



CAMDEN COUNTY
NORTH CAROLINA • USA

Boundless Opportunities.

BOARD OF ADJUSTMENT

April 19, 2023

7:00 PM

Regular Meeting

Camden Public Library

Boardroom

Agenda

**Camden County Board of Adjustment
April 19, 2023; 7:00 PM
Camden Public Library - Boardroom
118 Hwy 343 North**

I. Call to Order & Welcome

ITEM II. Consideration of Agenda (For discussion and possible action)

ITEM III. Consideration of Minutes

1. Board of Adjustment Minutes - February 15, 2023

ITEM IV. Old Business (For discussion and possible action)

ITEM V. New Business (For discussion and possible action)

1. Variance Request - UDO 2023-02-022 - 318 Old Swamp Rd - Norris
2. 318 Old Swamp Road App
3. 318 Old Swamp Rd Deed
4. 318 Old Swamp Rd Site Plan
5. 318 Old Swamp Rd Attorney Fees Payment
6. 318 Old Swamp Road Owner Letter
7. 318 Old Swamp Road Adjacent Letter
8. 318 Old Swamp Road Mailed List
9. Article 151.2.3.26 Variance
10. Article 151.3.5.3 Rural Residential
11. 318 Old Swamp Road App

ITEM VI. Information from Board and Staff

ITEM VII. Consider Date of Next Meeting

1. Consider Date of Next Meeting - May 17, 2023

ITEM VIII. Adjourn



CAMDEN COUNTY

NORTH CAROLINA • USA

Boundless Opportunities.

**Board of Adjustment
AGENDA ITEM SUMMARY SHEET**

Consideration of Minutes

Item Number: 3.1
Meeting Date: April 19, 2023

Submitted By: Patricia Sabo,
Board of Adjustment
Prepared by: Patricia Sabo

Item Title **Board of Adjustment**

Attachments: BOAMinutesSummaryFrom02_15_2023 (DOCX)

**Camden County Board of Adjustment
Regular Meeting
February 15, 2023; 7:00 PM
Camden County Library Board Room
Camden, North Carolina**

MINUTES

BOARD MEMBERS PRESENT/ABSENT

Present:	Absent:
Chairman Steven Bradshaw	
Vice Chairman Nathan Lilley	
Wayne "Roger" Lambertson	
Ray Albertson	
Marshall "Lee" Powell	
Michael Stimac	
George "Tom" White	
Briant Robey	

STAFF PRESENT

Name:	Title:
Amber Curling	Director of Planning
Karen Davis	Clerk to Board
Patricia "Trisha" Sabo	Planning Clerk

OTHERS PRESENT

Name	Title:	Purpose / Representing	Meeting Section
James D Bach	Applicant	Applicant for Variance	New Business #1
Kim Hamby		Timmons Group with Applicant	New Business #1

ITEM 1. CALL TO ORDER & WELCOME

The meeting was called to order by Chairman Steven Bradshaw at 7:00 PM. Chairman Steven Bradshaw introduce himself and stated if you have not been here before the Board of Adjustment request for Variances are under Camden County Code. We are a Quasi-Judicial body which means we are here to make decisions in accordance with that ordinance. We must base our decision only on sworn testimony and evidence received only in these hearings. When reciting these cases, we are limited in what we can do by the code that is enacted by the Board of Commissioners. We can interpret and apply it but we cannot change it.

Swear In the members: Tom White, Wayne "Roger" Lambertson, Marshall "Lee" Powell, Briant Robey and Michael Stimac. Swearing in was completed by Karen Davis Clerk to the Board.

We had a total of 8 members since they needed to be sworn in. We can only have 5 members. Alternate members: Ray Albertson, Michael Stimac, and Marshall "Lee" Powell went to sit this one out.

ITEM II. CONSIDERATION OF AGENDA

None

ITEM III. CONSIDERATION OF MINUTES

Chairman Steven Bradshaw called for the consideration of the minutes from July 20,2022 meeting which was just Swearing in of Steven Bradshaw, Nathan Lilley and Ray Albertson.

RESULT:	APPROVED [5-0]
MOVER:	Nathan Lilley
SECONDER:	Wayne “Roger” Lambertson
AYES:	Steven Bradshaw, Nathan Lilley, Wayne “Roger” Lambertson, Briant Robey, George “Tom” White Jr
NAYES:	
ABSENT:	

ITEM IV. COMMENTS from the PUBLIC

None

ITEM V. OLD BUSINESS

None

ITEM VI. NEW BUSINESS**1. Variance Request, James D Bach, Porch Coffee LLC**

As this is a quasi-judicial proceeding, all those who gave testimony were sworn in by the Chairman of Board of Adjustment, Steven Bradshaw. Those sworn in were Amber Curling (Planning Director), James D Bach (Applicant), and Kim Hamby (Timmons Group).

Amber Curling gave a brief introduction to this request for variance by reading through the information in the Staff Report (see below), then submitted into evidence the information which Mr. James D Bach submitted with his application for variance.

STAFF REPORT

UDO 2022-10-011
Variance Application Request
 Porch Coffee, LLC for 200 Main Street

PROJECT INFORMATION

File Reference: 2022-10-011
Project Name: 200 Main Street
PIN: 017989045197250000

Applicant: Porch Coffee LLC
Address: 1008 Sullivan Lane
 Chesapeake, VA 23322

Phone: 703-505-6079
Email: jdonald9246@gmail.com

Agent for Applicant: Porch Coffee LLC
Address: 1008 Sullivan Lane
 Chesapeake, VA 23322

Phone: 703-505-6079
Email: jdonald9246@gmail.com

Current Owner of Record: Applicant

Meeting Dates:
 Neighborhood Meeting- November 10, 2022
 Board of Adjustment Meeting-February 15, 2023

Application Received: October 24, 2022
By: Amber Curling, Planning

Application Fee paid: \$500.00 Ck#173

Completeness of Application: Application is generally complete

Documents received upon filing of application or otherwise included:

- A.** Application and Plan
- B.** Recorded Deed and Surveys
- C.** Neighborhood Meeting Comments
- D.** Notice to Owner and Adjacent Owners
- E.** Relevant UDO sections

PROJECT LOCATION/DESCRIPTION:

Street Address: 200 Main Street, South Mills, NC 27976

Location Description: West Side of Draw Bridge on North side Main street in South Mills Township. The property is located on the west side abutting the intercoastal waterway.

REQUEST: The applicant is requesting a variance for impervious surface and setback.

SITE DATA, INFRASTRUCTURE & COMMUNITY FACILITIES

Size of Lot: Approximately 0.167 acres (7275 Square Feet)

Flood Zone: X, AE

Zoning District(s): Village Commercial

Existing Land Uses: Vacant

Adjacent Property Uses: Fuel Station/Convenience Store, Flea Market/Retail Store and intercoastal water way

Water: Water lines are located adjacent to property along Main Street

Sewer: Sanitary Sewer lines are located adjacent to property along Main Street

Fire District: South Mills Fire District
Traffic: NCDOT requirements will be address at development stage.

REQUEST: The applicant is requesting a variance for impervious surface and setback.

Applicant Specific Request: The existing lot is only 7,830 square feet, but had historically been the site of structures from the late 1940's until the late 1990's totaling as much as 4,000 square feet in 1952. The structures had been immediately adjacent to the highway at that time to take full advantage of the commercial traffic. There were no zoning restrictions at that time, but the zoning in place today would result in the parcel being restricted to 24% (1,879 square feet) and a 35-foot setback (lot is only 90 feet deep). This request is for the increase of Lot Coverage to 50% (3,915 square feet) and a reduction of the front setback to 20 feet.

FINDINGS: When unnecessary hardship would result from carrying out the strict letter of the zoning Ordinance, the Board of Adjustment shall vary any of the provisions of this chapter upon a showing of all of the following:

Required Findings:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

Staff Response: The unnecessary hardship results from the strict application of the ordinance. The small less than 8000 square feet lot has existed since before 1960. The Village Commercial dimensional requirement minimum lot area is 10,000 square feet with connection to County water and sewer. A County Engineer approved stormwater management plan will be required at development stage. The Village Commercial dimensional requirement for front setback is a minimum of Zero and a maximum of 35 feet.

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.

Staff Response: The small less than 8000 square feet (0.167 acres) lot has existed since before 1960. The adjacent Service Station lot size is approximately 1.641 acres and business directly across Main Street is 0.393 acres.

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 the variance shall not be regarded as a self-created hardship.

Staff Response: The setback and impervious surface restrictions were derived by Camden County and not the applicant/property owner.

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.

Staff Response: The proposed setback and impervious surface request will be consistent with the intent of the Unified Development Ordinance and Future Land Use Plans. The property is in an area of village type environment in the Core Village of South Mills intended to allow development that can adequately be served with public amenities.

Relevant Factors for Issuance of a Variance – Applicant Questions and Response

A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it makes detailed findings that:

1. The alleged hardship is suffered by the applicant as a result of the application of the Ordinance. (Variances cannot be granted if the hardship is the result of restrictions other than those of the ordinance, restrictive covenants are an example)

Applicant Response: The lot as it sits today is the same dimensionally as it was in 1957 where at the time there was a mercantile store on the premises. The UDO as adopted has established restrictions that make developing the parcel as Commercial property nearly impossible.

2. The hardship relates to the applicant's land, such as location, size, or topography, rather than personal circumstances. (Hardships suffered by the applicant should be the result of factors directly related to the applicant's land and not ordinance requirements)

Applicant Response: The current lot size is less than that of the minimum area established for new lots under the Village Commercial (VC) designation. Access to the property is restricted to the road frontage as the neighboring property (once under same ownership) no longer allows access.

3. The hardship is unique, or nearly so, rather than one shared by many surrounding properties. (A hardship suffered by the applicant in common with surrounding neighbors does not justify a variance. The proper remedy is an amendment to the ordinance in such cases. Courts have held that boards granting variances based on such factors amounts to attempted usurpation of legislative power).

Applicant Response: The proximity to the Canal and Bridge, couple with the small lot size make the restrictions more pronounced than other similar size parcels in the village.

