Are you familiar with Section 9.5 100 of the Firearms Ordinance? By the way that was exhibit #6, is that correct? That last one was 6.

CHAIR TURNER: I'm trying to keep up, I'm not sure.

MR. YARBOROUGH: The ordinance is then 7. Number 6 was what the definition of what a firing range is. Now showing you exhibit number 7, section 9.5 100 firearms, are you familiar with that provision?

MR. ORECK: I am sir yes.

MR. YARBOROUGH: I would now move to introduce into evidence exhibits one through seven or eight, it may be eight. Two thru seven we already did. Thank you, one other question.

CHAIR TURNER: Okay, everybody good with that, is there a motion to enter into the record?

Mr. Ferguson made a motion to accept Mr. Yarborough's exhibits 2 thru 7 into the record, seconded by Mr. Parks seconded. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

MR. YARBOROUGH: I just have one more question, he's our last witness. A member wants to camp out on that property is he allowed to do so?

MR. ORECK: Yes sir.

MR. YARBOROUGH: If a member wants to go fishing in the pond is he allowed to do so?

MR. ORECK: Yes sir, and the river, which is right next to our property.

MR. YARBOROUGH: Those who like shooting on the property are benefits of membership correct?

MR. ORECK: Yes sir.

MR. YARBOROUGH: Have you ever charged a fee or any money whatsoever for the use of your property for the shooting of firearms?

MR. ORECK: No sir, we haven't.

MR. YARBOROUGH: We have no further questions.

CHAIR TURNER: Can I clarify one thing and make sure, are the members of your group considered to be owners of the property?

MR. ORECK: Yes sir.

CHAIR TURNER: They are. Is that correct, Rob?

MR. HASTY: I believe the American Legion is a non-profit corporation.

CHAIR TURNER: Would that make the members owners? I mean what the ordinance had read there, is that its individuals owned property owned or leased by the individuals, its not leasing it to them unless you consider their membership to be.

MR. FLOWERS: I can tell you what the staff's position is on that, Mr. Chair, if you would like to know.

CHAIR TURNER: Okay, I would.

MR. FLOWERS: The staff's position is this the American Legion, which is a nonprofit corporation, owns that property. This ordinance says individual. It does not say individual or corporation. This exception does not apply to a corporation because then you could have a thousand members of the corporation out there and they would all be considered individual owners who could go shoot and that's not the purpose of this. The purpose of this is a guy who owns a farm or something who goes out and shoots on his own property, that's the staff's position on this sir.

CHAIR TURNER: That's the staffs position, not very well written, not very clear so. Did you want to add anything?

MR. YARBOROUGH: No I'm through, I'm done. Thank you, Mr. Oreck.

CHAIR TURNER: Mr. Oreck, did you want to add anything or tell us anything before you go away? Did you want to tell us anything we haven't heard?

MR. ORECK: The American Legion is America's largest veteran's organization and any veteran of the United States military is eligible with one day of honorable service since 1941 is eligible to join.

CHAIR TURNER: Thank you sir. Anybody have questions for him? Anything else? Do you want to add anything?

MR. FLOWERS: Well I do have a summation I would like to present.

MR. YARBOROUGH: I would like to hear the summation.

MR. FLOWERS: I'll be brief, we've been here a while. Thank you so much Mrs. Lynd. As important as it is to consider the rights to the members of the American Legion Post 230 this evening, it is equally important to consider the rights of the citizens of this county. The citizens who live nearby, who are in danger of wild shots

being shot off of this place, the citizens who obey the ordinance, the citizens who submit site plans when they want to have a shooting range think about them when you're weighing this? This range doesn't comply with any, not one single requirement. There was testimony by Mr. Boyd that the range was used occasionally from 1992 as a turkey shoot. A turkey shoot does not establish continuous use as a shooting range in order to satisfy that exception on an ordinance. That's important. The occasional turkey shoot over the years here and there is not a continuous, use since 2005 of a shooting range. So it does not fit that exception, does not fit individual exception, which we just talked about, so for those reasons it because it causes a safety hazard allowing a few folks to go there unattended is a slippery slope that nobody's going to monitor and still is in violation ordinance we ask you to uphold the staff decisions and deny the appeal, thank you.

MR. YARBOROUGH: Very quickly, I'm an attorney so I do attorney like stuff, so I'm going to some attorney like stuff. Number one, I would move to dismiss the violation on the technical grounds that it fails to state a violation as it is written, that is number one. Number two, I would ask you to dismiss the violation because there are certain exclusions within the ordinance that prevent it from being referred to as a firing range and number three in the failing of all those things and by when I say not a firing range or firing range I'm talking about under the technical definition of the ordinance as written by the county. The last thing I would ask you to do is to recognize that my clients have identified that they're going to take reasonable steps to go into compliance with the ordinance if you decide to uphold that. That's what I have to say, thank you.

MR. PARKS: You said your clients are going to go into compliance, what are they going to comply to? A shooting range or just an establishment? Or did I understand that wrong?

MR. YARBOROUGH: To the extent they've been operating as a shooting range, they're going to stop operating as a shooting range.

MR. PARKS: Oh I hear what you're saying.

CHAIR TURNER: What he is not saying is that the gunfire will stop. He's saying that they're not going to operate as a gun range, because it wasn't a gun range to begin with. I'll give it one more shot, Mr. Flowers did you want to add anything? Everything's done? Okay. I'm going to close this hearing. Let me clarify again, Mr. Hasty that the purpose of this two and a half hours in what we've listened to through all of this is to determine whether the inspections department has operated properly in sighting this this group for what they saw?

MR. HASTY: Was it a proper notice of violation based on the evidence and should that be upheld or not. Motion should contain facts to support.

MR. PARKS: So if we dismiss this violation it's holds the staff not liable in future or any other appeals?

MR. HASTY: Well I'm not sure what you mean.

MR. PARKS: I'm just trying to be an attorney up here seems like everybody else is doing it I'm just trying to get a layman's feel for it.

MR. HASTY: I don't know if there's liability on the staff, they've made their determination, if you make your determination to dismiss it that's how it will be.

MR. PARKS: We've got to determine if they did the proper determination. Okay.

MS. LUCAS-MOORE: We have to determine if there was a violation or not.

MR. PARKS: That's right.

MS. LUCAS-MOORE: Pretty much.

CHAIR TURNER: When we talked about all of that the bottom line is we're not really here to determine whether they should have a gun range, shouldn't have a gun range, shouldn't have something not called the gun range, we're really just here to determine whether staff did what they were supposed to do and did it properly.

MR. HASTY: That's correct. There has been an argument made that under the definition of a firing range it didn't meet the definition so you have to weigh that in with the information that's been presented to you. That's the whole argument.

CHAIR TURNER: What do you think sir?

MR. FERGUSON: We can talk about it.

CHAIR TURNER: What do you think?

MS. LUCAS-MOORE: I'm going on the evidence that was presented and they were operating as a range. The documents states it. It's stated on the documents that were presented. The word range in so many terms has been stated throughout all the evidence presented and I feel like they were operating as a range.

CHAIR TURNER: Would you say that the staff operated properly?

MS. LUCAS-MOORE: The staff did, they did their jobs.

CHAIR TURNER: What do you think?

MS. AMOS: I would think the staff did their jobs also.

CHAIR TURNER: Greg what do you think?

MR. PARKS: I think the staff did their job. Getting into the terminology here is where I don't know. We can't really get into it because we're not attorneys and we haven't studied each I and each T. They have operated it as a range, pure and simple.

CHAIR TURNER: I'm not sure where this will go when it leaves here tonight but I think we've heard a lot of evidence from both sides, that doesn't apply to why we're here today. We're here to determine if the staff did what they should and were proper in doing what they did even into the course of writing it up to the Case 98-005 as to whether it did or didn't have a range application, for a gun range and it didn't so that I don't see any issue while that's not considered a violation of that. It should have had a gun range in it because that 98-005 was at least six years after one of the members acknowledged that the gun range have been operating at least since 1992. So when they submitted this for rezoning it would have been good time to have added into it that that there was intent to have a gun range based on everything you've seen they really are a somewhat for profit operation. They're enticing members to join and pay a fee for many of the perks that you get by being a member and that would include the gun range. They probably won't lose any members but the only other thing I see is it is it on page 14 reading in the firing range ordinance it says this ordinance is exclusive of occasional target practice by individuals on property owned or leased by the individual. So it would be the only question there would be if you are a member and you come in and pay \$40 do you technically become a property owner? I would say you do not.

MR. HASTY: Technically the answer is no to that.

CHAIR TURNER: That's what's written here so that was my opinion but what do y'all think?

MS. LUCAS-MOORE: It's still a safety issue. The range does not occupy with the guidelines according to statute to be able to present itself as a range, for safety concerns for the neighbors.

CHAIR TURNER: Well I think what they've acknowledged here is that they're going to close the range but they want the ability to still go out and still use it and I'm not sure that's any deviation from what they're doing now. Depending on the terminology but you would use it the same way of saying yes twice.

MR. FERGUSON: Are you trying to clarify the nonprofit part because that's the part.

CHAIR TURNER: Well they call themselves a nonprofit but they accept cash, they accept payment to be a member to enjoy the perks including shoot.

MR. FERGUSON: My church is nonprofit and all the money I've gave them they don't let me be an owner.

MR. PARKS: Pure and simple then the only thing we have to determine tonight is that did the staff do a proper job.

MR. FERGUSON: That's what I'm saying, talking about profit and all that, let's just talk about what the staff did and go ahead and vote.

CHAIR TURNER: I think based on the discussion I'll make a motion that we, I would assume, deny the appeal based on the fact that it appears the staff did everything they were properly enticed to do, that would be my motion. I don't think that applies here does it, is that correct?

MR. HASTY: That's a proper motion, if you want to add some facts to support the motion under which some of the evidence that came in such as there's an ordinance, the ordinance has certain requirements for the firing range.

CHAIR TURNER: What is it your reading from?

MR. FERGUSON: The finding of facts.

MR. HASTY: For this particular case

CHAIR TURNER: This is not a variance.

MR. FERGUSON: So we can use the 98-005 case, we can talk about that and go from there.

CHAIR TURNER: We have that and we have a lot of evidence that's been presented to support the facts of where the property is and such as that.

MR. HASTY: It's all been introduced into evidence.

CHAIR TURNER: This being an appeal against the inspections department we don't have a form in this book that tells us that. Since she's saying we do not, correct? So the form everyone is looking at is for a variance or a special use permit.

MR. HASTY: So you're findings of fact is what will support your decision.

CHAIR TURNER: The findings of fact will be from the testimony we've had for the last two and a half hours and the fact that it's been acknowledged that this is a gun range has been a gun range now they intend to stop doing that, leads me to believe the staff acted properly in responding to a complaint, finding the issues they found in their complaint to be accurate. They got a complaint, they went out, they did what they should.

MR. HASTY: You may want to find that there is an ordinance in place, firing range ordinance in the evidence.

CHAIR TURNER: Well this is based on a firing range ordinance that's in place assuming we don't really know how long these folks have been there. I think basically they didn't see an issue with this and I wouldn't either if I was out there and it's just become something it was okay until somebody complained about it, that's what it comes down. Is there anything else you want me to add?

MR. HASTY: I think that does it, I can put it in writing.

Mr. Turner made a motion to deny the appeal based on the fact that the staff did everything properly, seconded by Mr. Ferguson seconded. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

P20-03-C: CONSIDERATION OF A VARIANCE TO ALLOW A ZERO FOOT FRONT YARD SETBACK FOR A GARAGE, STORAGE SHED AND FENCE INSTEAD OF A REQUIRED MINIMUM FIFTY FEET SETBACK FOR PROPERTY LOCATED IN AN A1 AGRICULTURAL DISTRICT AND CONTAINING 0.74+/- ACRES, LOCATED AT 1062 PALESTINE ROAD, SUBMITTED BY CHARLES & SHEENA ANNAN (OWNERS).

Chairman Turner read the case heading for Case No. P20-03-C.

Mr. Moon presented and reviewed the zoning, sketch map, and land use of the area surrounding subject property. He briefly reviewed board packet material.

CHAIR TURNER: The private road Dreamland Drive, who maintains that?

MR. MOON: That would be the property owners. Staff's not aware of a homeowner's association that is in charge of that so it would be the homeowner's along the roadway, that private easement, that would be required to maintain.

CHAIR TURNER: Is that recorded anywhere? Do we know that? Do they have a private maintenance agreement recorded? We didn't look for that, did we?

MR. MOON: I'll ask Scott if he found any, but no information such in our record.

CHAIR TURNER: Okay. Did I understand that the property owners legal property line is in the middle of Dreamland? Is that correct?

MR. MOON: Correct.

CHAIR TURNER: So I guess his in the middle and his neighbor has the other side so Dreamland is just a private pathway used, a road I guess you would call it.

MR. MOON: The site plan you see here is from the survey of the property and this dark line you see as the parameter is the lot line for the property line, the dash line is the easement boundary so the property located between that thick line and the dash line the easement area.

CHAIR TURNER: So Dreamland Drive is considered an easement going thru there and it's the garage that's been constructed is right on the line.

MR. MOON: Right of way easement.

CHAIR TURNER: Sitting right on the line. Right on the line of the easement.

MR. MOON: Correct, now Dreamland is a gravel roadway that's about varies from 15 to 20 feet in width and is located at the edge of the black line within the applicant's property.

CHAIR TURNER: And is the fence on the line?

MR. MOON: The fence is it currently located partially within the easement. I let the applicant speak for himself and he's indicated to staff that he will relocate that adjacent to the property line and that he intends to take the metal shed and relocate that to just inside the property line.

CHAIR TURNER: Okay but the metal shed probably can be moved easily. The fence you could move with a little sweat. I wonder about the garage, do we know how it's constructed as it is it a pole barn by chance? I guess he can tell us.

MR. MOON: WE have a picture of it. This would be the garage here, this is the metal shed.

CHAIR TURNER: Let's hear from him and that might make it easier too. Do you want to add anything before we do? No?

MR. MOON: No sir.

CHAIR TURNER: Sir, can I swear you in? You swear or affirm the testimony you'll give our board will be the truth the whole truth and nothing but the truth so help you God?

MR. ANNAN: Yes sir.

CHAIR TURNER: And you're the property owner and you're Mr. ANNAN?

MR. ANNAN: Yes sir.

CHAIR TURNER: Did I say it right? Tell us your story. Speak into the mic too so we can hear you.

MR. PARKS: You can take that mask off if its more comfortable for you or whatever you feel.

MR. ANNAN: There was a packet that was sent out, was more pictures than actual show. Yes. I don't see those pictures in here sir.

MR. PARKS: Anyways let me start off by asking, did you build all the property, have you've been the only owner of this property?

MR. ANNAN: No sir.

MR. PARKS: Okay, so when you moved in what was built on that lot?

MR. ANNAN: The actual garage.

MR. PARKS: So the house wasn't there?

MR. ANNAN: The house and the brick detached garage.

MR. PARKS: So the house and the detached garage was there when you bought the house?

MR. ANNAN: Yes sir.

CHAIR TURNER: The smaller garage?

MR. ANNAN: The two car garage.

MR. PARKS: What year was that?

MR. ANNAN: I purchased a property in 2011.

MR. PARKS: Okay, that's all I want to know and then the metal thing you put in later?

MR. ANNAN: Yes sir, I put it in as a carport and then we enclosed it later.

MR. PARKS: And did I hear that you didn't get a permit to do that?

MR. ANNAN: Negative sir.

MR. PARKS: Negative you didn't or you did?

MR. ANNAN: I did not sir.

MR. PARKS: Okay, so it's a double negative.

CHAIR TURNER: So you didn't get a permit.

MR. ANNAN: No sir.

CHAIR TURNER: Just so the board understands, we've not been out there this shows that there is a small garage and a large garage?

MR. ANNAN: Yes sir a small garage and a large garage. The brick garage was originally there when I purchased.

CHAIR TURNER: It was there when you bought the property?

MR. ANNAN: Yes sir, its brick and matches the house.

CHAIR TURNER: And you built the big garage yourself?

MR. ANNAN: Metal pole barn and garage, yes sir.

CHAIR TURNER: And the metal shed but

MR. ANNAN: The metal shed is movable, we're going to slide it in, yes sir.

CHAIR TURNER: How about the big garage, is it movable?

MR. ANNAN: Negative sir. It's on concrete.

CHAIR TURNER: You poured a concrete slab and then built the garage?

MR. ANNAN: Yes sir.

CHAIR TURNER: You did that without a permit or checking anything?

MR. ANNAN: Yes sir.

CHAIR TURNER: Go ahead, want to tell us anything else?

MR. ANNAN: Dreamland is a private dirt road and each property owner is responsible for maintaining their portion of the road. Why is there a 60 foot easement, I'm not sure. There's plenty of space, at the end of the day the bottom line is I didn't follow the code so I was wrong. There's no issues with vehicles going in and out. The only thing I could see being a problem is the fence obviously crossed the actual easement. So I want to move the fence back to the zero line.

CHAIR TURNER: Do you know who maintains Dreamland Drive?

MR. ANNAN: Every property owner.

CHAIR TURNER: You don't remember getting a recorded private maintenance agreement?

MR. ANNAN: Oh no sir.

CHAIR TURNER: No? So if everybody just said the heck with it, it would go away?

MR. ANNAN: Yes sir.

CHAIR TURNER: It would, that's not good.

MR. PARKS: And how did this come up? How did this one of the code people riding around the neighborhood,

CHAIR TURNER: There was a complaint here wasn't there? No complaint?

MR. MOON: This was identified by staff, code enforcement. When it was discovered that structures are constructed without a building permit.

CHAIR TURNER: Oh, okay.

MR. FERGUSON: I have a question, you said this was the corner, is there any obstruction of traffic, people coming by or anything like that?

CHAIR TURNER: Anybody have any questions?

MR. PARKS: We've dealt with this corner lot thing. I don't have any questions I have some discussion.

CHAIR TURNER: Let me ask you this sir, here's our problem, and I think you saw it when you filled out the application, they require us to make four findings of fact.

MR. ANNAN: Yes sir.

CHAIR TURNER: The number three finding of fact is that these circumstances are not the result of the actions of the applicant, how do we get beyond that? I mean you did it, didn't you?

MR. ANNAN: Yes sir.

CHAIR TURNER: Do you want to add anything else? I may call you back in just a minute. Can we have some discussion here? Is that okay? Tell us what you think Greg.

MR. PARKS: My discussion is well he tells you he didn't get a permit. Didn't know if he didn't know to get one or didn't want to get one, don't know. Okay, the fence being on the line, it is what it is, you look at that Dreamland drive over there it's a dirt road, its really not hurting anything but you do have to slap his hand a little bit for not getting a permit. Now whether you take that to the fullest extent of the law is up to us. So that's my thought process on this type of situation.

CHAIR TURNER: I have the same feeling except that we have to make findings of fact and I don't know how to overcome number three. We can't just say yes or no, we have to make findings of fact and number three says that it's not the result of the actions of the applicant. He already said he did it, whether he didn't know or. We have to make four findings of fact, that an unnecessary hardship would result from the strict application of this ordinance, that there are conditions peculiar to the property such as location, size or topography, that special circumstances are not the result of the actions of the applicant, that's my hang up. That the requested variance would be consistent with the spirit, purpose and intent of the ordinance such that public safety and secure and substantial justice achieved. The only one that's an issue is number three. It appears that the reality of Dreamland Drive is simply at the wheel of the adjacent property owners. Nobody maintains it. They maintain it for their own use, it's not a public road per say, it's for their own use. If they just decided not to and it went away the property line would be in the middle of the road.

MR. PARKS: Right, so what do we do here?

CHAIR TURNER: But you still have everything that's happened here is the result of his, he's acknowledged that he did it, whether he knew to or knew not to, he said the heck with it. It's not really relevant he just.

MR. HASTY: Let me read from the school of government publication on zoning law and professor Owens kind of sums up this case. It is difficult to meet the legal test to get a variance and this difficulty is intentional. Variances are not to be routinely and easily granted. They are designed to deal with unusual and peculiar situations not to be a short hand wave of amending the ordinance. So what the findings are is the land has to be peculiar, to the neighborhood or what not.

CHAIR TURNER: It isn't, is it? I don't see any peculiarity.

MR. HASTY: If this ordinance is granted, you'll have to do it for everybody on that street who has a similar problem.

CHAIR TURNER: The reality of the concrete I think might not be an issue, correct me if I'm wrong, but what if he was to hire a contractor to come up there and take four feet off the building? I mean certainly that's something I wouldn't want to do but I mean is that a realistic fix for what he's got? Other than tearing it down?

MR. MOON: That would require an expert in building construction to tell whether it's feasible from a structural standpoint. Moving that building back four feet still doesn't bring it into compliance with the 50 ft setback requirement. And again the setback is measured from that easement line. This situation is that there's a right away easement that crosses a portion of that western property line.

CHAIR TURNER: The ride away easement that you speak of, is that recorded?

MR. MOON: Yes, correct, that's part of a plat.

CHAIR TURNER: It is part of a plat showing as Dreamland Drive?

MR. MOON: Correct.

CHAIR TURNER: What's your pleasure? I don't see any easy fix here.

MR. PARKS: I'm trying everything I can think of to keep from having to tear the whole thing down and move it back in the fence and the whole nine yards. I'm just trying to help a little bit.

CHAIR TURNER: Apparently based on what we've heard originally, moving the fence and moving the small building is not an issue, the large garage is the one. So the only thing I can see is if you were to, I don't know how you would grant the variance, with the stipulation that 'x' number of feet be removed from the existing garage and that is not feasible, it appears.

MR. PARKS: It opens up a can of worms, completely. So we are kind of stuck.

CHAIR TURNER: So again we are talking about unnecessary hardship that would result from the strict application of the ordinance. It would be a hardship but that hardship was created by the applicant.

MR. FERGUSON: What did we come up when we found the issue? I mean we got that, so what I'm trying to figure out now, we know its going to cause him a hardship, what is it he can do for us that we can make sure he can stay, What stipulations do use to try to savage this?

MR. PARKS: We can't think of any, that's what this side thinks.

CHAIR TURNER: I can't see any way that we could grant anything based on what we're required to do that would allow that large garage that was constructed in the wrong place without a permit to remain. That's my thought. I hate that but if I had a garage I wouldn't want to tear it down.

MR. PARKS: And I think we figured out my even cutting four feet off or whatever still not going to satisfy. How much do you have to? You said fifty feet, I thought it was 35 and 35 on a corner lot.

CHAIR TURNER: I thought it was 50 on the front and 30 on the side

MR. PARKS: Well it's two front lots, two front yards because of the corner lot.

MR. MOON: Correct.

MR. PARKS: I thought it's 35 and 35 you're telling me it's 50 and 50?

MR. MOON: If it was a side yard in this zoning category it would be 30 feet but its not so for a corner lot it has two front yards so the setback requirement is 50 feet.

MR. PARKS: 50 and 50.

MR. MOON: Minimum of 50 feet.

MR. PARKS: Right, okay. Is that different, I hate to bring this up right now, but is that different in the county than in the city?

CHAIR TURNER: There not the city.

MR. PARKS: You wouldn't know. No big deal.

CHAIR TURNER: Fifty foot on both sides pretty much will eat your lunch unless you got a big yard, and that's based on the zoning right? That's based on its zoning classification?

MR.FERGUSON: So looking at this tonight, we have no one here speaking against it, so its not a problem for the neighbors since they didn't come out and say anything. How long has it been there?

MR. PARKS: 2000?? When did you move in there?

MR.FERGUSON: No no the one he built on.

MR. PARKS: I'm sorry. What was your question?

MR. FERGUSON: The big part that he built on, when did he add that on?

CHAIR TURNER: This is a free-standing garage? It doesn't connect to the house.

MR. FERGUSON: Nobody never said anything about it, they're not here to speak against it. So we should just vote on it.

