

**CAMDEN COUNTY**  
**Board of Adjustment Meeting**  
**October 13, 2015, 7:00 PM**



**Camden County**  
NEW ENERGY. NEW VISION.

**Camden County Courthouse**  
**Historic Courtroom**  
Courthouse Complex



BOARD OF ADJUSTMENT

[VACANT]  
Chairman

BRAD SMITH  
Vice Chairman

RONALD PRICE  
DON KEATON  
WILLIAM MCPHERSON  
ROGER LAMBERTSON  
FRANK EASON



**Camden County**  
NEW ENERGY. NEW VISION.

DAN PORTER  
Planning Director

AMY BARNETT  
Clerk to the Board

JOHN S. MORRISON  
County Attorney

**Meeting Agenda, Tuesday, October 13, 2015, 7:00 PM**  
Historic Courtroom, Camden County Courthouse

- I. Call to Order & Welcome
- II. Consideration of Agenda
- III. Consideration of the Minutes- June 9, 2015.....Page 1-12
- IV. Comments from the Public
- V. Old Business
- VI. New Business
  - 1. *Variance Request, Phil Faison, Land/Home Mart LLC*.....Page 13-26
- VII. Information from Board and Staff
- VIII. Consider Date of Next Meeting – November 10, 2015 (unless no matters for board)
- IX. Adjournment



1

**CAMDEN COUNTY  
BOARD OF ADJUSTMENT  
AGENDA ITEM SUMMARY SHEET**

**Item Number:** III  
**Meeting Date:** October 13, 2015  
**Attachments:** 1 (10 Pages)  
**Submitted by:** Planning Clerk

**ITEM TITLE:** Minutes, June 9, 2015

**SUMMARY:**

**RECOMMENDATION:**

**For Discussion and Possible Approval**

<b>MOTION MADE BY:</b>	
[VACANT]	_____
B. Smith	_____
R. Price	_____
D. Keaton	_____
W. McPherson	_____
R. Lambertson	_____
F. Eason	_____
<b>NO MOTION</b>	_____
<b>VOTE:</b>	
[VACANT]	_____
B. Smith	_____
R. Price	_____
D. Keaton	_____
W. McPherson	_____
R. Lambertson	_____
F. Eason	_____
<b>ABSENT</b>	_____
<b>RECUSED</b>	_____

2

**Camden County Board of Adjustment  
Minutes**

**June 9, 2015, 7:00pm**

Historic Courtroom

Camden County Courthouse Complex

<b>Members Present:</b>	<b>Absent:</b>
Chairman Brad Smith	Vice Chairman (Vacant position)
Frank Eason	Don Lee Keaton
Ronald Price	
William McPherson	
Roger Lambertson (arrived just before new business section of meeting)	

**Call to Order & Welcome**

Chairman Brad Smith called to order the June 9, 2015 meeting at 7:00 PM.

**Others Present at Meeting**

**STAFF PRESENT**

<b>Name:</b>	<b>Title:</b>
Dan Porter	Director of Planning
Dave Parks	Zoning/Flood Administrator
Amy Barnett	Planning Board Clerk

**OTHERS PRESENT**

<b>Name/Residence:</b>	<b>Residence</b>	<b>Title:</b>	<b>Purpose / Representing:</b>	<b>Meeting Section:</b>
Reggie Barnacascel	Rocky Mount, NC	Agent for Applicant	Boddie-Noell Enterprises, Inc.	New Business #1
Clarence Hastings	Camden, NC	Adjacent Property Owner	Comment regarding Variance	New Business #1
Shelia Gordon	Camden, NC	Adjacent Property Owner	Comment regarding Variance	New Business #1

18 **Consideration of Agenda**

19

20 Chairman Brad Smith called for consideration of the agenda.

21

22 Dan Porter, Director of Planning, suggested moving Election of Officers to New Business Item  
23 #2, and making Boddie-Noell Enterprises, Inc. Variance to Setbacks Request #1.

24

25 Motion to approve the agenda as amended made by: Frank Eason.

26 Motion Seconded by: William McPherson.

27

28 The motion was approved with Chairman Brad Smith, Frank Eason, Ronald Price, and William  
29 McPherson voting aye, none voting no, 2 absent, and none not voting. Roger Lamberson was  
30 not present for this vote, he arrived just prior to the new business section of the meeting.

31

32 **Consideration of Minutes: September 11, 2012**

33

34 Chairman Brad Smith called for consideration of the minutes from the September 11, 2012  
35 meeting.

36

37 Motion to approve the minutes as written made by: William McPherson.

38 Motion Seconded by: Ronald Price.

39

40 The motion was approved with Chairman Brad Smith, Frank Eason, Ronald Price, and William  
41 McPherson voting aye, none voting no, 2 absent, and none not voting. Roger Lamberson was  
42 not present for this vote, he arrived just prior to the new business section of the meeting.