The hardship is not the result of the applicant's own actions. (Where a property owner has either knowingly or unknowingly violated the ordinance by erecting a forbidden structure, he/she cannot claim expenses as a hardship, otherwise no one would ever comply with the ordinance.

4. Similarly, when a person buys property and certain restrictions exist, he/she cannot be said to suffer hardship if those restrictions are enforced; such hardship would be self-imposed).

Applicant Response: The current property owners purchased the land as is and have not made alterations to the property boundaries. The former non-conforming structures were removed long before the current owners purchase.

5. The variance will not authorize the initiation of a nonconforming use of land. Must show that the variance requested represents the least possible deviation from the letter of the ordinance, and that it will allow reasonable use of the property without creating a nonconforming use of same property.

Applicant Response: Based on preliminary plans, it appears that with the variances from these two items, all other requirements can be met

Summary

Planning Staff recommends approval of the request for lot coverage due to the fact Article 151.7.1.3 requires the Camden County Engineer to approve the stormwater management plan for the major commercial site plan.

Unified Development Ordinance Sections are attached:

151.2.26 Variance

1513.6.3 Village Commercial District

151.7.1 Stormwater Management

Open to Questions:

Mr. Lambertson ask the question of what is the plan to put on the lot? We do not have a permit for that.

Mr. Lambertson asked about a safety issue of the road drops off and it's kind of deep. Mr. Lilley stated he also notice this issue at the lot. But on the other hand, even if the variance is not approved doesn't mean something with smaller coverage can't be built and it wouldn't change the access to the lot. That is just part of the property and Mr. Lambertson agreed with Mr. Lilley.

Mr. Lilley asked about the zoning now requires a minimum of 10,000 foot. Amber stated yes you could have a lot that size. Even if it was 10,000 square foot they would still need a variance to do what they are trying to do now because that would be 24,000 square foot correct? Amber stated yes.

Mr. Lilley stated he knows it got to have a stormwater plan and all this other stuff. Amber stated yes. Mr. Lilley asked will this have any negative effect on the neighboring property with the extra impervious coverage?

Amber stated this should not but this information is usually gone over when we receive a permit for building with plans that will state exactly what they are doing. This comes into play at development stage.

Mr. Lambertson asked if they would have direct access from Main St or would it be from the neighboring property. Road access would come from Main St. Do we have a minimum size for the driveway/access in the UDO? Amber stated yes and this is also part of the development stage and will need to be meet. Could be reaching out to NCDOT for the access. Amber stated that NCDOT has already been informed of the building of this lot and they did not seem to have any issue.

Mr. Bradshaw has a question in back about Relevant Factors for Issuance of a Variance number 4. Similarly, when a person buys property and certain restrictions exist, he/she cannot be said to suffer hardship if those restrictions are enforced; such hardship would be self-imposed). But what I read back in the code it did not say this. It only says it here. Or am I reading this out of context? Amber asking the Relevant factors for Issuance of a Variance there are 5 of them. Mr. Bradshaw said yes but he is looking at number 4. Amber said those 5 questions were from the application that the applicant had to answer. They since been changed back to the 4 question above these in staff report. Those questions are from the ordinance. Think the intent here was to make the questions possibly easier to answer. They broke it up and it was on the application like this. Mr. Bradshaw stated ok I am just saying when I read the ordinance he didn't see this statement. This statement says when he bought it were these restrictions in place. Amber stated Ok. Mr. Bradshaw stated he was new and he read things. Amber stated so. Mr. Bradshaw asked do you see what I am talking about? Amber stated yes. Mr. Robey stated if I may there is section in the UDO that sort of matches what these questions are. Amber stated yes. Mr. Robey stated it's on page 263 of the packet at the top. Amber stated towards the back. Mr. Robey stated yes and D = Variance Review Standards > 1. = Zoning Variance Review Standards > a. Required Findings there are 4 questions listed under this. The bullet reads Required Findings number 3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstance exist that may justify the granting of the variance shall not be regarded as a self-created hardship. Mr. Bradshaw stated he got that but what my statement is the packet that I have has 2 separate statements one of them is a disqualifier but it's not in the ordinance. Amber stated correct. Amber stated we had to include these statements since they were filled out on the application. Mr. Bradshaw stated ok so we can rule on the ordinance. Amber stated yes. Mr. Bradshaw stated ok. Amber stated she believe the intent was to make it a better application. We have since changed that. Mr. Bradshaw stated good. Amber stated yes sir. Mr. Lambertson stated they were confusing him. Mr. Bradshaw stated they kind of paraphrase some of the ordinances and they added this sentence in here. Mr. Bradshaw read through here and I go that's a problem. Mr. Bradshaw got to the ordinances and where he said here and it also says not to far above it says the same thing if it's not of there making. Amber stated yes. Mr. Bradshaw just wanted clarification to make sure he wasn't missing anything and that one line should be stricken out of the record. Amber stated it has been changed but I had to include it after talking with the county attorney we cannot change now since it was already completed this way. Amber stated that Mr. Bradshaw was correct that is should have been corrected. Mr. Lambertson asked you state it has been changed what are you referring to? Amber stated the application has been changed/updated. Amber stated it now reflects the 4 items from the ordinance. Mr. Lambertson stated right. Amber stated the previous application that was submitted with this staff report had 5 statements that require the applicant to make a comment. Mr. Lambertson stated right. There is only 4 in the ordinance and she is guessing because she wasn't there the last number 4 question they divided it up and we have no idea why but we have corrected it to not have this issue again. Mr. Lambertson asked what do you suggest we do now? Mr. Lambertson stated it's in there what do we do? Mr. Bradshaw stated it's not in the ordinance and we can rule on

the ordinance. Mr. Lambertson stated no we don't rule on ordinances. Mr. Bradshaw apologized. Amber stated the ordinance specifically says what 4 things. Mr. Lambertson stated yeah. Amber stated so that's where we and how we should be basing our decision on. Amber stated the wording on the application which was included on the staff report has been changed and that is where are now. Amber stated shouldn't have been like this but we couldn't change it after the fact. Amber stated that is application that was filled out and that was the application we received. Mr. Lambertson that it seems to be that is what we have as the official application that is what we rule not saying the ordinance doesn't reflect that anymore. Mr. Lambertson my personal feeling was that the application should have been resubmitted corrected and resubmitted and postpone if necessary. Mr. Lambertson, I know, I know that you are shorthanded. Amber stated she didn't realize the difference until she starting putting together and struggling with time restraints dealing with my office and to me the way I see it was 5 questions because somebody was trying to break down the questions and get more information the applicant and the wording and the intent was to be the same as the ordinance. Amber stated you can interpret it a different way. Amber corrected the application and here we are. Amber stated based on the ordinance is where my recommendation came from. Mr. Bradshaw stated he would go back to my opening statement that Quasi-Judicial body which means we make our decision in accordance with the ordinance. Mr. Bradshaw that is why I said we could just consider the ordinance in my opinion.

Mr. Lambertson would still like to know what is going on the site.

Mr. Bradshaw next is engineer and applicant to speak. Mr. Robey does have a question about the staff report. Mr. Robey at the end of the staff report summary. Mr. Robey response to question number 5. Mr. Robey based on preliminary plans the variance from these two items, all other requirements can be met. Mr. Robey no flood zones and all other information have been looked at and no other variances are being sought from the special flood hazard areas. Amber that is the applicant response. Mr. Robey ok. Amber so you can ask them so the preliminary plans are what they are working on but we don't have all that and I have included what I have received which is a couple of pages past that. Amber stated that is all I require for a variance. Mr. Robey based on the preliminary plan it does look like that part of that building would fall into the special flood hazard area. Amber said possibly. Mr. Robey ok. Mr. Robey just to clarify your statement no variance is being sought for at this time. Mr. Robey ok.

Mr. Bradshaw since no more question, we are ready to hear from the applicant and engineer. Kim Hamby from Timmons Group we are representing Mr. Bach this variance request. Kim stated Amber has covered everything that's really pertain to variance I feel like but would be happy to answer any questions. Mr. Lambertson what is going on there and I am just being nosey now. Kim stated the intent is for a be a therapy office. Kim stated so we are not talking about high traffic volume I mean since we cannot get a large building or large parking lot on the site. Mr. Lambertson the only reason I am asking this for me because with Porch Coffee LLC he thought a coffee house. Kim stated she as well thought the same but when Jason briefed her on the project she was oh. Kim stated still going to be commercial and only going to need 3-4 parking spaces. Mr. Lambertson no residents. Kim stated no residents. Kim stated to get anything on that lot a variance is needed. Mr. White so they will be coming and going without big volumes of traffic and multiple cars parked at one time. Kim said no. Kim will clarify where the lot is and there is actually about 40-45 feet from the wall of the canal and where the lot starts. Kim states the lot begins where there is pull off but not actually parking but pull off and sidewalk that extends across there. Kim stated they will be meeting the flood requirements. Mr. Lambertson the picture you refer to can the slippery slope could that be the driveway into the lot. Kim stated would push the driveway as far away for bridge as possible. Mr. Lambertson stated as close to gas station as possible. Mr. White that would be a lot safer this way. Kim stated yes and believe they have existing curb cut there but DOT is part of the review. Kim stated the if the curb cut width is adequate and exactly where it needed to be there actually not a need to get a permit from them. Mr. Lilley so the set back is fine and it just the impervious coverage that we are addressing tonight and if any other variance is needed than it comes back thru this whole process again. Kim believes the point of the set back is that we want to we don't want to be restricted to that as a maximum because the building may need to be push back to make everything work. Amber stated ok. Kim hearing Jason's wording and then hearing you and looking at the sketch. Kim believe it was to change it from 30ft 35ft maximum to a 20 ft minimum so we can push it back if we need to. Kim stated we don't want to be right on the road. Kim stated that was the intent of the request. Mr. White stated that would allow more room for parking. Kim if you see the sketch we have 3 parking spaces and we have about 40ft to the side wall and then sidewall to

the porch. Kim the intent is to allow us to push the building back further. Kim doesn't look like the maximum set back is met. Kim stated Jason is not trying to bring the building forward. Amber stated that is what he asked for. Amber stated you can ask them that. Kim the goal is to push the building back beyond the 35 ft maximum set back and not have the building right on the road. Amber stated Jason asked for reduction of the front set back to 20ft. Amber stated this is what was requested. Kim looking at this now and based on that he looks like that line is 25 ft which puts him. Amber as long as he is between 0-35ft with any of the building he is good. Mr. Lilley so that is all good. Mr. White is all good. Mr. Bradshaw all the controversy has been removed. Mr. Lambertson stated don't confuse me with facts. Kim said sorry about that. Kim asked if there were any questions. Mr. Bradshaw ask if any questions from the Board. Mr. Bradshaw ask if any questions from the public if so he has a little speech to give before they start talking. Mr. Bradshaw ask if anybody here from the public to talk. Mr. Bradshaw no rebuttal.