MR. PARKS: Well now, I want to say one thing, I'm for it and trying to help all I can but if you open up a can of worms that means somebody's going to come back and say you did it for Joe Blow you got to do it for me and then you've opened up a can of worms for this type situation and this type of situation I think comes up quite a bit with two front yards and setbacks. I know its come up with me 5 times.

CHAIR TURNER: We're still at the situation we can't just vote on it we've got to make findings of fact. And number three says that its not the result of the actions of the applicant, I don't see how we could overcome that. He's acknowledge and admitted that he did it, no permit, didn't look at any setbacks just went and built the garage where he wanted and I'm sorry he did that but I don't see how we could overcome that and make that work.

MS. AMOS: I wonder if he had the opportunity to speak with anybody, that could take a look at it and see what can be done.

CHAIR TURNER: I mean if its on a concrete slab, you can't pick the slab up and move it so.

MS. AMOS: I know. I'm just wondering if there is someone.

CHAIR TURNER: Did you want to speak again sir?

MR. ANNAN: Yes sir.

CHAIR TURNER: Pull your mask down so we can hear you.

MR. ANNAN: Yes sir. My wife and I put this building up ourselves. Initially it was a 30 x 30 metal carport. I ended up buying a car lift so I ending up adding 18 feet to it. That's the big part that you see. That is right on the property line. From what I understand it is suppose to be 50 feet from the center of the road or 50 feet from the easement.

CHAIR TURNER: From the easement is my understanding. Is that correct?

MR. ANNAN: That would be the whole yard.

CHAIR TURNER: That's what we all said, that means no setback. Could staff tell us how much of that garage would have to go away to be in compliance?

MR. MOON: Based on the zoning code it states measured from the ride of way line. Okay so that's how staff determined the point of measuring minimum setback requirement. Measured from the ride of way line.

CHAIR TURNER: So at this point that would pretty well be the fence that he's got there. So if he moves the fence over 50 feet, he'd be in the neighbors yard. There really is no way to modify that is there?

MR. ANNAN: That's almost like 65 feet of the property.

CHAIR TURNER: I'm not sure how wide the property is but I saw that.

MR. ANNAN: It's fifteen feet from the property line to the center of the road, you already gave up the easement so now you're saying so that's 65 feet of yard that I have to maintain that I can't use for anything.

MR. MOON: To develop an area outside the easement is approximately 3/4 of an acre the total property is about an acre. So what he has to work with, after reduction for the easement, is about 3/4 of an acre.

CHAIR TURNER: The lot is 179 ft wide so you could, I hate to say, you would move the garage to the other side somewhere in front of the well is what it looks like and make it probably make it a little smaller because it appears that its what 48 feet deep? That's a big garage.

MR. ANNAN: Yes sir. I got the car jack. So the issue is the existing two car garage that constructed with the original property, I didn't put that there. I can't move it.

CHAIR TURNER: What's that, the small one? I don't think the small one is in question is it? The small one was there when you bought it, it was built probably by the builder, am I right?

MR. MOON: The smaller building is setback approximately 25 feet from the easement line. The point of the setbacks measure. The building was there prior to the owner purchasing the property. As part of the application and in the event that the variance granted, the smaller garage was included so that in the event the property owners sales the property it doesn't delay his sale of the property because there isn't a variance that's applicable to the smaller garage. So that was lumped into the variance request.

CHAIR TURNER: So the smaller garage that was there when he bought it, was out of compliance when he bought it?

MR. MOON: Correct.

MR. PARKS: Correct. So that's going to have to be moved as well.

MS. AMOS: But that wasn't his fault.

MR. FERGUSON: When he bought the title should have cleared that for him. That's something the county should have picked up back then. Before they deeded it.

CHAIR TURNER: If you buy something that's got trouble, then you bought the trouble. In our business that's the way that works. That's not a good thing but the question is who built that? Did the builder build it? You know this is a mess.

MR. PARKS: This is, I thought it was going to be just a fence.

MS. AMOS: Why do you guys use 50 feet? I'm just curious.

MR. WALTERS: It's the district. In the A1 its suppose to be 2 acre lots, with 50 feet being the easement on a 2 acre lot not 1 acre lot.

CHAIR TURNER: So is this A1?

MR. WALTERS: If I'm not mistaken yes it is.

CHAIR TURNER: The lot is not even in compliance.

MR. WALTERS: The lot was created before the zoning took effect on the property.

MR. FERGUSON: Okay, so he's grandfathered in.

MR. MOON: The smaller garage was constructed prior to 2001, it would be considered grandfathered.

CHAIR TURNER: Bless you. Thank you that sounds at least a little better.

MR. PARKS: And when was the property built? When do you think the house was built?

MR. MOON: 1996.

MS. LUCAS-MOORE: Wow. So its grandfathered in.

MR. PARKS: At least that small garage is grandfathered in.

CHAIR TURNER: Well the only problem we've got is a big garage, the small once can stay, the fence can be moved, and the metal building can be slid over, we've kind of got to that. The big garage doesn't appear, I don't see anything you can do with that other than demolish it.

MR. ANNAN: I can't put up a fence either, because I will not be 50 feet. The 50 foot line goes through the center of the existing double car garage.

MR. PARKS: Can we give him a variance to put the fence up?

CHAIR TURNER: I'm not sure what the question of the fence is. I mean don't we put fences on property lines?

MS. LUCAS-MOORE: It has to be 50 feet.

MR. MOON: According to staff the fence in a corner lot situation such as this on Dreamland Drive side could be placed at 20 ft.

CHAIR TURNER: 20 feet off of?

MR. MOON: So consistent with the code if it was moved 20 feet from that easement line.

MR. PARKS: So he's just got to get another five feet on his property? Will that take up the small garage that you don't have to move with that fence impede the small garage so he don't have to move?

MR. ANNAN: If it is 20 feet from the easement line, it will be right in front of the garage door. The garage is only 25 feet from the easement line.

MR. PARKS: Okay so the garage doors at the back facing the fence?

MR. ANNAN: Facing Dreamland, yes sir. You have to park in there and then walk around.

CHAIR TURNER: I would assume that garage was not there when the home was built neither.

MR. ANNAN: I spoke to the homeowner and he said he built it, he built the house behind it as well.

MR. PARKS: Can we amend the situation at all by letting him leave the fence and tear down building?

MR. HASTY: I'm not sure, you would have to get a variance one way or the other.

MR. PARKS: I'm still messing with opening up a can of worms the same situation.

CHAIR TURNER: Did you build the fence?

MR. ANNAN: Yes sir. I had a chain link fence originally and I took it down and put the privacy fence up.

CHAIR TURNER: So he's put the fence up. So there's number three again. There was a chain link fence at that location.

MR. PARKS: You already inherited the problems that the previous owner did without his title guy finding all that stuff. I see what you're saying.

MR. FERGUSON: So how do we go about this here, do we just go down the line? Do we vote on it?

CHAIR TURNER: All you can do is make findings of facts that are on page three, I don't know what else to do.

MR. FERGUSON: Same, let's do this.

CHAIR TURNER: He can appeal it to superior court if he wants.

MR. PARKS: Yeah, we haven't got a choice.

MR. MOON: The only other information I can add, I know you're struggling with the decision, I want to relay the chain link fence would not require a permit for the code. Regarding the lot size, minimum lot size in the A1 zoning is minimum of 2 acres this site, this property is about one acre. He purchased that one acre and I believe it was platted at one acre so it exist at a smaller size then what's required by zoning code. So he's working with less property then another lot.

CHAIR TURNER: He really needs a rezoning too doesn't he? Is everybody else out there zoned A1 and doing the same thing?

MR. MOON: Yes based on the zoning map in that A1 category.

CHAIR TURNER: So you've got a whole bunch of them that were done wrong? Wow, this is screwed up.

MR. PARKS: Can he take that avenue, he's already at us? Get a zoning variance and get into a different category and then that might help him.

CHAIR TURNER: Denial here, he could appeal to the superior court, right?

MR. HASTY: Yes but that's probably not going to work for him.

CHAIR TURNER: Probably not but could he apply to rezone?

MR. HASTY: I think so, staff will know better than I do about that. If you table this he could look into that.

MR. PARKS: Mr. Chief, can he rezone?

MR. WALTERS: Are you asking me? Yes he can apply to rezone the property.

CHAIR TURNER: I think there's so many complications why don't we do that?

MR. PARKS: Would that help him in this situation? Could he get rezoned where he could move the fence in and I think he's going to have to tear down the building no matter what, but I'm just grasping for straws trying to help.

MR. WALTERS: Rezoning would only reduce the setback requirements that are imposed on the property at the moment.

MR. PARKS: What could you get it back to? What would be?

MR. WALTERS: The least it could be would be 30 feet or 25.

MR. PARKS: Thirty?

MRS. LYND: This is speculation but based off the public utilities and the potential districts he could request and what myself as the planning manager and previous zoning planner would speculate at, the Planning board would likely, and Commissioners tend to only grant districts without Public Utilities that could get them down to about 30 foot as a front yard anything more dense than that would typically not be approved in this location.

MR. PARKS: But you think he's got a chance at 30 foot? With the zoning people. I know you're not going to.

CHAIR TURNER: Do those setbacks apply to people in PND zoned land?

MRS. LYND: PND is a dormant district and would correspond to R7.5 which it would be difficult to obtain that without public utilities serving this site is the best I can say.

CHAIR TURNER: Well there's a lot of PND there, how did they get that?

MRS. LYND: PND was a district that was placed out in this area during the initial zoning as kind of a place holder district until infrastructure was placed out in these areas and then PND became.

CHAIR TURNER: There is no infrastructure out there though?

MRS. LYND: No, not public water or sewer.

CHAIR TURNER: Okay basically there's a lot of PND out there, it seems realistic that you don't want to deny him what his neighbors have.

MRS. LYND: Well again that was placed out there at the initial zoning process. When someone submits for a rezoning, the board is going to base it off of whether or not it would be an amendment to the current plan (inaudible) district it's now dormant in the zoning ordinance.

CHAIR TURNER: What's the boards pleasure?

MR. PARKS: I'm trying everything I can.

MR. FERGUSON: I think we should table it

MR. PARKS: Does he want us to table it so he can go try to do the rezoning? What will the zone help him, let's see? A half a building?

MS. LUCAS-MOORE: At least a fence, maybe?

CHAIR TURNER: Why don't one of you make a motion that we table this until the next meeting to give him some time to work with staff and see if there is anything at all he can possibly do, and then we will at least have made the best choice we can. I don't see any way out of this tonight except denial. That's my opinion.

Ms. Lucas-Moore made a motion to table case P20-03-C until the next Board meeting on November 19th, seconded by Ms. Amos. The motion passed unanimously.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

10. DISCUSSION/UPDATES

None

11. ADJOURNMENT

Mr. Ferguson made a motion to adjourn, seconded by Mr. Parks. The motion passed unanimously. Meeting adjourned at 9:30pm.

	IN FAVOR
TURNER	YES
FERGUSON	YES
PARKS	YES
LUCAS-MOORE	YES
AMOS	YES

Dena L Barner, Clerk to the Board

George Turner, Chairman

American Legion

View of sign from road. Dated June 2019.

Legend

📍 1654 Veterans Dr



Google Earth

©2020 Google

5.57 ft



American Legion

View of sign from road. Dated June 2018.

Legend

📍 1654 Veterans Dr



Google Earth

©2020 Google



5.15 ft



American Legion
Sky view September 2018 shows no shooting range.

Legend
📍 1654 Veterans Dr

100 ft





1654 Veterans Dr

American Legion
Current sky view showing shooting range as of February 2020.

Legend
📍 1654 Veterans Dr

RANGE DESIGN CRITERIA



U.S. DEPARTMENT OF ENERGY
Office of Health, Safety and Security

AVAILABLE ONLINE AT:
<http://www.hss.energy.gov>

INITIATED BY:
Office of Health, Safety and Security

TABLE OF CONTENTS

RANGE DESIGN CRITERIA.....	1
1. Purpose.....	1
2. Planning Factors.....	1
3. Planning Overview.....	1
a. General Considerations	1
b. Type of Range.....	1
c. Site Selection Preparation	2
d. Considerations.....	3
e. Preliminary Design Stage	3
f. Final Design Stage	3
4. Outdoor Range Design.....	4
a. Site Selection	4
b. Range Planning	4
c. Surface Danger Zones.....	5
d. Support Facilities	6
e. Design Criteria	8
5. Indoor Range Design	15
a. Use of Indoor Ranges.....	15
b. Site Selection	15
c. Range Planning	17
d. Design Criteria	17
6. Live Fire Shoot House	27
a. Introduction.....	27
b. Site Selection	27
c. Design and Layout	28
d. Wall Construction	28
e. Doors.....	29
f. Ceiling or Roofs.....	29
g. Floors	29
h. Bullet Traps.....	30
i. Elevated Observation Control Platform.....	30
ATTACHMENT 1 -- RANGE DESIGN FIGURES	Attachment 1-1

e. Design Criteria.

(1) Firing Line Items. Provide the following components:

(a) Floor Surface. The surface should be smooth, firm, and graded to drain away from the targets. A slight side-to-side grade of 1 percent to 2 percent should be provided for storm water runoff. Transverse firing line grading should match target line transverse grading. The distance between the firing line(s) must be sufficient to support the type of training conducted. Firing lanes must be clearly marked on the surface to match the targets. Depending on the number of personnel to be supported and the funds available, the following surfaces should be considered:

- 1 ground firmly compacted with mown grass;
- 2 sand or fine gravel;
- 3 wood decking of sufficient thickness and support to prevent movement; and
- 4 concrete topped with appropriate cushioning material.

(b) Overhead Containment. On partially and fully baffled ranges, a ballistic canopy (see Figure 9) should be provided over all locations where a weapon may be expected to be discharged (firing line, by definition). Figure 9 represents one construction approach, but the canopy must contain the direct fire effects of the most energetic round fired on the range. This canopy should begin at least 3 feet behind the firing line. General structural requirements may dictate more distance. The canopy should extend forward a minimum distance of 13 feet minimum, which will work geometrically with the first overhead baffle to prevent a weapon from firing directly out of the range (see Figures 16 and 17). The canopy should be constructed of ballistic material with sacrificial cladding as described below. Sound reduction ceiling waffles should be considered. Weather roofing is required above the ballistic material and it must slope sufficiently to drain.

(2) Firing Point. The depth of the firing point is determined by the shooting activity; e.g., rifle firing requires more depth than pistol firing.

(a) The minimum depth of the firing point is the area required for the shooter, shooter's equipment, scorers, and range officers. For example, a pistol range might have a firing line approximately 6 to 10 feet deep, while a rifle range would have a firing line up to 20 feet deep. This variation is based on available space, type of

extremely advanced target mechanism may be significantly more expensive than multiple canopies.

- (9) Impact Structures. The structure varies depending on the type of range. Natural terrain such as a mountain, cliff, or steep hill may be incorporated into impact structures provided the completed structure complies with the minimum design requirements. Acceptable structures by range type are listed below.
- (a) For open ranges, the top elevation of the earth impact berm should be 26 feet above the range surface for ranges 100 yards long or longer and 16 feet above the range surface for ranges 50 yards long or less. The impact berm should extend 50 yards beyond where the target line ends for 100-yard-long ranges or until joining with the side containment, if provided for ranges 50 yards long or less.
 - (b) The suggested elevation may be met by designing a combination of earth berm and vertical baffle (see Figure 14). The earth berm portion should have a top elevation of 16 feet above the surface of the range. The vertical baffle should be constructed of ballistic material and designed to withstand local seismic and wind loads. This combination arrangement would reduce the footprint and the amount of material in the earth berm.
 - (c) The preferred slope of the impact berm face is 1 to 1 or steeper. The steeper the slope, the more likely the berm is to absorb projectiles. The top should be 10 feet wide. The impact slope should be constructed with a 3-foot layer of easily filtered soil (to reclaim the lead projectiles) free of boulders, trees, rocks, stones, or other material that will cause ricochet. The rear slope should be appropriate to the native soil and maintenance requirements.
 - (d) For partially and fully baffled ranges, the top elevation of the impact structure will vary depending on the overhead baffle and impact structure arrangement. The impact structure for a partially baffled range can be: standard impact berm, bullet trap, or hybrid. For fully baffled ranges, the impact structure must be a bullet trap. In all instances, the impact structure must connect to the side containment. The top of the berm should be at an elevation 5 feet above the point where the highest line of direct fire can strike the berm.
 - (e) Outdoor baffled bullet stops can be constructed by placing the last vertical overhead baffle over the last target line and placing a sloped baffle to connect from the top of the earth berm to the back of the last vertical baffle. The bottom of this lower-sloped overhead baffle should be 2 feet above the highest point on the

berm where direct fire might strike. See Figure 15 for material and construction details. Rainfall runoff from the sloped baffle onto the berm must be considered. (See “Use of Bullet Traps and Steel Targets” for Shoot House bullet trap information.)

(10) Side Containment. For partially and fully baffled ranges (Figures 7 and 8), the top elevation of the side containment must geometrically mate with the overhead baffles to be high enough to prevent any direct fire from exiting the range. Full-side height containment should extend 3 feet to the rear of the firing line. Locate the side containment at least 10 feet outside of the centerline of the outermost firing lane. Construction may be in the following forms.

- (a) Earth Berm. Construct earth berms to an inside slope of 1 to 1.5. If native soil characteristics will not produce a stable slope at this angle, provide geotechnical fabric reinforcement in the fill. The top width of the berm should be at least 10 feet. No rocks are permitted in the top 3 feet of the inside surface. Generally, earth berms cannot be used on partially or fully baffled ranges; however, earth berms are permissible if the firing range is small and the overhead baffle and berm geometry intercept ricochets.
- (b) Continuous Walls. Construct continuous walls of ballistic material to withstand local wind and seismic loads. Provide sacrificial cladding to 13 feet forward of the firing line and 3 feet behind the firing line. Continuous walls are preferred for fully baffled ranges.

Table 2. Thickness of Material for Positive Protection Against the Caliber of Ammunition Listed

Cover material	Caliber and thickness required to stop penetration		
	5.56 mm	7.62 mm and Cal. 30	Cal. 50
Concrete (5,000 lbf/in ²)	5 inches	7 inches	12 inches
Gravel-filled concrete masonry units	8 inches	12 inches	24 inches
Broken stone	14 inches	20 inches	30 inches
Dry sand	16 inches	24 inches	32 inches
Wet sand	25 inches	36 inches	48 inches
Oak logs (wired)	28 inches	40 inches	56 inches
Earth			
Packed or tamped	32 inches	48 inches	60 inches
Undisturbed compact	35 inches	52 inches	66 inches
Freshly turned	38 inches	56 inches	72 inches
Plastic clay	44 inches	65 inches	100 inches

NOTE: Figures are based on new material. Degradation may occur over time.

- (c) Wing Walls. Wing walls (side baffles) are discontinuous side protection set at 45° to the line of fire. Locate the wing walls so that they are overlapped by 6 inches based on any line of fire that may strike them. Construct the wing walls of ballistic material to

withstand wind and seismic loads. Additionally, provide sacrificial cladding on wing walls closer than 30 feet to the firing line.

- (d) End Walls. End walls may be constructed at the firing lane edge on the firing line in lieu of extending side containment 3 feet behind the firing line. Walls should be long enough to close off any line of sight between the end of the side containment and the rear 3 feet mark. The end walls should be constructed of ballistic material with sacrificial cladding extending from the canopy to the firing line surface.
- (11) Overhead Baffles. Overhead baffles must be located so that no direct fire can exit the range from any firing position. The first overhead baffle must be geometrically coordinated with the firing line ballistic canopy (see Figure 9). The elevation of the top of each succeeding baffle should be 6 inches higher than a line of fire that just clears beneath each preceding baffle (see Figure 16). Overhead baffles should be the same height and spaced apart down range to achieve the required geometry (see Figure 17). The last baffle should be placed so the line of fire will strike the impact structure no higher than 5 feet below the top elevation of the structure. On a fully baffled range, the last overhead baffle must be over the last target line.
- (a) On partially baffled ranges, overhead baffles must extend laterally to within 1 foot of the side containment. On fully baffled ranges, the overhead baffle must tie into the side containment.
 - (b) The vertical dimension of an overhead baffle when it is vertical varies with the number and spacing of the baffles. Normally, the height is between 5 and 8 feet when considering structural support size and costs.
 - (c) The baffles must be constructed of ballistic material. Baffles within 11 yards of the firing line should be covered with sacrificial cladding. See Figures 12 and 18 for possible configurations.
 - (d) Space the structural columns as far apart laterally as possible to open firing lanes. If possible, do not construct columns within the range. Design columns or beams to withstand local wind and seismic loads, and provide protective steel plate on the faces of the columns exposed to the firing line in accordance with Figures 12 and 18. Provide sacrificial cladding if the column is within 10 yards of the firing line. Overhead baffles may be placed on a flatter slope and overlapped to function as firing line canopies if multiple firing lines are to be used (see Figure 17). This arrangement is cost-effective for baffled combat lanes.



American Legion Post 230

@AmericanLegionPost230 · Social Service

■ Learn More

■ nclegion230.org

Home

About

More ■

Like

Message

About

See All

■ 1654 Veterans Dr Spring Lake, NC 28390



■ Non-profit Veterans Service Organization.

■ Your source for news relating to veterans of Post 230 and other issues of concern to members of The American Legion family

■ 770 people like this including 1 of your friends





4

- 66 people checked in here
- <https://www.nclegion230.org/>
- (717) 451-4071
- Send Message
- Price Range · \$\$
- info@nclegion230.org
- Social Service · Nonprofit Organization · Community

Suggest Edits

Is this the correct category for American Legion Post 230?

Community

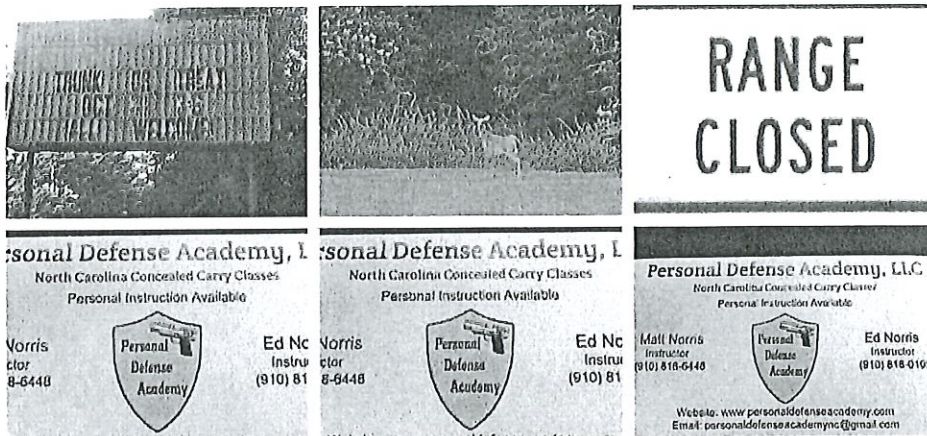
Yes

Unsure

No

Photos

See All



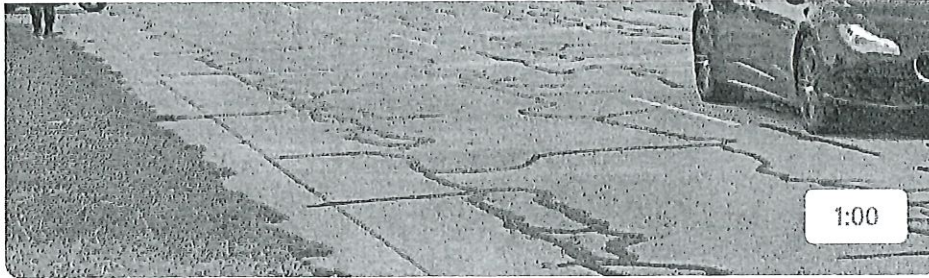
Videos

See All





4



Honor Our Heroes Motorcycle riders representing all local ...