43

44 **Comments from the Public (topics not on the agenda)**

45 None.

46

47 **Old Business**

48 None.

49 New Business

50  
51 *Item #1*

52 *Boddie-Noell Enterprises, Inc., Variance to Setbacks Request*

53  
54 Dan Porter gave a brief introduction for this item:

- 55 • Variance to setbacks in Community Core District
- 56 • Explained this is a quasi judicial proceeding
  - 57 ○ Evidentury
  - 58 ○ Motions require a 4/5ths vote to pass regardless of whether motion is for approval
  - 59 or denial
  - 60 ○ Must be sworn in to make comments
  - 61 ○ Explained the hardship questions
    - 62 ▪ Unnecessary hardship resulting from strict application of UDO
    - 63 ▪ Hardship results from conditions peculiar to the property
    - 64 ▪ Hardship did not result from actions taken by the applicant or property
    - 65 owner
    - 66 ▪ Requested variance is consistent with the spirit, purpose, and intent of the
    - 67 UDO

68  
69 Dave Parks went over the findings of facts & the aforementioned hardship questions and the  
70 responses given by the applicant and staff, and entered them into evidence in this case.

71  
72 -----

Variance  
Findings of Facts  
UDO 2015-05-13

- |    |   |   |
|----|---|---|
| 73 |   |   |
| 74 |   |   |
| 75 |   |   |
| 76 |   |   |
| 77 | 1. <b>Name of Applicant:</b>                    | Boddie-Noell Enterprises, Inc.                  |
| 78 | 2. <b>Agent for Applicant:</b>                  | William R. Barnacascel, Jr., (Reggie)           |
| 79 | 3. <b>Address of Applicant:</b>                 | P. O. Box 1908, Rocky Mount, NC, 27802-1908     |
| 80 | 4. <b>File Reference:</b>                       | UDO 2015-05-13                                  |
| 81 | 5. <b>PIN:</b>                                  | 01-8935-03-20-5143-0000                         |
| 82 | 6. <b>Street Address of Property:</b>           | ### Towne Center Drive                          |
| 83 | 7. <b>Location of Property:</b>                 | Camden, NC (Intersection of U.S. 158 & Hwy 343) |
| 84 | 8. <b>Flood Zone:</b>                           | Zone X  |
| 85 | 9. <b>Zoning District(s):</b>                   | Community Core (CC)                             |
| 86 | 10. <b>General Description of the Proposal:</b> | Request for setback variance along NC 343, Town |
| 87 |   | Center Drive, and common property line between  |
| 88 |   | parcels 1 and 2.                                |
| 89 | 11. <b>Use Classification:</b>                  | Camden County Code Article 151.334 Use #8.100   |
| 90 |   | (Restaurants)                                   |
| 91 | 12. <b>Date Application Received by County:</b> | May 12, 2015                                    |
| 92 | 13. <b>Received by:</b>                         | Dave Parks, Permit Officer                      |
| 93 | 14. <b>Application Fee Paid:</b>                | \$500.00 Ck #                                   |
| 94 | 15. <b>Completeness of Application:</b>         | Application is generally complete               |

6

- 95 **16. Documents Received Upon Filing Application or otherwise included:**
- 96 **A.** Variance Land Use/Development Application
- 97 **B.** Proposed Commercial Site Plan
- 98 **C.** Supporting Documentation
- 99 **D.** GIS aerial Map of Property
- 100 **17. Adjacent Property Uses:**
- 101 **A.** Predominant: Commercial / High School
- 102 **B.** Other: Residential
- 103 **18. Existing Land Use:** Open Land
- 104 **19. FINDINGS:** When unnecessary hardship would result from carrying out the strict letter of
- 105 the zoning ordinance, the Board of Adjustment shall vary any of the provisions of this
- 106 chapter upon a showing of all of the following:

- 107
- 108 **1. Unnecessary hardship would result from the strict application of this chapter. It**
- 109 **shall not be necessary to demonstrate that, in the absence of the variance, no**
- 110 **reasonable use can be made of the property.**

111

112 **Applicant Response:** Current lot size is 47,740 sf or 1.1 acres. Current required

113 setbacks would take 16,967 sf or .39 acres or 36% of total property. This only leaves

114 30,773 sf or .71 acres of usable land. Our attached Preliminary Site Plan assumes

115 approval of the requested variance and still only provides marginal drive aisle widths

116 and parking spaces.

117

118 **Staff's Response:** Unnecessary hardship could result in the strict application of

119 current setbacks in the Community Core District (Exhibit A). Camden Towne Center

120 was approved as a Shopping Center (Special Use Permit) and specific standards for

121 Shopping Centers, Camden County Code Article 151.347 (R) (Exhibit B) states that

122 "Setbacks do not apply to side and rear lot lines located within the interior of the tract

123 provided all fire codes are met and all lot lines are provided with adequate utility

124 easements." The request for the reduction in setback along Towne Center Drive and

125 between parcels one and two are not required. The hardship is the setback area along

126 NC 343 North from 25' to 10.5'. With NCDOT's widening of US 158 which included

127 the widening of NC 343 North (Exhibit C) said lot was reduced. Vehicular setbacks

128 would have been met if this did not occur, therefore with current ROW lines strict

129 application of this chapter, in staff's opinion could generate the unnecessary hardship.

130

131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174

**2. The hardships result 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 of granting a variance.**

**Applicant Response:** Current setbacks along Hwy 343 and Towne Center Drive are 25 feet and setback along the common property line is 10' which results in a large part of unusable land noted in #1 above.