Mr. Lilley was there no concern from the adjacent property owners about any of this. Amber the public was notified and sent out letters. Amber stated the only inquiry was about what was going on but she did not have an answer at that time. Amber they wanted clarification on what the variance was for and they didn't seem to have a problem with it. Amber have had no other inquires.

Mr. Bradshaw we are going to close the public hearing portion. Mr. Bradshaw stated this was easy.

Mr. Bradshaw asked if anyone had anymore questions. Mr. Robey if the variance is not be sought out for the front set back do we need to grant a variance for the front set back. Mr. Bradshaw once again we have it should we are voting on it we going on the applicate so we can either modify the application, accept as it is or deny it those are our only 3 options. Mr. Bradshaw stated I say as long as it's within what is allow to happen. Mr. Lilley stated even if we accepted it still within what is allow to happen.

Mr. White made the motion to approve the request and just wanted to say these lots he knows from working up around the area and know they didn't have any lot size restriction and they varied from all kinds of things. Mr. White also stated we have come along way and to be able to allow to use this lot and allowing this will allow the county to receive taxes on property and to bring a business to the county and help improve the situation here. Mr. White make motion to approve the request. Mr. Lilley seconded the motion.

Mr. Bradshaw stated a motion has been made and seconded to approve the variance. All those in favor say Aye: 5 all board members for Aye. All those who oppose say Nays: 0. None absent. Mr. Bradshaw the motion for variance has been approved.

RESULT:	APPROVED [5-0]
MOVER:	George "Tom" White Jr.
SECONDER:	Nathan Lilley
AYES:	Steven Bradshaw, Nathan Lilley, Wayne "Roger" Lambertson, George "Tom" White, Briant Robey
NAYS:	
ABSENT:	

ITEM VII. INFORMATION FROM BOARD AND STAFF

None

ITEM VIII. CONSIDER DATE OF NEXT MEETING

April 19, 2023 @ 7:00pm

ITEM VIII. ADJOURN

Nathan Lilley made a Motion to adjourn.

RESULT: APPROVED [5-0]
MOVER: Nathan Lilley
SECONDER: Steven Bradshaw
AYES: Steven Bradshaw, Nathan Lilley, Wayne “Roger” Lambertson, George “Tom” White Jr, Briant Robey
NAYES:
ABSENT:

There being no further matters for discussion Chairman Steven Bradshaw adjourned the meeting at 19:38 PM.

ATTEST:

 Steven Bradshaw, Chairman
 Camden County Board of Adjustment

 Patricia Sabo
 Permit Clerk

Attachment: BOAMinutesSummaryFrom02_15_2023 (Board of Adjustment Minutes - February 15, 2023)



Board of Adjustment
AGENDA ITEM SUMMARY SHEET

New Business

Item Number: 5.1

Meeting Date: April 19, 2023

Submitted By: Patricia Sabo,
Board of Adjustment
Prepared by: Patricia Sabo

Item Title Staff Report- Udo 2023-02-022

Attachments: StaffReport20230419updated (DOCX)

STAFF REPORT

UDO 2023-02-022
Variance Application Request
 Norris, 318 Old Swamp Rd

PROJECT INFORMATION

File Reference: 2023-02-022
Project Name: 318 Old Swamp Rd.
PIN: 01-7999-0055-9877-0000

Applicant: Hersey B Norris
Address: P.O. Box 217
 Harbinger NC, 27941

Phone: 252-202-1881
Email: Hersey@norrismech.com

Agent for Applicant: same as applicant
Address:

Phone:
Email:

Current Owner of Record: Applicant

Meeting Dates:

Board of Adjustment Meeting-April 19, 2023

Application Received: February 7, 2023
By: Amber Curling, Planning

Application Fee paid: \$500.00

Completeness of Application: Application is generally complete

Documents received upon filing of application or otherwise included:

- A.** Application
- B.** Recorded Deed and Surveys
- C.** Legal Documents
- D.** Notice to Owner and Adjacent Owners
- E.** Relevant Unified Development Ordinance Sections: 151.2.26 Variance and 151.3.5.3 Rural Residential District

PROJECT LOCATION/DESCRIPTION:

Street Address: 318 Old Swamp Rd., South Mills, NC 27976

Location Description: The property is located on the west side of Old Swamp Road, north of Carolina Road in South Mills Township.

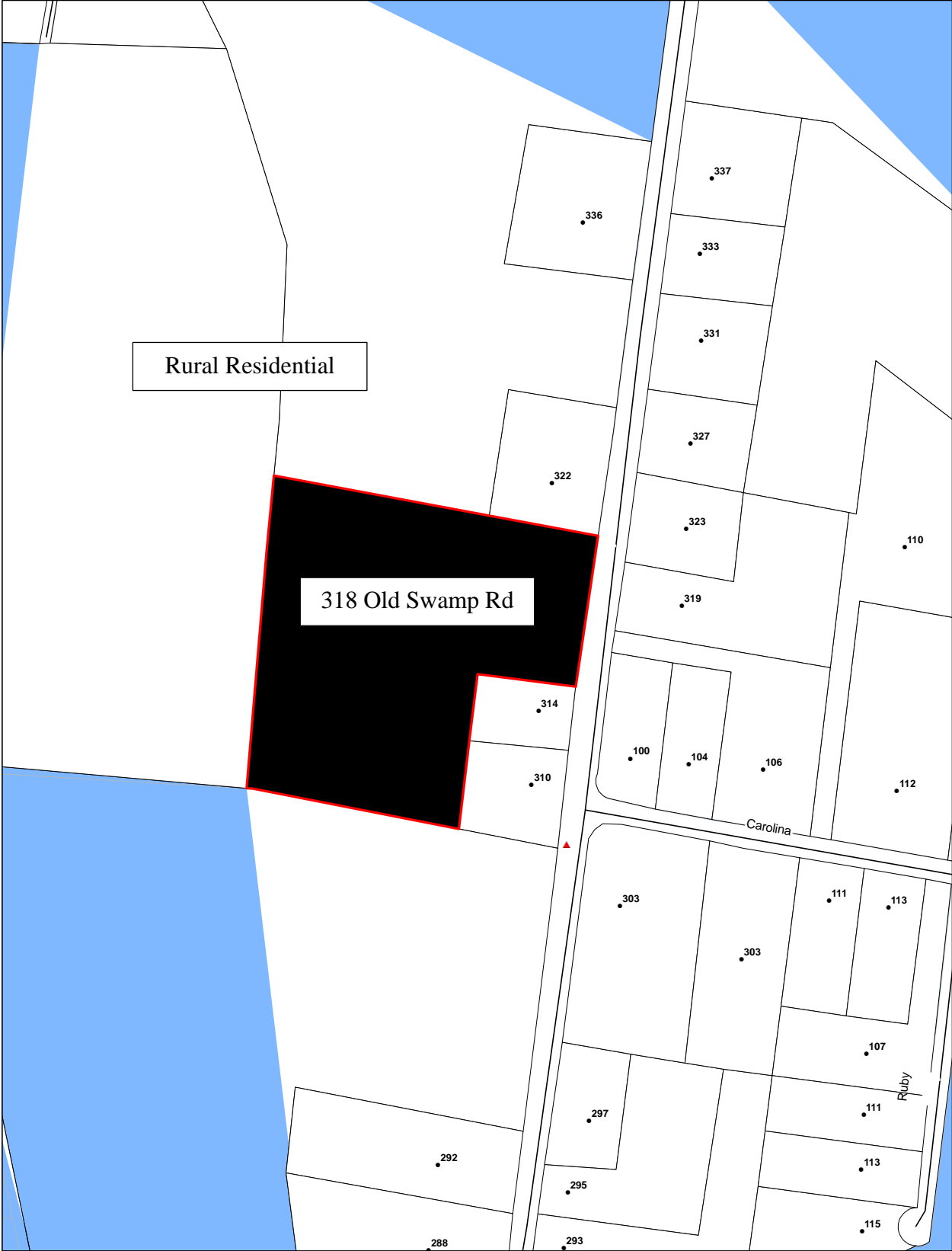
REQUEST: The applicant is requesting a variance to the minimum lot size in the Rural Residential Zoning District dimensional requirements.