9

90 Views · 49 weeks ago

Page Transparency

See All

Facebook is showing information to help you better understand the purpose of a Page. See actions taken by the people who manage and post content.

Page created - June 2, 2013

Page manager location: United States

Related Pages



Spring Lake Memorial VFW Post 4542 & Auxil...
Nonprofit Organization

Like



American Legion Department of North Caroli...
Nonprofit Organization

Like



American Legion District 12 North Carolina
Nonprofit Organization

Like

Add Your Business to Facebook

Showcase your work, create ads and connect with customers or supporters.

Create Page



Create Post

Photo/Video

Check in

Tag Friends

PINNED POST



American Legion Post 230

February 6 ·

The range will be closed on 29 Feb 2020 from 1030 to 1330 for a Conceal Carry course. If you are are enrolled in the course please do not be at the range during this time frame. Thank you.



American Legion Post 230

Send Message

2

Like

Comment

Share



Write a comment...



OTHER POSTS



American Legion Post 230

October 7 at 6:09 PM ·

Join this Halloween for Trunk or Treat. Let your ghosts and goblins come out and have fun and play games and get candy. All free. Masks



4



American Legion Post 230

@AmericanLegionPost230 · Social Service

Learn More

nclegion230.org



American Legion Post 230

March 5 ·

we have gotten comments about the conceal carry classes posted asking questions about the classes. IT IS NOT TO THE PUBLIC. you must sign up for the class. contact the instructor for all the details

Activity Log

Filter

Archive

Trash

Timeline Review

Photo Review

Tag Review

Today



Scott Flowers saved American Legion Post 230's post.

Only me



Scott Flowers saved American Legion Post 230's post.

Only me




Scott Flowers saved American Legion Post 230's post.

Only me

Personal Defense Academy, LLC
 North Carolina Concealed Carry Classes
 Personal Instruction Available

Matt Norris
 Instructor
 (910) 818-6448



Ed Norris
 Instructor
 (910) 818-0105

Website: www.personaldefenseacademy.com
 Email: personaldefenseacademync@gmail.com

2

1 Comment

Like

Comment

Share

Most Relevant

69

Help The American Legion Post 230 keep it's range

Share 15

[Petition](#) [Signatures](#) 17 [Statistics](#) [Extra Visibility](#)

American Legion Post 230 at 1654 Veterans Drive in Spring Lake, NC has a small, private gun range on land owned by the American Legion that has operated for our members without incident since at least 1992. It was recently shut down by the Cumberland County Planning and Inspection Department because of a zoning ordinance .

The American Legion is a nonpartisan, nonprofit, community service organization, and is America's largest veteran organization, committed to mentoring youth, sponsoring programs in our communities, advocating patriotism, promoting a strong national defense, and fighting for the rights of our servicemembers and veterans.

Our post was almost completely destroyed by Hurricanes Matthew in 2016 and Florence in 2018. Matthew caused \$50K worth of damage. The water line inside the building with Florence reached 9 feet destroying everything in the building. Without our range, our membership will be significantly impacted and the very existence of our post will be at risk. We may no longer be able to assist the veterans of our community. By signing this petition, you are asking the Cumberland County Planning and Inspection Department to allow American Legion Post 230 in Spring Lake to continue to operate our range.

The American Legion Post 230, Spring Lake, NC [Contact the author of the petition](#)

Sign this Petition

By signing, I authorize **The American Legion Post 230, Spring Lake, NC** to hand over my signature to those who have power on this issue.

 Login with Facebook

OR

* First name

* Last name

United State: ▾

* City

Phone number (optional)

Email address (optional)

I'm signing because... (optional)

Show my signature publicly

 Yes No

Email me whenever there's an update about this petition

 Yes No

I am at least 16 years old and accept the [Privacy Policy](#).

 Yes No

Sign

You will receive an email with a link to confirm your signature. To ensure you receive our emails, please add **info@petitions.net** to your address book or safe senders list.


Please note that you cannot confirm your signature by replying to this message.

Paid advertising

We will advertise this petition to **3000** people.

[Learn more...](#)

5 € 10 €

 Pay w...

I understand that buying extra visibility is not required to sign this petition.

Facebook

Like 20K

EXHIBIT

7

Petitions promoted by other users

Securing the long-term future of Latin and of the CSEL at the University of Salzburg
(Deutsche Version unten) The Rectorate of the University of Salzburg plans not to fill the only existing full professorship for Latin at the Department of Classical Studies following the retirement of the current position...

Rowls Howard
Director

Vacant
Deputy Director

Scott Walters
Code Enforcement
Manager

Carol M. Post
Office Processing Assistant



**CUMBERLAND
COUNTY**
NORTH CAROLINA

Planning & Inspections Department

Jory Lewis
Inspector

Gilbert Sanchez
Inspector

Andy Roberts
Inspector

Kim Canalzaro
Inspector

Jamie Bahneman
Inspector

NOTICE OF VIOLATIONS

05/14/2020

American Legion Post 230 & Parties of Interest
1654 Veterans Dr
Spring Lake, NC 28390

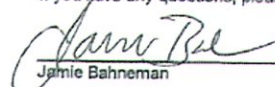
CASE # ZN-3808-2020

You are hereby issued a Notice of Violation of the Cumberland County Code, Appendix A, Zoning.

1. Nature of Violation(s): You are in violation of your site plan case number 98-005. You are operating or allowing the operation of a shooting range on your property. A shooting range is not permitted per the approved site plan.
2. Code Reference: Cumberland County Zoning Ordinance, Cumberland County, North Carolina, Article I, Administrative Provisions, Section 107, Zoning Permit, Article II, Interpretations, Calculations, and Definitions, Section 203 Definitions of Specific Terms and Words, Article IV, Permitted, Conditional, and Special Uses, Section 403 Use Matrix, Article IX, Individual Uses, Section 907 Firing Range, Outdoor, Article XIV, Planned Districts, Section 1403 Site Plan Review, Article XVII, Legal Provisions, Section 1704, Penalties.
3. Action to Correct Violations(s): Cease operation and remove the shooting range or seek to add it to an approved site plan.
4. Property Location: On or about 1654 Veterans Dr, Spring Lake, NC. Being that property as listed under Cumberland County, NC Tax Parcel Number 0502-04-1673
5. Property Owner: American Legion Post 230 Inspection Date: 05/13/2020

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) 321-6643.


Jamie Bahneman
Code Enforcement Officer



THE AMERICAN LEGION

Department of North Carolina
James LeBlanc Post #230
1654 Veterans Dr, Spring Lake, NC 28310

20 May 2020

Scott Walters, Code Enforcement Mngr.
Cumberland County Inspection & Planning Dept.
130 Gillespie Street
Fayetteville, NC 28301

Mr. Walters,

We, American Legion Post #230, have received a Notice of Violation, Case # ZN-380-2020, the cease and desist order concerning an outdoor shooting range.

We will exercise our right to appeal this decision in accordance with Article XVII., Section 17.03E, Appeal, Zoning Ordinance and request an appointment with the next Board of Appeals to present our argument.

The American Legion is the largest wartime veterans service organization with nearly 2 million members and more than 12,000 posts in communities throughout America. Today, the organization is active throughout the United States, supporting current military personnel and veterans, sponsoring American Legion Baseball, Boys State, Oratorical Contests, and other community service activities.

Sincerely,

Derek Orent
Commander, Post #230





2009

78 82 35 138

MANCHESTER RD

EASTENING DR

SPERANZA DR

KINDY DR

VETERANS DR

240 E 5th

NORTH CAROLINA

CUMBERLAND COUNTY

AFFIDAVIT

I, Hershel Lee Boyd, being duly sworn, hereby deposes and says:

1. I am 84 years old and a veteran of the United States Air Force.
2. I own property on Manchester Road adjacent to the American Legion Post property and I have been familiar with the Post property for approximately 47 years.
3. I am a member of the American Legion Post #230 and have been so continuously for approximately 47 years.
4. I have served as its Commander for a total of over 11 years in 3 different decades.
5. I last commanded the Post in 2010.
6. At least since 1992, members of the Post have used the area directly behind the Post building for discharging firearms.

7. It has been used by members of the Post consistently since that time for that purpose.

8. Historically, it has also been used by the "Air Police", military police service personnel in the Air Force, local church groups, the Spring Lake Lions Club, Boy Scouts and County and Municipal Law Enforcement Officers from Cumberland County.

9. Many years ago, the Post had seasonal Turkey Shoots as a fundraiser. However, we have never charged anyone anything for using the property.

10. In the last 47 years, I have never known of any complaints regarding use of firearms on the property. However, I have now been informed that there was some type of complaint in 2019, but apparently it was resolved.

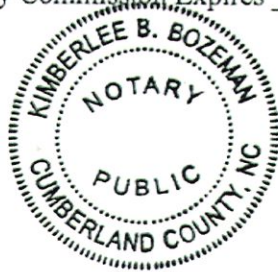
11. No one has ever been hurt due to firearm usage at the property and the area where people shoot is at the back of the property where there is a berm, then the Little River and then a wooded area at Fort Bragg.

This the 15th day of October, 2020.

Hershel Lee Boyd SR.
Hershel Lee Boyd

Sworn to and subscribed before me
this the 15th day of October, 2020.

Kimberlee B. Bozeman
Notary Public
My Commission Expires 2-20-2024



Firing Range, Outdoor: A facility, including its component shooting ranges, safety fans or shotfall zones, parking areas, all structures for classrooms, administrative offices, ammunition storage areas and other associated improvements, designed for the purpose of providing a place for the discharge of various types of firearms or the practice of archery. For purposes of this ordinance, outdoor firing ranges are a principal use of property and therefore, shall not be considered incidental or accessory. This ordinance is exclusive of occasional target practice by individuals on property owned or leased by the individuals, sighting of weapons for purposes of hunting, or temporary turkey shoots conducted on a property no more than 12 days in any calendar year. (Sec. 907.1)

(Amd. 06-17-13)

Sec. 9.5-100. - Firearms.

(a) It shall be unlawful for any person to discharge a firearm within the county where the firer of such firearm:

(1) Is, or reasonably appears to be, within 100 yards of any dwelling unit, house, trailer or building lot not his own, without the consent of the occupant of such unit, house, trailer or building;

(2) Knows, or has reasonable grounds to believe, that the missile discharged from such firearm will strike within 200 yards of a dwelling unit, house, trailer or building which is not his own, without the consent of the occupant of such unit, house, trailer or building;

(3) Is within 25 yards of any publicly maintained road or any public vehicular area;

(4) Knows, or has reasonable grounds to believe, that the missile discharged from such firearm will strike within 50 yards of a publicly maintained road or any public vehicular area;

(5) Knows, or has reasonable grounds to believe, that the missile discharged from such firearm will strike within 25 yards of the location of any person whom the firer of such firearm knows, or has reasonable cause to believe, is within the area and any such person has not consented, either expressly or impliedly, to being within 25 yards of where such missile is reasonably expected to strike.

(b) This section shall not apply when such firearm is used lawfully in defense of person or property in accordance with the laws of the state, when used lawfully pursuant to the lawful directions of a law enforcement officer or when used lawfully pursuant to state hunting and wildlife statutes.

(c) This section shall not apply to an indoor firing range constructed and operated according to the following provisions:

(1) That said facility meets all applicable OSHA guidelines and requirements concerning the construction and operation of an indoor firing range.

(2) That said facility maintain liability insurance through a company licensed in North Carolina, with a minimum of \$250,000.00 coverage and a maximum of \$10,000.00 deductible.

(3) That the walls and ceiling of the indoor firing range be constructed such that any rounds, ammunition, or projectiles utilized in the firing range cannot penetrate the walls and ceiling or floor of said firing range. Firing booths shall be enclosed, except facing the target area, with bullet-resistant material capable of successfully resisting ammunition or rounds used on the range. Observation areas shall be enclosed with bullet-resistant material capable of successfully resisting any ammunition or rounds used on the range.

(4) That there be no unreasonably loud or disturbing noise outside the building resulting from the use of firearms.

(5) That, during all hours of operation, there shall be physically on the premises, a designated range supervision who has had a minimum of ten hours instruction on firearm safety and recognition of unsafe firearm practices. Commensurate or comparable military or law enforcement training in range supervision satisfies this requirement. The range operator shall maintain documentation of such training.

(d) Each violation of this section shall be deemed a separate violation.

(e) Each violation of this section shall constitute a misdemeanor and any person convicted of the same shall be subject to a fine of not more than \$40.00 or imprisonment not exceeding 30 days and shall constitute a violation of North Carolina General Statute 14-4.

(Ord. of 10-15-79; Ord. of 3-22-88; Ord. of 4-27-93; Ord. of 11-6-95, §2)

David Moon

From: charles annan <charlesannan2.0@gmail.com>
Sent: Wednesday, November 11, 2020 3:49 PM
To: David Moon
Subject: request to extend board meeting

Good Afternoon Sir,

I would like to request an extension to be heard at the Board meeting in Dec. I am asking for this so I have additional time to gather all my information to present to the board.

Thank you

Charles Annan

**CUMBERLAND COUNTY
BOARD OF ADJUSTMENT HEARING
OCTOBER 22, 2020**

SUBJECT: BOA CASE # P20-03-C -- Variance

REQUEST: Variance to allow a Zero-Foot front yard setback for three accessory buildings and a fence instead of required minimum fifty-foot setback, applicable to the southern 125 lineal feet along the eastern right-of-way easement line for Dreamland Drive.

- | <u>Exhibits</u> |
|--|
| A. Site Location |
| B. Site Plan (attached) |
| C. Site Survey (attached) |
| D. Existing Uses |
| E. Site Pictures (attached) |
| F. Future Land Use Map |
| G. Sec. 1104 District Standards (attached) |
| H. Variance Application (attached) |

EXPLANATION OF THE REQUEST

The Property Owner of a parcel assigned an A-1 zoning district (Exhibit A) requests a variance to allow a zero-foot front yard setback instead of the required minimum fifty feet for the southern 125 feet along Dreamland Drive eastern right-of-way easement to accommodate two garages, a shed, and a privacy fence. Section 1104 of the Zoning Code establishes a minimum front yard setback of fifty feet for each of these structures. A 1,425 +/- sq. ft. garage and a 154 +/- sq. ft. shed have already been constructed as well as a wood-stockade privacy fence, all without the property owner obtaining a building permit from Cumberland County. The smaller garage (573 +/- sq. f.t.) was constructed before the current owner purchased the property in March 2011. Structures subject to the variance request appear in the site plan presented in the attached Exhibit B, Site Plan, (garages - # 1; shed # 2, and fence #3). The variance request only applies to these four structures and for the above listed floor area of the garage and metal shed.

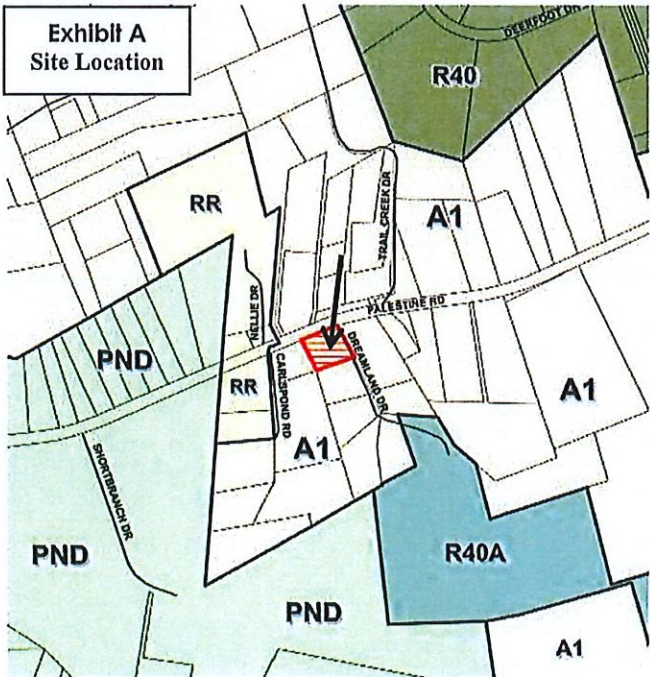
Building Permits submitted to Cumberland County cannot be approved and issued to the property owner for the three structures not previously issued a building permit unless (1) a variance is granted by the BOA and (2) all three structures comply with the variance conditions. Dreamland Drive is a Class "C" private street and while the property lines go to the center of the private street, setbacks are measured from the right-of-way line per the Zoning Code.

PROPERTY INFORMATION

Owner/Applicant: Charles & Sheena Annan
Address/Location: 1062 Palestine Road (Exhibit A)
REID #: 0553537082000

Parcel Size: 0.74 acres within one parcel.
The property has approximately 196' of street frontage along Palestine Road and approximately 224' of street frontage along Dreamland Drive. The property is 224'+/- in depth. Exhibit C (attached) is the site survey illustrating the parcel size, dimension, and current building and structure locations.

Existing Land Use: The subject property is currently developed with a single-family dwelling unit and several accessory structures, as illustrated in Exhibit D



below, as well as pictures provided in Exhibit E (attached).

Zoning: A1 Agricultural

Other Site Characteristics: The property is not within the Special Flood Hazard Area. The property is within the watershed but is less than one acre. There are no soil limitations that restrict development on this site.

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



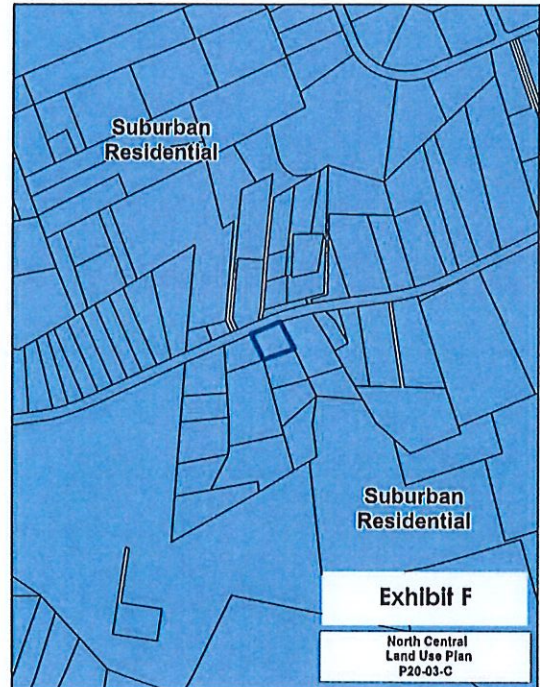
Development Review: This property was platted on Nov. 2, 1987 in Plat Book 63, Page 69.

Zoning History: This property was initially zoned A1 as part of the Area 15 initial zoning on December 17, 2001.

Utilities: This property is currently served by private well and septic. Electric power lines are located on the opposite side of Dreamland Drive.

Comprehensive Plans: The 2030 Growth Vision Plan designates this parcel for "Rural Area". The North Central Cumberland Land Use Plan (2011), as shown in Exhibit F, designates this parcel for "Suburban Residential". The "Suburban Density Residential" designation allows for residential development with a maximum of two units per acre.

Applicable Zoning Codes: Section 1104, A1 Zoning Standards (Exhibit G attached))



IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES

Traffic and Streets: The subject property is located outside of FAMPO boundaries. The Average Daily Traffic Count (2014) on Palestine Road is 790. The subject property is located at the intersection of Palestine Road and Dreamland Drive with them main driveway accessing Palestine Road. Extending a length of approximately 600 feet from Palestine Road, Dreamland Drive terminates as a dead-end. Only traffic generated from six single family homes impact Dreamland Drive.

SCHOOLS CAP/ENROLL: Long Hill Elementary: 460/486; Raleigh Rd Elementary: 220/238; Pine Forest Middle: 820/808; Pine Forest High: 1750/1577. The variance does not generate any impacts on public school enrollment.

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

FINDINGS OF FACT

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

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

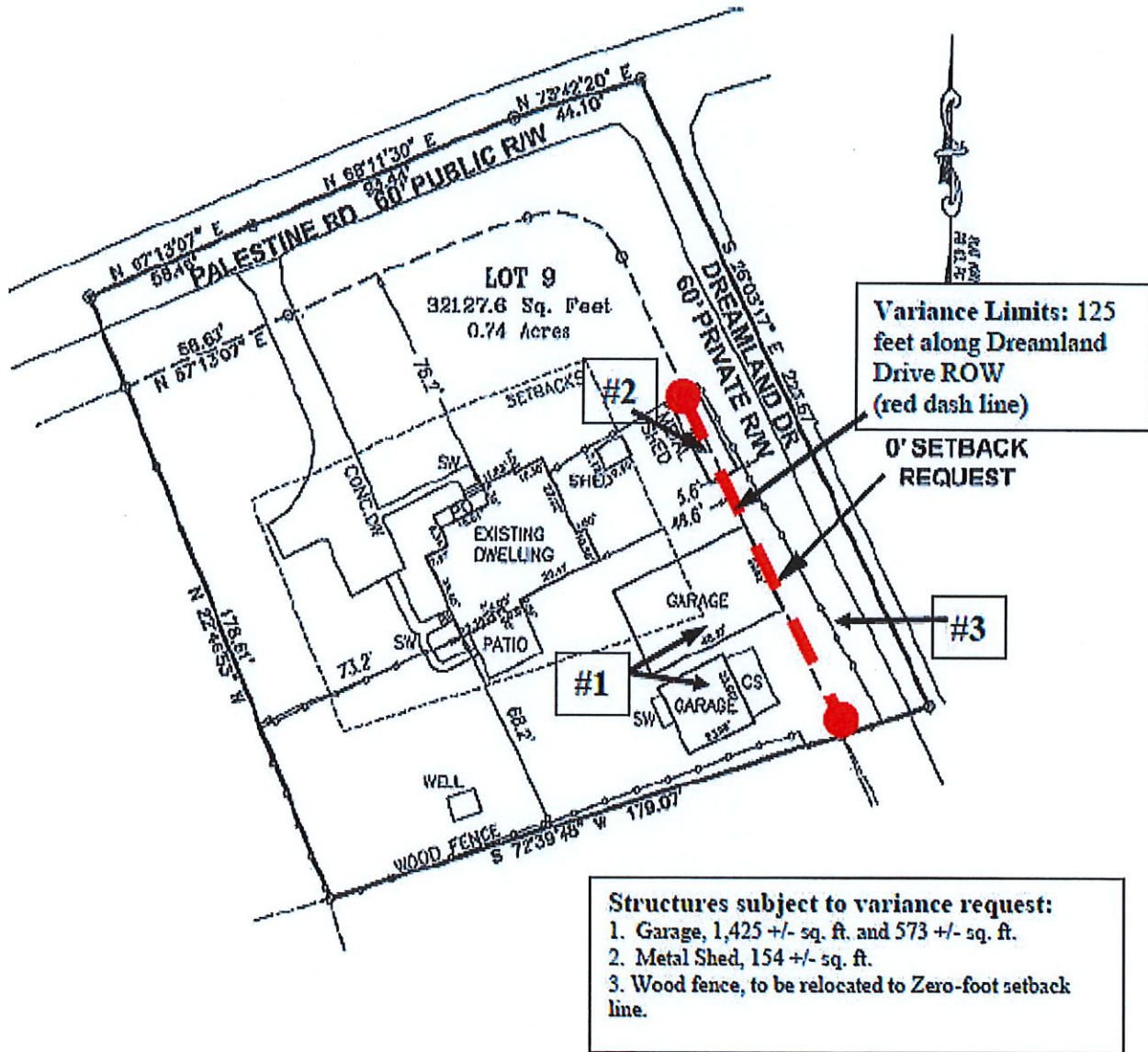
Applicant's Response to the above criteria were submitted with the application and is provided below:

"The fence is laid out and constructed in a manner that blends in visually in a low-key, unobtrusive manner with the surrounding. As such, it is clearly in harmony with the overall intents and purposes.