**Staff's Response:** The hardship results from the conditions that are peculiar to the location of the property as corner lot where the NCDOT US 158 road widening project took significant ROW from both the major highway and the intersecting arterial. As a corner lot the development is subject to 25 foot street setbacks on two boundaries rather than just one as is typical along a major roadway, thus reducing the developable area. The project maintains the 25 foot street setback along the primary major roadway US Hwy 158. Granting the variance along NC 343 would conform to 10 foot side setback requirements of standard non-corner lots.

**3. The hardships 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.**

**Applicant Response:** The setback restrictions were derived by Camden County and not the applicant or property owner.

**Staff Response:** The hardship resulted from the NCDOT widening of U.S. 158 and NC 343 (at the intersection) which reduced the lot size.

**4. The requested variance is consistent with the spirit, purpose, and intent of this chapter, such as public safety is secured and substantial justice is achieved.**

**Applicant Response:** It is my belief that the current setbacks proposed will be consistent with the intent of the chapter.

**Staff Response:** The requested variance is in staff's belief consistent with the spirit, purpose, and intent of the ordinance such as public safety would be secured if applicant would provide a vegetative buffer within the 10.5 foot remaining setback area along NC 343.

Staff recommends approval of Variance in reducing the setback along NC 343 from 25 feet to 10.5 feet.



175 Commentaries regarding the Finding of Facts Variance Questions above:

176

177 **Question #1 Commentary:**

178

179 Dave Parks read Variance Question #1, Applicant's Response, and Staff Response (see page 4 of  
180 this document). Dave Parks stated that there is a 5% administrative flexibility with regards to  
181 setbacks, but this exceeded that and is why it is before the Board of Adjustment.

182

183 Roger Lambertson asked if the setbacks pertained to the driveway or just for the building.

184

185 Mr. William R. Barnacascel Jr. was sworn in prior to commenting.

186

187 Mr. Barnacascel responded to Mr. Lambertson's question: The setbacks are for both the building  
188 and parking requirements. Mr. Porter added that there are separate setback requirements for the  
189 building and separate setback requirements for the vehicular area.

190

191 Mr. Lambertson asked which pertained to the 25 foot requirement. Mr. Porter stated that was for  
192 the vehicular setback. As the ordinance is written, the setbacks for the vehicular areas are 25 feet  
193 from the road way.

194

195 Mr. Frank Eason asked where the 25 foot setback starts from. Mr. Porter responded that it starts  
196 from the Right of Way curb line after completion of the 158 widening project which took a  
197 considerable amount of distance from the previous curb line on that corner.

198

199 Chairman Brad Smith asked about the setbacks along Towne Center Drive. Mr. Porter  
200 responded that since Camden Towne Center was approved as a shopping center, the setbacks  
201 between the lots and along Towne Center Drive are not required because Towne Center Drive is  
202 an internal road, and that rather it is the setback from NC 343 that is at issue. A setback of 25  
203 feet is being maintained from US 158. Variance request is for the setbacks from NC 343.

204

205 Ronald Price asked about the setback lines along the side and rear as the ordinance said they did  
206 not apply to any boundary line that abutted a road. Mr. Price asked if this did not apply because  
207 it is internal and is a shopping center. He also asked if there was a road between parcels 1 & 2 of  
208 the shopping center.

209

210 Mr. Porter responded saying that there is no road between parcels 1 & 2, they are adjacent  
211 properties. The site plan shows a driveway connecting the parcels, so that vehicles can drive  
212 from one parcel to the next and provide interconnectivity.

213

214 Mr. Price then asked if Fire / Emergency vehicles would have enough space for access to the  
215 properties. Mr. Porter stated that parcel #2 would have a separate entrance and provide access to  
216 EMS.

217 Mr. Price asked if there is no setback requirement for interior boundary lines, can a parking lot  
 218 be right up to the setback line. Mr. Porter responded that the developer could, but that it is  
 219 preferable that they not. One of the things that has been requested was a sidewalk between  
 220 Towne Center Drive and the vehicular areas.

221

222 Mr. Porter added that a sidewalk was not a requirement of the special use permit, but it is  
 223 something that they are considering.

224

225 Mr. Porter asked the Board if they would like to open it to any questions from the public  
 226 regarding question #1 of this variance application. Chairman Brad Smith asked if there were any  
 227 question or comments from the public.

228

229 ***Mr. Clarence Hastings, adjacent property owner, 110 West Hwy 158***

230 (Was sworn in by Dave Parks.)

- 231 • His parents house is at 108 West Hwy 158, which is the brick house (1<sup>st</sup> house on the  
 232 right) as you come through the light heading west on US 158.
- 233 • Asked what the setbacks would be for Towne Center Drive and how far those setbacks  
 234 would be between his property and the roadway.
  - 235 ○ Mr. Porter responded that the Camden Towne Center site plan setbacks were  
 236 reviewed at the time of the special use permit for Camden Towne Center. He  
 237 further stated that, per Camden County regulations, the setbacks for the interior  
 238 property lines are 10 foot setbacks for vehicular areas. He also stated that those  
 239 setbacks are not the issue at hand for this meeting. The location of the road was  
 240 approved according to the regulations for the overall project.
  - 241 ○ Dave Parks added that the right of way goes right to the edge of the property  
 242 lines, but does not intrude upon them.
- 243 • Asked about the drainage for the Hardee's parking lot, where the stormwater would drain  
 244 to.
  - 245 ○ Mr. Porter responded that at the time of the Special Use Permit for Camden  
 246 Towne Center, an underground pipe system was on the plan which drains  
 247 stormwater to a retention pond at the rear of the Towne Center property.
- 248 • Asked how many spaces there would be for the project.
  - 249 ○ Mr. Porter responded that there would be 44 parking spaces.
- 250 • Asked about the location and placement of dumpsters for the restaurant.
  - 251 ○ Mr. Barnacascel responded saying that the dumpsters would be inside a corral,  
 252 with minimum visibility to the public. Location of the dumpster corral is on the  
 253 site plan for the project.