Located in edge of South Mills Township 1-mile Buffer



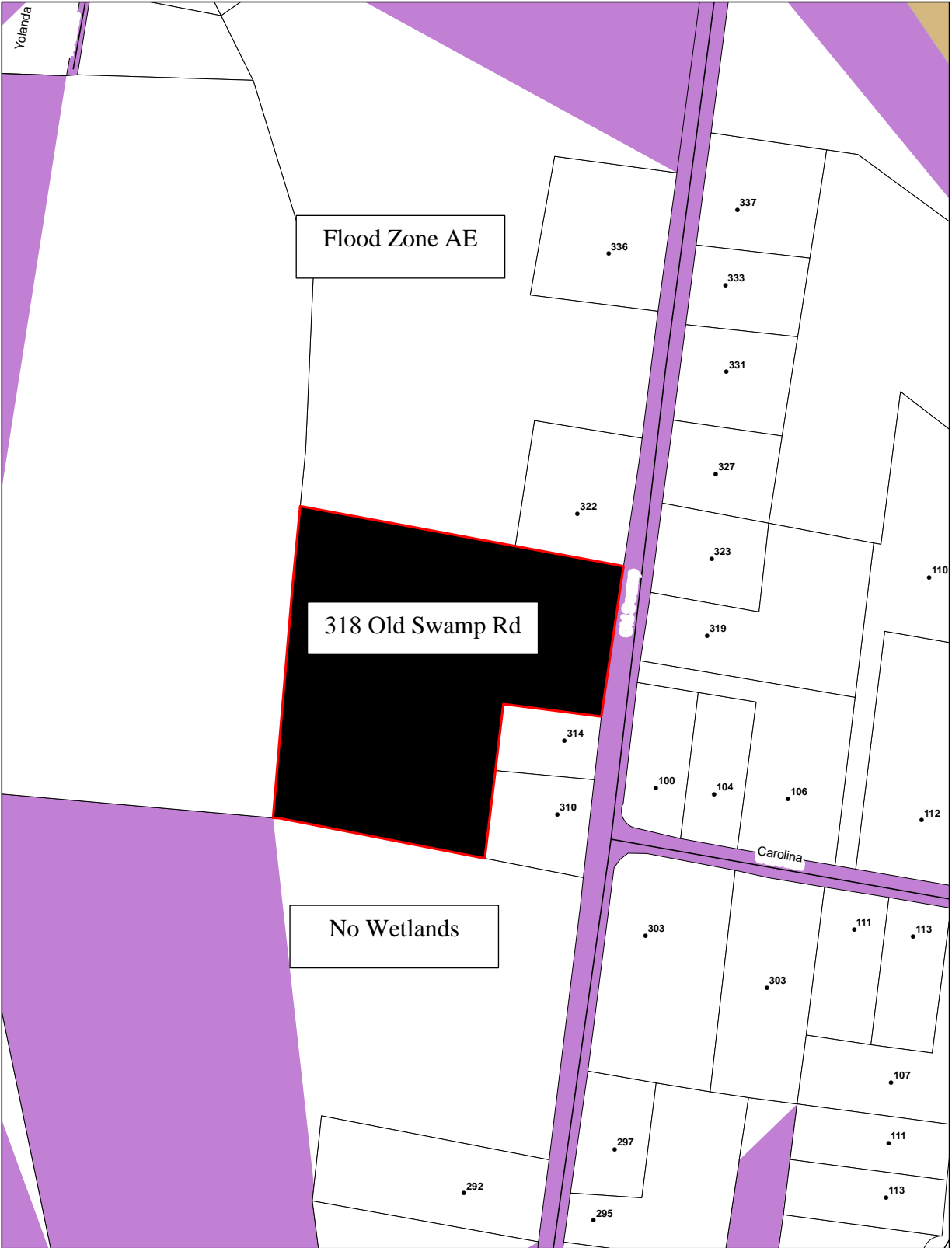
Attachment: StaffReport20230419updated (Variance Request -UDO 2023-02-022 - 318 Old Swamp Rd - Norris)

Rural Residential Zoning District



Attachment: StaffReport20230419updated (Variance Request -JDO 2023-02-022 - 318 Old Swamp Rd - Norris)

Floodplain and Wetlands Map



Attachment: StaffReport20230419updated (Variance Request -JDO 2023-02-022 - 318 Old Swamp Rd - Norris)

Comprehensive Future Land Use Plan – Rural Residential



Attachment: StaffReport20230419updated (Variance Request -JDO 2023-02-022 - 318 Old Swamp Rd - Norris)

CAMA Future Land Use Map – Low Density Residential



Attachment: StaffReport20230419updated (Variance Request -JDO 2023-02-022 - 318 Old Swamp Rd - Norris)



Attachment: StaffReport20230419updated (Variance Request -JDO 2023-02-022 - 318 Old Swamp Rd - Norris)

318 Old Swamp Road parcel
requested subdivision



Attachment: StaffReport20230419updated (Variance Request -JDO 2023-02-022 - 318 Old Swamp Rd - Norris)

SITE DATA, INFRASTRUCTURE & COMMUNITY FACILITIES

Size of Lot:	Approximately 9 acres total with requested 1 subdivision lot Third Tract = Tract One and Tract Two = Approx. 7.7 acres farm land plus 1.29 acres with an existing house
Flood Zone:	AE
Zoning District(s):	Rural Residential
Existing Land Uses:	Vacant and Residential House
Adjacent Property Uses:	Residential Homes and Farm Land
Water:	Water lines are located adjacent to property along Old Swamp Road
Sewer:	Sanitary Sewer lines are not located
Fire District:	South Mills Fire District

REQUEST: The applicant is requesting a variance to the minimum lot size in Rural Residential Zoning District from 2 acres to 1.29 acres.

Applicant Specific Request: The applicant is requesting a variance to the minimum lot size of 2 acres in Rural Residential Zoning District because he purchased two separate tracts of land at auction. The first tract is 7.9 acres of farm land and the other is a 1.29-acre parcel with a house.

FINDINGS: When unnecessary hardship would result from carrying out the strict letter of the zoning Ordinance, the Board of Adjustment shall vary any of the provisions of this chapter upon a showing of all of the following:

Required Findings:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

Applicant Response: The County Ordinance restricts the minimum lot size.

Staff Response: The current Unified Development Ordinance requires a minimum lot size of 2 acres for the Rural Residential Zoning District.

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.

Applicant Response: The property was sold as a house on 1.29 acres from the clerk of court. The hardship is a result of lawyers not doing due diligence and knowing the two acres was the minimum lot size.

Staff Response: This parcel was sold at auction as 2 separate tracts of land. These two tracts are not subdivided and were not subdivided prior to the sale. The hardship was not created by the current owner. The existing lot which is approximately 9 acres was sold as a partition of lands in the General Court of Justice, Superior Court Division before the Clerk of Court. The parcel referred to as Third Tract was sold as Tract One and Tract Two. The final Clerk Final Report is dated August 16, 2018.

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 the variance shall not be regarded as a self-created hardship.

Applicant Response: The property with the house was purchased separately by itself at auction.

Staff Response: From the attachments, the parcel was sold as two tracts of land not one tract of land.

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.

Applicant Response: The size of the property was determined by lawyers and clerk of court at auction.

Staff Response: The setbacks and the lot width dimensional requirements will be met. The variance is consistent with the Future Land Use Plans which identify the property as low density residential of 1-2 acre lots.

Summary

The requested variance is in the Planning Staff's belief consistent with the spirit, purpose and intent of the ordinance.



Board of Adjustment
AGENDA ITEM SUMMARY SHEET

New Business

Item Number: 5.2

Meeting Date: April 19, 2023

Submitted By: Patricia Sabo,
Board of Adjustment
Prepared by: Patricia Sabo

Item Title 315 Old Swamp Road App

Attachments: 2_318OldSwampRoadApp (PDF)
 3_318OldSwampRoadDeed (PDF)
 4_318OldSwampRoadSitePlan (PDF)
 5_318OldSwampRoadAttorneyFeesPayment (PDF)
 6_318OldSwampRdOwnerLetter (PDF)
 7_318OldSwampRdAdjacentLetter (PDF)
 7_318OldSwampRdMailedList (PDF)
 9_Article151.2.3.26_Variance (PDF)
 9_Article151.3.5.3RuralResidential(PDF)



Variance Application

OFFICIAL USE ONLY:	
UDO Number:	<u>2023-02-022</u>
Date Filed:	<u>2/7/2023</u>
Amount Paid:	<u>\$500⁰⁰</u>
Received By:	<u>Dupe</u>

Contact Information

APPLICANT		PROPERTY OWNER	
Name:	<u>Hersey B. Norris</u>	Name:	<u>Same</u>
Address:	<u>P.O. Box 217</u> <u>Harbinger NC 27941</u>	Address:	_____
Telephone:	<u>252 202 1881</u>	Telephone:	_____
Fax:	_____	Fax:	_____
Email:	<u>hersey@norrismech.com</u>	Email:	_____
LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: _____			
WRITTEN PERMISSION FROM PROPERTY OWNER GIVING CONSENT TO APPLICANT _____			

Property Information

Physical Street Address 318 Old Swamp Rd

Location: South Mills

Parcel ID Number(s): 01-7999-00-55-9877-0000

Request

I, Hersey B Norris, hereby request a variance from Section(s) 3,5,3 of the Unified Development Ordinance.

Provide a narrative of why the variance is needed and what circumstances have led to the need for a variance:

Would like a variance for the minimum lot size of 2 acres for a subdivision. I purchased at auction 2 separate tracts of land one 7.9 acre and other a 1.29 acre w/ house.

Attachment: 2_318OldSwampRoadApp (318 Old Swamp Road App)

Relevant Factors for Issuance of a Variance (Zoning Variance Review Standards)

A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it makes detailed findings that:

- 1. **Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. The alleged hardship is suffered by the applicant as a result of the application of the Ordinance.** (Variances cannot be granted if the hardship is the result of restrictions other than those of the ordinance, restrictive covenants are an example). The ordinance restricts the minimum lot size
- 2A. **The hardship results from conditions that are peculiar to the property, such as location, size or topography. The hardship relates to the applicant's land, such as location, size, or topography, rather than personal circumstances.** (Hardships suffered by the applicant should be the result of factors directly related to the applicant's land and not ordinance requirements). The property was sold as house on 1.29 acres from clerk of court
- 2B. **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. The hardship is unique, or nearly so, rather than one shared by many surrounding properties.** (A hardship suffered by the applicant in common with surrounding neighbors does not justify a variance. The proper remedy is an amendment to the ordinance in such cases. Courts have held that boards granting variances based on such factors amounts to attempted usurpation of legislative power). The hardship is a result of lawyers not doing due diligence knowing two acres was minimum lot size.
- 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 the variance shall not be regarded as a self-created hardship.** (Where a property owner has either knowingly or unknowingly violated the ordinance by erecting a forbidden structure, he/she cannot claim expenses as a hardship, otherwise no one would ever comply with the ordinance. Similarly, when a person buys property and certain restrictions exist, he/she cannot be said to suffer hardship if those restrictions are enforced; such hardship would be self-imposed). The property with the house was purchased separately by itself at auction
- 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. The variance will not authorize the initiation of a nonconforming use of land.** Must show that the variance requested represents the least possible deviation from the letter of the ordinance, and that it will allow reasonable use of the property without creating a nonconforming use of same property. The size of property was determined by lawyers clerk of courts at auction

I, the undersigned, do certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief. Further, I hereby authorize county officials to enter my property during reasonable business hours for purposes of determining zoning compliance. All information submitted and required as part of this application process shall become public record.