Additionally, the fence and existing building that this Variance is being requested for does not encroach or infringe on any neighboring residential properties, nor would it impose any hardship on any neighbors, nor would it serve to create a situation where any neighbor's quality of life, property value, or peaceful co-existence would be negatively affected. As a matter of fact, the proposed project would be an improvement to the neighborhood and result in an overall increase in property value and tax base created by improvements. The granting of such Variance will not be materially detrimental to the public welfare. The proposed Variance does no harm to either public or private interest and is not injurious to any property or interest."

Attachments:
Notification Mailing List

Exhibit "B"
Site Plan
(Case # P20-03-C-Variance)



BOARD OF ADJUSTMENT
VARIANCE

REQUEST: CONSIDERATION OF A VARIANCE TO ALLOW A 0 FOOT
FRONT YARD SETBACK WHERE 50 FEET IS REQUIRED

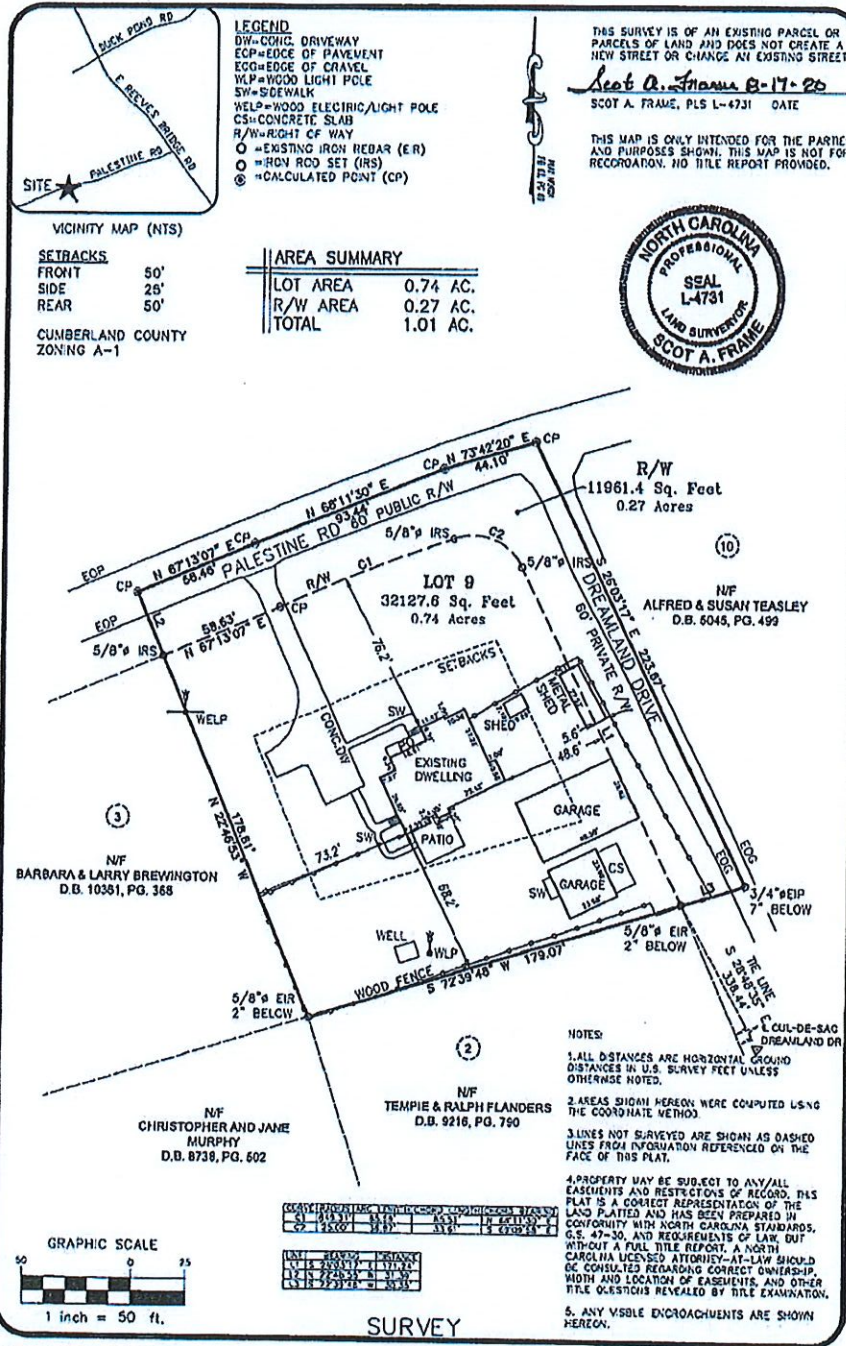
CASE: P20-03-C ACREAGE: 0.74 AC +/-

ZONED: A1 SCALE: NTS

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

EXHIBIT C

SITE SURVEY



FOR CHARLES & SHEENA ANNAN
 1062 PALESTINE RD, LINDEN
 CARVERS CREEK TWP., CUMBERLAND CO., NC
 P.B. 63, PG. 60

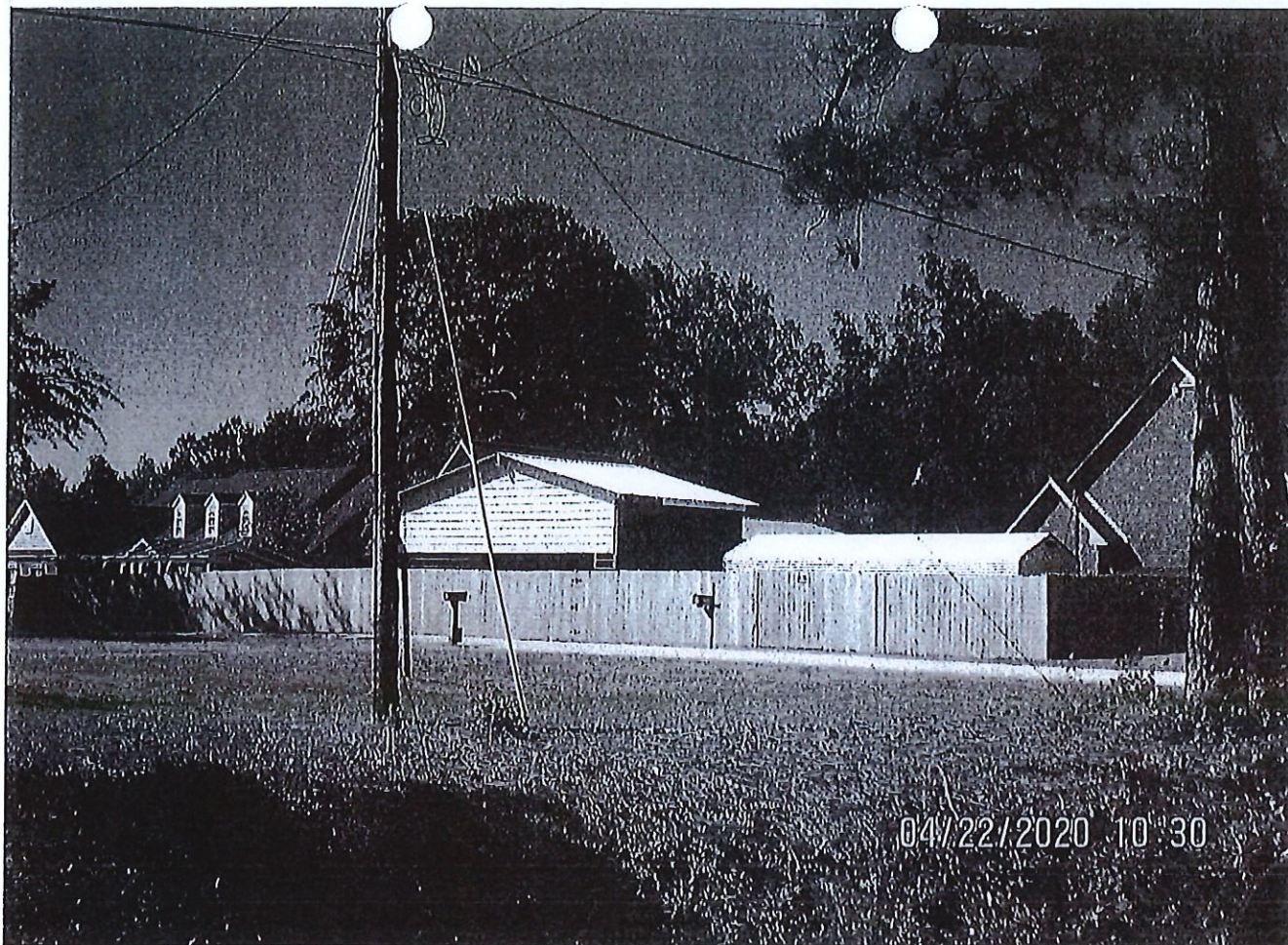
ECLS GLOBAL
 U.S. VETERAN-OWNED
 19 N. MCKINLEY ST.
 COATS, NC 27521
 910.897.3237 (CELL/PHONE)
 910.897.2320 (FAX) 00624178

PROJECT: 20-349
DRAWN BY: EDI
SCALE: 1"=50'
DATE: 08/17/2020

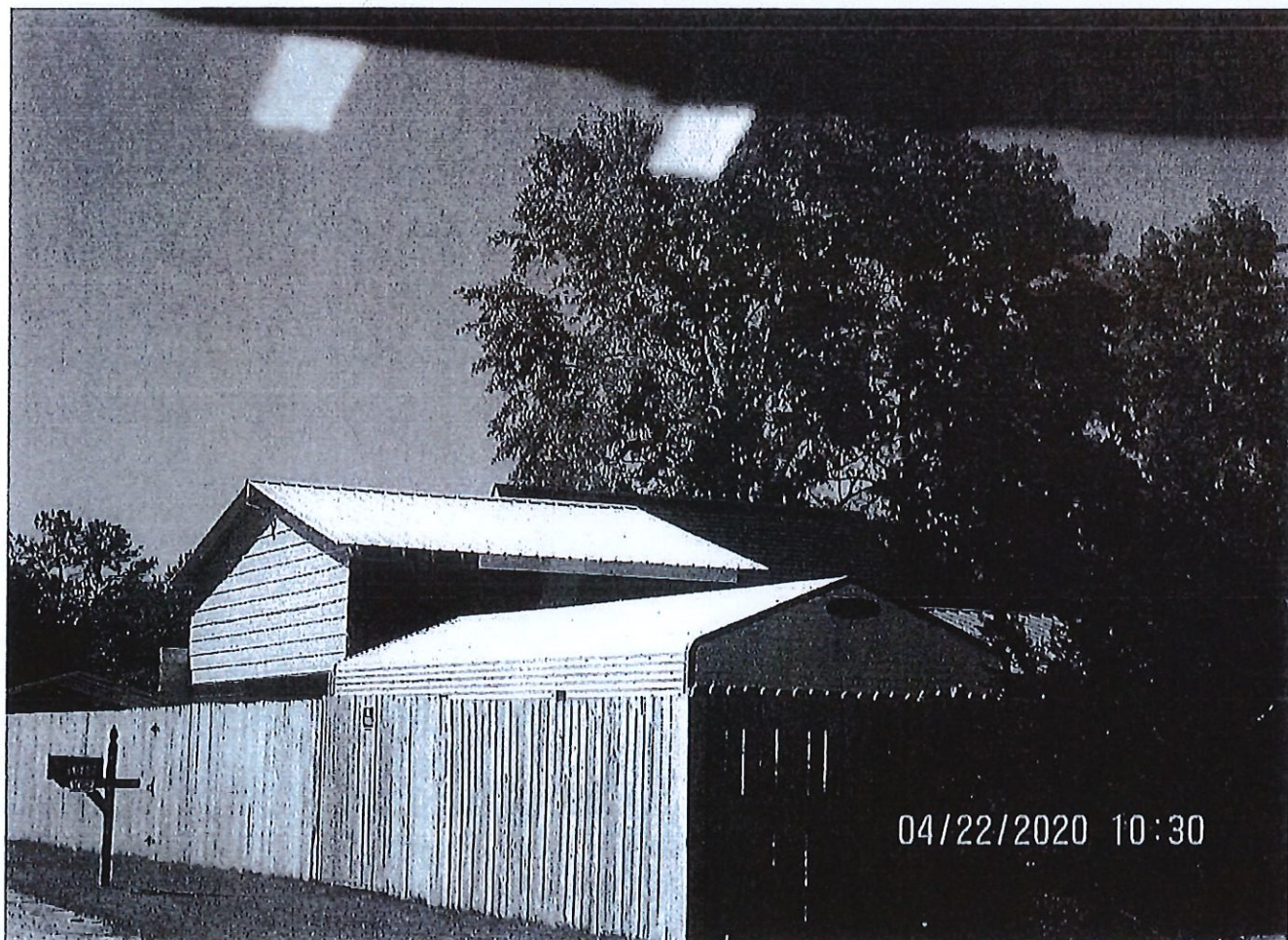
Not to scale

EXHIBIT E
SITE PICTURES

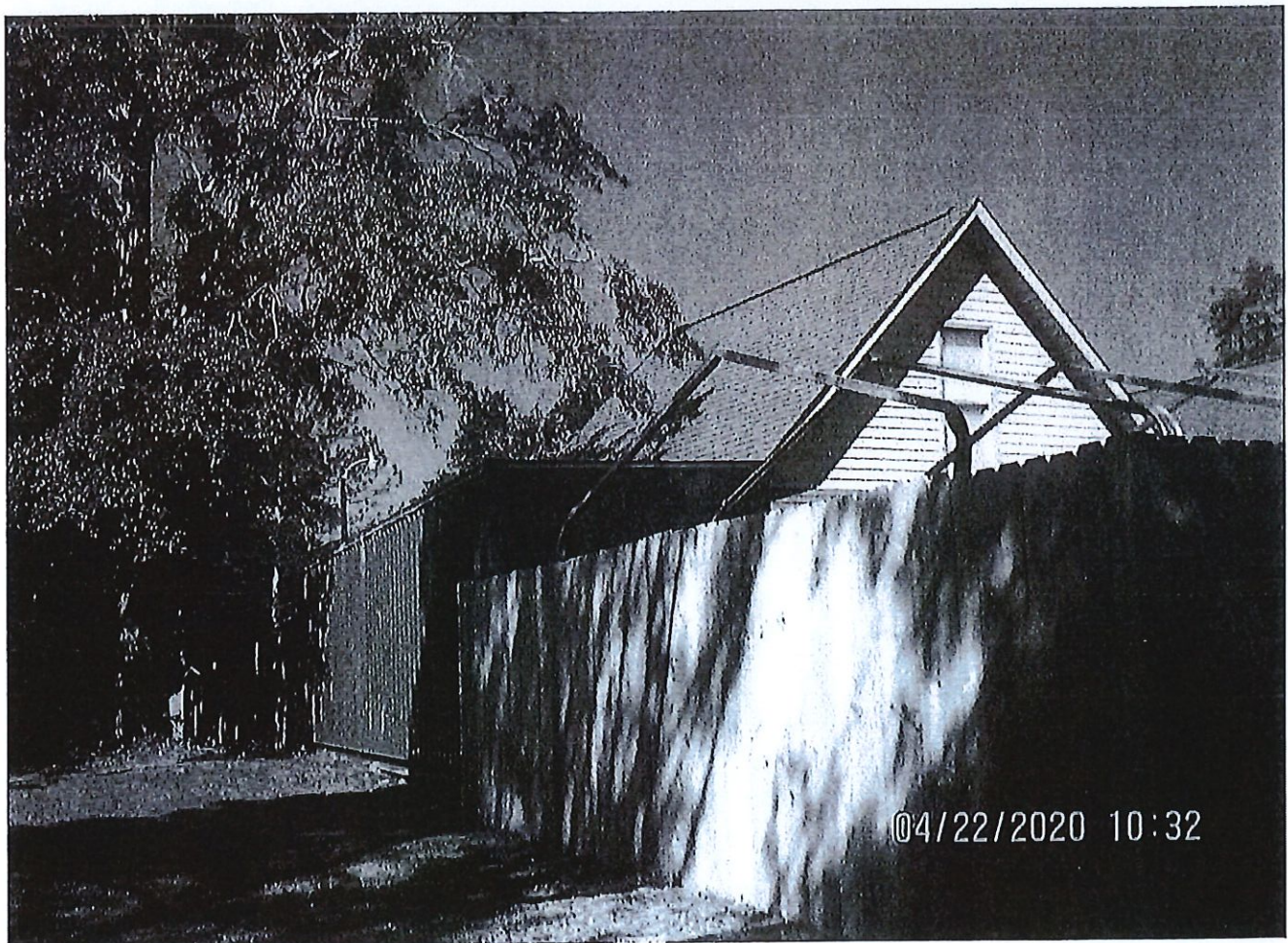
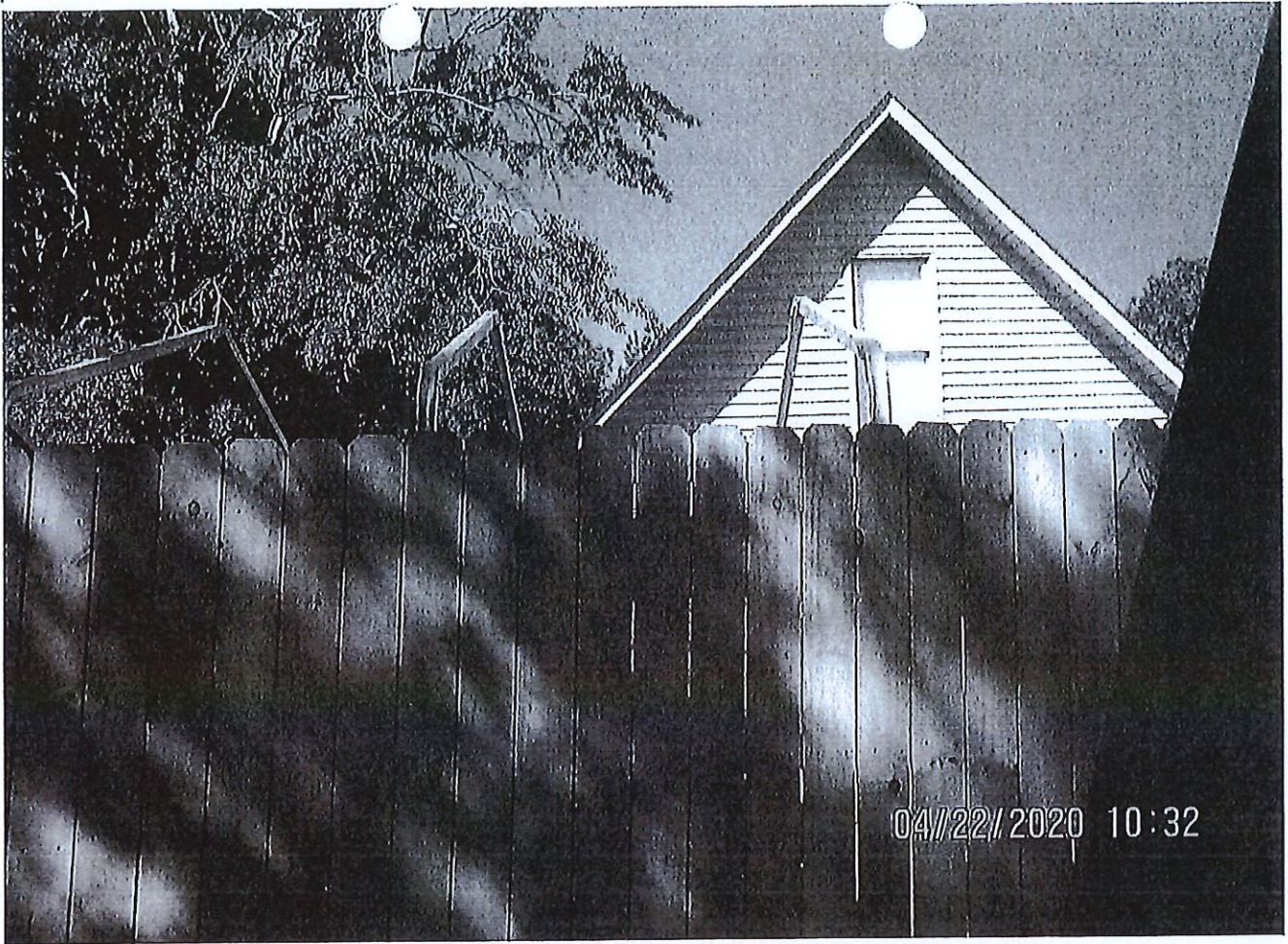
Fram : CODE enforcement