254

255 ***Shelia Gordon, representing adjacent property owner (mother), NC 343, Camden***

256 (Was sworn in by Dave Parks)

- 257 • Mother lives directly across street from development on NC 343, next door to Masonic  
 258 Lodge
- 259 • Asked Board to treat all variance applicants fairly and consistently. Stated that this  
 260 decision would set a precedent, and that all future variance applicants should receive the  
 261 same courtesy.
- 262 • Concerned about placement of parking spaces and dumpsters

263 Chairman Brad Smith asked if there were any further questions or comments regarding Variance  
264 Question #1. Hearing none, he continued on to Variance Question #2:

265

266 **Question #2 Commentary:**

267

268 Dave Parks read Variance Question #2, Applicant's Response, and Staff Response (see page 5 of  
269 this document).

270

271 Frank Eason asked about the locations and sizes of the setbacks as noted by the applicant in the  
272 applicant's response. He noted that the setback for Towne Center Drive is not 25 feet. Mr. Parks  
273 confirmed this stating that at the time, the applicant did not know that there was not a  
274 requirement for internal setbacks along Towne Center Drive.

275

276 Chairman Brad Smith commented that the only setback being considered is the one along NC  
277 343. Mr. Parks stated that was correct. Mr. Porter added that what the Board would be  
278 considering is whether or not they agree with the Staff response to the Variance Questions.

279

280 Roger Lambertson commented that there was no entrance or exit along the area where the  
281 variance is being sought, no break in the curve. Mr. Barnacascel confirmed that was correct.

282

283 Ronald Price commented that the entry ways on the plans were pretty close together. Mr.  
284 Barnacascel stated that was to allow traffic to go between the parcels without getting back onto  
285 Towne Center Drive. This is for vehicular safety, particularly safety of those coming out of the  
286 Drive Thru, and should prevent accidents.

287

288 Mr. Price further commented that his concern was that there might be traffic in the same  
289 direction at both entry ways, and was concerned about there being enough room for 2 cars at  
290 each entry way - one entering and one leaving.

291

292 Chairman Brad Smith asked if there were any further questions or comments regarding Variance  
293 Question #2. Hearing none, he continued on to Variance Question #3:

294

295 **Question #3 Commentary:**

296

297 Dave Parks read Variance Question #3, Applicant's Response, and Staff Response (see page 5 of  
298 this document).

299

300 Chairman Brad Smith asked about the 343 widening at the intersection. Mr. Porter responded  
301 that the NCDOT took quite a bit of right of way from the intersection area to widen the  
302 intersection and make an extra turn lane on 343 at the corner.

303

304 Ronald Price asked if it was iminant domain. Mr. Porter stated that the NCDOT purchased the  
305 property from the owners, and that it was not iminant domain.

306

307 Brad Smith asked if the right of way had not been taken by NCDOT, would the setback  
308 requirements have been met without the need for a variance. Mr. Porter stated this was correct.

309 Ronald Price asked if the NCDOT widening project obtained the properties they needed for the  
310 widening project prior to the Special Use Permit for Camden Towne Center. Mr. Porter  
311 responded that it was about the same timeframe for both, and that the properties that the NCDOT  
312 needed were purchased from land owners all up and down US 158 & intersections along the  
313 way.

314  
315 There was a brief discussion regarding ingress and egress as it pertains to Towne Center Drive.

316  
317 Chairman Brad Smith asked if there were any further questions or comments regarding Variance  
318 Question #3. Hearing none, he continued on to Variance Question #4:

319  
320 **Question #4 Commentary:**

321  
322 Dave Parks read Variance Question #4, Applicant's Response, and Staff Response (see page 5 of  
323 this document).

324  
325 Chairman Brad Smith observed that staff was recommending approval with the requirement that  
326 a vegetative buffer be put in place along the NC 343 boundary.

327  
328 Mr. Porter stated that the motion from the Board should include whether staff findings are  
329 accepted or not.

330  
331 Chairman Brad Smith asked if there were any further questions or comments regarding Variance  
332 Question #4.

333  
334 Mr. Parks stated that staff is recommending approval of the variance to setbacks along NC 343  
335 from 25 feet to 10.5 feet.

336  
337 Chairman Brad Smith asked how high the vegetative buffer needs to be. Mr. Porter responded  
338 that the UDO has some specifications, but that staff would like for it to be an opaque type of  
339 solid vegetation.

340  
341 Motion to accept the Findings of Facts as presented by staff and approve the variance for setback  
342 from 25 feet to 10.5 feet with the requirement of a vegetative buffer along NC 343 made  
343 by: Roger Lambertson.

344  
345 Motion Seconded by: William McPherson.

346  
347 The motion was approved with Chairman Brad Smith, Frank Eason, Ronald Price, Roger  
348 Lambertson, and William McPherson voting aye, none voting no, 1 absent, and none not voting.

349  
350

---

351 **Item #2**  
352 **Election of Officers, Board of Adjustment**

353  
354 Roger Lambertson nominated Brad Smith to continue to serve as Chairman of the Board of  
355 Adjustment. Mr. Smith accepted the nomination. By a vote of 5-0, with one member absent,  
356 Mr. Smith was elected to the position of Chairman for another term.

357  
358 Chairman Brad Smith nominated Roger Lambertson to serve as Vice Chairman of the Board of  
359 Adjustment. Mr. Lambertson accepted the nomination. By a vote of 5-0, with one member  
360 absent, Mr. Lambertson was elected to the position of Vice Chairman.

361 \_\_\_\_\_

362  
363 **Information from Board and Staff**

- 364
- 365 • Mr. Porter commented about seeking another member for the Board of Adjustment to fill
- 366 the vacant seat on the board, and moving an alternate member up into a voting position,
- 367 all of which needs Board of Commissioner approval.
- 368 • Mr. Frank Eason commented that there needs to be at least one meeting per year when/if
- 369 there are no matters to come before the board, just to approve minutes or to conduct
- 370 training sessions.
- 371 • Mr. Porter commented that a possible future training session would be looked into setting
- 372 up.
- 373

374 **Consider Date of Next Meeting - 7-14-15 (unless no matters for board)**

375  
376 **Adjournment**

377  
378 At 7:50 PM, Chairman Brad Smith made a motion to adjourn the meeting. Vice Chairman Roger  
379 Lambertson seconded the motion. The motion was approved with Chairman Brad Smith, Vice  
380 Chairman Roger Lambertson, Frank Eason, Ronald Price, and William McPherson voting aye,  
381 none voting no, 1 absent, and none not voting.

382

383

384

385

386 Date: \_\_\_\_\_

387

388

389 Approved: \_\_\_\_\_  
390 Chairman Brad Smith

391

392

393 Attested: \_\_\_\_\_  
394 Amy Barnett, Planning Clerk

**CAMDEN COUNTY  
BOARD OF ADJUSTMENT  
AGENDA ITEM SUMMARY SHEET**

**Item Number:** VI-1.  
**Meeting Date:** October 13, 2015  
**Attachments:** 1 (12 Pages)  
**Submitted by:** Staff

**ITEM TITLE:** 1. Variance Request, Phil Faison,  
Land/Home Mart LLC

**SUMMARY:**

**RECOMMENDATION:**

**For Discussion and Possible Action**

<b>MOTION MADE BY:</b>	
[VACANT]	_____
B. Smith	_____
R. Price	_____
D. Keaton	_____
W. McPherson	_____
R. Lambertson	_____
F. Eason	_____
NO MOTION	_____
<b>VOTE:</b>	
[VACANT]	_____
B. Smith	_____
R. Price	_____
D. Keaton	_____
W. McPherson	_____
R. Lambertson	_____
F. Eason	_____
ABSENT	_____
RECUSED	_____



**Variance – Land/Home Mart LLC  
UDO 2015-09-17**

1. **Name of Applicant:** Land/Home Mart LLC.
2. **Agent for Applicant:** Phil Faison
3. **Address of Applicant:** P.O. Box 41, Camden, NC 27921
4. **File Reference:** UDO 2015-09-17
5. **PIN:** 03-8952-02-69-8199
6. **Street Address of Property:** 138 Milltown Road
7. **Location of Property:** Shiloh, NC 27974
8. **Current Owner:** Forrest Bartlett
9. **Flood Zone:** Zone X
10. **Zoning District(s):** Basic Residential (R3-2)
11. **General Description of the Proposal:** Request for variance of Roof Pitch from 6/12 to 5/12.
12. **Article Number:** Camden County Code Article 151.069 (B) (Design Standards)
13. **Date Application Received by County:** September 22, 2015
14. **Received by:** Dave Parks, Permit Officer
15. **Application Fee Paid:** \$500.00 CK #5605
16. **Completeness of Application:** Application is generally complete.
17. **Documents Received Upon Filing Application or otherwise included:**
  - A. Variance Land Use/Development Application
  - B. Letter from applicant (Attachment A)
  - C. Letter from Holmes Building Systems LLC (Attachment B)
18. **Adjacent Property Uses:**
  - A. Predominant: Residential
  - B. Other: Agriculture
19. **Existing Land Use:** Modular Home Under Construction.
20. **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:
  1. Unnecessary hardship would result from the strict application of this chapter. 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:** See attached letter.

**Staff's response:** The result from strict application of the law is the delay and financial expenditures to comply with the law.

2. The hardships result from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from person circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis of granting a variance.

**Applicant response:** See attached letter.

**Staff's response:** The hardship from which the applicant refers to does not relate to the location, size, or topography of the property. It relates to the structure. Design Standards for the minimum 6/12 roof pitch apply to all properties in the county to where modular homes are permitted. In 2013 applicant placed a modular home adjacent to this property at 140 Milltown Road (See attachment C) with the correct roof pitch indicating that the conditions are common to the neighborhood or general public. The hardship is a personal circumstance created by either the property owner or applicant by requesting the manufacturer to modify the roof pitch.