Henry B. Now
Property Owner(s)/Applicant

2/7/2023
Date

Note: Form must be signed by the owner(s) of record, contract purchaser(s), or other person(s) having a recognized property interest. If there are multiple property owners/applicants, a signature is required for each.

Revised 2/7/2023

Attachment: 2_318OldSwampRoadApp (318 Old Swamp Road App)

Doc No: 205670
Recorded: 08/14/2018 12:21:34 PM
Fee Amt: \$26.00 Page 1 of 4
Excise Tax: \$690.00
Camden County North Carolina
Tammie Krauss, Register of Deeds
BK 368 PG 806 - 809 (4)

COMMISSIONERS' DEED

278-19 ~~CFM~~ 8-14-18
\$ 344,987.50 / \$3450.00
no delinquent taxes - 8-14-18

Prepared by: David R. Pureza, Attorney At Law
Return to: Hornthal, Riley, Ellis & Maland, LLP
Tax Parcel: 01.7999.00.66.1902.0000; 01.7999.00.55.9877.0000

State of North Carolina, County of Camden

THIS COMMISSIONERS' DEED made this 16th day of February, 2018, by and between **DAVID R. PUREZA** and **HERBERT T. MULLEN, JR.**, Co-Commissioners (hereinafter collectively referred to as "Grantor"), 101 West Main Street, Elizabeth City, NC 27909, and **HERSEY BRADFORD NORRIS** whose mailing address is 117 White Acres Drive, Jarvisburg, NC 27947 (hereinafter referred to as "Grantee"):

WITNESSETH:

WHEREAS, David R. Pureza and Herbert T. Mullen, Jr., are duly appointed Commissioners and were authorized in the certain Special Proceeding No. 17-SP-23 entitled "**HERSEY BRADFORD NORRIS and KEVIN LEE NORRIS, Petitioners vs. SANDRA KAY RIGGS, DARRELL WADE RIGGS, LINDA THEO BOHN and ALBERT JAY BOHN, Respondents**" to sell certain property at public sale, according to law; and

WHEREAS, the said Commissioners did sell that certain tract or parcel of land described and designated as "**TRACT ONE**" in the Order of Sale to Hersey Bradford Norris and Kevin Lee Norris for the sum of Eighty-Five Thousand Dollars (\$85,000.00) and did file a Report of Sale; and said upset bid remained open for a period of ten (10) days as required by law, and a number of upset bids were filed, the last of which was filed by Hersey Bradford Norris and Kevin Lee Norris on January 19, 2018, in the amount of One Hundred Thirty Thousand Dollars (\$130,000.00), and said sale having been confirmed by the Court, and the Commissioners having been ordered to execute to said purchaser upon payment of the purchase money after proper credits; and Kevin Lee Norris has assigned his interest in said bid to Hersey Bradford Norris; and

Attachment: 3_318OldSwampRoadDeed (318 Old Swamp Road App)

Norris and Kevin Lee Norris for the sum of One Hundred Ninety-Five Thousand Dollars (\$195,000.00) and did file a Report of Sale; and said upset bid remained open for a period of ten (10) days as required by law, and a number of upset bids were filed, the last of which was filed by Hersey Bradford Norris and Kevin Lee Norris on December 18, 2017, in the amount of Two Hundred Fourteen Thousand Nine Hundred Eighty-Seven and 50/100 Dollars (\$214,987.50), and said sale having been confirmed by the Court, and the Commissioners having been ordered to execute to said purchaser upon payment of the purchase money after proper credits; and Kevin Lee Norris has assigned his interest in said bid to Hersey Bradford Norris.

NOW, THEREFORE, for and in consideration of the sum of One Hundred Thirty Thousand Dollars (\$130,000.00) for "TRACT ONE" in the Order of Sale and the sum of Two Hundred Fourteen Thousand Nine Hundred Eighty-Seven and 50/100 Dollars (\$214,987.50) for "TRACT TWO" and "TRACT THREE" in the Order of Sale, less proper credits, receipt of which is hereby acknowledged, the said David R. Pureza and Herbert T. Mullen, Jr., Commissioners, do by these present sell and convey unto Grantee, its heirs and assigns, those certain tracts or parcels of land situated in Courthouse Township, Camden County, North Carolina, being "TRACT ONE", "TRACT TWO" and "TRACT THREE" in the Order of Sale, more particularly described as follows:

See "EXHIBIT A" attached hereto and made a part hereof.

Per N.C.G.S. §105-317.2, the property herein described does not include the primary residence of Grantor.

This document was prepared by David R. Pureza, a licensed North Carolina attorney, without title examination, closing or tax advice. Delinquent taxes, if any, to be paid by the closing attorney to the County Tax Collector upon disbursement of closing proceeds.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land to the said Grantee and its successors and assigns forever, in as full and ample manner as the said David R. Pureza and Herbert T. Mullen, Jr., as Commissioners, are authorized and empowered to convey the same.

IN WITNESS WHEREOF, the said David R. Pureza and Hebert T. Mullen, Jr., have set their hands and seals the day and year first above written.

[SIGNATURES ON FOLLOWING PAGE]

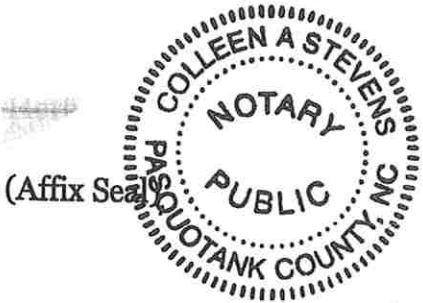
[Signature] (SEAI)
David R. Pureza, Commissioner

[Signature] (SEAI)
Herbert T. Mullen, Jr., Commissioner

State of North Carolina - County of Pasquotank

I, a Notary Public of Pasquotank County, State of North Carolina, certify that on this date before me personally appeared David R. Pureza, Commissioner, personally known to me or who produced satisfactory evidence of identification and voluntarily signed the foregoing or attached instrument for the purposes therein stated and in the capacity indicated.

Witness my hand and Notarial stamp or seal this 13 day of ^{August} ~~February~~, 2018.



(Affix Seal)

[Signature]
Notary Public

My Commission Expires: 10-18-2022

State of North Carolina - County of Pasquotank

I, a Notary Public of Pasquotank County, State of North Carolina, certify that on this date before me personally appeared Herbert T. Mullen, Jr., Commissioner, personally known to me or who produced satisfactory evidence of identification and voluntarily signed the foregoing or attached instrument for the purposes therein stated and in the capacity indicated.

Witness my hand and Notarial stamp or seal this 13 day of ^{August} ~~February~~, 2018.



(Affix Seal)

[Signature]
Notary Public

My Commission Expires: 10-18-2022

Attachment: 3_318OldSwampRoadDeed (318 Old Swamp Road App)

EXHIBIT A

Those certain tracts or parcels of land situated in Courthouse Township, Camden County, North Carolina, being "TRACT ONE", "TRACT TWO" and "TRACT THREE" in the Order of Sale in the certain Special Proceeding No. 17-SP-23 entitled "HERSEY BRADFORD NORRIS and KEVIN LEE NORRIS, Petitioners vs. SANDRA KAY RIGGS, DARRELL WADE RIGGS, LINDA THEO BOHN and ALBERT JAY BOHN, Respondents." Said tract or parcels of land are those certain tracts or parcels of land situated in Courthouse Township, Camden County, North Carolina, more particularly described and designated in that certain deed recorded in Deed Book 38, Page 167, Camden County Public Registry as follows:

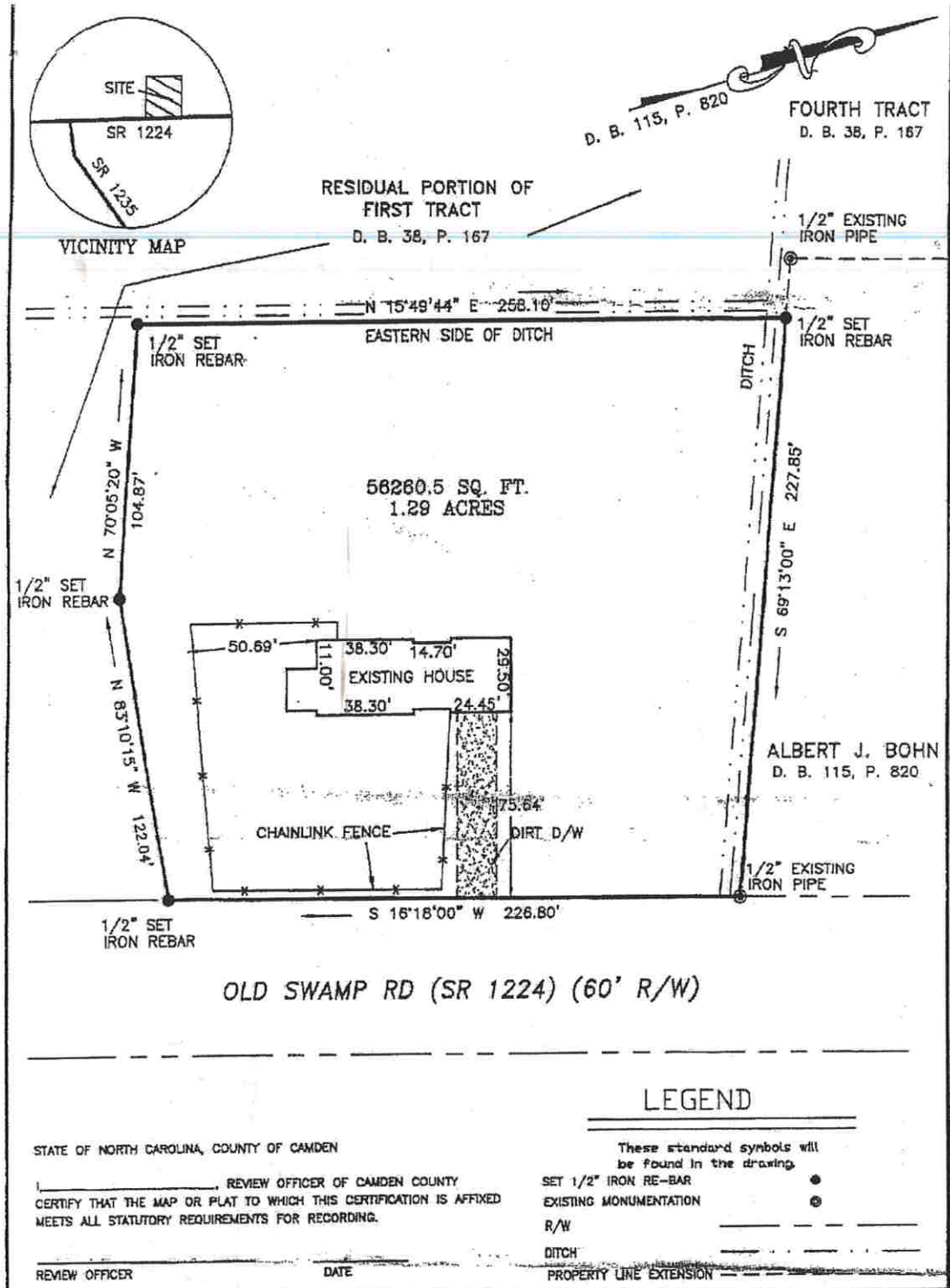
THIRD TRACT: That certain tract known as the Taylor woods devised to Melvin M. Norris by the Last Will and Testament of Kate Jones, deceased; bounded on the North by the lands of W.H. Cartwright; on the East by the lands of William Melvin Norris, said lands being known as the Texanna Jones Home Place and the Tatum Tract on the South by the Tatum Tract; and on the West by the lands of Mack Sawyer; containing 5 1/2 acres, more or less.