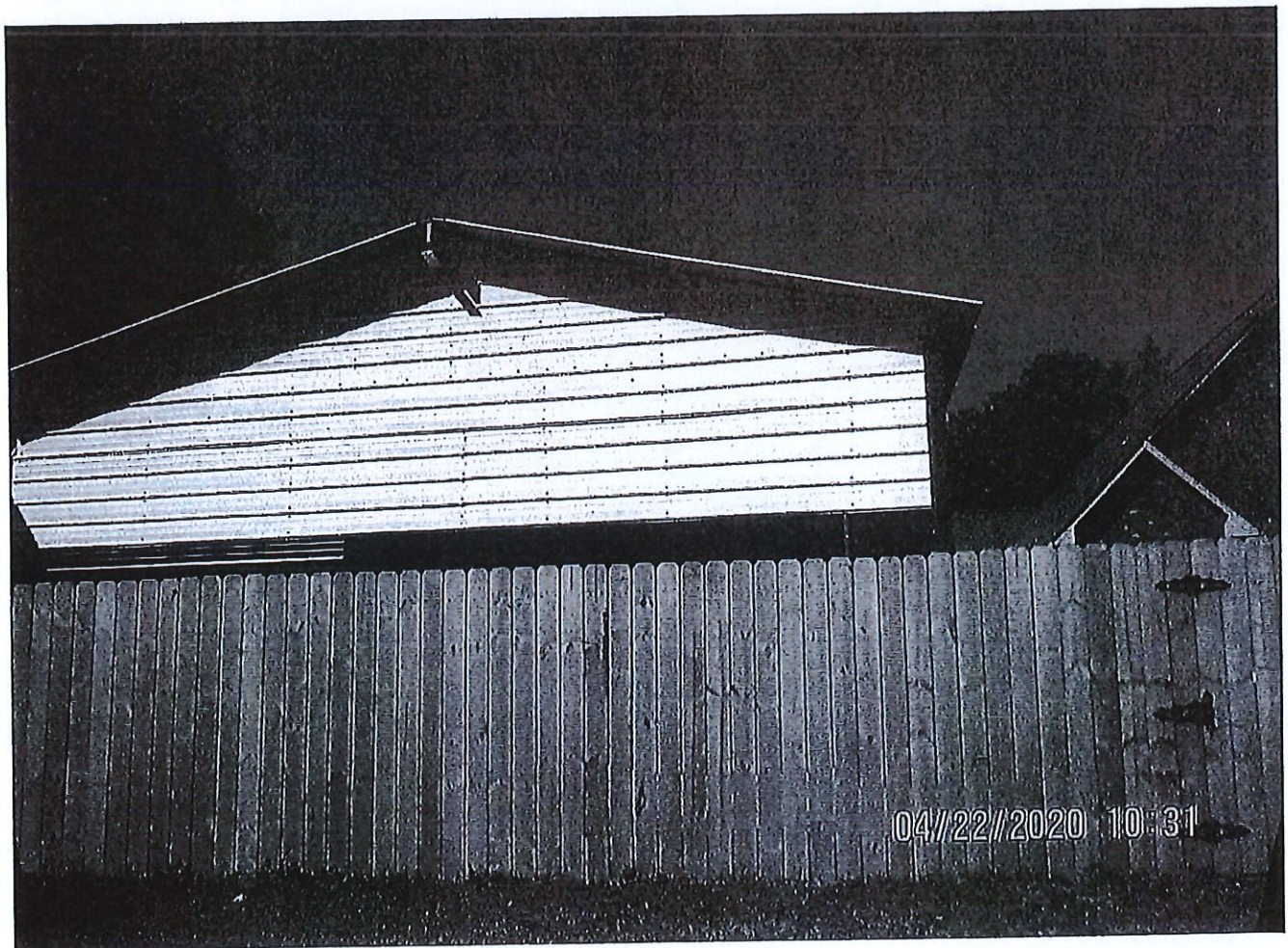
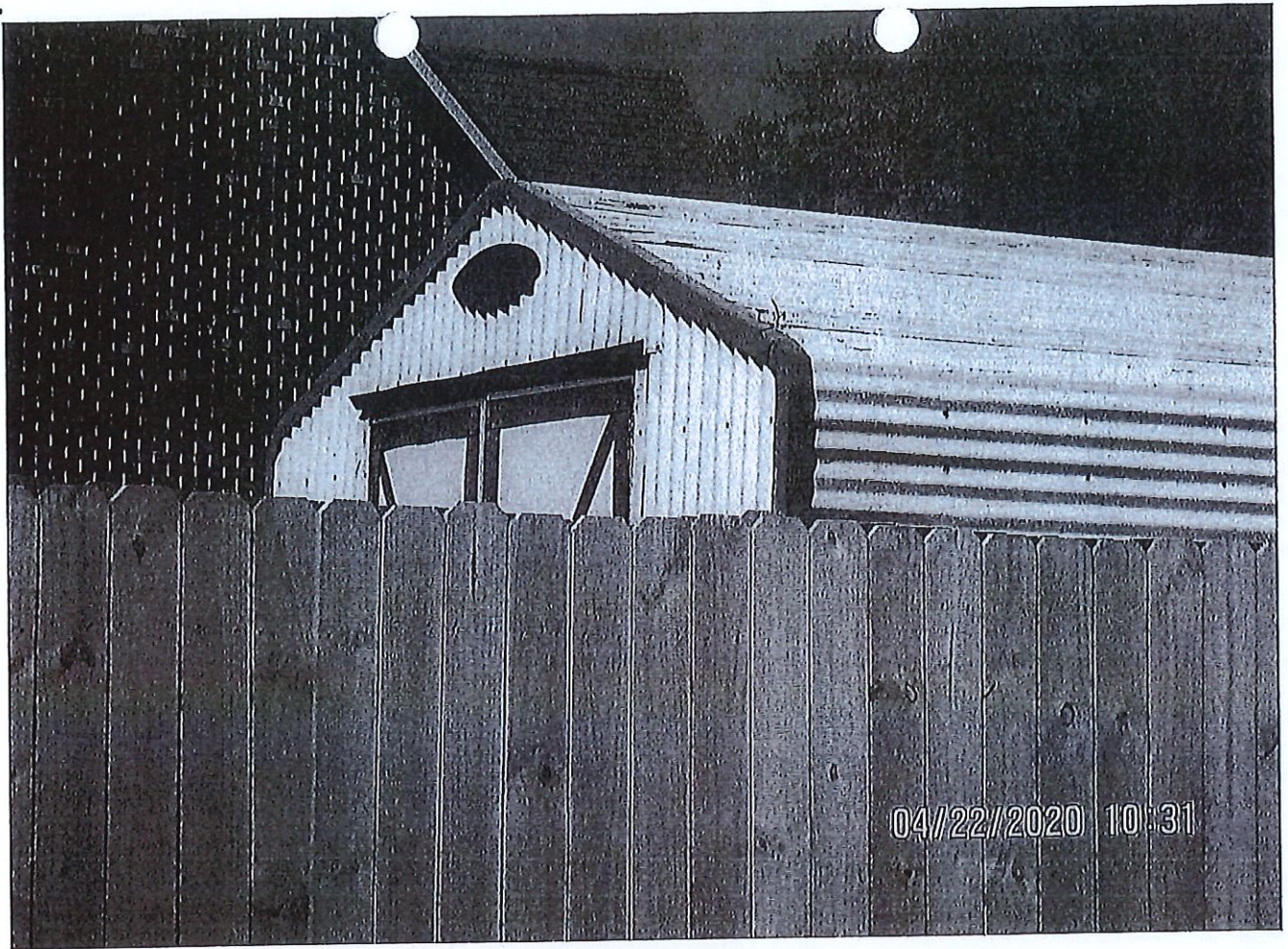


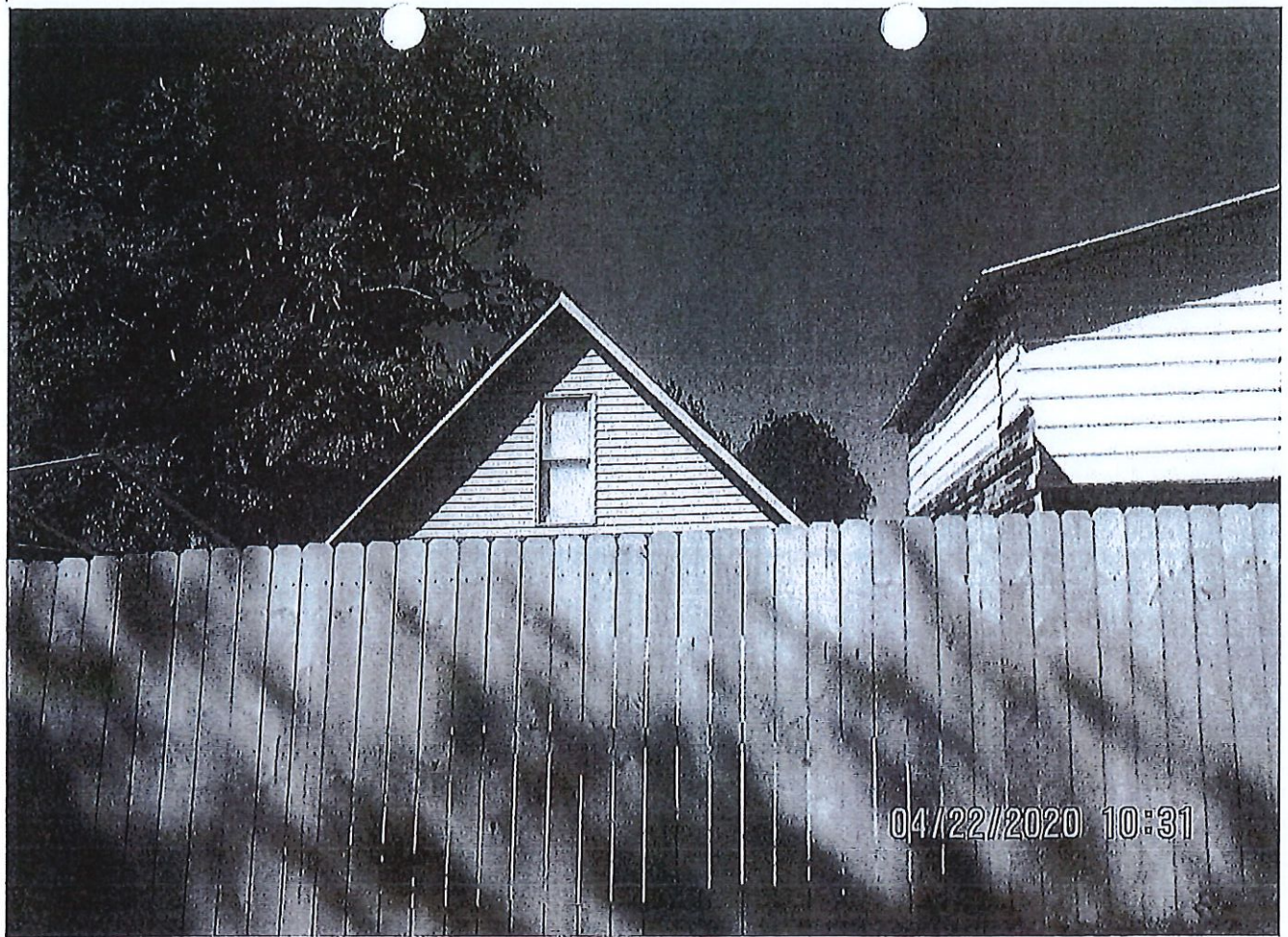
04/22/2020 10:30

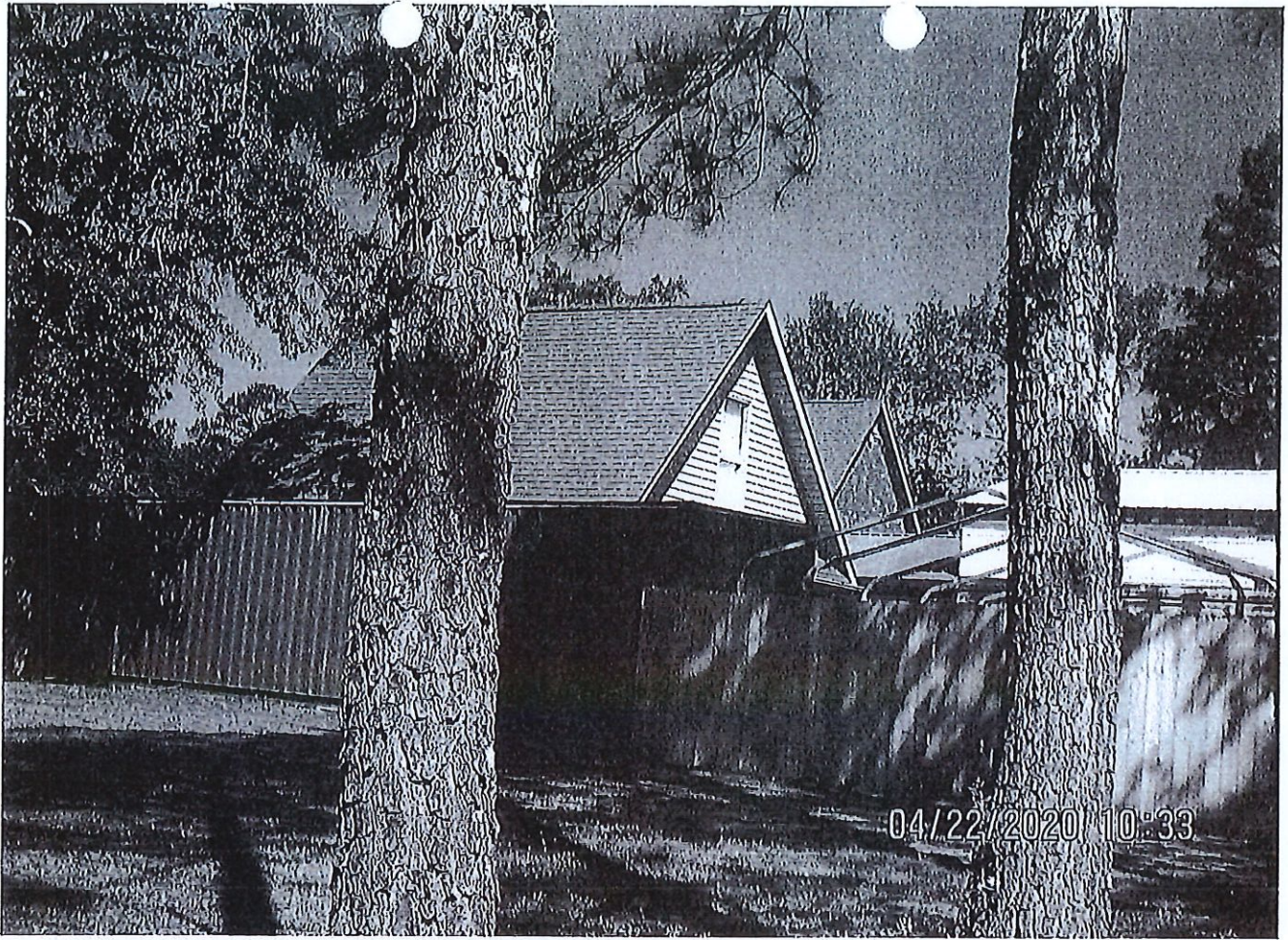


04/22/2020 10:30











Planning & Inspections Viewer

CCGIS



1062 PALESTINE RD, LIN X Q

Show search results for 1062 P...

1700 sq ft house



-78.813 35.214 Degrees

EXHIBIT G

SECTION 1104, ZONING CODE

SECTION 1104. DISTRICT DIMENSIONAL PROVISIONS.¹

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 ² (SQ. FT PER DWELLING)			WIDTH (in feet)	MINIMUM YARD SETBACK REGULATIONS ²					
	MINIMUM LOT SIZE (square feet unless otherwise stated)	UNIT (DU) FOR CONDOS & GROUP DEVELOPMENTS ³			FRONT ⁵ YARD (measured from R/W line)	SIDE YARD		REAR YARD (In feet)		
		1 st DU	2 nd , 3 rd , & 4 th DUs			5+	(1 story)		(2 story)	(each add greater than 2 stories)
A1 ³	2 acres	2 acres	2 acres	2 acres	100	50	20	25	25ft/story	50
A1A ⁴	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 ²	6,000	6,000	5,000	4,000	60	25	10	12	6ft/story	15 ⁶
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

¹ All signs are regulated by Article XIII.

² Exceptions: See Section 1103 for special exceptions to this chart.

³ Minimum lot size for non-residential uses is one acre.

⁴ Maximum district size for rezoning request is 10 acres.

⁵ Exception: Averashoro Battlefield Viewshed Frontage (Section 1102 L)

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

(Section 1104, District Dimensional Provisions – Continued)¹

MINIMUM YARD SETBACK REGULATIONS²

<u>DISTRICT</u>	<u>FRONT YARD</u> (feet)		<u>SIDE YARD</u> (feet)	<u>REAR YARD</u> (feet)
	Measured from R/W Line	Measured from Street Centerline		
CD	50	80	50	50
O&I(P)	35	65	15	20
C1(P)	45	75	15	20
C2(P)	50	80	30	30
C(P)	50	80	30	30
M1(P)	50	80	30	30
M(P)	100	130	50	50

¹ Exception: See Section 1103 for special exceptions to this chart.

² All signs are regulated by Article XIII.
(Amd. 02-19-08; Amd. 02-19-08)

EXHIBIT H
VARIANCE APPLICATION



County of Cumberland
BOARD OF ADJUSTMENT

CASE #: P20-03-C
CUMBERLAND COUNTY BOA
MEETING DATE: 10-15-20
DATE APPLICATION
SUBMITTED: 9-3-20
RECEIPT #: 75547
RECEIVED BY: EMD

**APPLICATION FOR
VARIANCE REQUEST**

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

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

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

1. A copy of the recorded deed and/or plat, or an accurate written legal description of only the area to be considered;
2. A copy of a detailed site plan drawn to an engineer scale; and
3. Cash or check payable to “Cumberland County” in the amount of \$ 200.00 (see attached Fee Schedule)

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

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

MIA: N/A

AOD: N/A

5mile: N/A

**EXCERPT FROM
THE CUMBERLAND COUNTY ZONING ORDINANCE**

(PENDING ADOPTION)

Section 1605 VARIANCE

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

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

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

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

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: Palastine Rd.

OWNER: Charles Annan & wife Sheena Annan

ADDRESS: 1062 Palastine Rd. Linden ZIP CODE: 28356

TELEPHONE: HOME 910-813-6851 WORK _____

AGENT: _____

ADDRESS: _____

TELEPHONE: HOME _____ WORK _____

E-MAIL: Charles annan 2.0@gmail.com

APPLICATION FOR A VARIANCE
As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 0553-53-7082
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 0.88 Frontage: 420' Depth: 179'

C. Water Provider: Well

D. Septage Provider: Septic

E. Deed Book 08601, Page(s) 0895-0896, Cumberland County

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

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

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

Requesting - a zero-foot front yard setback instead of the required minimum fifty feet for the Southern 125 feet along Dreamland Drive to accommodate a garage, shed and privacy fence.

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.

✓ Charles Annan, Sheena R. Annan
NAME OF OWNER(S) (PRINT OR TYPE)

1062 Palestine Rd Linden nc 28356
ADDRESS OF OWNER(S)

Charlesannan20@gmail.com
E-MAIL

910-813-6851
HOME TELEPHONE # WORK TELEPHONE #

Charles Annan, Sheena Annan
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

1062 Palestine Rd. Linden, nc 28356
ADDRESS OF AGENT, ATTORNEY, APPLICANT

910-813-6851
HOME TELEPHONE # WORK TELEPHONE #

Charles
SIGNATURE OF OWNER(S) SIGNATURE OF AGENT, ATTORNEY OR APPLICANT

Annun
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) Charles R. Annan, Sheena R. Annan

PRINTED NAME OF OWNER(S) Charles Annan, Sheena R. Annan

DATE 3 Sep 2020

3 September 2020

Cumberland County Board of Adjustment
130 Gillespie Street
Fayetteville, NC 28301

Dear Cumberland County Board of Adjustment

This proposal letter is to request the grant of a Variance for the residence at 1062 Palestine Road in Linden. The Variance requested is for an existing building and fence located along Dreamland Drive, which is a Class C, private dirt road.

Property Fence

The petitioner requests a Variance allowing the preexisting ^{solid wood} fence to be on the property line on Dreamland Drive. We are asking for a Variance of 0 feet.

The fence is laid out and constructed in a manner that blends in visually in a low-key, unobtrusive manner with the surroundings. As such, it is clearly in harmony with the overall intents and purposes.

Existing Building

The petitioner requests a Variance allowing the already built building to stay on the property. We are asking for a Variance of 0 feet.

Additionally, the fence and existing building that this Variance is being requested for does not encroach or infringe on any neighboring residential properties, nor would it impose any hardship on any neighbors, nor would it serve to create a situation where any neighbor's quality of life, property value, or peaceful co-existence would be negatively affected. As a matter of fact, the proposed project would be an improvement to the neighborhood and result in an overall increase in property value and tax base created by improvements. The granting of such Variance will not be materially detrimental to the public welfare. The proposed Variance does no harm to either public or private interests and is not injurious to any property or interest.

Thank you for your consideration.

Respectfully,


Charles Annan

8601
0895

BK08601 PG0895

FILED
CUMBERLAND COUNTY NC
J. LEE WARREN, JR.
REGISTER OF DEEDS

FILED Mar 08, 2011
AT 12:57:00 pm
BOOK 08601
START PAGE 0895
END PAGE 0896
INSTRUMENT # 08060
RECORDING \$22.00
EXCISE TAX (None)

DJ

NORTH CAROLINA SPECIAL WARRANTY DEED

Excise Tax: EXEMPT

Parcel Identifier No: 0553-53-7082 Verified by CUMBERLAND County on the ___ day of ___, 20__ By: _____

Mail/Box to: Thorp, Clarke & Neville RM- 1103-11 (759.827) - LN

Drawn by: Rogers Townsend & Thomas, PC (Atty: W. Chris Parnell) 2550 W. Tyvola Road, Charlotte, NC 28217
Brief description: Lot No. 9, Property of Carl Bowden, Plat Bk. 63, Pg. 69- CUMBERLAND County Registry

THIS DEED made this 6th day of January, 2011, by and between

GRANTOR

GRANTEE

FANNIE MAE a/k/a FEDERAL NATIONAL MORTGAGE ASSOCIATION organized and existing under the laws of the United States of America

Mailing Address: P.O. Box 650043, Dallas, TX 75265

CHARLES ANNAN AND WIFE, SHEENA ANNAN

Mailing Address: 1062 Palestine Road
Linden, NC 28356

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in CUMBERLAND County, North Carolina and more particularly described as follows:

BEING ALL OF LOT 9 AS SHOWN ON A PLAT ENTITLED "PROPERTY OF CARL BOWDEN SECTION TWO" AS RECORDED IN BOOK OF PLATS 63, PAGE 69, CUMBERLAND COUNTY REGISTRY, NORTH CAROLINA.

PROPERTY ADDRESS: 1062 PALESTINE ROAD, LINDEN, NC 28356

8601
0896

8608601 PG0896

The property hereinabove described was acquired by Grantor by instrument recorded in Book 8460 Page 65.

A map showing the above described property is recorded in Map Book 63 at Page 69.

This property IS NOT the primary residence of the Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the following exceptions:

Easements and Restrictions of record as may appear
Ad Valorem taxes for 2011

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

FANNIE MAE A/K/A FEDERAL NATIONAL MORTGAGE ASSOCIATION
organized and existing under the laws of the United States of America

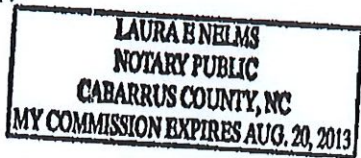
By and Through Its Attorney-in-Fact, Rogers, Townsend & Thomas, PC

By:  (Signature)
W. CHRIS PARNELL, Vice President

State of North Carolina – County Mecklenburg

I, the undersigned Notary Public of the County and State aforesaid, certify that W. Chris Parnell, Vice President of ROGERS, TOWNSEND & THOMAS, PC, said ROGERS, TOWNSEND & THOMAS, PC, being Attorney-in-Fact for FANNIE MAE A/K/A FEDERAL NATIONAL MORTGAGE ASSOCIATION organized and existing under the laws of the United States of America, personally came before me this day and being duly sworn says that ROGERS, TOWNSEND & THOMAS, PC, and through its Vice President, W. Chris Parnell executed the foregoing and annexed instrument for and on behalf of FANNIE MAE A/K/A FEDERAL NATIONAL MORTGAGE ASSOCIATION organized and existing under the laws of the United States of America, and that ROGERS, TOWNSEND & THOMAS, PC, authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds of CUMBERLAND County, North Carolina in Book 8426 at Page 700 and that this instrument was duly executed under and by virtue of the authority given by said instrument granting it Power of Attorney; that W. Chris Parnell acknowledged that he is Vice President of ROGERS, TOWNSEND & THOMAS, PC, and the due execution of the foregoing and annexed instrument is for the purpose therein expressed by its Vice President, W. Chris Parnell for and on behalf of the said ROGERS, TOWNSEND & THOMAS, PC, as attorney-in-fact for FANNIE MAE A/K/A FEDERAL NATIONAL MORTGAGE ASSOCIATION organized and existing under the laws of the United States of America, and authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and official seal, this 6th day of January, 2011.
(Notarial Seal/Stamp)




Laura E. Nelms, Notary Public

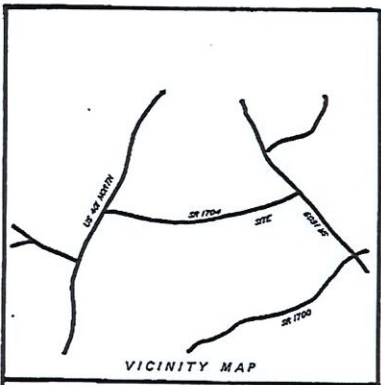
My Commission Expires: August 20, 2013

PROPERTY ADDRESS: 1062 PALESTINE ROAD, LINDEN, NC 28356

(N.P. SEAL)

1987

69



NORTH CAROLINA
CUMBERLAND COUNTY
I, GEORGE L. LOTT, certify that this map was drawn under my supervision from an actual survey made under my supervision, deed and description recorded in Book 629, Page 413, that the ratio of precision as calculated by latitude and departures is 1 / 20,000, that the boundaries not surveyed are shown as broken lines plotted from information found in books referenced, that this map was prepared in accordance with G. S. 47-30 as amended. Witness my hand and seal this 30 day of OCT. A.D. 19 87.

