



**PITT COUNTY
PLANNING DEPARTMENT
DEVELOPMENT SERVICES BUILDING**
1717 W. 5th STREET
GREENVILLE, NORTH CAROLINA 27834-1696
TELEPHONE: (252) 902-3250
FAX: (252) 830-2576

JAMES F. RHODES, AICP
DIRECTOR

AGENDA

The Pitt County Board of Adjustment will hold its regular monthly meeting at 5:30 p.m. on Tuesday, July 23, 2024 in the EUGENE JAMES AUDITORIUM of the Pitt County Office Building, 1717 W. 5th Street, Greenville, North Carolina.

| | | |
|-----------|--|----------|
| 1. | CALL TO ORDER/ROLL CALL | |
| 2. | PRAYER AND PLEDGE OF ALLEGIANCE | |
| 3. | APPROVAL OF MINUTES OF APRIL 23, 2023 MEETING | 3 |

SPECIAL USE PERMIT REQUEST – BEN ROGERS

| | | |
|-----------|---|-----------|
| 4. | JACQUELINE HALEY SPECIAL USE PERMIT REQUEST TO OPERATE A DAYCARE: | 9 |
| | Located at 3850 Old River Road | |
| 5. | JEROME BRANCH, JR. SPECIAL USE PERMIT REQUEST TO OPERATE A RESIDENTIAL DAY CARE FACILITY: Located at 3022 Old Creek Road | 24 |

VARIANCE REQUEST – ERIC GOOBY

| | | |
|-----------|--|-----------|
| 6. | VARIANCE REQUEST FROM MINIMUM FRONT BUILDING SETBACK FROM THE REQUIREMENTS OF TABLE 6-1 AND SECTION 6(3)(B) OF THE PITT COUNTY ZONING ORDINANCE | 38 |
|-----------|--|-----------|

INFORMATIONAL ITEMS

| | |
|-----------|---|
| 7. | NEXT MEETING DATE – TUESDAY, AUGUST 27, 2024 |
| 8. | ADJOURN |

**MINUTES
OF
PREVIOUS
MEETING**

PITT COUNTY BOARD OF ADJUSTMENT
DRAFT MINUTES – April 23, 2024
GREENVILLE, NORTH CAROLINA

The Pitt County Board of Adjustment met in a regular session on Tuesday, April 23, 2024 at 5:30 p.m. in the EUGENE JAMES AUDITORIUM of the Pitt County Office Building, 1717 W. 5th Street, Greenville, North Carolina.

1. CALL TO ORDER

Chairman Jackson-Gilbert called the meeting to order at 5:30 p.m. and welcomed guests.

2. PLEDGE OF ALLEGIANCE

Jack Brock, II led the Board in a moment of prayer and Molly Holdeman led the Pledge of Allegiance.

The following members were present:

Jack Brock, II
Molly Holdeman
Rita Jackson-Gilbert
Johnny Pinner

Alternate Members

Jackie Hinton
Wanda Wynne

The following member was absent:

Sharon Gray

Staff in Attendance:

Jonas Hill, Planning Director
Tabitha Auten, Administrative Assistant II
Eric Gooby, Senior Planner
William Lowery, Planner I
Matt Gibson, County Attorney

3. APPROVAL OF MINUTES OF MAY 23, 2023 MEETING

UPON MOTION by Jack Brock, II, seconded by Johnny Pinner, the Pitt County Board of Adjustment voted unanimously to approve the minutes of the May 23, 2023 meeting.

ADMINISTRATIVE MATTERS

4. RESIGNATION OF BOARD MEMBER

Mr. Hill advised the Board that Michael Bridgers resigned from the Board. Mr. Bridgers served one full term and represented South of the River from January, 2022 through October, 2023.

5. APPOINTMENT AND REAPPOINTMENT OF BOARD MEMBERS

Mr. Hill acknowledged new appointments and reappointments to the Board. North Carolina's State Constitution requires that all individuals elected or appointed to office take an oath. Mr. Hill advised the Board that Jackie Hinton was appointed as the second alternate and the term will expire January 1, 2027. Molly Holdeman was serving as an alternate member and was appointed to a South of the River voting member position vacated by Michael Bridgers. Ms. Holdeman's term will expire January 1, 2027. Rita Jackson-Gilbert, North of the River, was appointed to a second full term that will expire January 1, 2027. Mr. Hill noted that Sharon Gray, North of the River, served a partial term and was reappointed to a full-term expiring January 1, 2027. Ms. Hinton was administered the oath of office by Ms. Auten during a training session.

6. ELECTION OF OFFICERS

Mr. Hill advised the Chairman presides over the Board's meetings and administers oaths to witnesses coming before the Board. The Vice-Chairman assumes the roles of the Chairman during his or her absence. Mr. Hill noted both the Chairman and Vice-Chairman may participate in all deliberations and may vote on all issues.

UPON MOTION by Rita Jackson-Gilbert, seconded by Jack Brock, II, the Pitt County Board of Adjustment voted unanimously to re-elect Rita Jackson-Gilbert for Chairman and re-elect Sharon Gray as Vice-Chairman.

7. BOARD OF ADJUSTMENT RULES OF PROCEDURE

The Board of Adjustment Rules of Procedure were presented to the Board during a training session held before the meeting.

SPECIAL USE PERMIT REQUESTS

Ms. Auten swore in the witnesses for the Imani Frazier and the Angelicia Villarreal Special Use Permit requests.

8. IMANI FRAZIER SPECIAL USE PERMIT REQUEST TO OPERATE A RESIDENTIAL CHILD CARE: Located at 1527 Manchester Drive in Westmont Subdivision in the Arthur Township

Mr. Gooby advised the Board that Planning staff received a petition from Imani Frazier

requesting a Special Use Permit to operate a residential child day care as required in the Rural Residential zoning district. The property is identified as Parcel Number 42163 and is located at 1527 Manchester Drive in Westmont Subdivision in the Arthur Township. Mr. Gooby noted that the surrounding area is predominantly residential consisting primarily of stick-built homes.

Mr. Gooby advised the Board that the Special Use Permit is in conformance with the land use plan because the land use will provide residentially based day care services without significantly impacting the character of the neighborhood. Mr. Gooby noted that the request also meets the guidelines for granting a Special Use Permit as per the Pitt County Zoning Ordinance. Therefore, staff recommends approval of a Special Use Permit for operation of a Residential Day Care Facility on parcel 42163 located at 1527 Manchester Drive in Westmont Subdivision with the following additional conditions:

- The proposed use shall operate only between the hours of 7:30am to 5:30pm.
- Comply with any applicable requirements from Pitt County Inspection to occupy the existing structure and any proposed structures, and comply with all applicable Environmental Health requirements for wastewater disposal.
- Obtain required license from the North Carolina Department of Health and Human Services Division of Child Development and Early Education.

Chairman Jackson-Gilbert opened the public hearing for the Imani Frazier Special Use Permit request to operate a residential child care.

Mr. Brock, II asked if the development standards of Section 8. (Z.) include applicable fire code and occupancy requirements.

Mr. Gooby stated that Building Inspections would be responsible for reviewing the requirements.

Mr. Brock, II asked if there was anyone present that is in opposition of the request or has Planning staff received any calls in opposition.

Mr. Gooby stated no.

Chairman Jackson-Gilbert closed the public hearing for the Imani Frazier Special Use Permit request to operate a residential child care.

UPON MOTION by Jack Brock, II, seconded by Rita Jackson-Gilbert, the Pitt County Board of Adjustment voted unanimously that the application is complete and complies with all of the applicable requirements of the Zoning Ordinance.

UPON MOTION by Molly Holdeman, seconded by Jack Brock, II, the Pitt County Board of Adjustment voted unanimously to approve the Special Use Permit subject to the development standards of Section 8. (Z.) of the Pitt County Zoning Ordinance with the additional conditions.

9. **ANGELICIA VILLARREAL SPECIAL USE PERMIT REQUEST TO OPERATE A RESIDENTIAL CHILD CARE:** Located at 2231 Ashley Wilkes Court in the Tara Plantation Subdivision in the Pactolus Township

Mr. Gooby advised the Board that Planning staff received a petition from Angelicia Villarreal requesting a Special Use Permit to operate a residential child day care as requires in the Rural Agricultural zoning district. The property is identified as Parcel Number 64178 and is located at 2231 Ashley Wilkes Court in Tara Plantation Subdivision in the Pactolus Township. Mr. Gooby noted that the surrounding area is predominately residential consisting primarily of manufactured home on individual lots and agricultural.

Mr. Gooby advised the Board that the Special Use Permit is in conformance with the land use plan because the land use will provide residentially based day care services without significantly impacting the character of the neighborhood. Mr. Gooby noted that the request also meets the guidelines for granting a Special Use Permit as per the Pitt County Zoning Ordinance. Therefore, staff recommends approval of a Special Use Permit for operation of a Residential Day Care Facility on parcel 64178 located at 2231 Ashley Wilkes Court in Tara Plantation Subdivision with the following additional conditions:

- The proposed use shall operate only between the hours of 7:00am to 11:00pm. Initially will only operate first shift (7:00am – 6:30pm), but may increase hours to cover second shift (6:40pm – 11:00pm) if the need arises.
- Comply with any applicable requirements from Pitt County Inspection to occupy the existing structure and any proposed structures, and comply with all applicable Environmental Health requirements for wastewater disposal.
- Obtain required license from the North Carolina Department of Health and Human Services Division of Child Development and Early Education.

Chairman Jackson-Gilbert opened the public hearing for the Angelicia Villarreal Special Use Permit request to operate a residential child care.

Mr. Brock, II asked if Planning staff has any concerns about the second shift hours and how it will affect the adjacent property owners.

Mr. Gooby stated no. The only requirement is that the child care can not operate 24 hours. Mr. Gooby advised that Planning staff has not received any calls from adjacent property owners with concerns.

Chairman Jackson-Gilbert closed the public hearing for the Angelicia Villarreal Special Use Permit request to operate a residential child care.

UPON MOTION by Wanda Wynne, seconded by Jack Brock, II, the Pitt County Board of Adjustment voted unanimously that the application is complete and complies with all of the applicable requirements of the Zoning Ordinance.

UPON MOTION by Molly Holdeman, seconded by Rita Jackson-Gilbert, the Pitt

County Board of Adjustment voted unanimously to approve the Special Use Permit subject to the development standards of Section 8. (Z.) of the Pitt County Zoning Ordinance with the additional conditions.

INFORMATIONAL ITEMS

10. NEXT MEETING DATE – TUESDAY, MAY 28, 2024

11. ADJOURNMENT

There being no further business, the Pitt County Board of Adjustment adjourned at 5:52pm.

Respectfully submitted,
/s/Jonas Hill
Executive Secretary



SPECIAL USE PERMIT REQUESTS

SPECIAL USE PERMIT REQUEST

Board of Adjustment Summary Sheet

MEETING DATE: July 23, 2024

APPLICANT: Jacqueline Haley

TAX PARCEL: 49031

REQUEST: Special Use Permit to operate a Day Care Center

APPLICATION DATE: May 23, 2024

ATTACHMENTS:

1. Special Use Permit Application
2. Site Plan
3. Property Owner's Consent
4. Notice to adjacent property owners
5. List of adjacent property owners
6. Staff Report

BOARD OF ADJUSTMENT

SCHEDULED PUBLIC HEARING DATE: July 23, 2024





**SPECIAL USE PERMIT APPLICATION
PITT COUNTY, NORTH CAROLINA**

1717 W. 5th Street
Greenville, NC 27834-1696
Phone: (252) 902-3250
Fax: (252) 830-2576

Staff Use Only
Parcel #: 49031
Permit #: SUP 24-03

Received

MAY 23 2024

Pitt County
Planning Dept.

OWNER/APPLICANT INFORMATION

OWNER: New Hope Fellowship Church

APPLICANT: Jacqueline Haley

PHONE #: 252-347-3092

PHONE #: (252) 717 0652

ADDRESS: 3848 Old River Road, Greenville, NC 27834

ADDRESS: 266 Alexander Brown Road Bethel, N.C. 27812

DATE: 5/16/24

PROJECT INFORMATION

PROPERTY LOCATION: 3850 Old River Road Greenville, N.C. 27834

ZONING DISTRICT: _____

PURPOSE OF SPECIAL USE: daycare facility

NEW STRUCTURE: YES/NO Yes

SIZE: aproximately 28x72

OTHER INFORMATION: _____

UTILITIES

WATER: Greenville

ELECTRIC: Edgecombe County

SEWER/SEPTIC: Private

NATURAL GAS: NA

DEVELOPMENT STANDARDS

| | REQUIRED | PROPOSED |
|--------------|----------|----------|
| LOT SIZE | _____ | _____ |
| LOT WIDTH | _____ | _____ |
| BUILDING HGT | _____ | _____ |
| DENSITY | _____ | _____ |

| | REQUIRED | PROPOSED |
|---------------|----------|----------|
| FRONT SETBACK | _____ | _____ |
| RIGHT SETBACK | _____ | _____ |
| LEFT SETBACK | _____ | _____ |
| REAR SETBACK | _____ | _____ |

OTHER DEVELOPMENT STANDARDS AS REQUIRED BY ZONING ORDINANCE SECTION 8:

SIGNAGE

| | REQUIRED | PROPOSED |
|-----------------------|----------|----------|
| SIGN AREA | _____ | _____ |
| SIGN HEIGHT | _____ | _____ |
| SETBACK | _____ | _____ |
| SIGN TYPE: | _____ | _____ |
| Additional Sign Info: | _____ | _____ |

PARKING

| | REQUIRED | PROPOSED |
|-----------------------|----------|----------|
| SPACES | _____ | _____ |
| ANGLE | _____ | _____ |
| ADDITIONAL STANDARDS: | _____ | _____ |

FLOOD INSURANCE RATE MAP INFORMATION:

| Community No. | Panel No. | Suffix | Date of Firm | Firm Zone | Base Flood Elevation |
|---------------|-----------|--------|--------------|-----------|----------------------|
| | | | | | |

FLOODPLAIN COMMENTS: _____

FLOODPLAIN MANAGER'S SIGNATURE: _____

NOTE: All land disturbing activities of one acre or more are required to submit a Soil Erosion and Sedimentation Control Plan to the Pitt County Planning Department prior to any land disturbing activities.

The undersigned hereby agrees to conform to all county regulations, applicable state laws and the conditions of this permit. The undersigned further states that all information given herein is true and authorize county staff to enter onto the property to ensure all applicable rules and regulations are being met.

The applicant should respond to the following issues that the permit-issuing board must find are met in order to issue a Special Use Permit. Answers should be supported by facts.

1. The use will not materially endanger the public health and safety;

The use will not in any way materially endanger the public health and safety. The use will be for to provide services throughout the community. It will provide a safe and healthy environment for the children and their families.

2. The use will not substantially injure the value of adjoining or abutting property;

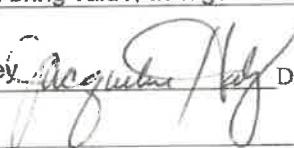
The use will not injure the value of adjoining or abutting property. The use will only increase the value of the property.

3. The use will be in harmony with the neighborhood or area in which it is to be located (compatible with surrounding area);

The project use will be in harmony and compatible with the neighborhood or area in which it is to be located. The use of the land will ensure to me the needs of individuals, society, and be crucial in providing resources to the people of the community.