FOURTH TRACT: Those lands known as the Texanna Jones Home Place; bounded on the North by the lands of J.J. McCoy; on the East by the secondary road, known as Swamp Road, running from State Highway 343 to Moyock; on the South by the lands of William Melvin Norris known as the Tatum Tract; and on the West by the lands of W.H. Cartwright; containing 25 acres, more or less.

There is excepted from the above-described tract those lands that have been heretofore conveyed from the above-described tract, by the following deeds: Deed Book 59, Page 524; Deed Book 59, Page 584; Deed Book 66, Page 543; Deed Book 72, Page 511; Deed Book 113, Page 271; Deed Book 115, Page 820 and Deed Book 140, Pages 539, of the Camden County Public Registry.

For further reference and chain of title see Deed Book 38, Page 167, Camden County Registry.

The THIRD TRACT described above comprises TRACTS ONE and TRACT TWO in the above-referenced Order of Sale.



SURVEY FOR
WILLIAM M. NORRIS HEIRS
 SOUTH MILLS TOWNSHIP
 CAMDEN COUNTY NORTH CAROLINA

0' 50' 100' 150'

GODFREY & ASSOCIATES SURVEYING, INC.
 WILLIAM C. GODFREY, JR. P.L.S., L-4342
 P.O. BOX 1117
 ELIZABETH CITY, NORTH CAROLINA, 27908
 PHONE (252) 771-2272 FAX (252) 771-2886
 MOBILE (252) 267-3442

DATE : OCTOBER 25, 2005
SCALE : 1" = 50'
FIELD BK. # 23
DRAWN BY : W. G.
FLOODZONE AE
LOWEST FLOOR ELEVATION = N/A **HIGHEST ADJACENT GRADE =** N/A **FILE NO.** 005-1405

I, WILLIAM C. GODFREY, JR. P.L.S., L-4342, DO CERTIFY THAT THIS MAP WAS DRAWN FROM MY ACTUAL FIELD SURVEY; THAT THE DEED DESCRIPTION FOR THIS PROPERTY IS RECORDED IN D.B. 38, P. 167; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH RULES AND REGULATIONS OF MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 25 DAY OF OCTOBER, 2005.

WILLIAM C. GODFREY, JR. P.L.S.
 SEAL L-4342

THIS MAP DOES NOT CONSTITUTE A SUBDIVISION UNDER GS 47-30F 11 BECAUSE IT SHOWS THE DIVISION OF LAND ACCORDING TO A WILL RECORDED IN 04-E-48.

Attachment: 4_318OldSwampRoadSitePlan (318 Old Swamp Road App)

THOMPSON & PUREZA, P.A.

ATTORNEYS AT LAW
 101 WEST MAIN STREET
 ELIZABETH CITY, NORTH CAROLINA 27909
 TEL 252.335.7200 FAX 252.338.5297

Statement

Date
2/28/2017

To:
Hersey Bradford Norris 117 White Acres Drive Jarvisburg, NC 27947

		Amount Due	Amount Enc.		
		\$1,007.50			
Date	Transaction	Amount	Balance		
11/15/2016	Balance forward		0.00		
11/16/2016	conference, consultation & review of documents --- Norris, Hersey Bradford, 1 @ \$325.00 = 325.00	325.00	325.00		
01/11/2017	review of Will of William Elvin Norris --- Norris, Hersey Bradford, 0.5 @ \$325.00 = 162.50	162.50	487.50		
01/13/2017	correspondence to Riggs & Bohan --- Norris, Hersey Bradford, 0.5 @ \$325.00 = 162.50	162.50	650.00		
01/19/2017	conference with Sandra Riggs & correspondence --- Norris, Hersey Bradford, 0.5 @ \$325.00 = 162.50	162.50	812.50		
01/20/2017	review of file & correspondence --- Norris, Hersey Bradford, 0.3 @ \$325.00 = 97.50	97.50	910.00		
02/01/2017	review of file & e-mail to Hersey Norris --- Norris, Hersey Bradford, 0.3 @ \$325.00 = 97.50	97.50	1,007.50		
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
747.50	260.00	0.00	0.00	0.00	\$1,007.50

Attachment: 5_318OldSwampRoadAttorneyFeesPayment (318 Old Swamp Road App)

THOMPSON & PUREZA, P.A.

ATTORNEYS AT LAW

C. EVERETT THOMPSON, II
DAVID R. PUREZALEIGH D. SOUSA - CERTIFIED PARALEGAL
KRISTIN E. SABALLA - LEGAL ASSISTANT
CINDY M. OVERMAN - LEGAL ASSISTANT
SHERIE CARTWRIGHT-LEGAL ASSISTANT101 WEST MAIN STREET
CORNER OF MAIN & ROAD STREETS
ELIZABETH CITY, NORTH CAROLINA 27909TELEPHONE 252.335.7200
FAX 252.338.5297
E-MAIL CET@CETLAW.COM
E-MAIL DRP@CETLAW.COM
FEDERAL I.D. #56-1939705

February 28, 2017

VIA E-MAIL & US MAIL

hbnorris1@gmail.com

Hersey B. Norris
117 White Acres Drive
Jarvisburg, NC 27947

RE: Property located in Camden County, NC

Dear Hersey:

I have not heard from you since my last letter to you dated January 20, 2017. I am assuming there is nothing further that you want us to do. I believe I have done everything you asked us to do and therefore, I will be closing my file.

Also, enclosed is my bill for services rendered to date which I trust you will find self-explanatory and satisfactory.

If you have any questions please do not hesitate to give me a call.

Sincerely yours,



C. Everett Thompson, II

CET:kes
enclosure

Attachment: 5_318OldSwampRoadAttorneyFeesPayment (318 Old Swamp Road App)

MESA

Mid-Eastern Surveyors & Assoc., P.C.

P.O. Box 1731
 Kitty Hawk, NC 27949
 Phone: 252-619-1620

INVOICE

INVOICE #2201401
 DATE: FEBRUARY 8, 2022

TO:

Hersey Bradford Norris
 318 Old Swamp Road
 South Mills, NC 27976

FOR:

Tract 1 – William T. Norris Heirs
 South Mills Township – Camden County
 South Mills – North Carolina

DESCRIPTION	HOURS	RATE	AMOUNT
Boundary Survey (paid)	N/A	N/A	900.00
TOTAL			900.00

Attachment: 5_318OldSwampRoadAttorneyFeesPayment (318 Old Swamp Road App)

Make all checks payable to Mid-Eastern Surveyors & Assoc., P.C.

Thank you for your business!

THOMPSON & PUREZA, PA
ATTORNEYS AT LAW

Trust Payment Receipt

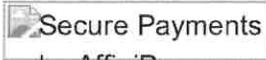
\$240.00

C Everett Thompson II PA
dba Thompson and Pureza
PA
101 West Main Street
Elizabeth City, NC
252-335-7200

Client Information:
Hersey B Norris
hbnorris1@gmail.com

Trust Payment Summary

Reference:		Amount:	\$240.00
Client Name:	Hersey B Norris	Payment Method:	VISA *****4835
		Date:	April 28, 2017
		Billing Address:	117 White Acres Drive Jarvisburg, NC 27947
		Transaction Id:	6640849



<http://www.cetlaw.com>
cet@cetlaw.com

Attachment: 5_318OldSwampRoadAttorneyFeesPayment (318 Old Swamp Road App)

04000302

CASHIER'S CHECK

PNC BANK
PNC Bank, National Association
North Carolina

No. 353090

15-3/540

DATE: DECEMBER 18, 2017

PAY TO THE ORDER OF THOMPSON AND PUREZA

\$ 1,434.99

ONE THOUSAND FOUR HUNDRED THIRTY FOUR AND 99/100 DOLLARS

Security features included. Details on bank.