George L. Lott
Land Surveyor
Registration No. L-1379



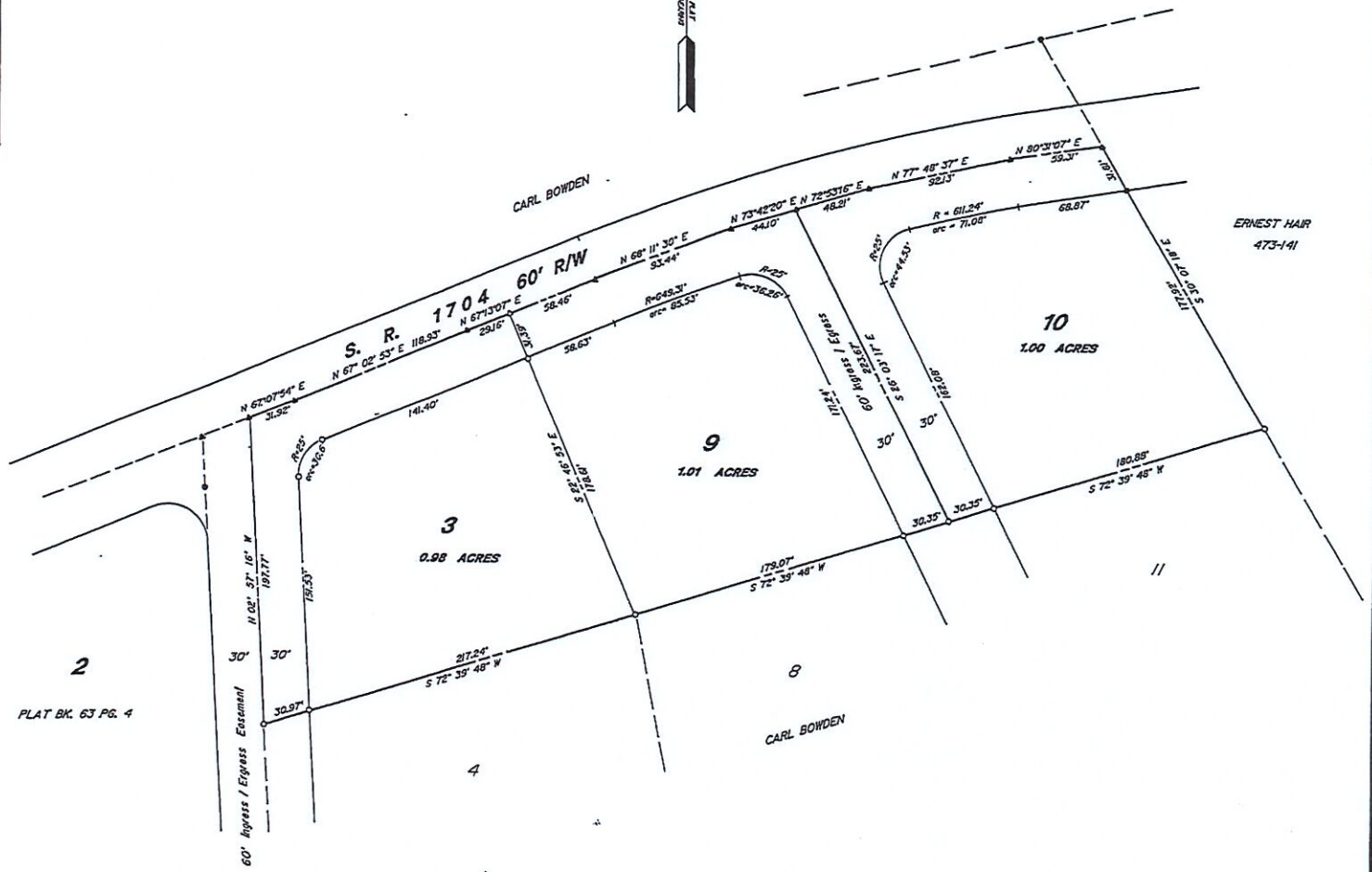
NORTH CAROLINA
CUMBERLAND COUNTY
I, BETTY C. SWEAT, a Notary Public of the County and State aforesaid, certify that GL LOTT a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 30 day of OCT. 19 87.

Betty C. Sweat
Notary Public
My Commission expires MARCH 15, 1992.



NORTH CAROLINA
CUMBERLAND COUNTY
The foregoing certificate of BETTY C. SWEAT Notary Public, is certified to be correct. This instrument was presented for registration and recorded in Plat Book 63, Page 69, this 30 day of OCT. 19 87 at 11:40 AM.

George E. Tatum by Patricia A. Hoot
Register of Deeds
Deputy



LEGEND:
EXST. CORNER ●●
SET CORNER ○○

SECTION TWO

REVISIONS	PROPERTY OF Carl Bowden		COMPANY GEORGE L. LOTT SURVEYORS <small>1027 ANDREWS ROAD FAYETTEVILLE, NORTH CAROLINA 28301 488-8659</small>	
	TOWNSHIP: CARVERS CREEK	COUNTY: CUMBERLAND	DATE: OCT. '87	SURVEYED BY: GLL
	STATE: NORTH CAROLINA		SCALE: 1"=50'	DRAWN BY: GLL
	ZONE:	TAX MAP:	PARCEL:	CHECKED & CLOSURE BY: GLL
				FIELD BOOK
				DRAWING NO.

30th OCTOBER 87



Recorded In Book of Maps Vol. 63, Pg. 69

63-69

SOURTEXT INFO - CALSUSO 000000 1/11/87

ATTACHMENTS

NAME	ADDRESS	CITY
ANNAN, CHARLES;ANNAN, SHEENA	1062 PALESTINE RD	LINDEN, NC 28356
BLACKMON, KEITH R.	8329 CHALLENGER DR	LINDEN, NC 28356
BREWINGTON, BARBARA F; LARRY	8092 WHITE SANDS RD	LINDEN, NC 28356
DAWKINS, POLLY H HEIRS	8329 CHALLENGER DR	LINDEN, NC 28356
FLANDERS, TEMPIE;FLANDERS, RALPH H	8025 DREAMLAND DR	LINDEN, NC 28356
HAIR, NATHAN EUGENE	8705 VILLAGE CROSSING	VAN BUREN, AR 72956
MURPHY, CHRISTOPHER;MURPHY, JANE	3228 HENNARDLAND PL	HOPE MILLS, NC 28348
TEASLEY, ALFRED G;TEASLEY, SUSAN ANN	1092 PALESTINE	LINDEN, NC 28356

**CUMBERLAND COUNTY
BOARD OF ADJUSTMENT (BOA) HEARING
NOVEMBER 19, 2020**

SUBJECT: BOA CASE # P20-04-C – Special Use

REQUEST: Special Use Permit to allow a borrow source operation in an A1 Agricultural District on 33.69 +/- acres at 3778 Gainey Road.

Exhibits

- A. Site Location
 - B. Use Matrix, Sec. 403, Zoning Code. (*)
 - C. Sec. 904 Response (*)
 - D. Special Use Site Plan (*)
 - E. Existing and Adjacent Uses
 - F. South Central Land Use Plan
 - G. Draft Gainey Road Special Use Permit Attachments: Application
- (*) attached to the report.

EXPLANATION OF THE REQUEST

Applicant and Property Owner request the BOA grant a Special Use Permit for a borrow source operation on the south side of Gainey Road (Exhibit "A") at property assigned an A1 zoning category. This request applies to one parcel and a portion of another for a combined total of approximately 33.69 acres. Both parcels are under the same ownership. Per Section 403, Use Matrix, Zoning Code, a borrow source operation is only allowed at a property assigned an A1 zoning category when the BOA has approved a special use permit (Exhibit B attached) that meets the requirements of Sections 904, Borrow Source Operations, and 1606, Special Use Permit, of the Zoning Code.

Pursuant to the County Zoning Code, a "borrow source operation" is defined as the removal of soil, sand or other soil materials, with further processing limited to dry screening to remove roots, trash, objectionable and other deleterious material. The provisions of this ordinance shall not apply to bona fide farming activities, operations subject to North Carolina Department of Transportation contractual agreements, or jurisdiction for the duration of the contract only, and any operations exempt from the State Mining Commission's regulations. These exemptions shall apply in all zoning districts." (Section 904, Zoning Code)

A borrow source operation must comply with requirements set forth in Section 904 of the County Zoning Code. The applicant must demonstrate that the proposed borrow source operations shall comply with these requirements. A response to these Section 904 requirements based on information submitted by the applicant appears in Exhibit "C", attached. The special use site plan, as required by Section 904, Zoning Code, is provided in Exhibit "D", attached.

PROPERTY INFORMATION

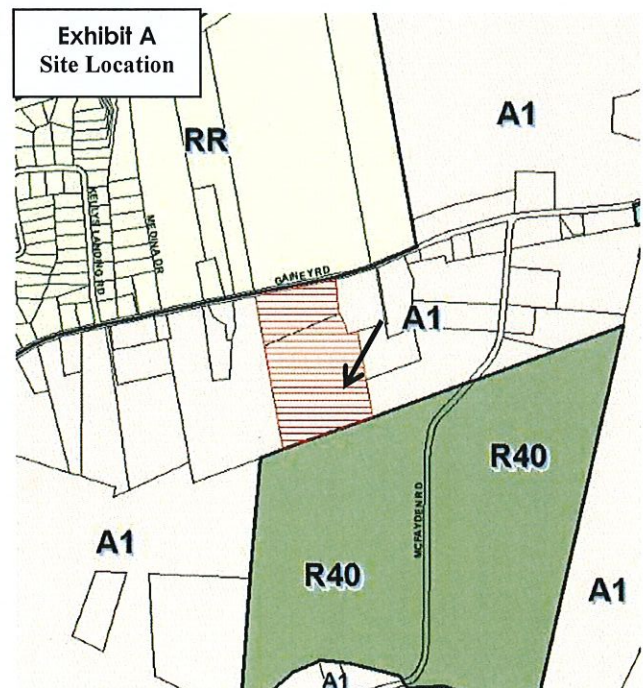
Owner/Applicant: Michael Harris on behalf of Murdock, LLC (owner) and Michael Blakley on behalf of Drafting and Design Services, Inc. (agent)

Address/Location: 3778 Gainey Road (Exhibit A)

REID #: 0454805682000 & portion of 0454832179000

Parcel Size: 33.69 +/- acres. The property has approximately 870' of street frontage along Gainey Road and a depth of 1637' +/- as measured from the street.

Existing Land Use: The subject property is currently developed with a single-family dwelling and farmland as shown in Exhibit "E" herein. Per the applicant's

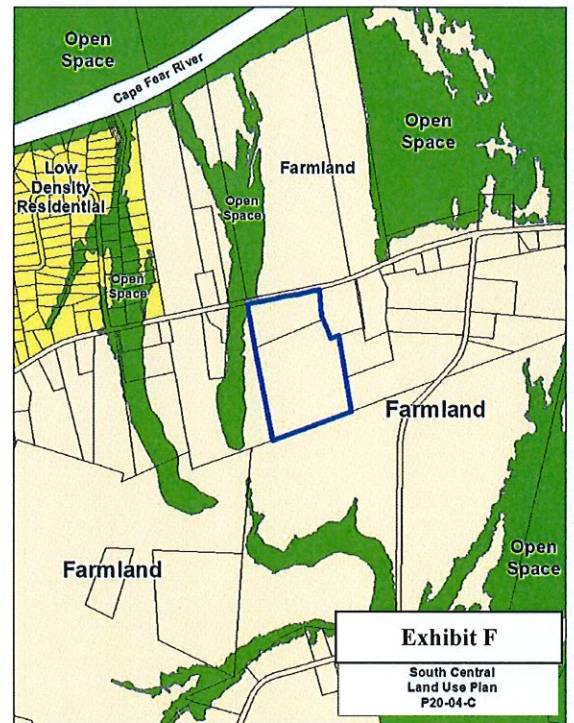
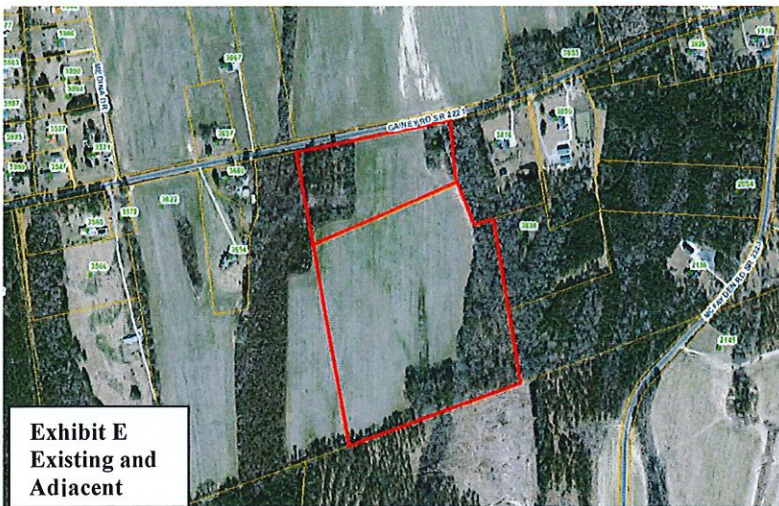


discussion with Planning staff, the single-family home will be demolished prior to commencing clearing and grading at the project site.

Development Review: A recombination plat will be required prior to development to create a single parcel for the project site.

Zoning History: This property was initially zoned A1 as part of the Area 17 initial zoning on March 1, 1994.

Other Site Characteristics: The property is not within the watershed or Special Flood Hazard Area. There are hydric and hydric inclusion soils located on this site.



Surrounding Land Use: Residential uses, including manufacture homes, are the predominate use in the surrounding area, as shown in Exhibit "E".

Comprehensive Plans: The 2030 Growth Vision Plan designates this parcel for "Rural Area". The South-Central Land Use Plan (2015) designates this parcel for "Farmland", as illustrated herein as Exhibit "F". The "Farmland" designation is generally an agricultural and farming area which allows a mixture of residential development of manufactured and stick-built homes. The "Farmland" area also allows some limited commercial uses that are oriented specifically for a rural community.

IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES

Utilities: This property is currently served by private well and septic. This site is located within the Gray's Creek water/sewer district.

Traffic and Streets: The subject property sits along Gainey Road and is identified as a local road in the Metropolitan Transportation Plan. No construction projects are currently planned within the NCDOT transportation improvement program, and the subject property will have minimal impact on the State's or County's transportation plans. The Average Daily Traffic Count (2016) on Gainey Road is 1,300.

Schools Cap/Enroll: The proposed borrow source operation will not have an impact on student enrollment at public schools. Alderman Rd Elementary: 750/676; Gray's Creek Middle: 1200/1139; Gray's Creek High: 1470/1467

Emergency Services: This request has been reviewed by the Cumberland County Fire Marshal's Office. The County Fire Marshall stated: 1. Ensure all fire department access requirements are met; 2. Submit building plans to include to-scale site plan for review of any new or re-purposed buildings; 3. Ensure emergency responder radio coverage is achieved.

FINDINGS OF FACT

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

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

Applicant's response to each of these criteria are provided with the Special Use Application found in the "Attachments" portion of the Staff Report.

MOTION

The BOA is requested to take actions/motions. One addressing the Findings for the Special Use zoning, and a second action on the Gainey Road Special Use Site Plan and the Special Use Permit Conditions.

SECTION 403 USE MATRIX

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

LAND USES	ZONING CLASSIFICATIONS																							
	CO	AL	ASA	B40	J40A	R30	R30A	RR	R70	R20A	R25	R7.5	R5	REA	R5	R5A	OS(P)	CP	CP	CP	MP	MP		
ACCESSORY USES, incidental to any permitted use (Sec. 1002)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
ADDRESSING SERVICE/BULK MAILING																					P	P	P	
AGRICULTURAL OR RURAL FARM USE	P	P	P	P	P	P	P	P	P	P	P	P	P	P								S	S	
AIRPORT OPERATIONS, minor (Sec. 902)		S																					P	
AIRPORT OPERATIONS, major																							P	
ALCOHOLIC BEVERAGE CONTROL SALES																				P	P	P		
APPAREL AND ACCESSORY SALES																								
ASSEMBLIES, Community, assembly hall, armory, stadium, coliseum, convention center, fairgrounds etc. (Sec. 916)		P	P	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	
AUCTION SALES, excluding livestock auctioning & motor vehicles																						P	P	P
BAKERY PRODUCTION AND WHOLESALE SALES																						P	P	P
BAKING, on premises and retail only																						P	P	P
BANKS, SAVINGS AND LOAN COMPANY AND OTHER FINANCIAL ACTIVITIES																				P	P	P		
BARBERING AND HAIRDRESSING SERVICES/SALONS (Sec. 916)		S																		P	P	P		
BARS & NIGHT CLUBS, except as regulated by Sec. 924																							P	
BED AND BREAKFAST (Sec. 903), except as regulated by Sec. 924		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					P	P		
BILLBOARDS (Sec. 1307)																						S		P
BINGO																				P		P		
BOOKS & PRINTED MATTER SALES, except as regulated by Sec. 924																				P	P	P	P	P
BORROW SOURCE OPERATIONS (Sec. 904)		S																				S	S	
BOTTLED GAS DISTRIBUTING, bulk storage																						P	P	
BOTTLING																							P	
BUILDING SUPPLY																					P	P	P	P
BUS STATION ACTIVITIES, storage terminal activities																						P	P	P
CABINET MAKING AND OTHER WOODWORKING																							P	P
CALL CENTER																							P	P
CEMETERY, public (Sec. 916)		P		S	S			S													P	P	P	P

Exhibit "B"
Use Matrix

EXHIBIT "C"

SECTION 904. BORROW SOURCE OPERATIONS AND APPLICANT'S RESPONSE

A. The applicant shall provide a list of all property owners within 1,000 feet of the exterior boundaries of the lot of record to the site of the borrow source operation. This information shall be provided from the current Tax Administrator's property tax listing of property according to the tax administration office.

Response: Exhibit "C1" contains a list of all the property owner within 1,000 feet of the exterior boundaries of the lot, as prepared by the applicant.

B. Applicants shall identify the size and location of operating, or permitted, borrow source operations within a 1 1/2-mile radius as measured from the centroid of the parcel within which the borrow pit is located. The scope and density of these operations within a 1 1/2-mile radius shall be considered in making the final determination.

Response: Exhibit "C2" illustrates the location of all borrow source operations, active or closed, within one and a half miles from the proposed project site. According to this information, two inactive and fully reclaimed borrow source operations are located within approximately 200 feet – the Hedrick Sand source – and within 750 feet --the Live Oak Farm LLC source. Therefore, no active operating borrow sources presently occur within a one and a half miles from the proposed borrow source lot boundaries.

C. While in transit, trucks are to use appropriate load covers, and water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the borrow source operation.

Response: This requirement is satisfied through a site plan approval process.

D. Existing vegetation, or stabilized, vegetated earthen berms to serve as buffers and to prevent soil erosion, shall be maintained between the borrow source operation and adjacent residences and public thoroughfares to screen the operation from the public.

Response: Required perimeter buffers are demonstrated within the proposed site plan appearing in Exhibit "D".

E. Hours of operation shall be sunrise to sunset, Monday through Saturday, unless other-wise stated in the permit.

Response: Applicant proposed that the permit allow operation hours from 7:00 a.m. to 6:00 p.m., Monday through Friday only, as indicated in the submitted special use permit application.

F. The applicant shall provide to the Planning and Inspections Staff, at the time the application is submitted, documentation from the North Carolina Department of Transportation that the public thoroughfare to which the borrow source operation has access, has sufficient load carrying capacity to support the proposed traffic generated by the borrow source operation or that load limits are acceptable.

Response: This requirement is listed on conditions of Special Use Permit approval as being required prior to application for zoning/building permits.

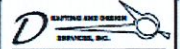
G. The applicant shall provide to the Planning and Inspections Staff, at the time the application is submitted, proof of legal access, for the County Attorney's approval, from the borrow source operation to a public thoroughfare if the subject property does not have direct access to a public thoroughfare.

Response: The subject property will utilize direct access to a public thoroughfare. This requirement is non-applicable.

EXHIBIT "C1"
Mailing List: Property Owners within 1,000 feet
(Case # P20-04-C Special Use)

P20-04-C	1000' Radius	
HARRIS, N BRIAN	PO BOX 64016	FAYETTEVILLE, NC 28306
HERNDON, MICHAEL E;HERNDON, MICHELLE L PLUMMEI	3660 GAINNEY RD	FAYETTEVILLE, NC 28306
BURNEY, MARY LUCINDA TRUSTEE	1918 MCFAYDEN RD	FAYETTEVILLE, NC 28306
HARRIS, N BRIAN;HARRIS, RHONDA R	PO BOX 64016	FAYETTEVILLE, NC 28306
MURDOCK LLC	307 BUCKINGHAM DR	MEBANE, NC 27302
HAYNER, TERRY;HAYNER, SABRINA	3816 GAINNEY RD	FAYETTEVILLE, NC 28306
PAGE, GEORGE R	3578 GAINNEY RD	FAYETTEVILLE, NC 28306
BURNEY, SIMON FRANKLIN;BURNEY, MARGARET L	4070 GAINNEY RD	FAYETTEVILLE, NC 28306
WADDLE, FLOYD R;WADDLE, ROBERTA S	003941 GAINNEY RD	FAYETTEVILLE, NC 28306
PAGE, GEORGE R	3578 GAINNEY RD	FAYETTEVILLE, NC 28306
SMITH, DIANE DUMONT	2136 MCFAYDEN RD	FAYETTEVILLE, NC 28306
OXENDINE, LESLIE	3850 GAINNEY RD	FAYETTEVILLE, NC 28306
HALL, MARGARET H	5420 MCRAE ST	HOPE MILLS, NC 28348
PAGE, JAMES R	3574 GAINNEY RD	FAYETTEVILLE, NC 28306
GILLIS, DAVID MILLER;GILLIS, SUZANNE CATHERINE	7775 CLIMBING TREE LN	FAYETTEVILLE, NC 28306
GARRETT, SAMUEL L;GARRETT, RENATA R	3667 GAINNEY RD	FAYETTEVILLE, NC 28306
BURNEY, SIMON FRANKLIN;BURNEY, MARGARET L	4070 GAINNEY RD	FAYETTEVILLE, NC 28306
POW, SHANNON MENDENHALL	214 VIRGINIA AVENUE	FAYETTEVILLE, NC 28305
OXENDINE, LESLIE	3850 GAINNEY RD	FAYETTEVILLE, NC 28306
MURDOCK LLC	307 BUCKINGHAM DR	MEBANE, NC 27302
FOX, RICHARD LAUMAN II;WIFE ASHTON L, DAVID D STEV	2727 MCFAYDEN RD	FAYETTEVILLE, NC 28306
JACKSON, JOSHUA;JACKSON, ERIKA	P O BOX 48704	CUMBERLAND, NC 28331
REITZEL, JEFFREY B;JAMES, M KIZER JR TRUSTEES	115 BROADFOOT AVE	FAYETTEVILLE, NC 28305
BRIGHT, DAVID C	3571 GAINNEY RD	FAYETTEVILLE, NC 28306
ANDRESS, DENNIS G;ANDRESS, RACHEL L	3118 POVERTY FLATS RD	WADE, NC 28395

EXHIBIT "C2"
Borrow Source Operations with Proximity
to the Applicant's Site
(Case # P20-04-C Special Use)



5723 Cantonment Road
 Carrboro, North Carolina 27520
 (919) 476-2277 phone
 dday@daytonanddresser.com

**GAINEY ROAD
 BORROW SOURCE**
 GAINEY ROAD
 CUMBERLAND COUNTY, NORTH CAROLINA
 1 1/2 MILE RADIUS - BORROW SOURCES MAP

REVISIONS

**AGENCY REVIEW ONLY
 NOT FOR CONSTRUCTION**

Scale: 1"=100'	Drawn by: WKS
Client: 	Designed by: WKS
CA1-11	Reviewed by: WKS
Project Number: 2023_A001-11	Date: SEP 2023