4. The use will be in general conformity with the land use plan, thoroughfare plan, or other plans officially adopted by the Board of County Commissioners;

The project use will be in general conformity with land use, as it will not interfere with the quality of the environment, nor endanger individuals with an unsafe or unhealthy environment. It will be for to increase community growth and development, and bring value, as it goals are to build up the community.

OWNER/APPLICANT SIGNATURE: Jacqueline Haley  DATE: 5/16/24

| | | |
|---|------------------------------|---------------------------|
| OFFICE USE ONLY: SPECIAL USE PERMIT | Fee Amount: <u>\$250.00</u> | Date Paid: <u>5-23-24</u> |
| PARCEL #: <u>49031</u> | | |
| SITE PLAN: <u>GASKINS LAND SURVEYING, P.A.</u> | | |
| BOARD OF ADJUSTMENT DECISION: APPROVED <input type="checkbox"/> | MEETING DATE: <u>6-25-24</u> | |
| DENIED <input type="checkbox"/> | | |
| ZONING OFFICER SIGNATURE: <u>Ben Riger</u> | DATE: <u>5-23-24</u> | |
| CONDITIONS/COMMENTS: | | |

NEW HOPE FELLOWSHIP CHURCH
3848 OLD RIVER RD
GREENVILLE, NC 27834 Telephone: 252-347-3092
EMAIL: newhopefellowshipchurch@yahoo.com

TO WHOM IT MAY CONCERN

May 23, 2024



We the Pastor and the administrator of New Hope Fellowship Church, due here by give the applicant Mrs. Jacqueline Haley the permission to accept and receive a special permit use of the property of New Hope Fellowship Church, to place a facility for the use of a daycare facility that will include any other activities that will be pertaining to the daycare for as long as needed. No date is specified, therefore the applicant, Mrs. Jacqueline Haley do have the permission for the use of the adjoining property to operate her daycare business for as long as necessary.

Administrator signature

Bobbie A. Julian

date 5-23-24

Applicant signature

Jacqueline Haley

date 5-23-24



Notice of Public Hearing

TO: Property Owner
FROM: Ben Rogers, CZO, Planner II
RE: **Public Hearing for Special Use Permit**
DATE: June 28, 2024

Pursuant to correspondence dated June 4, 2024, you were notified of a Special Use Permit request within 500 feet of your property. **JACQUELINE HALEY** is requesting a Special Use Permit to operate a day care center at property identified as Tax Parcel 49031 and is located at 3850 Old River Road. Due to a lack of quorum, the previously scheduled Pitt County Board of Adjustment meeting scheduled for June 25, 2024 was cancelled. The Pitt County Board of Adjustment will hold a public hearing for this request on **Tuesday, July 23, 2024, at or shortly after 5:30 p.m.** This meeting will be held in the Eugene James Auditorium in the Pitt County Administration Building located at 1717 W. 5th Street, Greenville, NC.

The public hearing will be held using **quasi-judicial** procedures. The purpose of the hearing is to establish **facts** related to the Special Use Permit request prior to consideration by the Board of Adjustment, not to gather opinions about the desirability or popularity of the request. Those persons wishing to speak to the Board shall be considered **witnesses** and shall provide testimony **under oath**. Testimony must be supported by **substantial, competent, and material evidence**. Cross examination of witnesses is permitted. Please be aware that members of the Board may **not** discuss particulars of the case with any party outside of the public hearing.

If you need additional information about the request, please see the contact info below:

Contact Info:

Ben Rogers, CZO, Planner II
 Phone: (252) 902-3250
 Email: ben.rogers@pittcountync.gov

Mailing Address:

Pitt County Planning Department
 1717 West Fifth Street
 Greenville, NC 27834





PROPERTY OWNERS WITHIN 500'

| | | |
|---|--|--|
| HALEY JACQUELINE 266 ALEXANDER BROWN ROAD BETHEL NC 27812 | 2226 SLATE LANE LAND TRUST 2226 SLATE LANE GREENVILLE NC 27834 | ANTONIO M BUNN LIVING TRUST BUNN ANTONIO M TRUSTEE PO BOX 30644 GREENVILLE NC 27833 |
| ATM PROPERTIES LLC 3807 STERLING TRACE DR WINTERVILLE NC 28590 | BADILLO LUZ AUDETH ALVAREZ 2217 SLATE GREENVILLE NC 27834 | BAKER SAMMY RAY 3869 OLD RIVER RD GREENVILLE NC 27834 |
| BARNES TASHA 529 BRONTY RD GREENVILLE NC 27834 | BARR WILLIAM STACY 3862 OLD RIVER RD GREENVILLE NC 27834 | BLOW LARRY F BLOW LATANYA M 2131 FLUTTER LN GREENVILLE NC 27834 |
| BRETADO ELISEO 2212 SLATE LN GREENVILLE NC 27834 | BROWN KENNETH E 3796 OLD RIVER RD GREENVILLE NC 27834 | BYERS PETER M BYERS SUSAN 3101 MOUTH OF THE CREEK RD BLOUNTS CREEK NC 27814 |
| COOPER ANGELA S COOPER KEITH W 466 BRITANNIA DR GREENVILLE NC 27834 | DAVILA FRANCISCO JAVIER GARCIA 1409 DELIVERANCE DRIVE GREENVILLE NC 27858 | DAVIS TYRONE 1120 23RD STREET APT B NEWPORT NEWS VA 23607 |
| DRB ENTERPRISE LLC 940 WHITE HORSE DR GREENVILLE NC 27834 | EBRON BURNETT RAY EBRON JOYCE ANN 2220 SLATE LANE GREENVILLE NC 27834 | EDMUNDSON TOMMY LEE EDMUNDSON DEBBIE MITCHELL 2106 STOKES ROAD LT 4 GREENVILLE NC 27834 |
| ESPINOZA SALAZAR JOSE ANTONIO HERRERA VICTORIA REYES 458 GUARTZ DR GREENVILLE NC 27834 | FOSKEY DONALD LAWRENCE SR FOSKEY LILLIE BAKER 3839 OLD RIVER RD GREENVILLE NC 27834 | GREENE ANGELA 509 BRONTY RD GREENVILLE NC 27834 |
| GREENVILLE MH PROPERTIES LLC 2621 PORTERTOWN RD GREENVILLE NC 27858 | GUION ALTON 101 KENWOOD LN GREENVILLE NC 27834 | HACKNEY JERMAINE 327 TAYLOR NECK ROAD APAPAHOE NC 28510 |
| HARPER TIFFNEY T 3401 TABERNA DR GREENVILLE NC 27834 | HAYES OTIS JR 473 BRITANNIA DR GREENVILLE NC 27834 | HOLLOMAN TABETTYE T 2121 GRANITE CT GREENVILLE NC 27834 |
| HOLLOWAY JACOB LINDSEY HOLLOWAY SHADOE ELIZABETH 3816 OLD RIVER RD GREENVILLE NC 27834 | HOWARD QUESTONIOUS EVERETT EBONY 481 BRITANNIA DR GREENVILLE NC 27834 | JAMES ABIGAIL 2147 FLUTTER LN GREENVILLE NC 27834 |

JERONIMO JOSE REFUGIO
2225 SLATE LANE
GREENVILLE NC 27834

KORNEGAY PHYLLIS J
450 QUARTZ DRIVE
GREENVILLE NC 27834

LAPCO INVESTMENTS LLC
1001 DEARBORN CT
WINTERVILLE NC 28590

LEARY MALIK
467 BRITANNIA DR
GREENVILLE NC 27834

LEETE PETER A
LEETE JEANINE
3822 OLD RIVER RD
GREENVILLE NC 27834

LEGGETT BRITTANY NICOLE
DAIL ROY E
3870 OLD RIVER RD
GREENVILLE NC 27834

LLOYD CHRISTINE
494 VOA SITE C RD
GREENVILLE NC 27834

LUCAS SEAN C
2144 FLUTTER LN
GREENVILLE NC 27834

NEW HOPE FELLOWSHIP CHURCH
3119 FROG LEVEL RD
GREENVILLE NC 27834

NG ALEXANDER
NG NANCY
200 FOREST KNOLL DR
ATLANTIC BEACH NC 28512

POWELL WHITLEE JO FRANCES
2431 STOKES RD
GREENVILLE NC 27834

PRICE WILLIE LEE III
PRICE LATONYA BARNES
506 BRONTY RD
GREENVILLE NC 27834

SANCHEZ ANGELICA
3861 OLD RIVER RD
GREENVILLE NC 27834

SERVIN HORACIO AGUIRRE
371 ALBRITTON RD
SNOW HILL NC 28580

SERVIN REYES RICARDO
2129 GRANITE CT
GREENVILLE NC 27834

SMITH ANGELA JEAN
2115 GRANITE COURT
GREENVILLE NC 27834

STEVENSON PROPERTIES LLC
8567 STANTONSBURG ROAD
WALSTONBURG NC 27888

TILLERY IRVIN L
3880 OLD RIVER ROAD
GREENVILLE NC 27834

TURNER AJAIMONE NAJEE
206 W GUM RD
GREENVILLE NC 27834

VEAL CAROLYN BROWN HEIRS
3883 OLD RIVER RD
GREENVILLE NC 27834

WATSON KEVIN
WATSON DEBRA PATRICIA
PO BOX 1043
GREENVILLE NC 27835

WHITE LATYVI
LOPEZ TORRY
911 COWARD LN
GREENVILLE NC 27834

WILLIAMSON BROOKE
WILLIAMSON KAYLA
3817 OLD RIVER RD
GREENVILLE NC 27834

WINTER CHRIS WAYNE
WINTER MELINDA FOSKEY
3793 OLD RIVER RD
GREENVILLE NC 27834

WORSLEY JOHN L
WILLOUGHBY JOYCE ANN
3859 OLD RIVER RD
GREENVILLE NC 27834

WRIGHT FANNIE P
517 BRONTY RD
GREENVILLE NC 27834

WYATT SABRINA
CUNDIFF WYATT SHANAID
3897 OLD RIVER RD
GREENVILLE NC 27834

ZIMMERMAN GARY G
ZIMMERMAN DEBRA
243 NECK RD
SHILOH NC 27974



SPECIAL USE PERMIT

STAFF REPORT

JACQUELINE HALEY

Case: SUP 24-03

ACTION REQUESTED: Special Use Permit to operate a Day Care Center.

APPLICANT INFORMATION

Property Owner:

Name: New Hope Fellowship Church
Address: 3848 Old River Road
City, State, ZIP: Greenville, NC 27834

Applicant

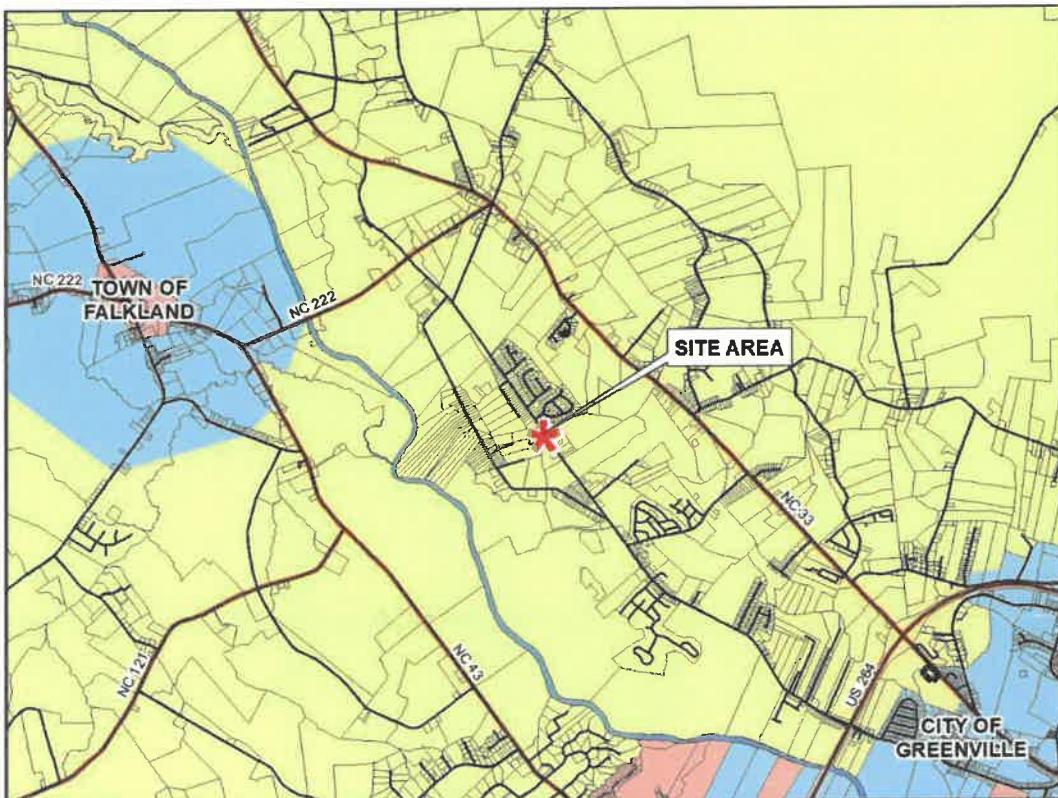
Name: Jacqueline Haley
Address: 266 Alexander Brown Road
City, State, ZIP: Bethel, NC 27812

SITE DATA

Location: 3850 Old River Road

Parcel Number: 49031
Township: Belvoir
Property Address: 3850 Old River Road
Total Size: 2.19 acres
Frontage: 120' along Old River Road
Current Use: Institutional
Existing Structures: Church and Accessory Storage Building

VICINITY MAP



GENERAL DESCRIPTION OF AREA

The surrounding area is predominantly residential consisting primarily of manufactured homes on individual lots. There is an existing church on the site (New Hope Fellowship Church) and the proposed day care center will be operated out of a new 28' x 72' building at the rear of the property.



Existing Land Use

SITE PHOTOS



View of subject property.



View of proposed day care center location.



View of existing parking.



View to the west along Old River Road.



View to the east along Old River Road.



View to the north along Quartz Drive.



View of adjacent property on Old River Road.



View of adjacent property in Crystal Acres subdivision.

ZONING ORDINANCE REVIEW

CURRENT ZONING: *Rural Residential (RR)*

Description: Primarily intended to accommodate low density, single-family residential uses and their associated, supporting public and institutional uses in areas that generally do not have access to public or community water and sewer systems.



Zoning Map

Proposed Use: Day Care Center

Zoning Ordinance Development Standards:

Section 8. (Z.) Day Care Center, Child or Adult; Day Care Facility, Residential

1. *Where Required*
RA, RR, R40, SR, MFR, OI, and GC districts.
2. *Security Fencing*
Outdoor activity area(s) for children shall be enclosed by a security fence of at least 6 feet in height and shall be located outside of the road setback.
3. *Location*
Centers on a site greater than 3 acres shall access to a collector or thoroughfare road.
4. *Hours of Operation*
In residential districts, the use shall not be operated on a 24 hour basis. Outdoor activities shall only be permitted during daylight hours.

ENVISION PITT COUNTY 2045 COMPREHENSIVE LAND USE PLAN

FUTURE LAND USE DESIGNATION: Rural Residential

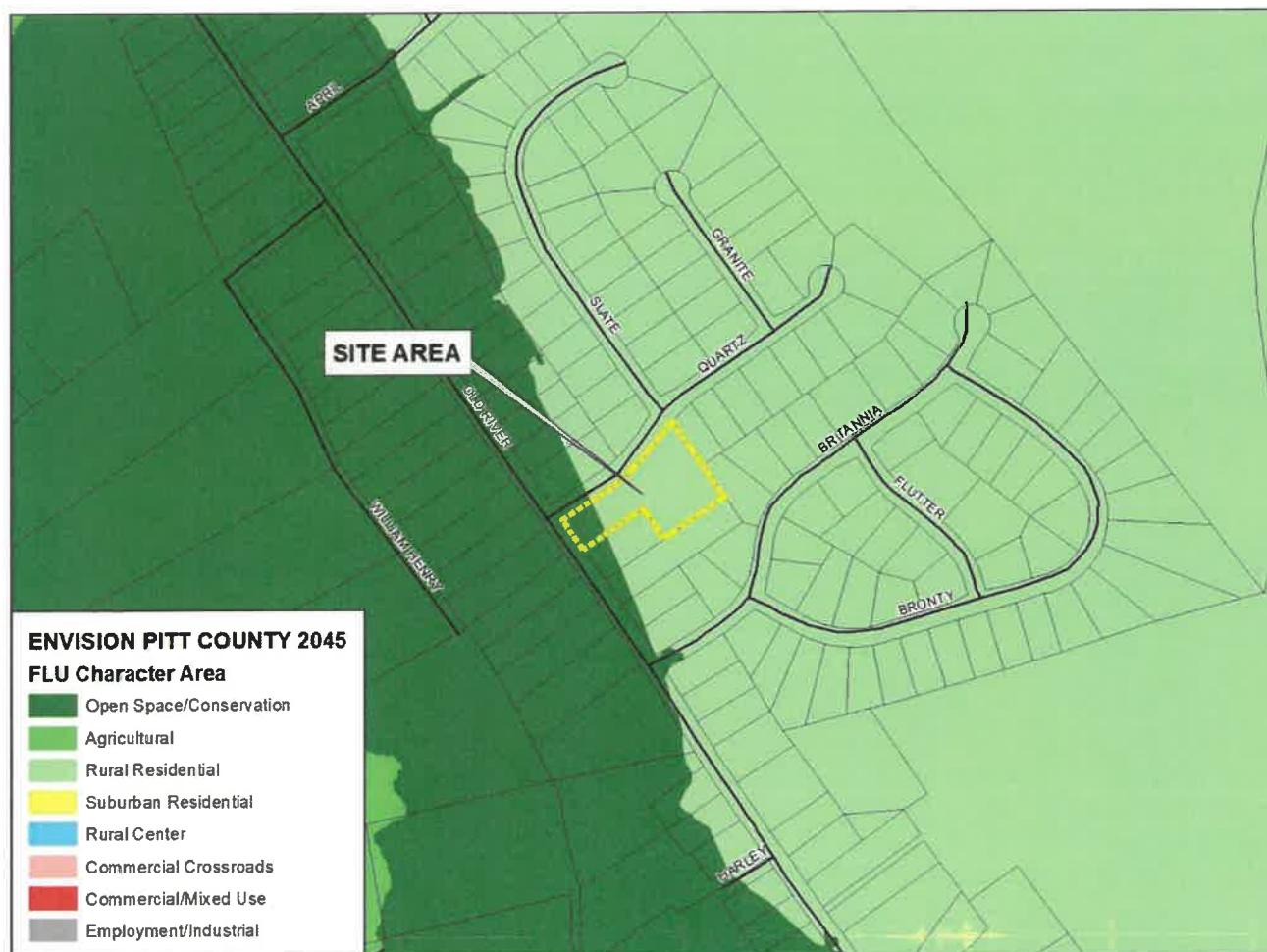
Description: This designation applies to transitional areas that include a mix of low-density suburban development and agricultural lands. New development should have relatively large lots or be clustered away from sensitive areas and/or working agricultural operations.

Where: Rural areas which include existing single-family homes, low-density subdivisions and surrounding agricultural lands.

Uses: Low-density residential, agricultural, agribusiness, some isolated non-residential uses along major roads or near key intersections.

Utility Access: On-site septic systems and community water service. Public sewer may be available in limited areas.

Density: Generally, less than 1-2 dwelling units per acre (gross density, individual lots may be smaller)



Future Land Use Map

ADDITIONAL DEVELOPMENT STANDARDS AND REQUIREMENTS

Pitt County Planning Department:

- A site plan, prepared in accordance with Appendix B of the Zoning Ordinance, must be approved by Pitt County Planning.
- Screening shall be provided in accordance with the requirements of Section 10(H).
- Per the Pitt County Stormwater Ordinance for Nutrient Control, this site is considered to be a redevelopment project which has a net increase in built-upon area. Therefore, it shall achieve a 30% reduction in nitrogen loading and no increase in phosphorus loading relative to the previous development. This may be achieved through onsite or offsite measures or some combination thereof.

Pitt County Emergency Management:

- No comments.

Pitt County Environmental Health:

- The Special Use Permit request meets Environmental Health requirements.

North Carolina Department of Transportation:

- If there are no changes to the current driveway, then no new driveway permit will be needed. If there are plans to change the driveway, then a new driveway permit will be required.
- Any other work performed within the right-of-way of SR 1401 and SR 1479 will require encroachment agreements.

PLANNING STAFF REVIEW AND RECOMMENDATION

The request for a Special Use Permit is in conformance with the land use plan because this land use will provide child care services without significantly impacting the character of the area. This request also meets the guidelines for granting a Special Use Permit as per the Pitt County Zoning Ordinance. Therefore, staff recommends **approval** of a Special Use Permit for operation of a day care center on parcel 49031 located at 3850 Old River Road and recommends the following motions:

Motion 1: Acknowledge that the application is complete and complies with all of the applicable requirements of the Zoning Ordinance.

Motion 2: Approve the Special Use Permit subject to the development standards of Section 8. (Z.) of the Pitt County Zoning Ordinance and the following additional conditions:

- The proposed use shall operate only between the hours of 6:30 AM to 11:00 PM, Monday through Friday.
- A site plan, prepared in accordance with Appendix B of the Zoning Ordinance, must be approved by Pitt County Planning.
- The proposed use shall comply with the requirements of the Pitt County Stormwater Ordinance for Nutrient Control.
- The proposed use shall comply with any applicable requirements from Pitt County Inspections to occupy the proposed structure, and comply with all applicable Environmental Health requirements for wastewater disposal.
- Obtain required license from the North Carolina Department of Health and Human Services Division of Child Development and Early Education.

Staff Recommendation: Approval

Board of Adjustment Public Hearing Date: 7/23/2024

SPECIAL USE PERMIT REQUEST

Board of Adjustment Summary Sheet

MEETING DATE: July 23, 2024

APPLICANT: Jerome Branch, Jr.

TAX PARCEL: 27136

REQUEST: Special Use Permit to operate a Residential Day Care Facility

APPLICATION DATE: June 24, 2024

ATTACHMENTS:

1. Special Use Permit Application
2. Property Owner's Consent
3. Notice to adjacent property owners
4. List of adjacent property owners
5. Staff Report

BOARD OF ADJUSTMENT

SCHEDULED PUBLIC HEARING DATE: July 23, 2024





Received

JUN 24 2024

Pitt County
Planning Dept.

SPECIAL USE PERMIT APPLICATION

PITT COUNTY, NORTH CAROLINA

717 W. 5th Street

Greenville, NC 27834-1696

Phone: (252) 902-3250

Fax: (252) 830-2576

Staff Use Only
 Parcel #: 27136
 Permit #: SUP 24-04

OWNER/APPLICANT INFORMATION

OWNER: Lion of Judah Community/C hurch of God

PHONE #: 252-341-7902

ADDRESS: 3014 Old Creek Road Greenville NC 27834

DATE: June 24, 2024

APPLICANT: Jerome Branch Jr.

PHONE #: 252-531-0828

ADDRESS: 3022 Old Creek Rd, NC 27834

PROJECT INFORMATION

PROPERTY LOCATION: 3022 Old Creek Road, N.C. 27834

ZONING DISTRICT: (Parcel #27136) Rural Residential

PURPOSE OF SPECIAL USE: The purpose of this Special Use permit is to have an in-home/residential Family Childcare.

NEW STRUCTURE: YES/NO NO

SIZE:

OTHER INFORMATION: Operating hours 6:30 am to 12:00 a.m (1st & 2nd shift) 8 children per shift

UTILITIES

WATER: Greenville Utilities

SEWER/SEPTIC: Greenville Utilities

ELECTRIC: Greenville Utilities

NATURAL GAS: Greenville Utilities

DEVELOPMENT STANDARDS

| | |
|--------------|----------------------|
| LOT SIZE | REQUIRED |
| LOT WIDTH | <input type="text"/> |
| BUILDING HGT | <input type="text"/> |
| DENSITY | <input type="text"/> |

| |
|----------------------|
| PROPOSED |
| <input type="text"/> |
| <input type="text"/> |
| <input type="text"/> |
| <input type="text"/> |

| | |
|---------------|----------------------|
| FRONT SETBACK | REQUIRED |
| RIGHT SETBACK | <input type="text"/> |
| LEFT SETBACK | <input type="text"/> |
| REAR SETBACK | <input type="text"/> |

| |
|----------------------|
| PROPOSED |
| <input type="text"/> |
| <input type="text"/> |
| <input type="text"/> |
| <input type="text"/> |

OTHER DEVELOPMENT STANDARDS AS REQUIRED BY ZONING ORDINANCE SECTION 8:

SIGNAGE

| | |
|-----------------------|----------------------|
| SIGN AREA | REQUIRED |
| SIGN HEIGHT | <input type="text"/> |
| SETBACK | <input type="text"/> |
| SIGN TYPE: | <input type="text"/> |
| Additional Sign Info: | <input type="text"/> |

| |
|----------------------|
| PROPOSED |
| <input type="text"/> |
| <input type="text"/> |
| <input type="text"/> |

PARKING

| | |
|-----------------------|----------------------|
| SPACES | REQUIRED |
| ANGLE | <input type="text"/> |
| ADDITIONAL STANDARDS: | <input type="text"/> |

| |
|----------------------|
| PROPOSED |
| <input type="text"/> |
| <input type="text"/> |

FLOOD INSURANCE RATE MAP INFORMATION:

| Community No. | Panel No. | Suffix | Date of Firm | Firm Zone | Base Flood Elevation |
|---------------|-----------|--------|--------------|-----------|----------------------|
| | | | | | |

FLOODPLAIN COMMENTS:

FLOODPLAIN MANAGER'S SIGNATURE:

NOTE: All land disturbing activities of one acre or more are required to submit a Soil Erosion and Sedimentation Control Plan to the Pitt County Planning Department prior to any land disturbing activities.

The undersigned hereby agrees to conform to all county regulations, applicable state laws and the conditions of this permit. The undersigned further states that all information given herein is true and authorize county staff to enter onto the property to ensure all applicable rules and regulations are being met.

The applicant should respond to the following issues that the permit-issuing board must find are met in order to issue a Special Use Permit. Answers should be supported by facts.

1. The use will not materially endanger the public health and safety;

The purpose of the family childcare is to provide care and education for children during work hours for parents. This will not cause any harm of materially endangerment of public health and safety.

2. The use will not substantially injure the value of adjoining or abutting property;

The property is a home that is occupied by residence. Because the property is being occupied, the residence will assure to keep the value of the property up by proper maintenance. Thus, the use will not substantially injure the value of adjoining or abutting property.

3. The use will be in harmony with the neighborhood or area in which it is to be located (compatible with surrounding area);

The daycare will provide much care and value to the community. There are several neighborhoods in this community and working class families will benefit greatly. The use will be in harmony with the neighborhood and surrounding areas.

4. The use will be in general conformity with the land use plan, thoroughfare plan, or other plans officially adopted by the Board of County Commissioners;

The use of this property will be in general conformity with the land use plan. The existing property meets the standards for the operation of a family childcare.

OWNER/APPLICANT SIGNATURE:

Jerome Branch Jr.

DATE: June 24, 2024

OFFICE USE ONLY: SPECIAL USE PERMIT

Fee Amount \$250.00 Date Paid 6-24-24

PARCEL #: 27136

SITE PLAN:

BOARD OF ADJUSTMENT DECISION: APPROVED
DENIED

MEETING DATE: 7-23-24

ZONING OFFICER SIGNATURE: Ben Rogen

DATE: 6-24-24

CONDITIONS/COMMENTS:

Lion of Judah Community Church of God
3014 Old Creek Road
Greenville, NC 27834
Email: lionofjudahcc@gmail.com
Telephone: (252) 341-7902



Lion of Judah Community Church of God
Board of Trustee
3014 Old Creek Road, Greenville NC 27834

Attention: Board of Directors

Subject: Approval to start a in home daycare in the church parsonage.

To whom it may concern,

After having arrived to this conclusion, we the Lion of Judah Community Church give Jerome Branch, Jr. permission to operate a family childcare in the parsonage. Mr. Branch is given full permission to see this special permit used of the property of Lion of Judah Community Church of God, for the purpose of an in-home (residential) daycare that will include any other activities that will be related to the daycare as long as it is needed and established. There is a no specified date, however, Jerome Branch, Jr. do have permission for the use of the property to operate his daycare business for as long as necessary.

Trustee Signature

Applicant Signature

Date: 7/7/24

Date: 7/7/24

Notice of Public Hearing

TO: Property Owner
FROM: Ben Rogers, CZO, Planner II
RE: **Public Hearing for Special Use Permit**
DATE: July 2, 2024

You are receiving this notice because there is a Special Use Permit request within 500 feet of your property. **JEROME BRANCH, JR.** is requesting a Special Use Permit to operate a residential day care at property identified as Tax Parcel 27136 and is located at 3022 Old Creek Road. The Pitt County Board of Adjustment will hold a public hearing for this request on **Tuesday, July 23, 2024, at or shortly after 5:30 p.m.** This meeting will be held in the Eugene James Auditorium in the Pitt County Administration Building located at 1717 W. 5th Street, Greenville, NC.

The public hearing will be held using **quasi-judicial** procedures. The purpose of the hearing is to establish **facts** related to the Special Use Permit request prior to consideration by the Board of Adjustment, not to gather opinions about the desirability or popularity of the request. Those persons wishing to speak to the Board shall be considered **witnesses** and shall provide testimony **under oath**. Testimony must be supported by **substantial, competent, and material evidence**. Cross examination of witnesses is permitted. Please be aware that members of the Board may **not** discuss particulars of the case with any party outside of the public hearing.

If you need additional information about the request, please see the contact info below:

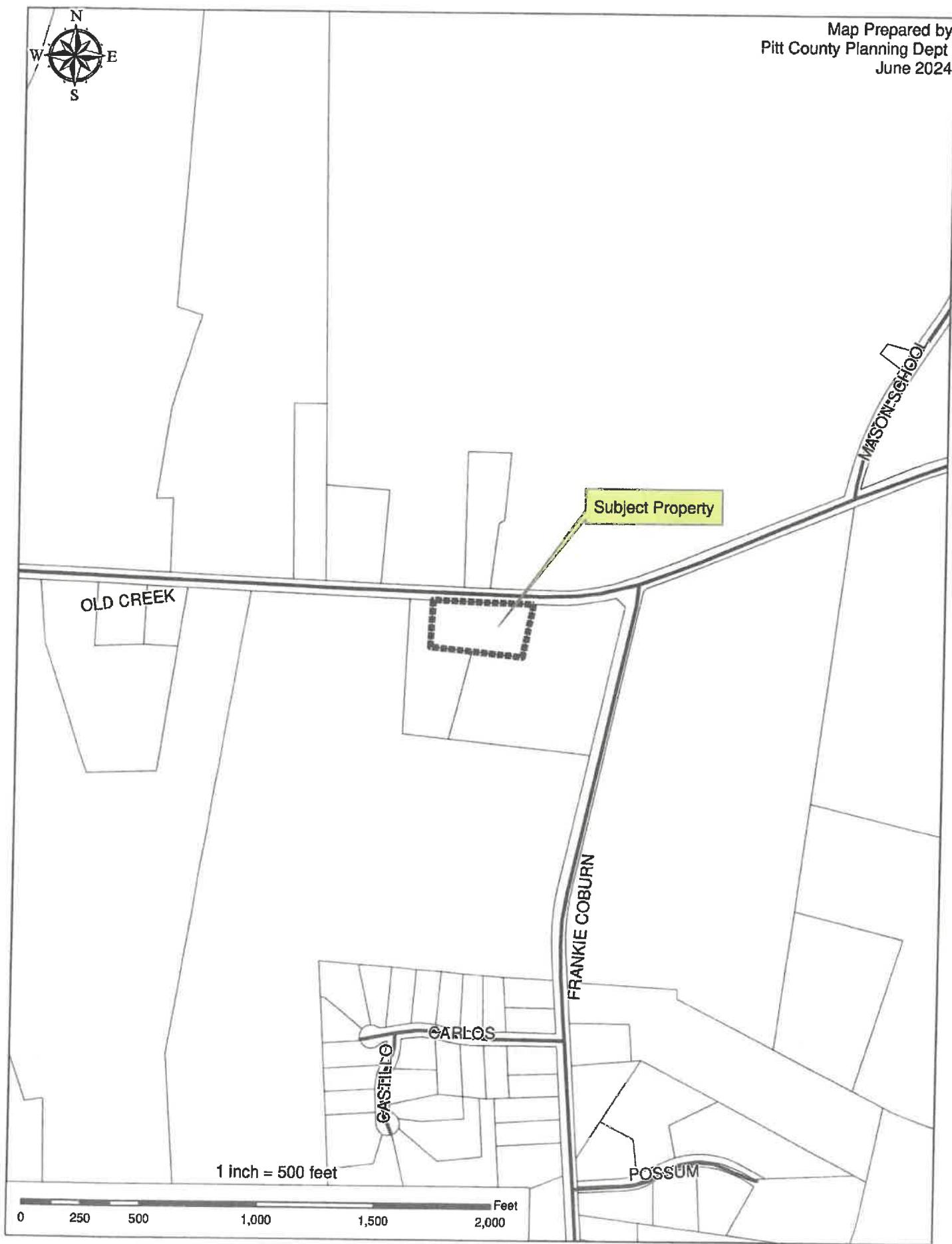
Contact Info:

Ben Rogers, CZO, Planner II
Phone: (252) 902-3250
Email: ben.rogers@pittcountync.gov

Mailing Address:

Pitt County Planning Department
1717 West Fifth Street
Greenville, NC 27834





PROPERTY OWNERS WITHIN 500'

JEROME BRANCH JR
3022 OLD CREEK ROAD
GREENVILLE NC 27834

BRANCH WILLIAM JUDSON
BRANCH EUNICE OLIVA
3007 OLD CREEK RD
GREENVILLE NC 27834

CHURCH OF GOD EASTERN NORTH
CAROLINA STATE OFFICE
BOYD KENNETH TRUSTEE ETAL
PO BOX 100
KENLY NC 27542

LEE KEVIN ARTHUR
2955 OLD CREEK RD
GREENVILLE NC 27834

TRIPLE OAK FARMS INC
5170 US HY 264 E
GREENVILLE NC 27834

WYNNE AUBREY M
WYNNE WANDA L
2961 OLD CREEK RD
GREENVILLE NC 27834

WYNNE AUBREY MCDANIEL
BRANCH EUNICE OLIVIA WYNNE ETAL
PO BOX 225
BETHEL NC 27812



SPECIAL USE PERMIT

STAFF REPORT

JEROME BRANCH, JR.

Case: SUP 24-04

ACTION REQUESTED: Special Use Permit to operate a Residential Day Care Facility

APPLICANT INFORMATION

Property Owner:

Name: Lion of Judah Community Church of God
Address: 3014 Old Creek Road
City, State, ZIP: Greenville, NC 27834

Applicant

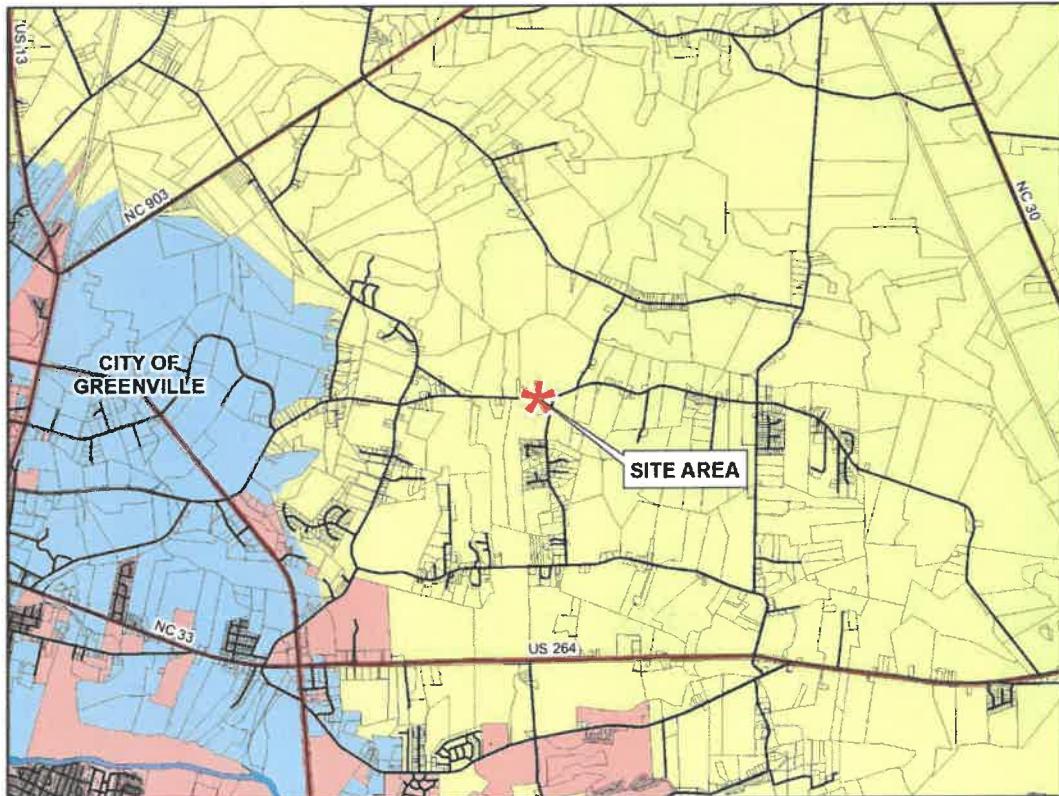
Name: Jerome Branch, Jr.
Address: 3022 Old Creek Road
City, State, ZIP: Greenville, NC 27834

SITE DATA

Location: 3022 Old Creek Road

Parcel Number: 27136
Township: Pactolus
Property Address: 3014 Old River Road
Total Size: 2.27 acres
Frontage: 425' along Old Creek Road
Current Use: Institutional
Existing Structures: Church, Stick-Built Home, Accessory Structure, Vacant Commercial Structure

VICINITY MAP



GENERAL DESCRIPTION OF AREA

The uses in the area are predominantly agricultural and residential uses. There is an existing church (Lion of Judah Community Church of God) and vacant commercial building on the subject property. The in-home day care is proposed to operate out of the church's existing residential parsonage at the rear of the property.



Existing Land Use

SITE PHOTOS



View of subject property.



View of existing church on subject property.



View of vacant commercial structure on subject property.



View to the east along Old Creek Road.



View to the west along Old Creek Road.



View of adjacent agricultural use along Old Creek Road.



View of adjacent agricultural use along Old Creek Road.

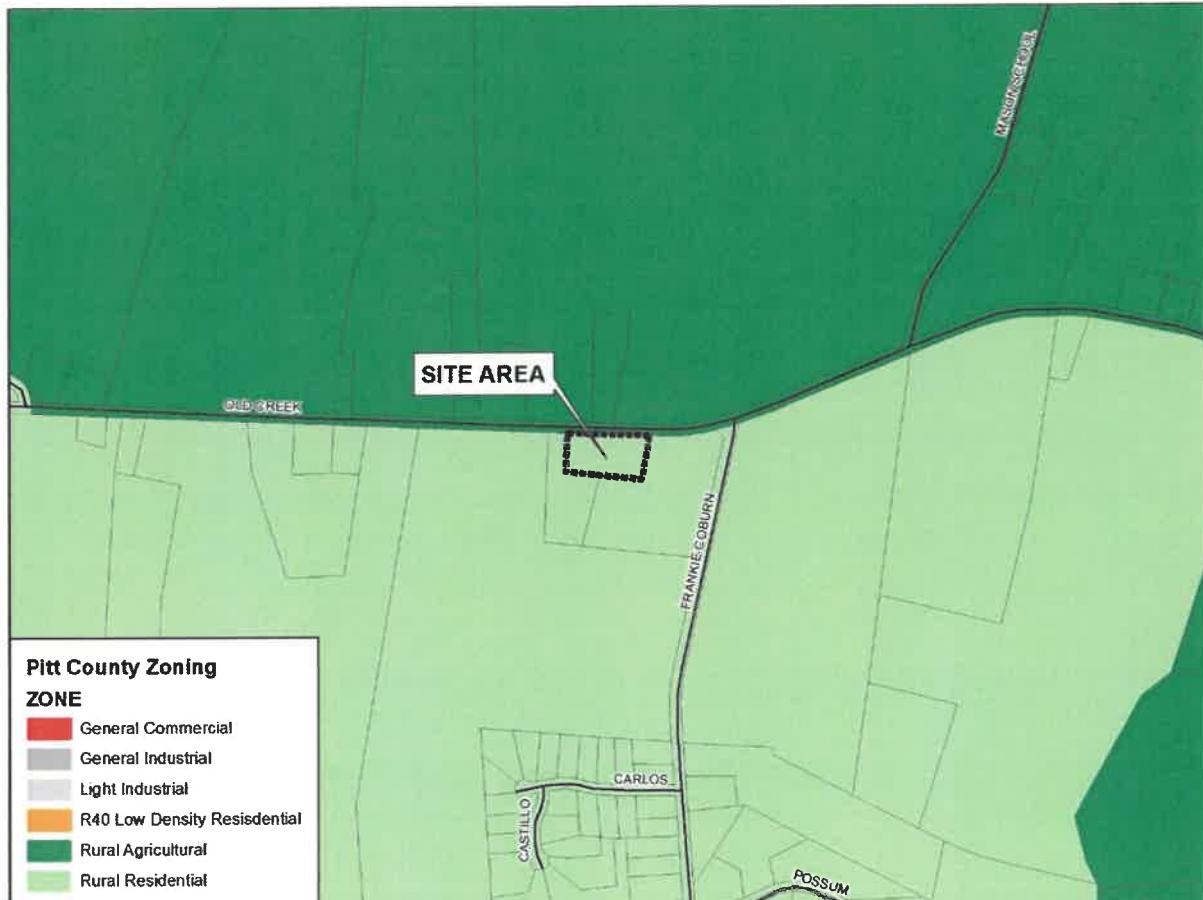


View of residences across Old Creek Road.

ZONING ORDINANCE REVIEW

CURRENT ZONING: *Rural Residential (RR)*

Description: Intended to accommodate low density, single-family residential uses and their associated, supporting public and institutional uses in areas that generally do not have access to public or community water or sewer systems.



Zoning Map

Proposed Use: Day Care Facility, Residential

Zoning Ordinance Development Standards:

Section 8. (Z.) Day Care Center, Child or Adult; Day Care Facility, Residential

1. *Where Required*
RA, RR, R40, SR, MFR, OI, and GC districts.
2. *Security Fencing*
Outdoor activity area(s) for children shall be enclosed by a security fence of at least 6 feet in height and shall be located outside of the road setback.
3. *Location*
Centers on a site greater than 3 acres shall access to a collector or thoroughfare road.
4. *Hours of Operation*
In residential districts, the use shall not be operated on a 24 hour basis. Outdoor activities shall only be permitted during daylight hours.

ENVISION PITT COUNTY 2045 COMPREHENSIVE LAND USE PLAN

FUTURE LAND USE DESIGNATION: *Suburban Residential*

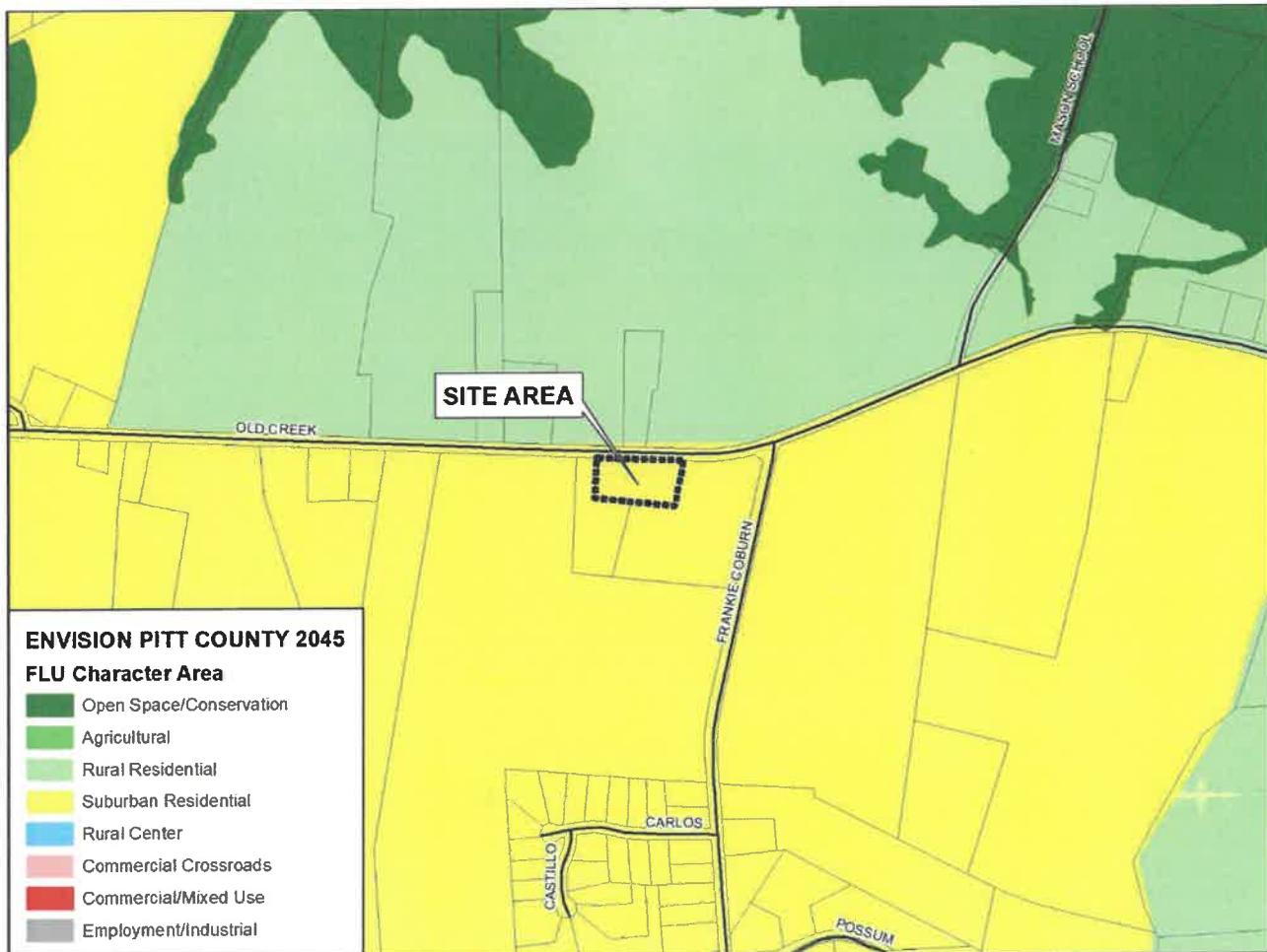
Description: This designation contains primarily single-family detached homes in neighborhoods with interconnected streets. Non-residential uses within this character area should be located with frontage and access to a major highway or secondary road, at major intersections, or proximity to similar uses with spatial separation or buffers between incompatible uses. Non-residential development should be designed in a context-sensitive manner and may be considered on a case-by-case basis in a conditional zoning district.

Where: Near existing residential and commercial development, and in areas experiencing significant growth within the county.

Uses: Single family detached homes, manufactured homes, duplexes, some agriculture, agribusiness, limited multifamily, commercial, office, light industrial, and public/institutional uses.

Utility Access: On-site septic systems and community water service. Public sewer may be available in these areas with voluntary annexation.

Density: Varies from 1 to 3 dwelling units per acre (gross density), depending on sewer availability.



Future Land Use Map

PLANNING STAFF REVIEW AND RECOMMENDATION

The request for a Special Use Permit is in conformance with the land use plan because this land use will provide residentially based day care services without significantly impacting the character of the area. This request also meets the guidelines for granting a Special Use Permit as per the Pitt County Zoning Ordinance. Therefore, staff recommends **approval** of a Special Use Permit for operation of a Residential Day Care Facility on parcel 27136 located at 3022 Old Creek Road and recommends the following motions:

Motion 1: Acknowledge that the application is complete and complies with all of the applicable requirements of the Zoning Ordinance.

Motion 2: Approve the Special Use Permit subject to the development standards of Section 8. (Z.) of the Pitt County Zoning Ordinance and the following additional conditions:

- The proposed use shall operate only between the hours of 6:30 AM to 12:00 AM.
- Comply with any applicable requirements from Pitt County Inspections to occupy the existing structure and any proposed structures, and comply with all applicable Environmental Health requirements for wastewater disposal.
- Obtain required license from the North Carolina Department of Health and Human Services Division of Child Development and Early Education.

Staff Recommendation: Approval

Board of Adjustment Public Hearing Date: 7/23/2024



VARIANCE REQUESTS

VARIANCE REQUEST

Board of Adjustment Summary Sheet

MEETING DATE: July 23, 2024

APPLICANT: Tucker Farms, Inc.

TAX PARCEL: 17616

REQUEST: Variance from Minimum Front Building Setback

APPLICATION DATE: June 10, 2024

ADDITIONAL INFORMATION: Subject Property is located at 3038 King Farm Road in the Fountain Township

ATTACHMENTS:

1. Staff Report
2. Application for Improvement Permit
3. Notice to Proceed with Environmental Health Application
4. Improvement Permit
5. Authorization to Construct with plot plan
6. Operation Permit with plot plan
7. Zoning Compliance Permit
8. Manufactured Home Permit
9. Certificate of Occupancy
10. Certificate of Compliance
11. Email from Carl Parker dated September 30, 2022
12. Variance Application
13. Property Survey prepared by Parker and Associates Land Surveying, P.A.
14. Subject property photo
15. Notice to Property Owners within 500' of subject property
16. List of Property Owners within 500' of Subject Property
17. Section 6(C)(3) "Encroachments into Required Setbacks" of the Pitt County Zoning Ordinance



18. Table 6-1 Table of Density and Dimensional Requirements of the Pitt County Zoning Ordinance
19. Section 13 "Appeals, Variances, Interpretations" of the Pitt County Zoning Ordinance



VARIANCE STAFF REPORT

TUCKER FARMS, INC.

Case: VAR 24-01

SUMMARY OF INFORMATION:

The Pitt County Planning Department is in receipt of a petition from **TUCKER FARMS, INC.** requesting a variance from the requirements of Table 6-1 and Section 6(3)(b) of the Pitt County Zoning Ordinance. The subject property is identified by the Tax Assessor's Office as Parcel Number 17616, and is located at 3038 King Farm Road in the Fountain Township.

A double-wide manufactured home was placed on the property and approved for occupancy in 2021. The home has an 8' x 18.5' front porch and 4' x 6' steps constructed of brick and concrete. The applicant provided a survey by Parker and Associates Land Surveying, P.A. that indicates the manufactured home meets the minimum required road setback, however, almost the entirety of the front porch and steps is encroaching within the setback.

ZONING ORDINANCE REQUIREMENTS:

- 1) Table 6-1 of the Pitt County Zoning Ordinance requires a minimum front building setback of 40 feet along U.S. or N.C. Highways and State-maintained roads.
- 2) Section 6(3)(b) of the Ordinance states that steps "may project not more than two and one-half feet into any required setback, but in no case shall be closer than three feet to any property line". This section further states that porches and decks (covered or uncovered) may encroach three feet into the required road setback and have a maximum area of 50 square feet within the encroachment.

TIMELINE OF CASE:

- October 6, 2020 Applicant applied for an Improvement Permit to Pitt County Environmental Health for evaluation of a new septic system. (Attachment 2)
- October 8, 2020 Pitt County Planning staff issued a Notice to Proceed with Environmental Health Application for a four (4) bedroom 28' x 80' doublewide manufactured home. A minimum front setback of 40 feet was entered on the face of the Notice to Proceed. (Attachment 3)
- April 20, 2021 Environmental Health staff issued an Improvement Permit (Attachment 4) and Authorization to Construct (Attachment 5) for the septic system. A plot plan is included on the Authorization to Construct which indicates the front corner of the home is to be located 60 feet from the edge of the pavement of King Farm Road and the septic tank is to be located seven (7) feet behind the home.
- May 19, 2021 Environmental Health staff issued an Operation Permit for the septic system which includes a plot plan identical to the Authorization to Construct. (Attachment 6)
- May 25, 2021 Planning staff issued a Zoning Permit for a 28' x 76' doublewide manufactured home. A minimum front setback of 40 feet was entered on the face of the permit. (Attachment 7)
- May 25, 2021 Pitt County Inspections issued a Manufactured Home Permit to Edward Strickland Mobile Home Movers to set the home on the property. (Attachment 8)
- July 29, 2021 Inspections staff completed the final inspections on the home and issued a "Certificate of Occupancy" indicating the home has been inspected and is approved for occupancy. (Attachment 9)

- October 10, 2021 Inspections staff inspected the underpinning on the home and issued a Certificate of Compliance. (Attachment 10)
- September 30, 2022 Carl Parker of Parker and Associates Land Surveying, P.A. emailed surveys of the property showing the encroachment as well encroachments for three other homes placed on the property. (Attachments 10 and 11)
- November 2, 2022 Planning staff met with the applicant and Carl Parker to discuss the encroachments and advised them of the variance application process and procedures.
- June 10, 2024 Variance application submitted by Tucker Farms, Inc. to Planning staff to allow the existing porch to remain within the encroachment area. (Attachment 12)
- July 2, 2024 Mailed notice sent to all property owners within 500 feet of the subject property. (Attachments 15 and 16)
- July 23, 2024 Board of Adjustment Hearing

ACTION ON VARIANCE REQUESTS:

As per Section 13(B)(1)(b) of the Pitt County Zoning Ordinance, a variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the Zoning Ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done. The Board may grant the variance upon a showing of all the following:

- Unnecessary hardship would result from the strict application of the ordinance;
- The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships that are the result of personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;
- The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;
- The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved;
- The variance will neither result in the extension of a nonconforming situation in violation of Section 13.0 of the Zoning Ordinance nor authorize the initiation of a nonconforming use of land.

Before granting a variance, the Board of Adjustment must take a vote and vote affirmatively (by a **4/5 majority**) on the required findings stated in subsection 13(B)(1)(b). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in subsection 13(B)(1)(b) shall include a statement of the specific reasons or findings of fact supporting such motion.

A motion to deny a variance may be made on the basis that any one or more of the five criteria set forth in subsection 13(B)(1)(b) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the Board of Adjustment's decision if supported by more than one fifth of the Board's membership (excluding vacant seats).

In granting a variance, the Board may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties, provided such conditions are reasonably related to the condition or circumstance that gives rise to the need for a variance. No change in permitted uses may be authorized by a variance.

RELEVANT PRECEDENTS:

Turik v Town of Surf City (2006)

Property owners provided a survey which indicated a proposed home would comply with the setback requirements and Surf City issued a building permit. After construction began, Surf City was notified by a neighboring property owner that the survey was incorrect and the property was in violation of the setbacks. Property owners applied for a variance. The Board of Adjustment granted the variance request and the neighboring property owner appealed the decision to Superior Court. The Court **upheld** the Board's decision and made the necessary findings below:

- If the property owners must follow the strict interpretation of the ordinance it will create an unnecessary hardship by requiring the owners to demolish or substantially alter the existing structure which was built in good faith and on reliance of a proper survey, building permits, and inspections.
- There was no indication that granting the variance would harm neighboring properties or give special privileges to the property owners.
- Pecuniary loss is a factor to be taken into consideration but cannot be the sole element, and the Court subsequently looked at the landowner's ability to make reasonable use of the property.
- The Court emphasized the fact that the property owners relied in good faith on surveys and valid building permits in constructing the property and that substantial justice would be achieved with the issuance of the variance.

Barnes vs. Pitt County (2019)

Plot plans for a proposed site-built home showed the proposed home would meet the required setbacks and Pitt County issued zoning and building permits. During construction, the builder provided a foundation survey to Pitt County which indicated the front porch had been constructed within the front setback line. The property owner measured the location of the setback line from the center of the subdivision road, however the road was not centered within the right-of-way. The property owners applied for a variance to reduce the setback. The Board of Adjustment denied the variance request and the petitioners appealed the decision to Superior Court. The court **reversed** the Board's decision and made the following findings:

- The Court found that the Board of Adjustment committed no errors of law, that all proper procedures were followed, and that all due process rights of the petitioner were secured.
- It was determined that the property owner and builder "reasonably relied" on the location of the subdivision road fronting the property in order to measure the required setback, however, the road was improperly installed within the right-of-way.
- There was no ill intent or malice on the part of the petitioners or their builder and the overall encroachment was minimal and posed no risk to the public or property.
- The Court found that denial of the request would result in an "unjustly harsh result" to the petitioners and that granting the requested variance would be within the spirit of the zoning ordinance and laws of the State.

STAFF FINDINGS AND RECOMMENDATION:

Upon Planning staff's review of the records in this case, as well as the findings of previous case law and precedent, it is staff's opinion that the variance request should be granted based upon the following:

- The home was approved for occupancy by Pitt County Inspections and has been occupied for approximately three years. Strict application of the ordinance and denial of the variance would require the home to be moved and would result in unnecessary hardship to the current occupants of the home;
- Pitt County Environmental Health designed the location of the septic system. The approved location of the home and septic system on the Improvement and Operation Permits did not account for the front porch.

Furthermore, the existing septic tank is located behind the home and would require the home to be moved farther than necessary to comply with the setback requirement. This condition is peculiar to this property and would result in further hardship to the applicant and occupants of the home;

- The applicant reasonably relied upon the plot plan for the home prepared by Pitt County Environmental Health as well as subsequent inspections and approvals by Pitt County Inspections to occupy the home. These actions were not taken by the applicant and do not constitute a self-created hardship;
- As determined by the Courts in previous similar cases, the requested variance will not cause any harm to the public or property and is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved;
- The variance will neither result in the extension of a nonconforming situation in violation of Section 13.0 of the Zoning Ordinance nor authorize the initiation of a nonconforming use of land.

Therefore, Pitt County Planning staff recommends **approval** of the variance request and recommends the following motions (4/5 majority required for approval):

Motion 1: The home was approved for occupancy by Pitt County Inspections and has been occupied for approximately three years, therefore strict application of the ordinance would result in unnecessary hardship to the current occupants of the home.

Motion 2: The existing septic tank is located behind the home and would require the home to be moved farther than necessary to comply with the setback requirement, therefore the hardship results from conditions that are peculiar to the property, and does not result from conditions that are common to the neighborhood or the general public.

Motion 3: The applicant reasonably relied upon the plot plan for the home prepared by Pitt County Environmental Health as well as subsequent inspections and approvals by Pitt County Inspections to occupy the home, therefore the hardship did not result from actions taken by the applicant or the property owner.

Motion 4: The requested variance will not cause any harm to the public or property, therefore the request is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secured and substantial justice is achieved.

Motion 5: The variance will neither result in the extension of a nonconforming situation in violation of Section 13.0 of the Zoning Ordinance nor authorize the initiation of a nonconforming use of land.

Motion 6: Approve the request by Tucker Farms, Inc. to vary the minimum front building setback requirement to allow the encroachment of the existing front porch on the home located at 3038 King Farm Road, Parcel 17616, with the following additional condition:

- The front porch shall not be enlarged or modified in any manner that will increase its footprint as it exists at the time the variance is granted.



PITT COUNTY
ENVIRONMENTAL HEALTH
1717 W. 5th Street
Greenville, NC 27834-1696
Office (252) 902-3200
Fax (252) 902-3208

APPLICATION FOR IMPROVEMENT PERMIT

Type of Inspection: Evaluation for a New Septic System
Appointment Requested:
Date Site Ready: 10/9/2020
Fees Paid: Yes

Application Date: 10/08/2020

Project Number: PRJ2020-126019

Application Number: WLS2020-108396

Applicant:
TUCKER FARMS, INC
RALPH C TUCKER, JR
2539 SEVEN PINES RD
GREENVILLE, NC 27834
(252) 753-2016

Site Address: 3038
3062 KING FARM RD FOUNTAIN, NC 27829

Owner:
TUCKER FARMS INC
2539 SEVEN PINES RD
GREENVILLE, NC 27834

(252) 717-7872

Tax Parcel #(s): 17616

Subdivision Name:

Lot #:

Block/Phase:

Directions to Site: Directions - Total Distance: 12.87; Start at 1717 W 5th ST.; Go north on HOSPITAL DR toward W 6TH ST; Turn left on W 5TH ST; Continue on NC 43 N; Turn left on COTTONDALE RD; Turn left on NC 121; Turn right on WINDHAM RD; Turn left on KINGS CROSSROADS RD; Turn left on SEVEN PINES RD; Turn right on KING FARM RD; Finish at 0 KINGS FARM RD ON THE LEFT, +/- .10 MILE PASS 3062 KING FARM RD, on the left; LOT WILL BE FLAGGED/STAKED

Water Supply: Farmville

Are there any existing wells or springs on this property? No

Type Use: Doublewide Mobile Home

Number of Occupants: 8

If Residential

Proposed # of Bedrooms: 4

Existing # of Bedrooms:

If Commercial

of Children:

of Employees:

of Seats:

Does the site contain any previously identified jurisdictional wetlands? No

Does the site contain any existing wastewater systems? Yes

Is any wastewater going to be generated on the site other than domestic sewage? No

Is the site subject to approval by any other public agency? Yes

Are there any known easements or right-of-ways on this property? No

I have read this application and certify that the information provided herein is true, complete and correct. Authorized county and state officials are granted right of entry to conduct necessary inspections to determine compliance with applicable laws and rules.

I understand that I am solely responsible for the proper identification and labeling of all property lines and corners and making the site accessible so that a complete site evaluation can be performed. If the information in the application for an Improvement Permit is falsified, changed, or the site is altered, then the Improvement Permit and Authorization to Construct shall become invalid.

See attached doc for signature
Applicant's Signature

Date: 10/16/2020

Application Valid for Six (6) Months



**PITT COUNTY
PLANNING DEPARTMENT
DEVELOPMENT SERVICES BUILDING**
1717 W. 5TH STREET
GREENVILLE, NORTH CAROLINA 27834-1696
TELEPHONE: (252) 802-3250
FAX: (252) 830-2578

JAMES F. RHODES, AICP
DIRECTOR

Notice to Proceed with Environmental Health Application

Application Number: ZPT2020-110685 **Project Number:** PRJ2020-126019

Owner/Applicant Name: TUCKER FARMS, INC **Jurisdiction:** Pitt County

State Road: SR 1246 KING FARM ROAD **Parcel Number:** 17616

Legal Description:

| | | | |
|--------------------------|--------------------------------|------------------|-----------------|
| Zoning District: | <u>RA (Rural Agricultural)</u> | Setbacks: | Front <u>40</u> |
| Riparian Buffer: | <u>Y</u> | Setbacks: | Rear <u>10</u> |
| Overlay District: | | Setbacks: | Side <u>10</u> |
| | | | SideOnCorner |
| Proposed Use: | <u>RESIDENTIAL</u> | | Corner |

Conditions: *When a property is served by a septic system, issuance of a Zoning Permit is contingent upon Environmental Health approval. Furthermore, all Pitt County Zoning regulations must be met prior to issuance.*

Comments: 4 BDRM 28' X 80' DWMH

Authorized Signature

A handwritten signature in black ink that appears to read "Ben Bryan".

Date 10-8-20



PITT COUNTY
ENVIRONMENTAL HEALTH
1717 W. 5th Street
Greenville, NC 27834-1696
Office (252) 902-3200
Fax (252) 902-3208

IMPROVEMENT PERMIT

Type of Inspection: Evaluation for a New Septic System
Appointment Requested:
Date Site Ready: 10/9/2020
Fees Paid: Yes

Application Date: 10/08/2020

Project Number: PRJ2020-126019

Application Number: WLS2020-108396

Applicant:
TUCKER FARMS, INC
RALPH C TUCKER, JR
2539 SEVEN PINES RD
GREENVILLE, NC 27834
(252) 753-2016

3038
Site Address: 3000 KING FARM RD FOUNTAIN, NC 27829

Owner:
TUCKER FARMS INC
2539 SEVEN PINES RD
GREENVILLE, NC 27834
(252) 737-7872

Tax Parcel #(s): 17616

Subdivision Name:

Lot #:

Block/Phase:

Directions to Site: Directions - Total Distance: 12.87; Start at 1717 W 5th ST.; Go north on HOSPITAL DR toward W 6TH ST; Turn left on W 5TH ST; Continue on NC 43 N; Turn left on COTTONDALE RD; Turn left on NC 121; Turn right on WINDHAM RD; Turn left on KINGS CROSSROADS RD; Turn left on SEVEN PINES RD; Turn right on KING FARM RD; Finish at 0 KINGS FARM RD ON THE LEFT; +/- .10 MILE PASS 3062 KING FARM RD, on the left; LOT WILL BE FLAGGED/STAKED

| | | | |
|------------------------|------------|---------------------|-------------------|
| Date of Evaluation | 10-15-2020 | System Type | III-6 Low Profile |
| Tank Size | 1000 gal | Nitrification Field | 1200 ft sq |
| Pump Tank | gal | Trench Bottom Depth | 8-10" in |
| Grease Trap | gal | Estimated Flow | 480 gpd |
| Maximum # of Occupants | 8 | # of Bedrooms | 4 |

Remarks: No building/driving over septic/repair areas / If gravity flow not achieved a pump with pump tank shall be required / Install 5-80'x8' low profile chambered lines on center at 8-10" / Lines shall require 6-8" of approved soil cover and shall be landscaped to shed surface water

Permit Reference #'s _____

An Authorization to Construct a wastewater system must be obtained from Environmental Health before construction of the wastewater system begins. Depending on the system design, an additional fee may be charged before the Authorization to Construct can be issued.

Date Issued: 4-20-2021

Environmental Health Specialist

(GS130A-335) This Improvement Permit is subject to revocation if the site is altered or if the site plan or intended use change.

Improvement Permit Valid _____ No Expiration

Five (5) Years



Pitt County Environmental Health

VOID IF OWNERSHIP CHANGES

1717 W. Fifth St.
Greenville, NC 27834
252-902-3200

Authorization to Construct

Permit # W152020-108396

69741

69742

69743

* Guy wire = SW
is Benchmark
*

69744

KING FARM RD

229'

325'

62'

60'

28'x80'
Down

King Farm Rd

AUTHORIZATION TO CONSTRUCT
BY Kelly Caggs REHS
DATE 4-20-2021
PERMIT # W152020-108396

17616

Improvement Permit
W152020-108396
An Approved Site Plan Must Be
Submitted Before A Construction
Authorization Can Be Issued.

Start all Lines
7" below benchmark
for 8-10" trench bottoms
with 6-8" of approved
soil cover

1 inch = 60 feet

This map is furnished
by Pitt County for
illustration purposes

OPERATION PERMIT

NC General Statutes Article 11, Chapter 130A of NCGS
Ground Absorption Sewage Disposal System

Attachment 5

PARCEL 17816

IMPROVEMENT PERMIT NUMBER WLS2020-108296

Owner Tucker Farms INC

Location 3038 Kings Farm Rd

New Modification Repair Change of Flow Maximum # of Occupants 8

Type of Facility DWMH # Bedrooms 4 H2O Supply Farmville

Septic Tank Size 1000 Mfg ORP Serial # STB-828 Filter EF-4

Pump Tank Size Mfg Serial # Pump

Grease Trap Size N/A Mfg Serial #

System Type IIG Review Frequency None D-Box Type concrete

Trench Material CHM LP Trench Bottom Depth 10 inches Trench Width 3 ft

Sq. Ft 1200 # Lines 5 Cover 6 Estimated Flow 480

Installer Fleming Landscaping

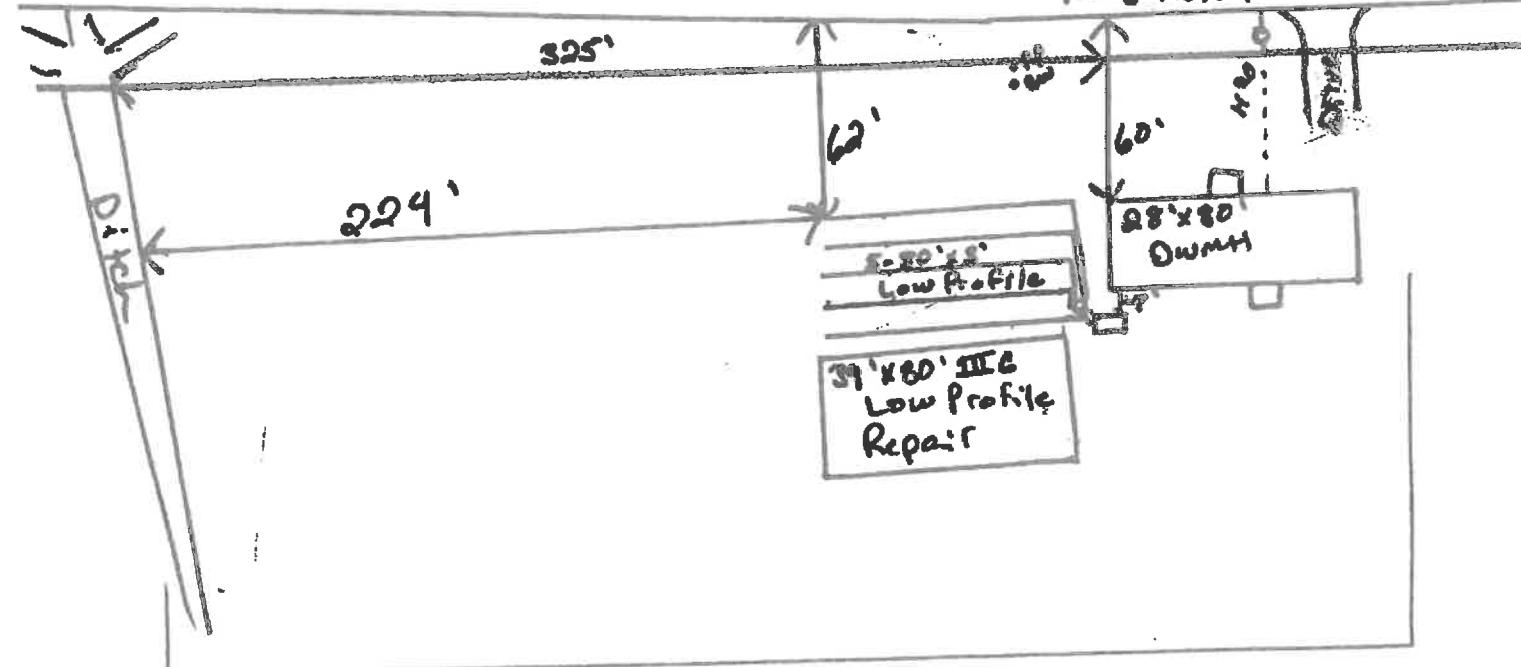
Remarks

Reference Permits

Scale: 1" = 60'

KING FARM RD

Kings Farm Rd



Inspected By: Kelly Casper, REHS

Kelly Casper REHS

Date of Issue: 5-19-2021



PITT COUNTY DEVELOPMENT SERVICES
PITT COUNTY PERMITTING CENTER (252) 902-3150
1717 WEST FIFTH STREET, GREENVILLE NC 27834
ZONING PERMIT

Attachment 7

Permit Number: ZPT2021-111492

Project Number: PRJ2021-127540

Date: 05/25/2021

Owner Information:

TUCKER FARMS INC
2539 SEVEN PINES RD
GREENVILLE, NC 27834
(252) 717-7872

Applicant Information:

TUCKER FARMS, INC
RALPH C TUCKER, JR
2539 SEVEN PINES RD
GREENVILLE, NC 27834
(252) 753-2016

Project Info: 1STY,4BDRM,2BA, 28' X 76' DWMH SETUP

Parcel #: 17616

E-911 Address: 3038 KING FARM RD FOUNTAIN, NC 27829

Park or Subdivision Name:

Lot Number:

Zoning District: RA

Structure Type: DWMH

Overlay District:

Change in Use?: N

Floodplain:

Size: 2128sq.ft

Service Providers:

Electric: Pitt-Green EMC

Natural Gas: N/A

Sewer/Septic: Septic Tank

Water: Farmville

Development Standards:

| | Required | Proposed | | Required |
|------------------|------------|------------|-----------------------|----------|
| Lot Size: | 30000sq.ft | 176.9sq.ft | Front Setback: | 40ft |
| Lot Width: | 100ft | 1840ft | Side Setback: | 10ft |
| Building Height: | | | SideOnCorner Setback: | |
| | | | Rear Setback: | 10ft |

Other Development Standards as Required by Zoning Ordinance Section 8:

1) UNDERPINNING MUST BE INSTALLED WITHIN 60 DAYS

Signage:

Required Proposed

Parking:

Required Proposed

Sign Area:

Spaces

Sign Height:

Angle

Sign Type:

Additional Sign Info:

Note: All land disturbing activities of one acre or more are required to submit a Soil Erosion and Sedimentation Control Plan to the Pitt County Planning Department prior to any land disturbing activities.

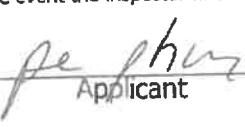
The undersigned hereby agrees to conform to all county regulations, applicable state laws and the conditions of this permit. The undersigned further states that all information given herein is true and authorize county staff to enter onto the property to ensure all applicable rules and regulations are being met.

Owner\Applicant: Spe phone

Zoning Official: Reagan



PITT COUNTY DEVELOPMENT SERVICES
PITT COUNTY PERMITTING CENTER (252) 902-3150
MANUFACTURED HOME PERMIT

| | |
|---|---|
| Permit Number: MFH2021-101706 | Project Number: PRJ2021-127540 |
| Owner Information: TUCKER FARMS INC 2539 SEVEN PINES RD GREENVILLE, NC 27834 | Permit Fee: \$425.00 Date: 05/25/2021 |
| Contractor: EDWARD STRICKLAND MOBILE HOME MOVERS | |
| License Number: 2724 | |
| Location Info: E-911 Address: 3038 KING FARM RD FOUNTAIN, NC 27829 | |
| Parcel #: 17616 | |
| Park or Subdivision Name: Directions: Directions - Total Distance: 12.95; Start at 1717 W 5th ST.; Go north on HOSPITAL DR toward W 6TH ST; Turn left on W 5TH ST; Continue on NC 43 N; Turn left on COTTONDALE RD; Turn left on NC 121; Turn right on WINDHAM RD; Turn left on KINGS CROSSROADS RD; Turn left on SEVEN PINES RD; Turn right on KING FARM RD; Finish at 3038 KING FARM RD , on the left; | |
| Home Info: Status: New Type: dwmh Model: PURE Year: 2021 VIN #: FLE270VA2075716AB Serial #: FLE270VA2075716AB Size: 76X28 Number of Bedrooms: 4 Underpinning: Masonry | |
| Zoning/Floodplain Info: Zoning District: RA Front: 40 North: Overlay District: Rear: 10 South: Floodplain: Yes Side: 10 East: Elevation Certificate Required?: Yes SideOnCorner: West: FEMA Setup Required?: Yes | |
| Service Providers: Electric: Pitt-Green EMC Gas: N/A Sewer/Septic: Septic Tank Water: Farmville | |
| The one having applied for this mobile home setup permit <u>EDWARD STRICKLAND MOBILE HOME MOVERS</u> , from the Pitt County Inspections Department and whose signature appears below, accepts responsibility for and agrees to abide by all North Carolina Building Code regulations pertaining to mobile home and zoning ordinances (whether or not set out in the plans and specifications) that have been adopted and are in force at this time. | |
| ***They shall also fully understand that he/she, the permit holder, and licensed contractor shall be fully responsible for calling in and requesting all required inspections that shall apply.*** The applicant specifically assumes all responsibility for making a determination as to whether or not the proposed mobile home is located in a flood hazard area and for conforming to local, state and federal flood damage prevention regulations. The undersigned further agrees that all plans, permit applications, and all other submittals constitute the same force as if set out in the actual mobile home setup permit. The applicant further understands that the licensed contractor shown hereon is the only person or firm authorized to do the permitted work. In the event the inspector finds work done by persons other than the contractor, all inspections and/or approvals may be voided. | |
|  Applicant |  Permit Technician |



PITT COUNTY DEVELOPMENT SERVICES
PITT COUNTY PERMITTING CENTER (252) 902-3150
CERTIFICATE OF OCCUPANCY

Project Number: PRJ2021-127540

Date: 07/29/2021

Permit Number: MFH2021-101706

Owner Information:

TUCKER FARMS INC
 2539 SEVEN PINES RD
 GREENVILLE, NC 27834
 (252) 717-7872

Applicant Information:

EDWARD STRICKLAND MOBILE HOME
 MOVERS
 2573 MILLS RD
 GREENVILLE, NC 27858
 (252) 717-7872

Contractor: EDWARD STRICKLAND MOBILE HOME
 MOVERS

License Number: 2724

Tax Parcel #: 17616

VIN #: FLE270VA2075716AB

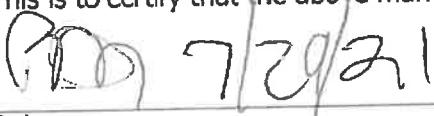
Type: DWMH

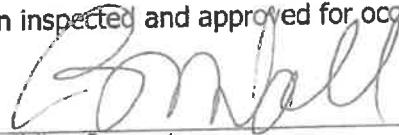
Model: PURE

Zoning: Pitt County

Directions: Directions - Total Distance: 12.95; Start At 1717 W 5th ST.; Go North On HOSPITAL DR Toward W 6TH ST; Turn Left On W 5TH ST; Continue On NC 43 N; Turn Left On COTTONDALE RD; Turn Left On NC 121; Turn Right On WINDHAM RD; Turn Left On KINGS CROSSROADS RD; Turn Left On SEVEN PINES RD; Turn Right On KING FARM RD; Finish At 3038 KING FARM RD , On The Left;

This is to certify that the above manufactured home has been inspected and approved for occupancy.


 7/29/21


 Building Inspector

Date

Comments:



PITT COUNTY DEVELOPMENT SERVICES
PITT COUNTY PERMITTING CENTER (252) 902-3150
CERTIFICATE OF COMPLIANCE

Project Number: PRJ2021-127540

Date: 10/05/2021

Owner Information:

TUCKER FARMS INC
 2539 SEVEN PINES RD
 GREENVILLE, NC 27834
 (252) 717-7872

Applicant Information:

EDWARD STRICKLAND MOBILE HOME MOVERS
 2573 MILLS RD
 GREENVILLE, NC 27858
 (252) 717-7872

Contractor: EDWARD STRICKLAND MOBILE HOME
 MOVERS

License Number: 2724

Tax Parcel #: 17616

Use: Residential

Zoning: County Zoning

Type of Work: Mobile Home Setup

E-911 Address: 3038 KING FARM RD FOUNTAIN NC
 27829

Description: 1STY,4BDRM,2BA, 28' X 76' DWMH SETUP

This is to certify that the above structure or system is complete and has been inspected and found to be in compliance with all technical codes and other applicable laws and ordinances. This certificate of compliance shall not be construed to grant authority to occupy a building.

Date

10/5/21


 Building Inspector

Gooby, Eric

From: CARM PARKER <cparker@parkerandassoc.com>
Sent: Friday, September 30, 2022 10:35 AM
To: Gooby, Eric
Subject: TUCKER FARMS - KING FARM RD LOTS
Attachments: TUCKER LOT 4.pdf; TUCKER LOTS 1-3.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

EXTERNAL EMAIL: This email originated from outside of Pitt County Government. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

SUSPICIOUS SENDER: It cannot be confirmed that this message was sent from the indicated domain. You should not click any links or open any attachments in this email unless you are certain this message is legitimate. If you believe this message is legitimate, you should advise the sender to update their Sender Policy Framework (SPF) record.

Eric,

Please see the 2 attached maps. This is the property I spoke to you about several months ago concerning the encroachments into to minimum building line. Chap Tucker wants to proceed with having these lots created. The maps are very preliminary final plats but show the encroachments in question. I want to know what will have to be done in order to receive approval.

The house on Lot 4 was placed in the same location as an older existing house. All of the homes were approved by the county and are occupied. Please let me know what you think.

Thanks,

CARL PARKER
PARKER AND ASSOCIATES LAND SURVEYING, PA
1645 E. ARLINGTON BLVD., STE. "D"
GREENVILLE, NC 27858
(252) 355-3055 - OFFICE
(252) 756-2098 - FAX



VARIANCE APPLICATION
PITT COUNTY, NORTH CAROLINA
 1717 W. 5th Street
 Greenville, NC 27834-1696
 Phone: (252) 902-3250
 Fax: (252) 830-2576

Staff Use Only
 Parcel #: 17616
 Appl. #: VAR 24-01

OWNER/APPLICANT INFORMATION

DATE: 05/29/24

OWNER: Tucker Farms, Inc.
 PHONE #: 252-753-2016
 ADDRESS: 2539 Seven Pines Road, Greenville, NC 27834

APPLICANT: Tucker Farms, Inc.
 PHONE #: 252-753-2016

ADDRESS: 2539 Seven Pines Road, Greenville, NC 27834

PROPERTY INFORMATION

PROPERTY LOCATION (Address or Description): 3038 King Farm Road, Fountain, NC 27829

CURRENT ZONING: RA (Residential-Agricultural)

ZONING/SUBDIVISION ORDINANCE SECTION FOR WHICH VARIANCE IS REQUESTED:

Section 6 (c)(3)

DESCRIPTION OF VARIANCE: To allow a brick and concrete porch to lie 7.40 feet over the front minimum building line when only 3 foot is allowed by code.

NAMES, ADDRESSES AND LAND USES OF PROPERTIES WITHIN 100 FEET OF REZONED PROPERTY (attach separate sheet if necessary): Tucker Farms, Inc. 3035 King Farm Rd, Fountain, NC 27829; Tucker Farms, Inc 3045 King Farm Rd, Fountain, NC 27829; Tucker Farms, Inc 3057 King Farm Rd, Fountain, NC 27829;
Victor R. & Latanga M. Harper, 3029 King Farm Road, Fountain, NC 27829 Residential

A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of this Article would result in unnecessary hardships for the applicant and that, by granting the variance, the spirit of this Article will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that the applicant meets certain criteria. In the spaces provided below, please provide evidence that you meet the listed criteria in order to aid the Board in making its findings.

1) Unnecessary hardship would result from the strict application of the ordinance.
The brick and concrete porch would only be allowed to be 3.6' deep and 16.5' wide if it was to be brought into compliance with the zoning ordinance and would be rendered useless.

2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
In the majority of the subdivisions that the applicant builds the front minimum building setback is 30', however, on existing secondary roads where road frontage lots are created the front minimum setback is 40' creating the zoning ordinance violation.

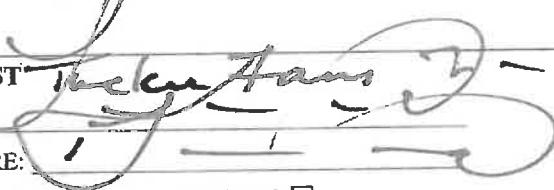
3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. The applicant did create the hardship but it was a normal assumption to think that the front minimum building line would be the same as subdivisions he developed in.

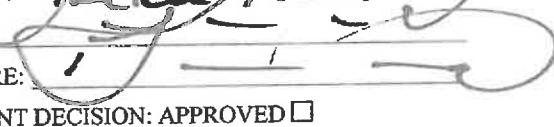
4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. Due to the fact that the dwelling itself is in compliance with the zoning ordinance and the brick and concrete porch is in violation there is not noticeable indication that the zoning ordinance has not been complied with or no detriment to the public health and safety of the neighboring properties.

5) The variance will neither result in the extension of a nonconforming situation in violation of Section 13.0 nor authorize the initiation of a nonconforming use of land. (Applicable to Variance Requests regarding the Zoning Ordinance only) The variance request is for a 7.4' x 16.5' projection of a brick and concrete porch over the front minimum building line. There will be no other building improvements within the 7.4' x 16.5' area.

Application must be completed in full and returned with the full application fee to the Planning prior to consideration by the Board of Adjustment. The undersigned states that all information given herein is true and authorizes county staff to enter onto the property to ensure all applicable rules and regulations are being met.

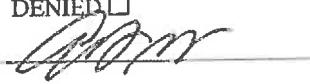
VARIANCE REQUEST

OWNER SIGNATURE: 

APPLICANT SIGNATURE: 

BOARD OF ADJUSTMENT DECISION: APPROVED

DENIED

ZONING OFFICER SIGNATURE: 

CONDITIONS/COMMENTS: _____

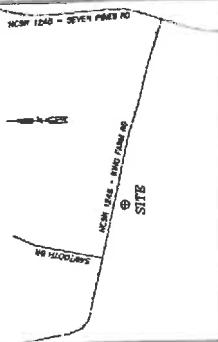
Fee Amount 0250.00 Date Paid 6/16/24

DATE: 6/16/24

DATE: 6/16/24

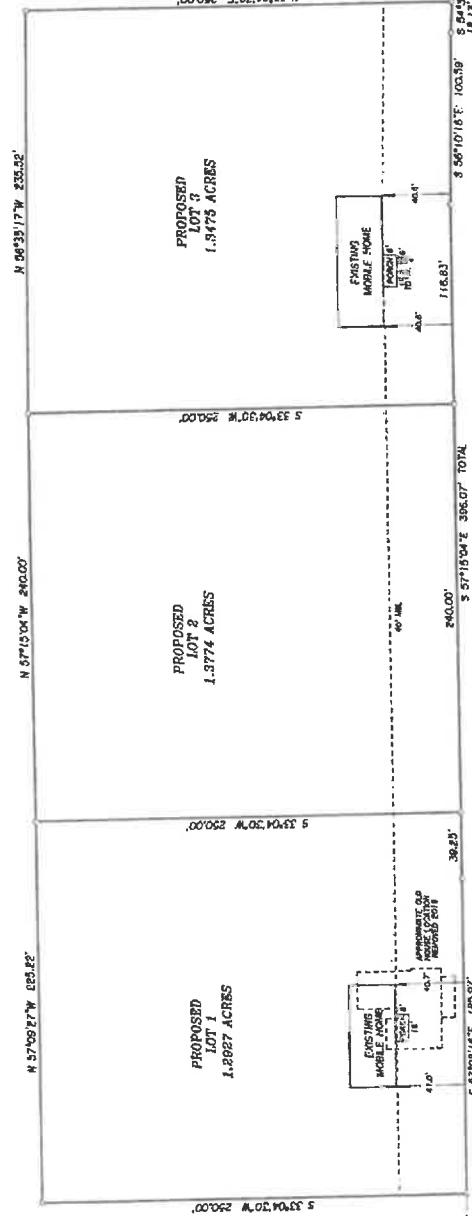
MEETING DATE: 7/23/2024

DATE: 6/16/2024



TAX PARCEL 17616
TUCKER FARMS, INC.
DE S 50, P.17
ZONED RA

VIGINTY MAP



3038 King Farm Road





Notice of Public Hearing

TO: Property Owner
FROM: Eric Gooby, AICP, Senior Planner
RE: Quasi-judicial Hearing for Variance Request
DATE: July 2, 2024

You are receiving this notice because there is a Variance request within 500 feet of your property. **TUCKER FARMS, INC.** is requesting a Variance to allow an existing front porch to encroach 7.40 feet within the required road setback. The Pitt County Zoning Ordinance permits porches to encroach a maximum of three (3) feet into the required road setback. The property is identified as Tax Parcel 17616 and is located at 3038 King Farm Road. The Pitt County Board of Adjustment will hold a quasi-judicial hearing for this request on **Tuesday, July 23, 2024, at or shortly after 5:30 p.m.** This meeting will be held in the Eugene James Auditorium in the Pitt County Administration Building located at 1717 W. 5th Street, Greenville, NC.

The hearing will be held using **quasi-judicial** procedures. The purpose of the hearing is to establish **facts** related to the Variance request prior to consideration by the Board of Adjustment, not to gather opinions about the desirability or popularity of the request. Those persons wishing to speak to the Board shall be considered **witnesses** and shall provide testimony **under oath**. Testimony must be supported by **substantial, competent, and material evidence**. Cross examination of witnesses is permitted. Please be aware that members of the Board may **not** discuss particulars of the case with any party outside of the hearing.

If you need additional information about the request, please see the contact info below:

Contact Info:

Eric Gooby, AICP, Senior Planner
 Phone: (252) 902-3250
 Email: eric.gooby@pittcountync.gov

Mailing Address:

Pitt County Planning Department
 1717 West Fifth Street
 Greenville, NC 27834



Property Owners Within 500 Feet

BEAVER DAM MHP LLC
TUCKER FARMS HOLDINGS LLC
2539 SEVEN PINES RD
GREENVILLE NC 27834

CORBETT AMANDA H
CORBETT KAYE G, ETAL
126 OWEN TOWNE ROAD
CHAPEL HILL NC 27516

COX ANGELA MONIQUE
COX DEON JANELLE
2987 KING FARM RD
FOUNTAIN NC 27829

HARPER VICTOR R
HARPER LATANGA M
3029 KING FARM RD
FOUNTAIN NC 27829

MATTHEWS GLORIA JEAN CHASE
PO BOX 85
FARMVILLE NC 27828

STEPHENSON WILLIAM RANDALL
3116 KING FARM RD
FOUNTAIN NC 27829

SUTTON GEORGE D
SUTTON FAY M, ETAL
113 W FIRE TOWER RD STE I
WINTERVILLE NC 28590

TUCKER FARMS INC
2539 SEVEN PINES RD
GREENVILLE NC 27834

WEYERHAEUSER COMPANY
205 PERRY LANE RD
BRUNSWICK GA 31524

3. *Encroachments into Required Setbacks*

- a. *Encroachments Permitted in Required Setback:* The following are permitted in required setbacks provided there is no interference with any sight area:
 - i. Landscaping features, including but not limited to, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;
 - ii. At grade patios, play equipment or outdoor furniture, ornamental entry columns and gates, flag poles, lamp posts, address posts, HVAC equipment, mailboxes, outdoor fire places, public utility wires and poles, pumps or wells, and fences or retaining walls;
 - iii. Handicapped ramps.
- b. *Structures Permitted in Required Setbacks:* The following structures may encroach into any required setback:
 - i. Cornices, steps, overhanging eaves and gutters, window sills, bay windows or similar architectural features, chimneys and fireplaces, fire escapes, fire balconies, and fire towers may project not more than two and one-half feet into any required setback, but in no case shall be closer than three feet to any property line; and
 - ii. Porches and decks may encroach into the required road and rear setbacks as follows:

| Porch or Deck Type | Yard | Maximum Encroachment | Maximum Area |
|----------------------|------|----------------------|--------------|
| Covered or Uncovered | Road | 3 feet | 50 Sq. Ft. |
| Uncovered only | Rear | 50% of setback | - |

- c. *Canopy Projections:* Gas station and convenience store pump island canopies may be located in the road setback provided that no equipment or part of a canopy is located closer than fifteen feet to a road right-of-way line if the pump island is parallel to the road right-of-way or 50 feet if the pump island is perpendicular to the road right-of-way.

4. *Easement Encroachments*

- a. *Utility Easements:* In addition to the lines, boxes, structures, and substation buildings for which utility easements are intended, fences without foundations may be located within utility easements.
- b. *Drainage Maintenance and Utility Easements:* Water-related improvements, such as boat docks, may be placed or constructed within drainage maintenance and utility easements with the approval of the utility provider having jurisdiction over the easement.

5. *Setbacks from Thoroughfares*

Where proposed road alignments have been established, in accordance with an adopted Thoroughfare Plan, building setbacks shall be measured from the future right-of-way line of the proposed road.

Table 6-1 Table of Density and Dimensional Requirements

| | RA | RR | R40 | SR | MFR | RC | OI | GC | HC | LI | GI |
|--|--------|--------|--------|---------|----------|-----|---------|---------|---------|-----|-----|
| Minimum Lot Area | | | | | | | | | | | |
| Single-family dwelling | | | | | | | | | | | |
| Septic system | 30,000 | 25,000 | 40,000 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| Water & sewer | N/A | 25,000 | 40,000 | 12,500 | 10,000 | N/A | N/A | N/A | N/A | N/A | N/A |
| Two-family dwelling | | | | | | | | | | | |
| Septic system | N/A | 37,500 | N/A | N/A | 22,500 | N/A | 22,500 | 22,500 | N/A | N/A | N/A |
| Water & sewer | N/A | 37,500 | N/A | 18,750 | 15,000 | N/A | 15,000 | 15,000 | N/A | N/A | N/A |
| Multifamily dwelling | | | | | | | | | | | |
| Sq. ft./du 1 acre or less | | | | | | | | | | | |
| 1st dwelling unit | N/A | 25,000 | N/A | 12,500 | 10,000 | N/A | 10,000 | 10,000 | 10,000 | N/A | N/A |
| 2nd dwelling unit | N/A | 12,500 | N/A | 6,250 | 5,000 | N/A | 5,000 | 5,000 | 5,000 | N/A | N/A |
| Each add'l dwelling unit | N/A | 12,500 | N/A | 4,135 | 2,856 | N/A | 2,856 | 2,856 | 2,856 | N/A | N/A |
| Sq. ft./du each acre after 1 | N/A | N/A | N/A | 5,445 | 3,630 | N/A | 3,360 | 3,630 | 3,360 | N/A | N/A |
| Maximum density per ac. | N/A | N/A | N/A | 8 du/ac | 12 du/ac | N/A | 12du/ac | 12du/ac | 12du/ac | N/A | N/A |
| Other permissible uses | a | 40,000 | 40,000 | 20,000 | 15,000 | a | a | a | a | a | a |
| Minimum Lot Width | | | | | | | | | | | |
| Lot w/ septic system | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| Lot w/ water & sewer | 80 | 80 | 80 | 75 | 80 | 100 | 100 | 100 | 100 | 100 | 100 |
| Cul-de-sac build lot | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 |
| Flag lot | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 |
| Principal Bldg. Setback | | | | | | | | | | | |
| Road right-of-way b | | | | | | | | | | | |
| US or NC Highway, State-Maintained Roads d | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 |
| Interior Subdivision Roads | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 |
| Property line | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Accessory Bldg. Setback | | | | | | | | | | | |
| Road right-of-way b | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 40 |
| Property line | 5 | 5 | 5 | 5 | 5 | 10 | 10 | 10 | 10 | 10 | 10 |
| Building Height | c | c | c | c | c | c | c | c | c | c | c |

N/A Not applicable.

a Or as determined by the Pitt County Environmental Health Division for on-site septic systems, applicable parking and screening requirements (Section 10), and applicable public water supply watershed regulations (Section 7(A)).

b Corner lots shall be required to provide a road setback along all similarly classified side roads. Double frontage lots shall provide the applicable road setback along both road frontages.

c No maximum building height. However, all building setbacks shall increase one foot for every foot in height between 50 feet and 80 feet. No additional setback is required for buildings greater than 80 feet in height.

d Excludes Interior Subdivision Roads that are State-maintained.

e Side setbacks on corner lots must comply with the front setback requirements from the road right-of-way.

Notes:

1. Permitted residential uses in nonresidential districts shall comply with the MFR density and dimensional requirements outlined in Table 6-1.
2. Setback distances shall be measured from the road right-of-way line or property line to a point on the lot that is the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it nor a building part allowed to encroach into a setback (see Section 6(C)(3)).
3. Whenever a greater building setback is required by the NC Building Code, such greater setback shall be applicable.
4. For property located within a watershed protection overlay district, see Section 7(A) for maximum density and built-upon area requirements.

Section 13. Appeals, Variances, Interpretations

A. Appeals

1. Any person who has standing under NCGS 160D-1402(d), including the County, may appeal an administrative decision to the Board of Adjustment. Pursuant to NCGS 160D-405, a stop work order issued by the Zoning Administrator may be appealed to the Board of Adjustment. An appeal is taken by filing with the Zoning Administrator and the Board of Adjustment a written notice of appeal specifying the grounds for appeal. A notice of appeal shall be considered filed with the Zoning Administrator and the Board of Adjustment when delivered to the Planning Department, the required filing fee paid, and the date and time of filing entered on the notice by Planning Department staff.
2. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The owner or other party has 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to NCGS 160D-403(b) by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
3. It is conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property for at least 10 days. Posting of the signs is not the only form of constructive notice. Any such posting is the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Posting of signs is not required.
4. Whenever an appeal is filed, the Zoning Administrator shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the decision appealed from is taken. The Zoning Administrator shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
5. An appeal stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with NCGS 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the Zoning Administrator certifies to the Board of Adjustment that because of facts stated in an affidavit, a stay would cause imminent peril to life or property, or because the violation is transitory in nature, a stay would seriously interfere with enforcement of this Ordinance. In that case, proceedings shall not be stayed except by a restraining order which may be granted by a court.
6. Upon appeal of a stop work order issued by the Zoning Administrator, no further work or activity shall take place in violation of the stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.
7. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding any other provision of this Section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the ordinance does not stay the further review of an application for development approvals to use the property. In these situations, the appellant or County may request and the board may grant a stay of a final decision of

development approval applications including building permits affected by the issue being appealed.

8. The official who made the decision (or the person currently occupying that position if the decision-maker is no longer employed by the County) shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the County would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing to another date.
9. The Board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the Board may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.
10. The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

B. Variances

1. General

- a. An application for a variance along with the required filing fee shall be submitted to the Board of Adjustment by filing a copy of the application with the Zoning Administrator.
- b. When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the regulation upon a showing of all of the following:
 - i. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - ii. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
 - iii. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
 - iv. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.
 - v. The variance will neither result in the extension of a nonconforming situation in violation of Section 13.0 nor authorize the initiation of a nonconforming use of land.
- c. In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties, provided such conditions are

reasonably related to the condition or circumstance that gives rise to the need for a variance. No change in permitted uses may be authorized by a variance.

- d. A variance may be issued for an indefinite duration or for a specified duration only. Unless otherwise specified, any order or decision of the Board of Adjustment granting a variance shall expire if the applicant does not obtain a building permit or certificate of occupancy for such use within 60 days from the date of the decision or if construction of the use has not commenced within 180 days from the date of the issuance of a building permit.
- e. The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

2. *Variances from Watershed Protection Overlay District Requirements*

- a. An application for a variance to the requirements of Section 7(A) shall be submitted to the Board of Adjustment by filing a copy of the application along with the required filing fee to the Watershed Administrator.

The application submittal shall include the following:

- i. A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
- ii. A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Board in considering the application.

b. The Watershed Administrator shall notify in writing each local government having jurisdiction within the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Board of Adjustment, and such comments shall become a part of the record of proceedings by the Board.

c. Before the Board may grant a variance to the requirements of Section 7(A), it shall follow the procedures outlined in Section 13(F), and shall find that the request meets all of the criteria required for granting a variance in Section 13(B)(1)(b).

d. In granting the variance, the Board may attach reasonable conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of Section 7(A). If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

e. The Board shall refuse to hear an application for a variance that has been previously denied if it finds that there has been no substantial change in conditions or circumstances bearing on the application.

f. If a variance is approved in accordance with this provision, the Watershed Administrator

shall issue a Watershed Protection Permit in accordance with the requirements of Section 7(A)(3) of this ordinance.

g. Environmental Management Commission Review

If the Board decides in favor of granting a major variance, the Board shall prepare and send a preliminary record of the hearing to the North Carolina Environmental Management Commission (EMC) for its review and consideration.

The preliminary record of the hearing shall include:

- i. The variance application;
- ii. The hearing notices;
- iii. The evidence presented;
- iv. Motions, offers of proof, objections to evidence, and rulings by the Board on such matters;
- v. Proposed findings and exceptions;
- vi. The proposed decision, including all conditions proposed to be added to the permit.

h. Upon receiving the record of a major variance from the Board, the EMC shall (i) review the variance request, (ii) prepare a final decision on the request, and (iii) forward its decision to the Board of Adjustment. If the EMC approves the variance as proposed, the Board of Adjustment shall prepare a final decision granting the proposed variance. If the EMC approves the variance with conditions and stipulations, the Board of Adjustment shall prepare a final decision, including such conditions and stipulations, granting the proposed variance. If the EMC denies the variance request, the Board of Adjustment shall prepare a final decision denying the variance.

i. Appeal of a decision by the Board of Adjustment on a major or minor variance request shall be subject to review by the superior court by proceedings in the nature of certiorari. Appeals shall be filed with the clerk of superior court by the later of 30 days after the effective date of the decision or after a written copy of the decision is given in accordance with the requirements of Section 3(M)(12) of this ordinance. When first-class mail is used to deliver notice of the decision, three days shall be added to the time to file the petition.

3. *Variances from Airport Overlay Requirements*

a. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in compliance with the regulations prescribed in Section 7(C) may apply to the Board of Adjustment for a variance in accordance with the provisions of Section 13(B). The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief, if granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this Section. Additionally, no application for a variance to the requirements of Section 7(C) may be considered by the Board of Adjustment unless a copy of this application has been furnished to the manager of the Pitt-Greenville Airport for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within thirty days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

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- b. Any variance granted, if such action is deemed advisable to effectuate the purpose of Section 7(C) and be reasonable in the circumstances, may be so conditioned as to require the owner of the structure or tree in question to install, operate or maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Pitt-Greenville Airport Authority, at its own expense, to install, operate and maintain the necessary markings and lights.

C. Interpretations

Interpretations of the location of floodway and floodplain boundary lines may be made by the Floodplain Manager as provided in Section 7(B).

D. Requests to be Heard Within a Reasonable Time

The Board of Adjustment shall determine contested facts and make its decision within a reasonable time, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Section 13(H), and obtain the necessary information to make sound decisions.

E. Burden of Proof in Appeals and Variances

1. When an appeal is taken to the Board of Adjustment in accordance with Section 13(A), the Zoning Administrator shall have the initial burden of presenting to the Board of Adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
2. The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 13(B)(1)(b), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

F. Board Action on Appeals and Variances

1. With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the simple majority vote necessary for adoption, then the motion is not approved.
2. Before granting a variance, the Board of Adjustment must take a vote and vote affirmatively (by a 4/5 majority) on the required findings stated in Subsection 13(B)(1)(b). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in subsection 13(B)(1)(b) shall include a statement of the specific reasons or findings of fact supporting such motion.
3. A motion to deny a variance may be made on the basis that any one or more of the five criteria set forth in subsection 13(B)(1)(b) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the Board of Adjustment's decision if supported by more than one fifth of the Board's membership (excluding vacant seats).

G. Hearing Procedures Required on Appeals and Variances

1. Before making a decision on an appeal or an application for a variance, the Board of Adjustment shall hold an evidentiary hearing on the appeal or application using quasi-judicial procedures.
2. The applicant, the County, and any person who would have standing to appeal the decision under NCGS 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.
3. The Board of Adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
4. The Zoning Administrator shall transmit to the Board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the Board prior to the hearing if at the same time they are distributed to the Board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
5. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the Board. The Board Chair shall rule on any objections, and the Chair's rulings may be appealed to the full Board. These rulings are also subject to judicial review pursuant to NCGS 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.
6. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. Appeals shall be filed within the times specified in NCGS 160D-1405(d).

H. Notice of Hearing

The Zoning Administrator shall give notice of any evidentiary hearing required by Section 13(G) as follows:

1. Notice of the evidentiary hearing shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this Ordinance. In the absence of evidence to the contrary, the person mailing the notices may rely on the county tax listing to determine owners of property entitled to mailed notice.
2. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, notice of the hearing shall also be prominently posted on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
3. The mailed notice required by this Section shall state the date, time and place of the hearing, reasonably identify the property that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

4. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

I. Evidence

1. The provisions of this Section apply to all hearings for which a notice is required by Section 13(G).
2. All persons who intend to present evidence to the Board of Adjustment, rather than arguments only, shall be sworn. The Chair of the Board or any member acting as Chair and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.
3. All findings and conclusions necessary to the issuance or denial of the requested appeal or variance (crucial findings) shall be based upon competent, material, and substantial evidence in the record.
4. The Board of Adjustment through the Chair or, in the Chair's absence, anyone acting as Chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the County, and any person with standing under NCGS 160D-1402(c) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chair may be immediately appealed to the full Board. If a person fails or refuses to obey a subpoena issued pursuant to this Subsection, the Board of Adjustment may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

J. Modification of Application at Hearing

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.
2. Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board of Adjustment may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Zoning Administrator.

K. Record

1. A record shall be made of all hearings required by Section 13(G), and such record shall be kept as provided by state law. Accurate minutes shall also be kept of all such proceedings, and may include a transcript of the proceedings.
2. Pursuant to NCGS 160D-1402, the record shall consist of the decision and all documents and exhibits submitted to the Board, together with the minutes of the meeting or meetings at which the decision was considered. The record shall also contain an audio or videotape of the meeting or meetings at which the decision was considered if such a recording was made.

L. *Written Decision*

1. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the Chair or other duly authorized member of the board.
2. A quasi-judicial decision is effective upon the date the written decision is filed with the Clerk to the Board and the Planning Department. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the County that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.