HERSEY MORRIS - BID
REMITTER

PNC Bank, National Association



Paul D. Carr
OFFICIAL SIGNATURE

⑆00353090⑆ ⑆054000030⑆ 5306447369⑆

BOARD OF ADJUSTMENT
STEVEN BRADSHAW
Chairman

NATHEN LILY
Vice Chairman

ROGER LAMBERTSON
RAY ALBERTSON
BRYANT ROBEY
LEE POWEL
TOM WHITE



Amber Curling
Planning Director

PATRICIA SABO
Clerk to the Board

JOHN S. MORRISON
County Attorney

April 5, 2023

Hersey Norris
P.O. Box 217
Harbinger, NC 27941

RE: Public Hearing for UDO no. 2023-02-022, Variance Application

Dear Mr. Norris,

This is to inform you, Pursuant to Article 151.2.2.6 of the Camden County Unified Development Ordinance, the Camden County Board of Adjustment will hold a public hearing on Wednesday, April 19, 2023 at 7pm, or soon thereafter as the agenda will allow. The meeting will be held in the Board Room in the Camden County Library at 118 NC Hwy 343 N. On the agenda is UDO no. 2023-02-022 Variance Application for 318 Old Swamp Road in South Mills. The Variance request is to Article 151.3.6.3 of the Camden County Unified Development Ordinance, minimum lot size dimensional requirements.

You or your representative must be in attendance for your application to be heard.

If you have any questions, contact the Planning Office at (252) 338-1919 ext. 232.

Sincerely,

Amber Curling
Planning Department

cc: file
Patricia Sabo
Hersey Norris@norrismech.com

Notice to Adjacent Property Owners

Camden County

PO Box 74

117 North Highway 343

Camden, NC 27921

252-338-1919 ext. 235

TO: Adjacent Property Owners

FROM: Amber Curling, Planning Department
(252) 338-1919 Ext: 235

DATE: April 5, 2023


TOPIC: Public Hearing for UDO no. 2023-02-022, Variance Application

Pursuant to Article 151.2.2.6 of the Camden County Unified Development Ordinance, the Camden County Board of Adjustment will hold a public hearing on Wednesday, April 19, 2023 at 7pm, or soon thereafter as the agenda will allow. The meeting will be held in the Board Room of the New Camden Library Building at 118 NC Hwy 343 N. On the agenda is UDO no. 2023-02-022, a Variance Application for 318 Old Swamp Rd in South Mills. The Variance request is to Article 151.3.6.3 of the Camden County Unified Development Ordinance, minimum lot size dimensional requirements.

A copy of the Variance Request and supporting documentation is available at the Camden County Planning Office or from www.camdencountync.gov website under Department of Planning, Zoning, and Flood Management. Any inquires contact the Planning Department at 252-338-1919 ext. 235.

The public is invited to attend and make comments to the board. Any changes to the application may be made after the public hearing.

Sincerely,



Amber Curling
Planning Department

PIN_withDa	Name1	Name2	Address	CityStZip
01-7999-00-66-6321.0000	BUTT ELMER ✓		327 OLD SWAMP ROAD	SOUTH MILLS NC 27976
01-7999-00-65-5210.0000	LANE INA DUNGAN ✓		303 OLD SWAMP RD	SOUTH MILLS NC 27976 9574
01-7999-00-65-2774.0000	CARTWRIGHT CHARLES E. ✓		314 OLD SWAMP ROAD	SOUTH MILLS NC 27976
01-7999-00-65-2556.0000	AYCOTH RICHARD WADE ✓		310 OLD SWAMP ROAD	SOUTH MILLS NC 27976
01-7999-00-55-9877.0000	NORRIS HERSEY BRADFORD ✓		P.O. BOX 217	HARBINGER NC 27941
01-7999-00-66-6128.0000	BUTT ELMER M. ✓		327 OLD SWAMP ROAD	SOUTH MILLS NC 27976
01-7999-00-54-6880.0000	BRIARWOOD FOREST PRODUCTS INC ✓		PO BOX 211	SOUTH MILLS NC 27976 0211
01-7999-00-66-3351.0000	BOHN ALBERT ✓		322 OLD SWAMP ROAD	SOUTH MILLS NC 27976
01-7999-00-65-5716.0000	SPIVEY JAMES A. ✓	SHEILA M. SPIVEY	100 CAROLINA ROAD	SOUTH MILLS NC 27976
01-7999-00-65-6733.0000	LINEBERRY BRIAN ✓		104 CAROLINA ROAD	SOUTH MILLS NC 27976
01-7999-00-66-1902.0000	NORRIS HERSEY BRADFORD ✓		P.O. BOX 217	HARBINGER NC 27941
01-7999-00-56-2480.0000	ROUNTREE J C ✓	C/O ALMA R. ROUNTREE	127 CARTWRIGHT ROAD	SOUTH MILLS NC 27976
01-7999-00-66-8142.0000	TWINE DAVID W ✓	ANN H TWINE	319 OLD SWAMP ROAD	SOUTH MILLS NC 27976
01-7999-00-65-8851.0000	SHERBERT KYLE M ✓	TIANA SHERBERT	106 CAROLINA ROAD	SOUTH MILLS NC 27976

Black are Duplications and not mailed

All of these letters mailed on 4-1-23

ARTICLE 151.2 Procedures

Section 2.3 Specific Review Procedures

2.3.26 Variance

2.3.26. VARIANCE

A. Purpose and Intent

The purpose of this section is to allow certain deviations from the dimensional standards of this Ordinance (such as height, setback, lot coverage, or similar numerical standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner’s control (such as topographical conditions, narrowness, shallowness, or shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. This section also includes standards for variance from the County’s watershed protection standards in Section 3.8.5, Watershed Protection Overlay (WPO).

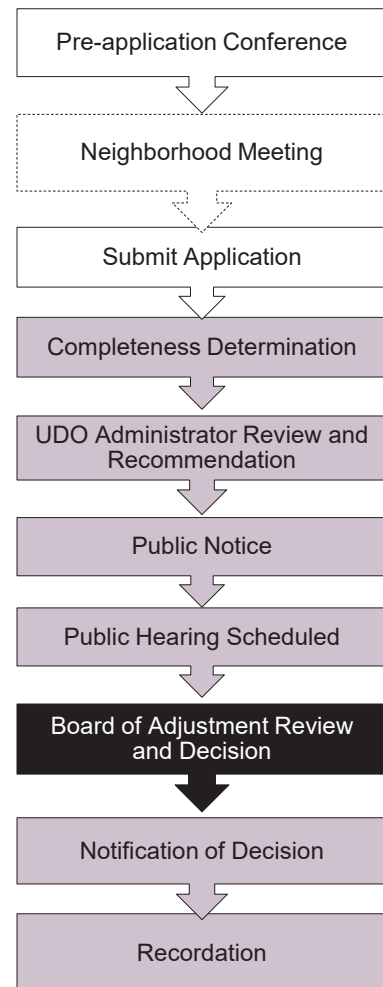
B. Applicability

1. Development that would otherwise be subject to undue and unique hardship from the applications of the standards in this Ordinance may seek relief from the standards in accordance with this section.
2. No variance may be sought that increases development density (e.g., units per acre) beyond that allowed in a base zoning district, or that would permit a use not allowed in a zoning district.
3. In addition to the standards for variance from the basic zoning-related provisions of this Ordinance, this section also includes provisions for the consideration of variances to the watershed protection standards in Section 3.8.5, Watershed Protection Overlay (WPO).
4. Variances to the special flood hazard area provisions in Section 3.8.3, Special Flood Hazard Area Overlay (SFHA), are processed in accordance with the procedure described in this section and the standards in Section 3.8.3, Special Flood Hazard Area Overlay (SFHA).

C. Variance Procedure

1. **Pre-Application Conference**
Applicable (see Section 2.2.2, Pre-Application Conference).
2. **Neighborhood Meeting**
Optional (see Section 2.2.3, Neighborhood Meeting).
3. **Application Submittal**
Applicable (see Section 2.2.4, Application Submittal).
4. **Staff Review and Action**
 - a. Applicable (see Section 2.2.5, Staff Review and Action).
 - b. The UDO Administrator shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 2.3.26.D, Variance Review Standards.
5. **Public Notice**
Applicable (see Section 2.2.6, Public Notice).
6. **Board of Adjustment Review and Decision**
 - a. Applicable (see Section 2.2.9, Action by Review Authority, and Section 2.2.7.C, Quasi-Judicial Public Hearings).
 - b. The BOA, after the conclusion of a quasi-judicial public hearing, shall decide the application for a variance.
 - c. The decision shall be based on the evidence in the record, as supplemented by the arguments presented at the quasi-judicial hearing, and the appropriate standards in Section 2.3.26.D, Variance Review Standards.
 - d. The decision shall be one of the following:
 1. Approval of the variance as proposed;
 2. Approval of the variance with revisions; or
 3. Denial of the variance.
 - e. Each decision shall be made in writing and reflect the BOA’s determination of contested facts and their application to the standards in this Ordinance.
 - f. The written decision shall be signed by the Chair or other duly authorized member of the BOA.
 - g. The decision of the BOA shall be effective upon the filing of the written decision.
7. **Procedure for Consideration of a Variances to the Watershed Protection Standards**

FIGURE 2.3.26: VARIANCE PROCEDURE



Attachment: 9_Article151.2.3.26_Variance (318 Old Swamp Road App)

ARTICLE 151.2 Procedures

Section 2.3 Specific Review Procedures

2.3.26 Variance

a. **Variances Distinguished**

1. **Minor Variance**

The BOA shall review and decide applications for a minor variance from the standards in Section 3.8.5, Watershed Protection Overlay (WPO), in accordance with the procedure in this section. A minor variance application addresses requests for the following:

- A. A reduction of up to five percent of a buffer width;
- B. A reduction to the minimum lot area requirements of five percent or less;
- C. An increase of up to five percent of the maximum allowable density or built-upon area requirement under the high-density option; or
- D. A reduction of up to 10 percent of any management requirement under the low density option.

2. **Major Variance**

A. The BOA shall review and make a recommendation on an application for a major variance from the standards in Section 3.8.5, Watershed Protection Overlay (WPO), in accordance with Section 2.3.26.C.7.b, Procedure.

- B. A major variance application includes requests for the following:
- 1. The relaxation, by a factor greater than 10 percent, of any management requirement under the low density option;
 - 2. The relaxation, by a factor of greater than 5 percent, of any management requirement under the low density option; or
 - 3. Any variation in design, maintenance, or operation requirements of a wet detention pond or other approved stormwater management system.

b. **Procedure**

1. **Minor Variance**

Applications for a minor variance to the watershed protection standards shall be processed in accordance with the standards and requirements in Section 2.3.26.C, Variance Procedure.