3. The hardships 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.

**Applicant response:** See attached letter.

**Staff response:** The hardship did result from the applicants or a property owners own actions as stated in the applicant's response that the modular home ordered was subsequently modified at the property owner's request. The applicant, as the responsible contractor for the house, should have been aware of changes to is contract, or if not should not have accepted delivery upon arrival and inspection of the home.

4. The requested variance is consistent with the spirit, purpose, and intent of this chapter, such as public safety is secured and substantial justice is achieved.

**Applicant response:** See attached letter.

**Staff response:** The requirement for modular homes to have a 6/12 roof pitch is a design standard established to differentiate modular homes from manufactured homes and for them to appear similar to the stick built homes in the zoning district in which they are permitted. The requested variance is in staff's belief not consistent with the spirit, purpose, and intent of Article 151.069 (Design Standards) of the Camden County Code of Ordinances as it applies to all citizens of Camden County.

**TITLE XV: LAND USAGE / CHAPTER 151: UNIFIED DEVELOPMENT / DENSITY AND DIMENSION REGULATIONS / § 151.069 DESIGN STANDARDS.**

**§ 151.069 DESIGN STANDARDS.**

*See §§ 151.380 through 151.387 of this chapter for further criteria for any development within a special flood hazard area.*

(A) Except as otherwise provided herein, the following design standards shall apply to all site-built, modular and mobile single-family and multi-family homes erected, constructed, installed, placed or otherwise located in the county, but shall not apply to commercial structures.

~~(B)~~ The following design standards shall apply to all modular and site-built homes erected, constructed, installed, placed or otherwise located in the county, but shall not apply to commercial structures:

(1) The minimum vertical rise for a roof shall be 6 feet for each 12 feet of horizontal run.

(2) Not less than 50% of the entire roof area of the house shall have a minimum vertical rise of 6 feet for each 12 feet of horizontal run.

(3) The calculation of the minimum roof area required to meet the 50% threshold shall not include the roof area covering a dormer window.

(4) The minimum vertical rise for a roof shall be 4 feet for each 12 feet of horizontal run over any style of dormer windows.

(5) The minimum vertical rise for a roof shall be 3 feet for each 12 feet of horizontal run over non-heated space such as porches.

(C) The following appearance standards shall apply to all modular homes erected, constructed, installed, placed or otherwise located in R-3 and GUD districts:

(1) No modular home may be constructed or installed that does not have at least a porch at the front entrance of the structure. Such porch shall have a minimum area of 54 square feet, and the calculation of such area shall not include any steps.

(2) The sides of all porches and steps shall be constructed with wood, masonry or concrete, but no metal.

(3) All porches shall have a roof attached to the modular home and shall extend over the entire porch.

18

Camden County, NC Code of Ordinances

(4) The curtain wall or foundation shall have a visible exterior of one of the following: true brick or natural stone.

(D) The following appearance standards shall apply to all Class A, Class B and Class C mobile homes. No certificate of occupancy may be issued until the Administrator determines that the applicable appearance criteria have been met:

(1) Class A mobile homes may be installed in R-1 and R-2 zoning districts with at least the following appearance standards:

(a) The curtain wall or foundation shall have a visible exterior of one of the following: true brick or natural stone.

(b) 1. The mobile home is to be installed not less than the same distance from the right-of-way as any principle structure on an adjacent property on the same side of the roadway.

2. In those instances where an adjoining property has a principal structure located inside the required front setback area, and such principal structure is located within 150 feet of the proposed site for installation of the Class A mobile home, then the proposed Class A mobile home may be installed at a setback equal to the structure on the adjacent property or 25 feet from the right-of-way, whichever is greater.

(c) There shall be a front porch to the mobile home having dimensions of not less than five feet wide and five feet deep. The rear or side porch shall have dimensions of not less than three feet wide and three feet deep. The front and sides of all porches and steps shall be constructed with wood, stone, masonry, concrete, or similar looking composite material.

(2) Class B and Class C mobile homes may be installed in the R-1 zoning district and within approved mobile home parks subject to the following appearance standards:

(a) The curtain wall shall be of all weather material covering all exposed underpinning.

(b) 1. The mobile home is to be installed not less than the same distance from the right-of-way as any principle structure on an adjacent property on the same side of the roadway.

2. In those instances where an adjoining property has a principal structure located inside the required front setback area, and such principal structure is located within 150 feet of the proposed site for installation of the Class B or C mobile home, then proposed Class B or C mobile home may be installed at a setback equal to the structure on the adjacent property or 25 feet from the right-of-way, whichever is greater.

(c) There shall be a porch at each entrance to the structure having dimensions of not less than three feet wide and three feet deep. The front and sides of all

Camden County, NC Code of Ordinances

porches and steps shall be constructed with wood, stone, masonry, concrete, or similar looking composite material.

(3) Mobile homes that are installed as a change out to an existing mobile home must meet these appearance standards.

(Ord. 2002-04-02, passed 4-15-02; Am. Ord. 2003-04-01, passed 5-5-03; Am. Ord. 2004-09-01, passed 10-4-04; Am. Ord. 2006-01-02, passed 5-1-06; Am. Ord. 2006-09-02, passed 11-20-06)

20

Variance Application  
County of Camden, North Carolina

Please Do Not Write in this Box	
PIN:	<u>03-8952-02-69-8199</u>
UDO#	<u>2015-09-17</u>
Date Received:	<u>9/22/15</u>
Received by:	<u>AB</u>
Zoning District:	<u>R3-2</u>
Fee Paid: \$	<u>500.<sup>00</sup> / <del>2x</del></u>

A variance may be obtained pursuant to Article 151.531 of the Camden County Code of Ordinances and upon approval by the Board of Adjustment.

Please consult the Planning Office (1-252-338-1919) with any questions about your application.

PLEASE PRINT OR TYPE

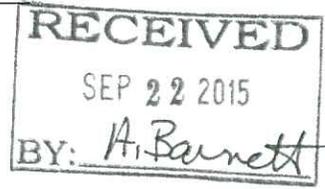
Applicant's Name: Law Home, Maru

If the Applicant is acting as agent for another person (the "principal"), please give that person's name on the line below and submit a copy of the agency agreement/letter with this Application.

Phil KASON

PK #  
CK #  
5605

Applicant's Mailing Address: Po Box 41  
Camden NC  
27921



Daytime Phone Number: (252) 207 6142

Street Address Location of Property: 138 Milltown Rd Shiloh

General Description of Proposal: VARIANCE OF  
Roof Pitch

I swear or affirm that the foregoing information and all attachments hereto (now or subsequently provided as part of this application) are true and correct to the best of my knowledge.

Signed: [Signature]

Dated: 9/26/15

Please include a site plan with this application and any other documentation that the applicant feels would assist the Board of Adjustment in determining the need for a variance from the law.

\*Information to be filled out by Planning Department

\*Is the Property in a Watershed Protection area? NO

\*Flood Zone (from FIRM Map): X \*Taxes paid? yes X no

### Variance Application Questions

*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.*

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

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

*See Attachment*

2. The hardships results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from person circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis of granting a variance;

*See Attachment*

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; and

*See Attachment*

4. The requested variance is consistent with the spirit, purpose, and intent of this chapter, such that public safety is secured, and substantial justice is achieved.

*See Attachment*

1) The ordinance standard requires 6 feet for each 12 feet, but the home in question has a variance of 5 feet for each 12 feet. Requiring the builder to change the minimum vertical rise on this one residence from 5 feet for each 12 feet to 6 feet for each 12 feet as stated in the design standards for the county's ordinance would create real problems and a hardship in a number of ways.

Without this variance, both the applicant and the property owner will be faced with a major hardship. First, it would force the homeowners to make other living arrangements for a matter of weeks while the roof is removed, the vertical rise elevated 12", and the roof replaced and other finish work completed. They are currently prepared to move in - and have been for weeks - but cannot do so because of this major problem. What we are faced with is a difference of merely 12" on a vertical rise to a roof on an existing, soon-to-be INHABITED home. The result of changing that 12" from 5 feet to 6 feet would be almost infinitesimal compared to the costs and labor, not to mention the inconvenience and costs to the homeowner.

Without the variance, it would require that we ask the homeowners to make other living arrangements for a matter of days, weeks, or months while the roof is removed, the vertical rise be elevated 12", and the roof replaced and other work completed. Not only has this already resulted in - and would continue - additional housing and living costs, but it has also forced and extensive delay to them with enrolling their child in school. (School officials will not let her enroll until they are physically residing in the house.) The continued delay to the family is costly in terms of both money and emotional concerns.

For the applicant, financially this imposes major costs in labor and materials to make this change. Rough estimates at this stage range from **AT LEAST** \$9500 to possibly \$11,500 - or more. If this were still in the building stages, the changes could be made, even at some costs - but much lesser costs. But under the present circumstances, the burdens that would be imposed would constitute a major hardship.

2) The hardships imposed in this case are from circumstances that are peculiar to this specific property. This problem is not something that occurs with any and all homes that are built; it is not something that would have

happened anyway. This was a problem that neither the applicant nor the property owner were even aware was taking place at the time the home was built. This is not a problem that has occurred previously with any other homes represented by the applicant and is being repeated yet again. This is not a problem that occurs frequently with other homes in this neighborhood. In fact, the manufacturer can attest that they have never had this problem before with the applicant or any other homes. The applicant is aware and understands the requirement, and had the applicant been aware of the change, he would have made the necessary corrections. But, unlike other homes developed by the applicant, this one was done differently, unbeknownst to the applicant.

3) This is not a problem that could have been foreseen since the communications in question were not between the affected parties – the applicant and the current homeowner. The current property owner was not the owner at the time this home was built.

For some reason, communications between the former owner – who is no longer in the picture – caused this problem. It is a problem that no one presently could have seen and fixed back when the home was built. The current owner and the applicant essentially have inherited this problem, and the remedy for fixing this problem is quite onerous and a heavy responsibility to place on them. The reason the existing variance is 5 feet is because at the time of construction is because, unbeknownst to the builder, the homeowner communicated with the manufacturer and requested this change (A letter from the homeowner to the manufacturer is attached). This request from the homeowner resulted in the change of 5' instead of 6'.

Neither the applicant nor the current property owner were aware of this in any way when the change was made.

4) I need to reiterate the hardship on both the homeowner and the contractor will be considerable if they are required to make this change after-the-fact. In every other aspect and requirements, the house in question meets the guidelines and rules set forth by county officials. This one small aberration, while not STRICTLY in accordance with those guidelines and requirements, would not in any way result in an unsafe structure or provide any threat to safety and well-being of those who live nearby or inhabit the home.

Allowing the home in question to remain as is would not only provide needed relief and be quite favorable to the homeowner, it would - as stated in the Variance Application Questions form - not violate the County's intent **that "the public safety is secured, and substantial justice is achieved."** In fact, public safety would still be intact and substantial justice would be served by not imposing further hardships on both the applicant and owner based on a mistake made by someone who is no longer in the picture.

We respectfully request fair consideration by the board on this matter, and hope you will accord us the relief that we seek in this matter. Thank you.



*Building A Better Home...*

25  
Holmes Building Systems  
2863 Plank Road, Box 520  
Robbins, NC 27325  
Ph: 910.948.2516  
Fax: 910.948.3045

To: Members of the Board of Adjustments

In the fall of 2014 Phil Faison ordered a home from Holmes Building Systems on behalf of a customer at the time. Without knowledge, the customer contacted me regarding a roof pitch change to reduce the price and make the home more affordable. In turn made the change from a 7/12 to a 5/12 roof pitch.

I regrettably never conveyed this information to Phil who would have immediately prevented this change. He has never ordered a 5/12 roof pitch from me in 10 years we have worked together. Please grant this variance as he was not at fault in the changing of this change of the roof pitch.

A handwritten signature in cursive script that reads "Nick Lane".

Nick Lane  
Holmes Building Systems, LLC  
District Sales Manager  
Work 910/948-2270 Ext. 224  
Fax 910/948-2045  
Cell 910/783-6006

ATTACHMENT (B)

Permit #	Permit Type	Address/Location	Listed Owner	Applicant	Status	Status Date
15-0171	RES-MOD – MODULAR DWELLING	138 Milltown Road	BARTLETT FORREST	Phil Faison	Issued	8/26/2015
12-0196	RES-MOD – MODULAR DWELLING	140 Milltown Road	BARTLETT FORREST	Forrest Bartlett	Completed	10/8/2013
11-0098	RES-MOD – MODULAR DWELLING	134 Milltown Road	MEYER EUGENIA FAYE	Eugenia Faye Meyer	Completed	9/23/2011
MH-08-0133	RES-MOD – MODULAR DWELLING	431 Us 158 Hwy E	Sterling Lawrence	Phil Faison Homes – Phillip Faison	Completed	4/19/2010
MH-09-0162	RES-MOD – MODULAR DWELLING	226 Nc 343 Hwy S	Phillip Faison	Phil Faison Homes – Phillip Faison	Completed	3/11/2010
MH-09-0002	RES-MOD – MODULAR DWELLING	144 Milltown Rd	Charles Clark	Phil Faison Homes – Phillip Faison	Completed	9/9/2009
MH-08-0095	RES-MOD – MODULAR DWELLING	336 Trotman Rd	Marie Ivins	Phil Faison Homes – Phillip Faison	Completed	7/29/2008
MH-08-0120	RES-MOD – MODULAR DWELLING	111 Run Swamp Rd	Sterling Lawrence	Phil Faison Homes – Phillip Faison	Completed	7/10/2008
MH-07-0053	RES-MOD – MODULAR DWELLING	200 Magnolia Dr	Bruce And Lillian Drahos	Phil Faison Homes – Phillip Faison	Completed	6/23/2008
MH-07-0234	RES-MOD – MODULAR DWELLING	108 Ridge Rd	Kevin Allen	Phil Faison Homes – Phillip Faison	Completed	6/19/2008
MH-07-0310	RES-MAN-HUD – MANUFACTURED HUD DW	774 Sandy Hook Rd	Winfred Forbes	Phil Faison Homes – Phillip Faison	Completed	1/24/2008
MH-07-0128	RES-MOD – MODULAR DWELLING	145 Taylors Ln	Linda Taylor	Phil Faison Homes – Phillip Faison	Completed	8/7/2007
MH-06-0387	RES-MOD – MODULAR DWELLING	141 Maria's Way	Joseph And Amy Richardson	Phil Faison Homes – Phillip Faison	Completed	7/31/2007
MH-06-0256	RES-MOD – MODULAR DWELLING	104 Sandpiper	Fritz & Bonnie Moore	Phil Faison Homes – Phillip Faison	Completed	6/28/2007
MH-06-0446	RES-MOD – MODULAR DWELLING	106 Japonica Dr	Kim Robinson	Phil Faison Homes – Phillip Faison	Completed	6/5/2007
DK-06-0412	DK – DECK	104 Sandpiper	Fritz & Bonnie Moore	Phil Faison Homes – Phillip Faison	Completed	5/31/2007
MH-06-0341	RES-MOD – MODULAR DWELLING	131 Baybreeze Dr	Joe Crook	Phil Faison Homes – Phillip Faison	Completed	2/26/2007
MH-05-0159	RES-MOD – MODULAR DWELLING	105 Glen Dr	Shelly R. McDaniel	Phil Faison Homes – Phillip Faison	Completed	4/27/2006

26

ATTACHMENT (C)