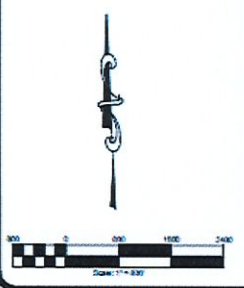
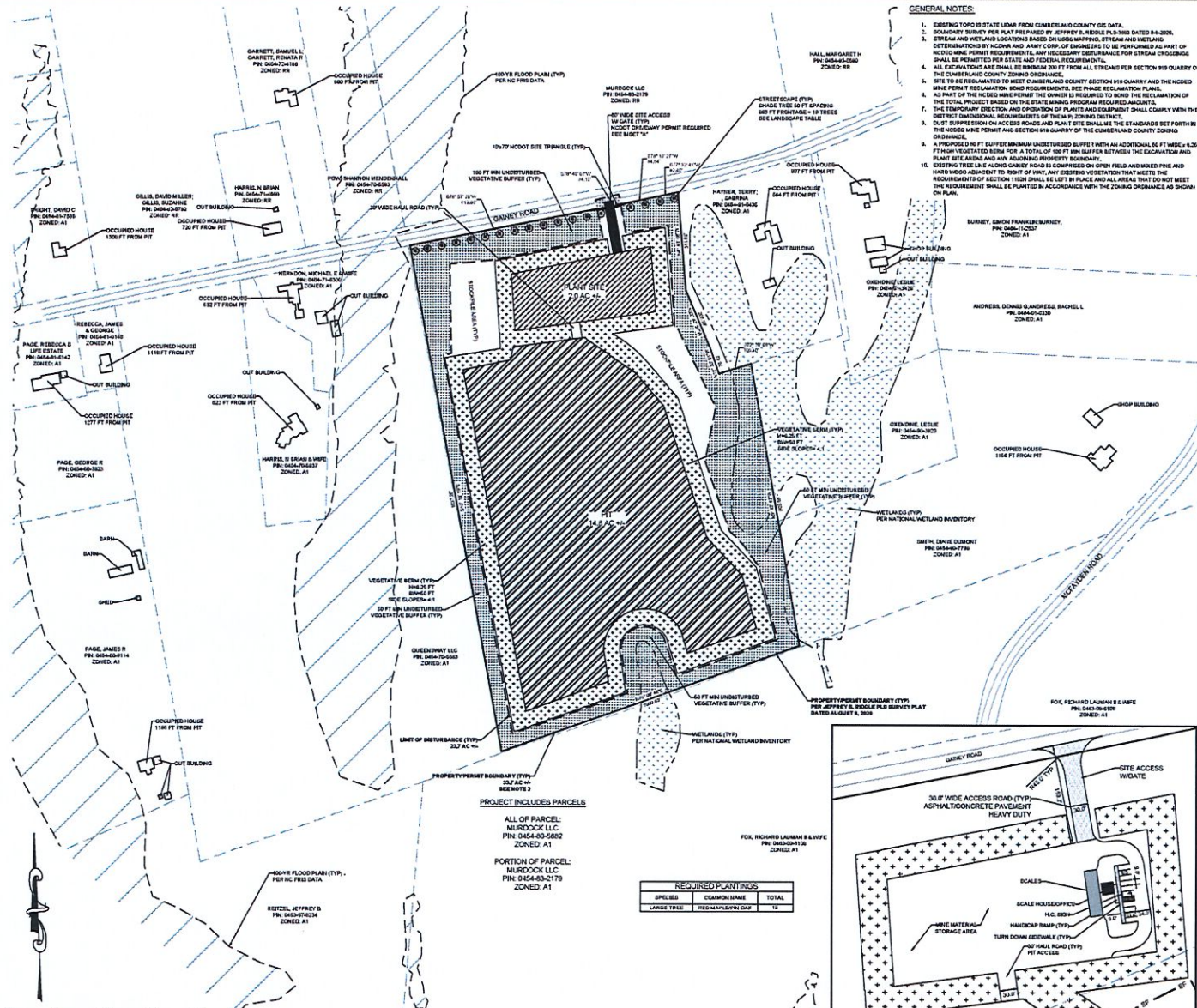


EXHIBIT "D"
Special Use Site Plan
(Case # P20-04-C Special Use)

SITE DATA TABLE	
OWNER:	MURDOCK, LLC 807 BUCKINGHAM DRIVE MEMPHIS, TN 37502
PN:	PORTION OF D454-2179 ALL OF D454-2182
PARCEL ID:	8867
PORTION OF DEED:	BOOK: 1905 PAGE: 8-1113
TOTAL PARCEL AREA:	33.89 AC ±
EXISTING ZONING:	AGRICULTURE 1 (A1)
PROPOSED ZONING:	AGRICULTURE 1 CONDITIONAL USE (A1-C)
PROPOSED USE:	BORROW PIT (DRAIN & SUCCEED)
ZONING CALCULATIONS	
REQUIRED:	12 SPACES/EMPLOYEE X 10 EMPLOYEES = 120 SPACES
PROPOSED:	19 SPACES (INCL. H.C.)
STREETScape CALCULATIONS	
REQUIRED:	1 TREE PER 50 FT FRONTAGE X 800 FT = 18 TREES
PROPOSED:	18 TREES

PROPOSED MINING AREAS	
PIT	14.8 AC
PLANT SITE	2.0 AC
UNDISTURBED BUFFER	8.3 AC
OTHER MISC. AREA (BARN, TRAIL OVERLOOKS, ETC.)	8.6 AC
TOTAL PROJECT AREA	33.7 AC

LEGEND	
CONDITIONAL USE PERMIT BOUNDARY	
WETLAND	
10-YR PIT	
BUFFER	
PLANT SITE	
AFFECTED AREA	
CREEK	
BERM	



DRAFTING AND DESIGN SERVICES, INC.
4728 Carleton Road
Sanford, North Carolina 27330
(919) 499-2739 phone
dtd@dwaindesign.com

**GAINNEY ROAD
BORROW SOURCE
GAINNEY ROAD
CUMBERLAND COUNTY, NORTH CAROLINA**

MINE SITE LAYOUT PLAN

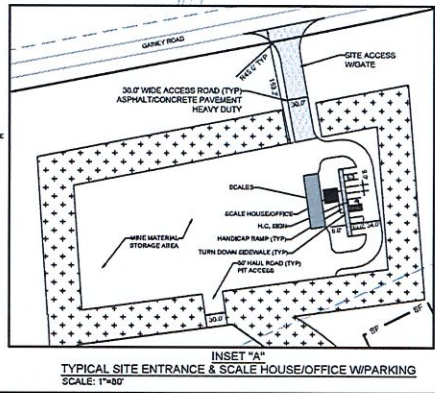
REVISIONS

NO.	DATE	DESCRIPTION

AGENCY REVIEW ONLY
NOT FOR CONSTRUCTION

Scale:	1"=150'	Drawn by:	ams
Sheet:		Designed by:	MTB
		Reviewed by:	MTB

C2 of 11
Project Number: D04-JOB # 2320-21
Date: SEPT 2020



REQUIRED PLANTINGS

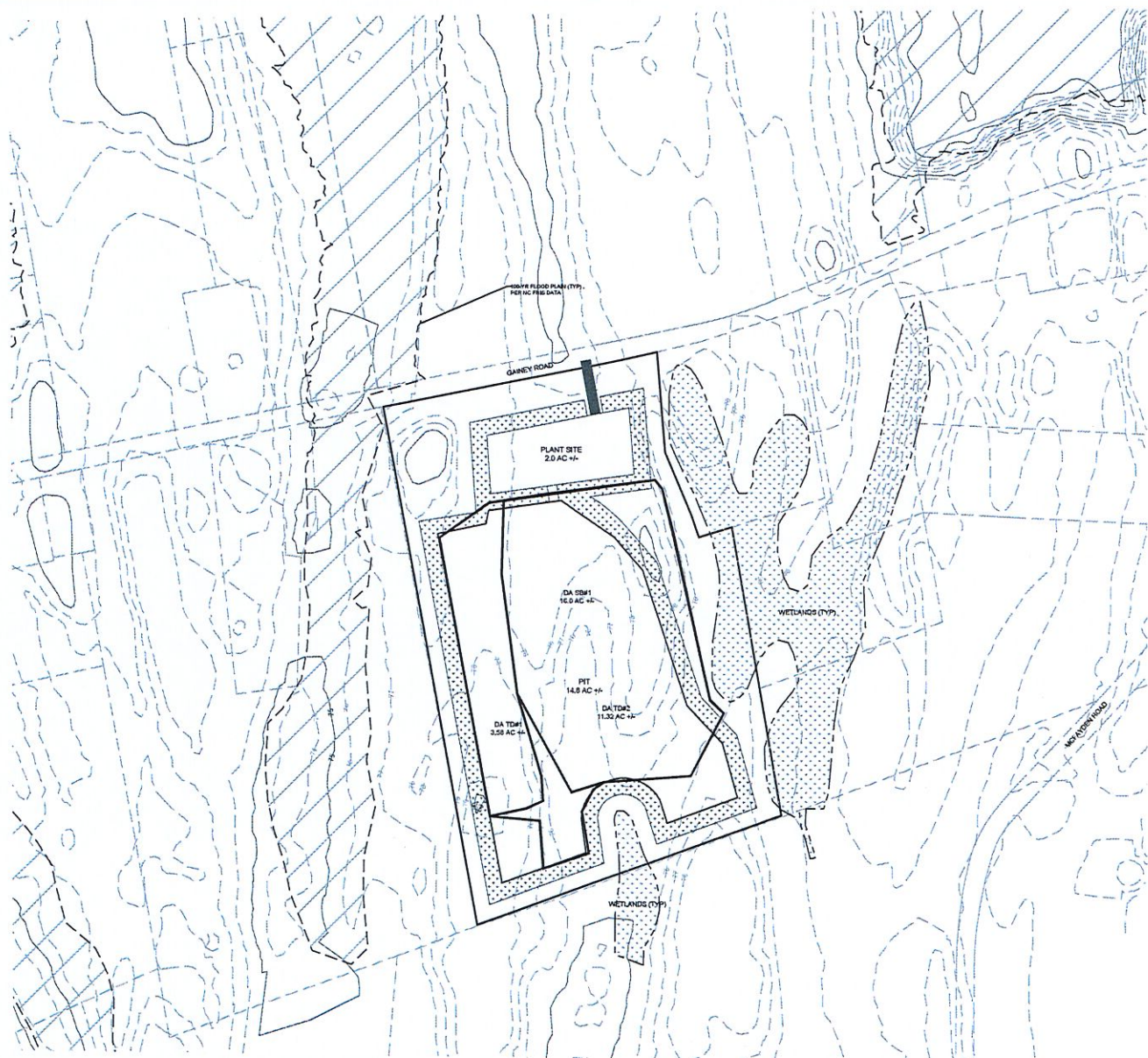
SPECIES	COMMON NAME	TOTAL
LARGE TREE	RED MAPLE/PIN OAK	12

PROJECT INCLUDES PARCELS

ALL OF PARCEL:
MURDOCK LLC
PIN: D454-20-2682
ZONED: A1

PORTION OF PARCEL:
MURDOCK LLC
PIN: D454-21-79
ZONED: A1





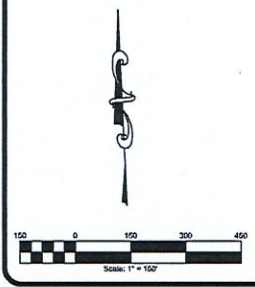
DRAFTING AND DESIGN SERVICES, INC.
 6728 Carbonson Road
 Sanford, North Carolina 27330
 (717) 494-2729 phone
 draftingsanddesign@gmail.com

**GAINNEY ROAD
 BORROW SOURCE
 GAINNEY ROAD
 CUMBERLAND COUNTY, NORTH CAROLINA
 DRAINAGE AREA MAP**

REVISIONS	

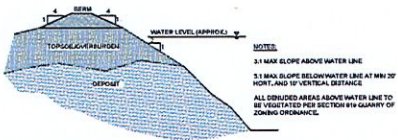
**AGENCY REVIEW ONLY
 NOT FOR CONSTRUCTION**

Scale: 1"=150'	Drawn by: MRS
Sheet: C3 of 11	Designed by: MRS
Project Number: D09-JOB # 2020-21	Reviewed by: MRS
	Date: SEPT 2020



NOTES

- EXISTING TOPOG TO STATE USDM FROM CUMBERLAND COUNTY GIS DATA.
- STREAM AND WETLAND LOCATIONS BASED ON USGS MAPPING, STREAM AND WETLAND DETERMINATIONS BY NCDNR AND ARMY CORP. OF ENGINEERS TO BE PERFORMED AS PART OF ACCESS/ROAD PERMIT REQUIREMENTS. ANY NECESSARY DISTURBANCE FOR STREAM CROSSINGS SHALL BE PERMITTED PER STATE AND FEDERAL REQUIREMENTS.
- SITE TO BE RECLAIMED TO MEET CUMBERLAND COUNTY SECTION #18 QUARRY AND THE ACCESS/ROAD PERMIT RECLAMATION BOND REQUIREMENTS.
- AS PART OF THE ACCESS/ROAD PERMIT THE OWNER IS REQUIRED TO BOND THE RECLAMATION OF THE TOTAL PROJECT BASED ON THE STATE MINING PROGRAM REQUIRED AMOUNTS.



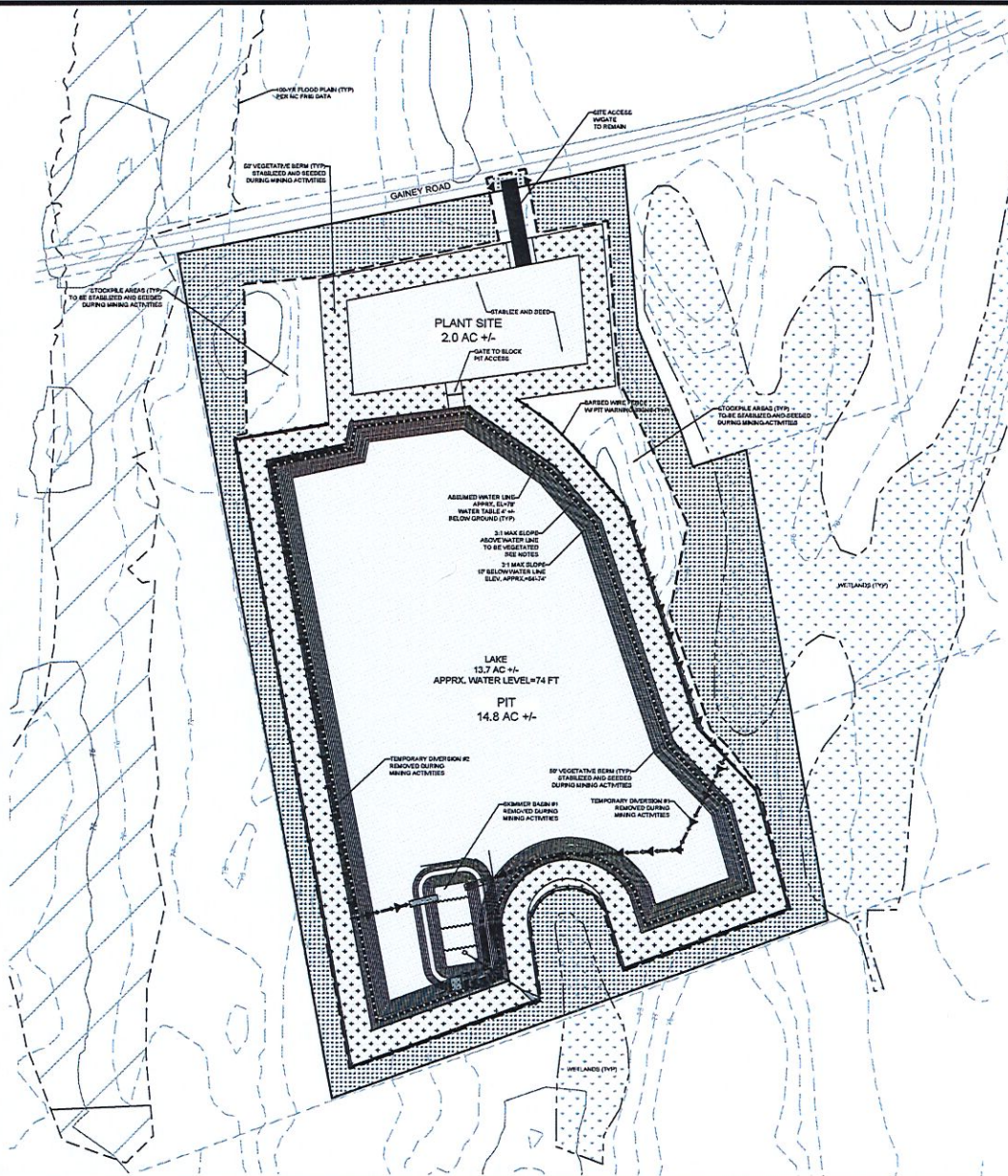
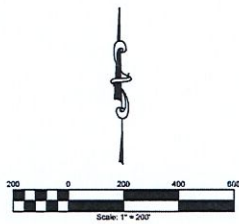
PIT SIDE WALL RECLAMATION (TYP)

M/S

PROPOSED MINING AREAS	
PIT	14.8 AC
PLANT SITE	2.0 AC
UNDISTURBED BUFFER	8.3 AC
OTHER MISC. AREA (BERM, TEMP DIVERSION, ETC.)	8.6 AC
TOTAL PROJECT AREA	33.7 AC

LEGEND

PERMIT BOUNDARY	—
EXISTING CONTOUR	- - -
PROPOSED BUFFER	▤
AFFECTED AREA	- · - · -
CREEK	—
BERM	▨
POND	○



DRAFTING AND DESIGN SERVICES, INC.
 4728 Carbonite Road
 Sanford, North Carolina 27330
 (919) 494-2779 phone
 draft@dsandesign.com

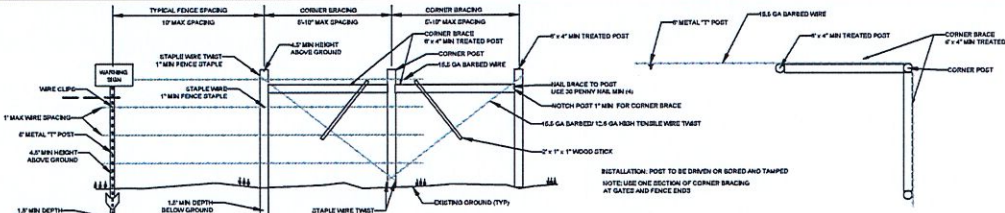
**GAINEY ROAD
 BORROW SOURCE
 GAINEY ROAD
 CUMBERLAND COUNTY, NORTH CAROLINA**

RECLAMATION PLAN

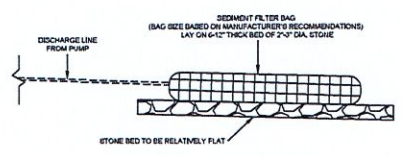
REVISIONS

AGENCY REVIEW ONLY
 NOT FOR CONSTRUCTION

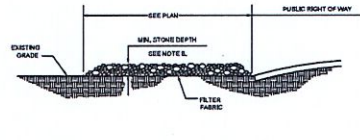
Scale: 1"=100'	Drawn by: M/S
Sheet:	Designed by: M/S
C5 of 11	Reviewed by: M/S
Project Number: D04-JOB # 2020-21	Date: SEPT 2020



4 STRAND BARBED WIRE FENCE
NTS



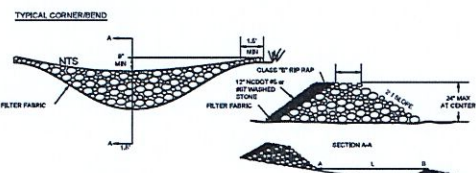
SEDIMENT FILTER BAG
NTS



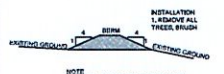
CONSTRUCTION ENTRANCE PAD
NTS



TEMPORARY INTERNAL SITE ROAD
NTS



TYPICAL CORNER BEND
NTS



VEGETATIVE BERM (TYP)
NTS

- Construction Specifications**
- Place stone to the lines and dimensions shown in the plan on a filter fabric foundation.
 - Keep the correct stone tension in place 9 inches below natural ground level where the drain abuts the channel banks.
 - Extend stone at least 1.5 feet beyond the ditch bank of open 8.5' wide pipe flows unless noted on the plans.
 - Soil opening between drains to ensure that the elevation at the top of the stone does not rise in the top of the pipe drain.
 - Place the channel after the lowest check dam from being flow out could cause erosion.
 - Make sure that the channel walls above the stone openings does not erode.
 - Ensure that there is no erosion of the channel, such as in the corners before the check dams, or the water is allowed to pool on the bank.

- Maintenance**
- Inspect check dams and channels at least weekly and after each significant (1/2 inch or greater) rainfall event and repair accordingly. Clean and sediment, remove debris, or other debris that could clog the channel when needed.
- Remove sediment deposits and vegetation above the check dams and erosion from high flows around the edges of the dam. Control all drainage immediately. If significant erosion occurs between dams, additional measures can be taken such as installing a protective spray liner in that portion of the channel (Section 6.31, Riprap and Paved Channels).
- Remove sediment accumulated behind the dams as needed to prevent damage to channel vegetation, allow the channel to drain through the stone check dam, and prevent high flow times carrying sediment over the dam. Add stones to dams as needed to maintain design height and cross section.

CHECK DAM
NTS

Installation: Refer to the approved erosion control plan for location, extent, and specifications. If silt fence is not installed correctly the first time, it will have to be reconstructed. Determine the exact location of the outlet before completing installation of the silt fence, taking into consideration:

- Installation at the lowest point(s) in the fence where water will pool.
- Maximum allowable drainage area restriction for silt fence.
- Installation where the outlet is accessible for installation, maintenance and removal.
- Placement of the outlet so that water flowing through it will not create an erosion hazard below - avoid steep slopes below the outlet and install without protective vegetation. Use slope drains if necessary.

The silt fence outlet shall be installed in accordance with the standard detail, and the approved erosion control plan.

SILT FENCE OUTLET
NTS

PLAN VIEW



SIDE VIEW



FRONT VIEW

Maintenance

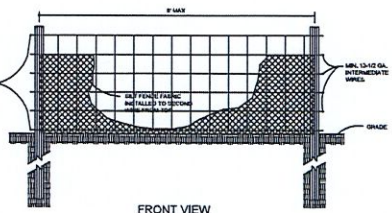
- Inspect sediment flows at least once a week and after each rainfall. Make any required repairs immediately.
- Should the fabric of a sediment fence collapse, tear, decompose or become ineffective, replace it promptly.
- Remove sediment deposits as necessary to provide adequate storage volume for the next rain and to reduce pressure on the fence. This care to avoid undermining the fence during cleanup.
- Remove all flowing materials and unstable sediment deposits and bring the area to grade and stabilize it after the contributing drainage area has been properly stabilized.

Installation Specifications

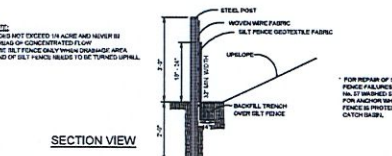
- The base of both ends and posts should be at least one foot higher than the outside of the fence. Check with a level if necessary.
- Install posts 2 feet deep on the down-slope side of the silt fence, and as close as possible to the fabric, enabling posts to support the fabric from upstream water pressure.
- Install posts with the nipples facing away from the silt fabric.
- Attach the fabric to each post with three ties, all spaced within the top 9 inches of the fabric. Attach each tie diagonally 45 degrees through the fabric, with each nipple at least 1 inch vertically apart. Also, each tie should be positioned to hang on a post nipple when tightened to prevent sagging.
- Staple approximately 6 inches of fabric around the end posts and secure with 3 ties.
- No more than 24 inches of a 36 inch fabric is allowed above ground level.
- The installation should be checked and corrected for any deviations before completion.
- Compaction is vitally important for effective results. Compact the soil immediately back to the silt fence fabric with the firm wheel of the tractor, walk-behind, or roller exerting at least 60 pounds per square inch. Compact the upstream side first, and then work back over for a total of 4 trips.

Maintenance

- Inspect sediment flows at least once a week and after each rainfall. Make any required repairs immediately.
- Should the fabric of a sediment fence collapse, tear, decompose or become ineffective, replace it promptly.
- Remove sediment deposits as necessary to provide adequate storage volume for the next rain and to reduce pressure on the fence. This care to avoid undermining the fence during cleanup.
- Remove all flowing materials and unstable sediment deposits and bring the area to grade and stabilize it after the contributing drainage area has been properly stabilized.



FRONT VIEW



SECTION VIEW

SILT FENCE
NTS

DRAFTING AND DESIGN SERVICES, INC.
4728 Carleton Road
Sanford, North Carolina 27330
(919) 499-8739 phone
draftinganddesign@gmail.com

GAINEY ROAD BORROW SOURCE
GAINEY ROAD
CUMBERLAND COUNTY, NORTH CAROLINA

EROSION CONTROL DETAILS

REVISIONS

NO.	DATE	DESCRIPTION

AGENCY REVIEW ONLY NOT FOR CONSTRUCTION

Client: NTS	Drawn By: MTS
Sheet: C10 of 11	Designed by: MTS
Project Number: DOA JOB # 200-21	Reviewed by: MTS
	Date: SEPT 2020



4728 Carbonton Road
 Sanford, North Carolina 27330
 (919) 496-2779 phone
 drs@thousanddollar.com

**GAINEY ROAD
 BORROW SOURCE
 GAINEY ROAD
 CUMBERLAND COUNTY, NORTH CAROLINA**

CALCULATIONS

REVISIONS

AGENCY REVIEW ONLY
 NOT FOR CONSTRUCTION

Scale: NTS	Drawn by: mts
Sheet:	Designed by: mts
C11 of 11	Reviewed by: mts
Project Number: D08-C08-# 2020-21	Date: SEPT 2020

Settlement Basin # 1

Calculate Flow - Rational Method

10 yr Storm Q ₁₀ = CA	CA = 0.42 A = 7.00 Q ₁₀ = 50.71	25 yr Storm Q ₂₅ = CA	CA = 0.42 A = 5.00 Q ₂₅ = 56.94
2 yr Storm Q ₂ = CA	CA = 0.42 A = 6.13 Q ₂ = 39.33		

Calculate Required Surface Area

SA = Q ₁₀ × 125 15% SA = 18132.00 ft ²	Q ₁₀ = 50.76
Side Slopes = 3:00 H Road Depth = 5.00 ft	
Basin Area (Per SA) Top = 87 × 0 = 0 ft ² Bottom = 67 × 6 = 402 ft ²	SA = 18132 ft ² Bottom = 402 ft ² Top = 18410 ft ² Bottom = 2978 ft ²

Volume Required

V ₁₀ = 18132.00 ft ² × 5.00 ft	A ₁₀ = 18.00 ac
V ₂ = 2800.00 ft ³	

Volume Provided

V ₁₀ (Top Area + Bottom Area) / 2 × D	Top = 18132.00 ft ² Bottom = 2978.00 ft ² D = 5.00 ft
V ₂ = 67400.00 ft ³	

Minimum Slope

Calculate Detention Time Q ₁₀ / V ₁₀	V ₁₀ = 67400.00 ft ³ Q ₁₀ = 13036.00 cfs
	T ₁₀ = 5.15 - 6.69 hr

Temporary Detention Basin # 1

Calculate Size - Rational Method

10 yr Storm Q ₁₀ = 50.76	CA = 0.42 A = 430.47 ft ² Q ₁₀ = 17.72
Channel Slope = 1:50	
Channel Depth = 2.00	
Side Slopes = 3:00	
Bottom = 4.00	
Bottom Area = 16.00	SA = 16.00 ft ²

Channel Slope

Normal Calculation Top = 10.00 ft Bottom = 8.00 ft S = 0.2500	V ₁₀ = 16.00 ft ³ Q ₁₀ = 17.72 cfs V ₁₀ = 0.88 ft/s
--	---

Temporary Detention Basin # 2

Calculate Size - Rational Method

10 yr Storm Q ₁₀ = 50.76	CA = 0.42 A = 113.25 ft ² Q ₁₀ = 4.12
Channel Slope = 1:50	
Channel Depth = 2.00	
Side Slopes = 3:00	
Bottom = 4.00	
Bottom Area = 16.00	SA = 16.00 ft ²

Channel Slope

Normal Calculation Top = 10.00 ft Bottom = 8.00 ft S = 0.2500	V ₁₀ = 16.00 ft ³ Q ₁₀ = 4.12 cfs V ₁₀ = 0.25 ft/s
--	--

Calculate Orifice Diameter

D = 4.00 ft Q ₁₀ = 50.76	Q ₁₀ = 120.00 h = 0.31
D = 5.24	
Use = 5.24	Orifice

Calculate Settling Time

L ₁₀ (ft)	L = 6.87 ft
H ₁₀ (ft)	H = 3.50 ft
C _d	C _d = 1.10

River Sizing

Ch x W	D = 6.87 ft
D = 2.42 FT	D ₁₀ = 7 ft
Material = CMP	
Use = 36.00 "CMP River	Per Permanent Pond

Barrel Sizing

Q ₁₀ CA R (cfs/ft)	Q ₁₀ = 0.60
A ₁₀ = 3.18	A ₁₀ = 3 ft
A ₁₀ = 24.17 ft ²	Q ₁₀ = 38.10 cfs
Material = CMP	h = 6.50 ft
Use = 24.00 "CMP Barrel	g ₁₀ = 32.90 ft/s
	Per Permanent Pond

Size River/Barrel Base

Calculate Discharge Force on River	
Cross-sectional area A ₁₀ x W	L & W = 4.00
A ₁₀ = 16.00 ft ²	
River Volume V ₁₀ x L	A ₁₀ = 16.00

V ₁₀ = 60.00	L = 5.00
Equivalent Force	
F ₁₀ = 4992.00 lbs/ft	Q ₁₀ = 62.40 ft/s
	V ₁₀ = 10.00 ft/s

Concrete Base Slab (Concrete = 120 lbs/ft ³) - (Weight of water = 62.4 lbs/ft ³) = 57.6 lbs/ft ³
Base Volume = 36.00 ft ³
Base Dims = 9.31 ft x 9.31 ft x 1.00 ft

Web Sizing
Per AutoCAD Hydraulic Software
L ₁₀ = 20.00 ft
D ₁₀ = 3.00 ft
Q ₁₀ = 0.99 ft ³ /s
C _d = 50.00 cfs
Velocity = 2.82 ft/s

Web Sizing
Shear Calculation
V ₁₀ = 62.40 ft/s
T ₁₀ = 0.55676 (cfs/ft)
Required L ₁₀ = Class A Rip Rap
Proposed L ₁₀ = Class A Rip Rap

Basin Outlet Protection

New York Method 3.0(3) Manual	
Diameter of Barrel = 24.00"	L ₁₀ = 12
Velocity = 7.5 ft/s	W = 6
Zones = 2	or 10'
	Stone Diameter = Class B

E:\Projects\2020\08\08-C08-# 2020-21\Drawings\08-C08-# 2020-21.dwg

EXHIBIT "G"

DRAFT SPECIAL USE PERMIT

Special Use Permit- Board of Adjustment

DRAFT

Ordinance Related Conditions

SUP-Borrow Source Operation in an A1 District

Pre- Permit Related:

1. The Cumberland County Fire Marshal's Office has reviewed the request and stated the following:
 - Ensure all fire department access requirements are met.
 - Submit building plans to include to scale site plan for review of new buildings.
 - Ensure emergency responder radio coverage is achieved.

If meeting these requirements revises the site plan in any way, a revised site plan is required for review by Current Planning. For questions related to this comment, please contact the Fire Marshal's Office at 910-321-6625.

2. Prior to the application for any permits, the following shall be provided to Current Planning:
 - a. Documentation from the North Carolina Department of Transportation that the public thoroughfare to which the borrow source operation has access has sufficient load carrying capacity to support the proposed traffic generated by the borrow source operation or that load limits are acceptable.
3. A recorded plat is required prior to permit application, see Plat-Related conditions below. [Sec. 4-8(b)(7), County Code]
4. Prior to permit application, the developer must remove the existing single-family residential structure from the site. This will require a demolition permit from Cumberland County Planning & Inspections.
5. Prior to permit application, the developer must provide to the Code Enforcement Section documentation of NC Department of Environmental Quality Division of Energy, Mineral and Land Resources' (NCDEQ DEMLR) approval of the Sedimentation and Erosion control plan for this project. NCDEQ DEMLR requires a Sedimentation and Erosion control plan be submitted and approved 30 days prior to land disturbing activities if said land disturbing activity will exceed one acre.

If a plan is not required, per 15ANCAC 04B.0105 "Person conducting land disturbing activity shall take all reasonable measures to protect public and private property from damage cause by such activities." Sedimentation and erosion control measures will need to be installed to protect adjacent properties.
[Sec. 4-8(b)(6), County Code; originally under County jurisdiction relinquished to NCDEQ around 2000]

6. Authorization for wastewater system construction required before other permits to be issued. The County Health Department must approve sewer plans. Lots not served by public sewer systems are required to be large enough and of such physical character to comply with the Health Department's minimum standards. Site and soil evaluations must be conducted on the property by the County Environmental Health Department. A copy of the Health Department approval must be provided to Code Enforcement. (Note: All Health Department requirements must be met prior to issuance of final permits.) (NCGS § 130A-338 & Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)

Permit-Related:

7. The owner/developer(s) of these lots must obtain detailed instructions from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street on provisions of the County Zoning Ordinance and any permits that may be required to place any structure within this development or to commence any use of the subject property. For additional information, the developer should contact a Code Enforcement Officer. (Chpt. 4, County Code & Sec. 107, County Zoning Ord.)
8. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application. [Sec. 4-8(b)(2), County Code]

9. Landscaping must be provided in accordance with the approved Gainey Road Borrow Source Special Use Plan and Section 1102 N, Landscaping, County Zoning Ordinance and/as shown on the site plan. The following are the minimum standards for the required landscaping of this site:

- a. 17 large shade trees or 35 small ornamental trees within the front yard setback area along SR 2221 (Gainey Road)

In addition:

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

10. **Driveway Permit Required.** Construction of any new connection or alteration of any existing connection may require an approved Driveway Permit. For additional information contact the NC Department of Transportation's (NCDOT) Division 6/District 2 office.

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

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

Note: In the event the NCDOT driveway permit process alters the site plan in any manner, three copies of a revised site plan (and \$25.00/\$50.00 revision fee) must be submitted for staff review and approved prior to permit application.

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

[§ 136-18(29), NCGS]

11. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Department of Energy, Minerals and Land Resources, NC Department of Environmental Quality (DEMLR NCDEQ). If one acre or more of land is to be disturbed, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement prior to the issuance of the Certificate of Occupancy. (Note: If any retention/detention basins are required for state approval of this plan, three copies of a revised plan (and \$25/\$50 revision fee) must be submitted and approved by Planning & Inspections.) (Sec. 2306.D, County Subdivision Ord. & 2006-246, NC Session Law)

12. The County Health Department must approve water plans. Lots not served by public water system are required to be large enough and of such physical character to comply with the Health Department's minimum standards. A copy of the Health Department approval must be provided to Code Enforcement. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)

13. A demolition permit must be obtained from Cumberland County prior to removal of the residential structure on the property. Developer Building final inspection for any structures constructed under a building permit application cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans. Development and use of the project site shall occur consistent with the Gainey Road Borrow Source Special Use Site Plan (attached.) (Sec. 107.B, County Zoning Ord.; & Secs. 2005 & 2007 County Subdivision Ord.)

Site-Related:

14. All use and development of the subject property shall occur consistent with the approved Gainey Road Borrow Source Special Use Site Plan, as provided is Exhibit "A". All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance, and County Zoning Ordinance for the A1 zoning district must be complied with, as applicable.
15. Hours of operation for any borrow source operation shall be sunrise to sunset, Monday through Saturday, unless otherwise stated in the permit. *The applicant is requesting the hours of operation for this site be 7am-6pm Monday through Saturday.*
16. While in transit, trucks are to use appropriate load covers, and water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the borrow source operation.
17. This conditional approval is not approval of any freestanding signs. If a freestanding sign is desired, re-submittal of the site plan is required prior to application for any freestanding sign permits. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is **not** approval of the size, shape, or location of any signs.) (Art. XIII, County Zoning Ord.)
18. "Gainey Road" must be labeled as "SR 2221 (Gainey Road)" on all future plans. (Sec. 2203, County Subdivision Ord.)
19. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environmental Quality (NCDEQ) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2307.A, County Subdivision Ord.)
20. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306.C, County Subdivision Ord.)
21. In the event a stormwater utility structure is required by the NC Department of Environmental Quality (NCDEQ), the owner/developer must secure the structure with a four foot high fence with a lockable gate, and is required to maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation. (Sec. 1102.O, County Zoning Ord.)
22. Turn lanes may be required by the NC Department of Transportation (NCDOT). [Art. XIV, County Zoning Ord. & NCGS §136-18(5) & §136-93]

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

23. 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.
24. A solid buffer must be provided and maintained along the rear property lines where this tract/site abuts residential zoning in accordance with the provisions of Section 1102 G, County Zoning Ordinance (Note: Chain link fencing cannot be used to satisfy the buffer requirement.)

Note: Existing vegetation, or stabilized, vegetated earthen berms to serve as buffers and to prevent soil erosion shall be maintained between the borrow source operation and adjacent residences and public thoroughfares to screen the operation from the public.

25. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
26. All 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 one space

for each vehicle use directly in the conduct of the use, plus two additional spaces for each three employees on the largest shift is required for this development. (Art. XII, County Zoning Ord.)

27. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site is kept free of litter and debris, all grass areas mowed, all buffers and shrubbery kept trim and maintained, so that the site remains in a constant state of being aesthetically and environmentally pleasing. (Sec. 1403, County Zoning Ord.)

28. The Noise Regulations of the County Code Chpt. 9.5, Art. II are to be complied with.

Plat-Related:

29. The recombination plat must be drawn with solid property lines with metes/bounds and lot identifiers indicated.

30. "Gainey Road" must be labeled as "SR 2221 (Gainey Road)" on the recombination plat. (Section 2203.C & D, County Subdivision Ord.)

31. Any/All easements must be reflected on the recombination plat and labeled as to type of easement, reference number for document creating the easement, and the name of the agency, individual, etc. who holds the easement.

32. The NC Department of Transportation (NCDOT) stamp must be affixed to the recombination plat prior to submission for final plat approval by the Current Planning Section.

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

33. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the recombination plat when submitted for final approval. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision and Development Ordinance)

34. The recombination plat must be submitted to the Current Planning Section for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.

Plat-Required Statements:

35. Since this development does not have public water/sewer, the following disclosure statement is required to be provided on the recombination plat. (Section 2504 C, On-Site Water and/or Sewer Disclosure, County Subdivision and Development Ordinance):

"The individual lots in this development do not have public sewer and/or water services available, and no lots have been approved by the Health Department for on-site sewer services or been deemed acceptable for private wells at the date of this recording."

36. Since this development is located within the *Farmland Protection Area* as defined on the current Land Use Plan map, the following disclosure statement is required to be provided on the recombination plat (Section 2504 B, Farmland Protection Area Disclosure, County Subdivision and Development Ordinance):

"This property or neighboring property may be subject to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted farming and agricultural practices and operations, including but not limited to noise, odors, dust, the operation of any kind of machinery the storage and disposal of manure, and the application of fertilizers, soil amendments, herbicides, and pesticides."

37. All structures shall be shown on the recombination plat or the plat shall reflect the following statement (Section 2504 D, County Subdivision and Development Ordinance):

“Nonconforming structures have not been created by this recombination plat.”

Advisories:

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

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

40. The subject property sits on Gainey Road and is identified as a local road in the Metropolitan Transportation Plan. There are no constructions projects planned, and the subject property will have no impact on the Transportation Improvement Plan. For questions related to this comment, please contact Transportation Planning.
41. 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.
42. The developer’s subsequent application for permits upon receipt of these conditions of approval constitutes the developer’s understanding and acceptance of the conditions of approval for this development.
43. 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.

Other Relevant Conditions:

44. This conditional approval is contingent upon continued compliance with the County’s Subdivision and Development Ordinance and Zoning Ordinance.
45. The owner/developer be aware that every deed created for a lot being served by an on-site water and/or sewer system must contain the following disclosure when filed with the County Register of Deeds:

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

Thank you for developing in Cumberland County!

If you need clarification of any conditions, please contact Billy Prutzman at 910-678-7603 or Betty Lynd at 910-678-7605 with the Current Planning Section; otherwise, contact the appropriate agency at the contact numbers below.

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

Watershed Officer/Improvements: jbarnhill@co.cumberland.nc.us	Jeff Barnhill	678-7765
Current Planning Manager: blynd@co.cumberland.nc.us	Betty Lynd	678-7605
Subdivision/Site Plan/Plat jbarnhill@co.cumberland.nc.us	Jeff Barnhill	678-7765
Code Enforcement (Permits): swalters@co.cumberland.nc.us	Scott Walters	321-6654

County Building Inspections: mnaylo@co.cumberland.nc.us	Michael Naylor	321-6657	
Fire Marshal – Emergency Services klowther@co.cumberland.nc.us	Kevin Lowther	321-6625	
wbooth@co.cumberland.nc.us	Gene Booth	678-7641	
County Engineer’s Office: wdudley@co.cumberland.nc.us	Wayne Dudley	678-7636	
County Health Department: fthomas@co.cumberland.nc.us	Fred Thomas	433-3692	
US Postal Service jonathan.r.wallace@usps.gov	Jonathan R. Wallace	(704) 393-4412	
Corp of Engineers (wetlands):	Liz Hair	(910) 251-4049	hair@usacr.army.mil
NCDEQ (E&S):	Leland Cottrell	(910) 433-3393	leland.cottrell@ncdenr.gov
US Fish & Wildlife Services	Susan Ladd Miller	(910) 695-3323	susan_miller@fws.gov
Location Services: Site-Specific Address: wphipps@co.cumberland.nc.us	Will Phipps	678-7666	
Tax Parcel Numbers:		678-7549	
NCDOT (driveways/curb-cuts):	Troy Baker	364-0601	tlbaker@ncdot.gov
Transportation Planning: kevans@co.cumberland.nc.us	Katrina Evans	678 7614	
N.C. Division of Water Quality:	Annette Lucas	(919) 807-6381	annette.lucas@ncdenr.gov

EXHIBIT “A”

Gainey Road Bourow Source Special Use Site Plan

EXHIBIT "A" TO THE SPECIAL USE PERMIT

Gainey Road Borrow Source Special Use Site Plan

ATTACHMENTS:

Special Use Application

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 3778 Gainey Road

OWNER: Murdock, LLC.

ADDRESS: 307 Buckingham Drive - Mebane, NC ZIP CODE: 27302

TELEPHONE: HOME (336) 213-2659 WORK (336) 213-2659

AGENT: Drafting and Design Services, Inc. - Michael Blakley

ADDRESS: 6728 Carbonton Road - Sanford, NC 27330

TELEPHONE: HOME _____ WORK (919) 499-8759

E-MAIL: draftinganddesign@gmail.com

**APPLICATION FOR A SPECIAL USE PERMIT
As required by the Zoning Ordinance**

A. Parcel Identification Number (PIN #) of subject property: Portion of 0454-83-2179
(also known as Tax ID Number or Property Tax ID) All of 0454-80-5682

B. Acreage: 33.69 Frontage: 863ft Gainey Rd Depth: 1637 max

C. Water Provider: private well

D. Septage Provider: private septic

E. Deed Book 7923, Page(s) 0112, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: Agriculture

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.) _____

The proposed use is a borrow source (sand and gravel). The propose project is for 33.69 ac site which includes an Borrow pit and a proposed plant site. The operation will employ 10 employees per shift. 10 parking spaces have been provided in the plant site area nex to the office/scale house. Landscaping per Cumberland County UDO has been provided along Gainey Road. The proposed operation will operate between the hours of 7 am to 6 pm Mondaythrough Friday.

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.

✓ Murdock, LLC - Michael Harris - Member /Manager

NAME OF OWNER(S) (PRINT OR TYPE)

307 Buckingham Drive - Mebane, NC 27302

ADDRESS OF OWNER(S)

mharris8@triad.rr.com

E-MAIL

(336) 213-2659

HOME TELEPHONE #

WORK TELEPHONE #

Drafting and Design Services, Inc. - Michael Blakley

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

6728 Carbonton Road - Sanford, NC 27330

ADDRESS OF AGENT, ATTORNEY, APPLICANT

✓ draftinganddesign@gmail.com

E-MAIL

(919) 499-8759

HOME TELEPHONE #

WORK TELEPHONE #

Michael Harris

SIGNATURE OF OWNER(S)

Michael Blakley

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:

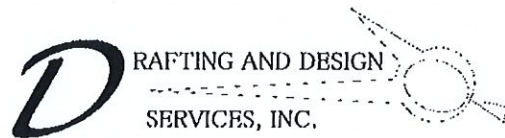
- That although appearance before the board is not required, it is strongly encouraged;
- The board will hear any and all argument for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the board has the authority to approve, deny,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

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

SIGNATURE OF OWNER(S) *Michael Harris*

PRINTED NAME OF OWNER(S) Michael Harris - member/manager

DATE 9/15/2020



6728 CARBONTON ROAD
SANFORD, NC 27330
(919) 499-8759
DRAFTINGANDDESIGN@YMAIL.COM

Gainey Road Borrow Source -- Findings of Fact

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

The proposed use will not materially endanger the public health or safety when located according to the plan. The proposed Borrow Source has been designed per State regulations to ensure no impacts to the surrounding community. The use is being permitted as a borrow pit that will result in a pond.

2. The use meets all required conditions and specifications;

The use has been designed to meet the required conditions of a Borrow Source per the Cumberland County Zoning Ordinance and NCDEQ DEMLR permit requirements. Vegetative buffers and landscape planting requirements have been designed to screen all onsite activities from Gainey Road and the adjacent properties.

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

The proposed use will maintain the value of the adjoining properties and is a public necessity to provide materials for construction projects with in the county.

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.

The proposed use is in harmony with the surrounding area due to the past use of adjoining properties as a Borrow Source also. The proposed use will operate in the same manner as past Borrow Sources as a borrow pit for construction materials. The most recent comprehensive land use plan calls for the project parcel and surrounding areas to be farm land and open space. The character of the proposed use can be specified as a farming type production.

Commencing at a iron pipe on Northwest corner of property at Gainey Road Right of Way;
thence bearing N 84-9-39 E a distance of 612.80 to a point;
thence bearing N 83-52-46 E a distance of 84.13 to a point;
thence bearing N 83-25-46 E a distance of 84.54 to a point;
thence bearing N 82-45-00 E a distance of 82.40 to a point;
thence bearing S 00-34-37 W a distance of 30.30 to a point;
thence bearing S 00-31-11 W a distance of 311.85 to a point;
thence bearing S 17-35-38 E a distance of 208.59 to a point;
thence bearing S 13-22-43 E a distance of 76.42 to a point;
thence bearing N77-42-27 E a distance of 106.40 to a point;
thence bearing S 04-35-24 E a distance of 909.68 to a point;
thence bearing S 70-36-23 W a distance of 417.65 to a point;
thence bearing S 75-21-5 W a distance of 1000.63 to a point;
thence bearing N 05-06-00 W a distance of 1637.25 to a point; to the point of beginning.

Said described parcel contains 33.69 acres, more or less, subject to any and all easements, reservations, restrictions and conveyances of record.