2. **Major Variance**

Applications for a major variance to the watershed protection standards shall be processed in accordance with the standards and requirements in Section 2.3.26.C, Variance Procedure, except for the following:

- A. The Board of Adjustment shall make a recommendation on major water-related variance applications pertaining to water supply watershed standards based on the competent, material, and subsequent evidence in the record, as supplemented by the arguments presented at the quasi-judicial hearing, and the standards in Section 2.3.26.D.3, Watershed Protection Variance Review Standards. The recommendation shall be one of the following:
 - 1. Approval of the variance as proposed;
 - 2. Approval of the variance application with revisions; or
 - 3. Denial of the variance.
- B. Each recommendation shall be made in writing and reflect the BOA's determination of facts and their application to the standards in this Ordinance.
- C. The written recommendation shall be signed by the Chair or other duly authorized member of the BOA.
- D. The application materials, along with the recommendation of the BOA shall be forwarded to the North Carolina Environmental Management Commission.
- E. The final decision regarding a major water-related variance shall be made within 90 days of receipt by the North Carolina Environmental Management Commission in accordance with all applicable State law.
- F. Any decision by the EMC shall be subject to review by the Superior Court of the county where located.
- G. Denials of a major water-related variance application shall not be forwarded to the North Carolina Environmental Management Commission by the BOA.

8. **Notification of Decision**

The decision of the BOA shall be delivered by personal service, electronic mail, or by first-class mail to the applicant, the landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person providing notification of decision shall certify that proper notification has been made.

9. **Recordation**

ARTICLE 151.2 Procedures

Section 2.3 Specific Review Procedures

2.3.26 Variance

If a variance application is approved, the notice of decision shall be recorded by the County in the office of the Camden County Register of Deeds.

D. Variance Review Standards

1. Zoning Variance Review Standards

a. Required Findings

A zoning variance shall be approved on a finding the applicant demonstrates all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
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.
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 the variance shall not be regarded as a self-created hardship.
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.

b. Other Considerations

In addition to the making the required findings in subsection (a) above, the BOA may also consider the following:

1. The variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure;
2. All property taxes on the land subject to the variance application have been paid in full;
3. None of the following may be used as the basis for approving a variance:
 - A. Neither the nonconforming use of lands, buildings, or structures in the same zoning district, or the permitted use of lands, buildings, or structures in other zoning districts, or personal circumstances;
 - B. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
 - C. Hardships resulting from factors other than application of the relevant standards of this Ordinance;
 - D. The fact that land or a structure may be utilized more profitably or be more marketable with a variance;
 - E. The citing of other conforming or nonconforming uses of land or structures in the same or other zoning districts; or
 - F. Financial hardship.

2. Special Flood Hazard Area Variance Review Standards

The standards for variance to the special flood hazard area provisions is in Section 2.3.26.C, Variance Procedure.

3. Watershed Protection Variance Review Standards

Decisions or recommendations on applications to the watershed protection standards shall be based on the following three findings (subsections a-c), which shall be supported by written findings of fact and conclusions of law:

- a. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the BOA must find that all of the five following conditions exist.
 1. If he or she complies with the provisions of this Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit to be made from the property will not be considered adequate to justify the BOA in granting a variance. Moreover, the BOA shall consider whether the variance is the minimum possible deviation from the terms of this Ordinance that will make possible the reasonable use of his or her property.
 2. The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.
 3. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
 4. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates this Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the BOA for relief.

ARTICLE 151.2 Procedures

Section 2.3 Specific Review Procedures

2.3.26 Variance

5. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.
- b. The variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.
- c. In granting the variance, the public safety and welfare have been assured and substantial justice has been done. The BOA shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

E. Insufficient Grounds for Approving Variances

The following factors shall not constitute sufficient grounds for approval of any variance:

1. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
2. Hardships resulting from factors other than application of requirements of this Ordinance;
3. The fact that land or a structure may be utilized more profitably or be more marketable with a variance; or
4. The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts.

F. Conditions of Approval

In granting a variance, the BOA may prescribe conditions of approval to ensure compliance with the standards of this section, and to assure that the use of the land to which the variance applies will be compatible with surrounding lands and will not alter the essential character of the neighborhood.

1. A variance granted subject to a condition of approval shall be permitted as long as there is compliance with the condition.
2. Violation of a condition of approval shall be deemed a violation of this Ordinance.
3. If a violation or invalidation of a condition of approval occurs, the UDO Administrator may revoke the certificate of occupancy for the development subject to the variance.

G. Effect

1. General

Approval of a zoning variance or special flood hazard area variance authorizes only the particular regulatory relief approved by the BOA. It does not exempt the applicant from the responsibility to obtain all other permits or development approvals required by this Ordinance or any other applicable laws, and does not indicate that the development for which the variance is granted should receive other permits or development approvals under this Ordinance unless the relevant and applicable portions of this Ordinance are met.

2. Notification Regarding Flood Insurance Costs

- a. An applicant for whom a special flood hazard area variance is approved shall be provided written notice by the UDO Administrator specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is built. The notice shall inform the applicant about the risks to life and property from construction below the BFE and that issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance.
- b. The notification shall be maintained by the UDO Administrator with the record of the special flood hazard area variance action.

3. Records

Upon request, the UDO Administrator shall report all special flood hazard area variances approved in accordance with this section to the Federal Emergency Management Agency and the State of North Carolina.

H. Amendment

Amendment of a variance may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

I. Expiration

1. If the BOA does not include a time period by which development subject to a zoning variance or a special flood hazard area variance expires, development shall commence within 12 months of the date of issuance of the variance or the variance shall expire and become null and void.
2. A major or minor watershed protection variance shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within six months from the date of the decision.
3. A variance shall expire and become invalid if the property owner changes development on the site such that the extraordinary and exceptional conditions that warranted the hardship and variance no longer do so.

J. Appeal

1. Appeal of a decision on a variance shall be subject to review by the District 1 Superior Court by proceedings in the nature of certiorari and in accordance with Section 160D-1402 of the North Carolina General Statutes.
2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class

ARTICLE 151.2 Procedures

Section 2.3 Specific Review Procedures

2.3.26 Variance

mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

Attachment: 9_Article151.2.3.26_Variance (318 Old Swamp Road App)

ARTICLE 151.3 Zoning Districts

Section 3.5 Residential Districts

3.5.3 Rural Residential (RR) District

3.5.3. RURAL RESIDENTIAL (RR) DISTRICT

<h1 style="margin: 0;">RR</h1> <h1 style="margin: 0;">Rural</h1> <h1 style="margin: 0;">Residential</h1>	<p>A. Purpose Statement</p>
	<p>The Rural Residential (RR) district is established to accommodate low density residential neighborhoods and supporting uses on lots near bona fide farms and agricultural areas in the rural portion of the County. The district is intended to accommodate residential development in ways that will not interfere with agricultural activity or negatively impact the rural character of the County. One of the primary tools for character protection is the requirement to configure residential subdivisions of more than five lots as conservation subdivisions. The conservation subdivision approach seeks to minimize the visibility of new residential development from adjacent roadways through proper placement and screening. The district accommodates several differing agricultural uses and single-family detached homes. It also allows supporting uses like educational facilities, parks, public safety facilities, and utilities. District regulations discourage uses that interfere with the development of residential dwellings or that are detrimental to the rural nature of the district.</p>

B. Dimensional Requirements

#	STANDARD TYPE	REQUIREMENTS FOR TRADITIONAL DEVELOPMENT	REQUIREMENTS FOR CONSERVATION SUBDIVISIONS [1]
<i>A</i>	Minimum Development Size (acres)	N/A	10
<i>B</i>	Maximum Residential Density (units/acre)	0.5	1
<i>C</i>	Minimum Lot Area (acres)	2	1
<i>D</i>	Minimum Lot Width (feet) [2]	125	60
<i>E</i>	Maximum Lot Coverage (% of lot area) [3]	24	72
<i>F</i>	Minimum Open Space (% of development size) [4]	None	50
<i>G</i>	Minimum Front Setback (feet)	50	20
<i>H</i>	Minimum Corner Side Setback (feet)	50	20
<i>I</i>	Minimum Interior Side Setback (feet)	25	10
<i>J</i>	Minimum Rear Setback (feet)	25	15
<i>K</i>	Minimum Distance Between Buildings, Front-to-Back (feet) [5]	20	10
<i>L</i>	Minimum Distance Between Buildings, Side-to-Side (feet) [5]	15	5
<i>M</i>	Minimum Accessory Building Setback (feet)	10	3
<i>N</i>	Maximum Building Height (feet)	35 [6]	35

Attachment: 9_Article151.3.5.3RuralResidential (318 Old Swamp Road App)

ARTICLE 151.3 Zoning Districts

Section 3.5 Residential Districts

3.5.3 Rural Residential (RR) District

NOTES:

- [1] Residential developments of five or more lots shall be configured as a conservation subdivision in accordance with the standards in Section 6.5, Conservation Subdivision.
- [2] Lots on a cul-de-sac street shall maintain a minimum frontage of 35 feet and shall maintain 80 percent of the required minimum lot width at a point located 50 feet from the street right-of-way edge.
- [3] The maximum lot coverage may be increased with approval from NCDEQ and compliance with all applicable stormwater management requirements.
- [4] Applied to residential subdivisions and nonresidential developments.
- [5] Applied in cases where there are two or more principal buildings on the same lot.
- [6] Maximum building height may be increased to 50 feet for agricultural or agricultural-related uses.

Attachment: 9_Article151.3.5.3RuralResidential (318 Old Swamp Road App)



Board of Adjustment
AGENDA ITEM SUMMARY SHEET

Consider Date of Next Meeting

Item Number: 7.1

Meeting Date: April 19, 2023

Submitted By: Patricia Sabo,
Board of Adjustment
Prepared by: Patricia Sabo

Item Title Consider Date of Next Meeting - May 17, 2023

Attachments: