



Cabarrus County Government

Cabarrus County Planning and Zoning Commission
Tuesday, March 8, 2022 @ 6:30 p.m.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Oath to Newly Appointed Member
2. Roll Call
3. Approval of February 8, 2022, PZ Meeting Minutes
4. Old Business Planning Board Function:
 - A. RZON2021-00005 – Request to apply Mobile Home Overlay (MH-2) to LDR zoned property. Owner/Applicant is Larry Hamrick, 5952 Yale Avenue, PIN:5603-49-9885.
5. Old Business Board of Adjustment Function:
 - A. Petition VARN2022-00001 – Request for relief from the following: Chapter 5, impervious area maximum for non-residential districts, Chapter 7, setbacks for swim clubs, Chapter 9, landscape buffers and parking lot buffers. Evolution Recreation & Aquatics is the applicant. Ethan & Austin Properties is the owner. Address is 11202 Harris Road (PIN: 4670-45-1661). **REQUEST TO TABLE**
6. New Business Board of Adjustment Function:
 - A. APPL2021-00001 – Appeal of a Notice of Violation for construction of structure without permits, disturbances of the required water body buffers and wetland disturbance. The address associated with the subject property is 3233 Hahn Scott Road (PIN: 5589-24-3362).
 - B. APPL2021-00002 – Appeal of a Notice of Violation of the illegal operation of a sawmill without proper permits. The address associated with the subject property is 8667 Flowes Store Road (PIN: 5536-56-0806).
7. Legal Update
8. Director's Report
9. Adjourn



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Mr. Adam Dagenhart, Chair, called the meeting to order at 6:35 p.m. Members present, in addition to the Chair, were Mr. Jeffrey Corley, Mr. Kevin Crutchfield, Ms. Holly Grimsley, Mr. David Hudspeth, Mr. Andrew Nance, Ms. Ingrid Nurse, Mr. Charles Paxton, Mr. Chris Pinto and Mr. Stephen Wise. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Ms. Sandy Howell, Planner, Mr. Jay Lowe, Sr. Zoning Enforcement Officer, Mr. Brett Hicks, Zoning Enforcement Officer, Ms. Martha Hernandez, Sr. Zoning Permit Associate, Ms. Arlena Roberts, Clerk to the Board, Mr. Richard Koch, County Attorney and Mr. David Goldberg, Deputy County Attorney.

Attending from the Tax Administration Office was Mr. David Thrift, Tax Administrator, Ms. Leslie Rimer, Exempt Property Analyst.

Attending from Construction Standards Office was Mr. Matt Love, Chief Codes Enforcement Officer and Ms. Theresa Wilkerson, Permit Associate.

Ms. Arlena Roberts, Clerk to the Board, administered the oath to new Planning and Zoning Commission member Mr. Kevin Crutchfield

Roll Call

Approval of February 8, 2022, Planning and Zoning Commission Meeting Minutes

There being no corrections or additions to the minutes, Ms. Holly Grimsley **MOTIONED, SECONDED** by Mr. Jeffrey Corley to **APPROVE** the February 8, 2022, meeting minutes. The vote was unanimous.

The Chair said anyone in the audience wishing to speak on any of the agenda items tonight will need to complete a blue card and provide it to the Clerk.

The Chair read the suggested rules of procedures:

1. The Cabarrus County planning staff person(s) shall first present the staff report and answer questions from the Commission. There will be no time limit on this presentation.
2. The Applicant may make a presentation to the Board (optional) and will then answer questions from the Commission. There will be a 30-minute time limit on the presentation

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if the Applicant chooses to make a formal presentation. There will be no time limit on questions from the Board following the presentation.

3. When the Board is ready to proceed, the proponents (those speaking generally in favor of the case) will have a total of 15 minutes to speak and/or present documents in support of their position. The 15-minute time limit does not include questions directed to the proponents by the Commission.
4. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 15 minutes to speak and/or present documents in support of their position. The 15-minute time limit does not include questions directed to the opponents by the Commission.
5. Each side will then have 3 minutes for rebuttal, with the proponents going first. Again, questions directed to the speaker will not count against the time limit. This will conclude the public hearing portion of the meeting and the Commission will proceed to deliberation.
6. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have time to do so.
7. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
8. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.
9. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. Andrew Nance to **ADOPT** the Rules of Procedures. The vote was unanimous.

The Chair introduced Petition RZON2021-00005 – Request to apply Mobile Home Overlay (MH-2) LDR zoned property. Owner/Applicant is Larry Hamrick, 5952 Yale Avenue, PIN:5603-49-9885.

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The Chair asked if there were any Board members with a conflict of interest or any information related to this case that needs to be disclosed at this time. There being none, the Chair called on Ms. Sandy Howell to present the staff report.

Ms. Sandy Howell, Planner, addressed the Board presenting the staff report for RZON2021-00005 stating that the subject property is an existing lot of record with LDR zoning and is approximately a quarter acre. The conventional lot in the LDR district requires a two-acre lot or a one-acre lot, if the minor subdivision option is used.

Based on historical aerials it appears the subject parcel was originally developed with a single-wide manufactured home in the early 1970's. (She showed GIS from 1986)

Then it was replaced by a double-wide manufactured home (she showed an aerial view from 2001). She said that double wide was removed somewhere between 2017 and 2019. (She showed aerial of what the property looks like today). It is surrounded by other residential uses and LDR.

Pursuant to Chapter 14, Section 14-6, B, if the existing non-conforming use ceases for more than 6 months, subsequent use or development of the land must conform to district regulations. The subject property has been vacant for years, therefore replacing the removed doublewide is not an option.

The subject property is located within the boundary of the Northwest Area Future Land Use (Plan). The Plan recommends the area be developed with residential uses of two to four units per acre.

While the Plan recommends a certain density, this request is intended to allow the applicant to place a double-wide manufactured home on an existing lot of record where manufactured homes currently are not permitted as a building type. Therefore, this request would not have any effect on the application of the Land Use Plan. The area is already developed within the range that is recommended by the Plan.

This is a conventional rezoning request; therefore, all uses permitted within the underlying LDR zoning district and the proposed MH-2 Overlay would be allowed on the subject property if approved.

The subject property is served by Kannapolis water and it has a septic system.

The original septic layout and permit for 3 bedrooms was issued on August 29, 1972. The hand drawn plot plan on the original permit does not accurately show the location of the existing septic system and the viability of that system is not guaranteed, which may also restrict the building area.

The Planning and Zoning Commission should consider all the information provided and

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determine if the proposed rezoning is consistent with the Commission's vision for this area of Cabarrus County.

Ms. Howell said that the applicant, Mr. Hamric, is also here to answer any question the Board may have.

The Chair asked if there were any questions for Staff. There being none, he called on Mr. Hamrick.

Mr. Larry Hamrick, 305 Rolling Green Avenue, New Castle, DE., addressed the Board stating he is looking to regain the prior zoning that was on the property when his grandmother lived there almost 50 years ago.

He said the property fell into disrepair, so they removed the mobile home from the property and cleaned up the lot. They did not realize that they had a certain period of time to put something else there, so therefore, they lost the zoning. We are seeking to regain the initial zoning to give us more than one option. As opposed to just building a manufactured home, we thought about a doublewide, but we wanted to have multiple options to see what was most cost effective.

The Chair asked if there were any questions for Mr. Hamrick.

Ms. Holly Grimsley asked if the septic system was the original.

Mr. Hamrick said yes, they are in the process of having it reassessed so we can determine what we could put there. It was in working use before and it has only been idle for about a year and a half or two years.

Ms. Grimsley said so, there has not been any improvements to that going from that to a larger structure? Have you had any assessment of that septic system at all?

Mr. Hamrick said it is already approved for a three bedroom, two bath. We were only going to go to that same spec. We were not going to exceed that, and if we did, we know we would have to install a new system. We are trying to see which is most cost effective.

He is trying to help a family member, get them a place to stay and help them out. The property has been in our family for over 50 years. The system is already there intact, and we probably will not go outside of that. If we did go outside of that, we know we would have to put in a new system.

Ms. Grimsley said you answered her question.

Mr. Charles Paxton said pending rezoning, are you intending to develop this shortly or are you going to wait a period of time?

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Mr. Hamrick said we are looking to move rapidly. Considering the cost, and the way things are now, we are trying to see how things are going to go, we are looking to move pretty fast. But, from what he understood, once the zoning was there, he did not know if there was timeline or if it was permanent.

Mr. Paxton said this will not be for your personal use, just a family member?

Mr. Hamrick said it could be for his personal use as well; he owns it.

Mr. Paxton said you are going to come down south, come back home?

Mr. Hamrick said he grew up here. He joined the military and retired from the military and stayed up there. He has been coming home pretty often and he likes a lot of stuff that everyone is doing down here, it looks good.

The main thing like she said, which is very important, we are more than likely going to stick with the three bedrooms, two bath and if we didn't, we know that we would have to expand.

The Chair opened the public hearing.

The Chair asked the Board if there were any questions.

Mr. Kevin Crutchfield asked if Staff had any recommendations.

Ms. Howell said no, Staff just presents the facts.

Mr. Jeffrey Corley said just to clarify, there is no time limit, once the right zoning is on there, he can proceed at his pace?

Ms. Howell said that is correct.

Mr. Hamrick said one other thing he would like to add is that it is going to be professional. It is not going to be something slapped in there. We are going to do it the right way and try to enhance the area and bring it back to what he remembers it as being. It will not be anything shoddy, it is going to be something very professional.

There being no other comments or anyone speaking for or against the rezoning, the Chair closed the public hearing.

The Chair said we need to consider the request and the general question that needs to be answered is should this rezoning be approved, why or why not? Is it reasonable and in the public interest?

The Chair opened the floor for discussion.

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Mr. Paxton said if he was hearing Staff correctly, he understands that it is not inconsistent with the area plan, but if it were allowed, it would be conforming with the area plan; is that correct?

Ms. Howell said for the area plan, the only thing that is a restriction is the two to four units per acre. It does not have a building type within the Land Use Plan.

The Chair asked Staff to correct him if he is wrong, but to do a mobile home, it has to have an overlay district?

Ms. Howell said yes.

The Chair said it is not like a straight zoning.

Ms. Howell said it is an overlay versus a straight zoning district.

The Chair asked for thoughts and comments.

Mr. Corley said in reading some of the discussion points, the fact that this does not change the underlying zoning, which would allow for changes in use and changes in density. The fact that we are simply overlaying the manufactured housing overlay on this one property. Typically, he is not in favor of things like this however, he does feel like the applicant appears to have the best of intentions, while using an alternate housing product potentially, it appears he does care about the character of the surrounding area, the fact that a manufactured home was there for so long, the fact that we have no one here tonight against it, and no neighbors that appear to have any concerns.

His points are that it will not take away from the character of neighborhood and it will allow the applicant to have more flexibility on how he uses his property.

The Chair said if we do approve this, remember that the MH2 District does not allow a single wide, it would have to be doublewide or larger.

Ms. Holly Grimsley said the applicant does recognize the infrastructure issue and the ability not to go outside of what it was originally permitted for.

Mr. Paxton said this is enhancing the adjoining property by adding a more suitable housing product and it is an improvement of the area.

The Chair called for a motion and reminded the Board that they would need reasons for consistency.

Mr. Charles Paxton, **MOTIONED, SECONDED** by Jeffrey Corley to **APPROVE** RZON2021-00005 – Request to apply Mobile Home Overlay (MH-2) LDR zoned property. He said it would be improving the area and the applicant has presented his facts knowledgeably.

The vote was unanimous.

Consistency Statement:

The Manufactured Home 2 Overlay is consistent and is not a change in zoning and the applicant has agreed to not go outside of the bounds of the sewer and it is reasonable and in the public interest.

Mr. Charles Paxton **MOTIONED, SECONDED** by Holly Grimsley to approve the consistency statement. The vote was unanimous.

The Chair introduced Petition VARN2022-00001 – Request for relief from the following: Chapter 5, impervious area maximum for non-residential districts, Chapter 7, setbacks for swim clubs, Chapter 9, landscape buffers and parking lot buffers. Applicant is Evolution Recreation and Aquatics. Ethan and Austin Properties is the owner. Address is 11202 Harris Road (PIN: 4670-45-1661) **Request to Table**.

Ms. Susie Morris, Planning and Zoning Manager, addressed the Board stating that the Applicant has requested again to table the Variance until the April 12, 2022, meeting. She said they had comments come back and were not able to work out the details with NCDOT and the Fire Marshal's Office in enough time to have a resubmittal for us to put the case before you this evening. So, they are asking for an additional month.

Ms. Morris does not know if the Chair has any cards of anybody that was here tonight. The request is to the April meeting.

The Chair said he did not.

The Chair asked if there were any questions for Ms. Morris. There being none, he asked for a motion to table this request until the April 12, 2022, Planning and Zoning Commission meeting.

Ms. Holly Grimsley **MOTIONED, SECONDED**, by Mr. Steve Wise to **TABLE, VARN2022-00001** – Request for relief from the following: Chapter 5, impervious area maximum for non-residential districts, Chapter 7, setbacks for swim clubs, Chapter 9, landscape buffers and parking lot buffers. Applicant is Evolution Recreation and Aquatics. Ethan and Austin Properties is the owner until the April 12, 2022, Planning and Zoning Commission meeting. The vote was unanimous.

The Chair said anyone wishing to speak for the following Board of Adjustment cases or to testify during the public hearing for these cases must be sworn in. If you wish to speak, we need to have a completed blue card from you. Please provide the card to the clerk.

The Chair asked those wishing to speak tonight to stand and raise their right hand if you will be

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testifying or if you think you may need to approach the Board of Adjustment to speak this evening.

The Chair administered the oath.

The Chair introduced APPL2021-00002 – Appeal of a Notice of Violation of the illegal operation of a sawmill without proper permits. The address associated with the subject property is 8667 Flowes Store Road (PIN: 5536-56-0806).

Mr. David Goldberg, Deputy County Attorney, address the Board stating that Attorney Richard Yeoman, representing the appellant, will address the Board and will have an action for the Board to consider.

Attorney Richard D. Yeoman, Grimes Yeoman, PLLC, 179 Gasoline Alley, Mooresville, NC, addressed the Board stating that he is here on behalf of the Radford's, which is the second item under number six on the agenda. We have decided to withdraw our appeal at this time.

The Chair said the applicant is requesting to table?

Mr. Goldberg said no, in this case he is asking for the Board to accept his withdrawal.

It was the consensus of the Board to accept the **Withdrawal of APPL2021-00002** – Appeal of a Notice of Violation of the illegal operation of a sawmill without proper permits.

The Chair introduced APPL2021-00001 – Appeal of a Notice of Violation for construction of structure without permits, disturbances of the required water body buffers and wetland disturbance. The address associated with the subject property is 3233 Hahn Scott Road (PIN: 5589-24-3362).

Ms. Holly Grimsley said, for full disclosure, she received several phones regarding this and several months passed, there was really no discussion had. She did contact the County Attorney and told him that she had receive some phone calls and that she had told them because of her position on the Board she could not have any conversations.

The Chair thanked Ms. Grimsley and asked if any other Board members had any conflict of interest regarding this case. He asked if any Board member had any issue with what Ms. Grimsley stated. There being none, he called on Ms. Morris to present the staff report.

Ms. Susie Morris, Planning and Zoning Manager addressed the Board presenting the staff report. She said what is before the Board tonight is an Appeal of a Notice of Violation. The appellant is Connie Arstark, and the property location is 3233 Hahn Scott Road, Mount Pleasant, NC.

The request is that the Appellant is contesting a Notice of Violation issued for construction of a

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structure without permits, disturbances of the required water body buffers and wetland disturbance.

The Board will see that there is extensive history with this, and she will hit some of the highlights. If you have any questions as she goes along, please feel free to ask. She is sure that the Board has read all of this, so she does not want to read everything back.

On 7/7/2020, Senior Enforcement Officer James Lowe (from here on will be referred to as Officer Lowe) visited the site to discuss the setbacks for the house with the property owner. An accessory structure was located on the property at that time. Permits were not issued for the structure. At that time, Officer Lowe advised the Appellant that permits would be needed for the structure.

On 9/25/2020, a complaint was filed with Planning and Development regarding a building being constructed without permits. When Officer Lowe visited the site that same day, it was determined that an accessory structure had been constructed without the proper permits. He also observed grading and tree removal in the required Waterbody Buffer. It also appeared that the newly constructed structure was encroaching into that buffer area.

Per the Cabarrus County Development Ordinance (CCDO), accessory structures are not permitted unless there is a primary structure on site and undisturbed buffers are required on all perennial streams as well as any ponds located along those streams. Wetlands also must be buffered.

Officer Lowe talked with the property owner and suggested that work be stopped pending a survey of the site and required buffer areas to determine the level of encroachment and where additional structures could be located on the site in the future. The property owner stated that a survey of the property was available and that it would be provided to Officer Lowe.

A survey dated 11/1/2020, was provided by the Appellant to Staff. The survey did not show the required buffers on the stream, or the wetlands located on the property. Only the standard setbacks were noted for the property.

Officer Lowe again advised Appellant the minimum requirement for the stream buffer was 50 feet. The survey determined that a violation of the ordinance existed and that the accessory structure was in the required buffer area. Additionally, based on the survey provided, clearing and grading had occurred in the buffer area as well. A Notice of Violation was issued on 1/14/2021.

On 1/26/2021, Officer Lowe visited the site for a follow up. At that time, it was determined that the property owner had placed two additional structures on the property without permits. The new structures also appeared to be in the waterbody buffer zone. Additionally, there was an RV on the site that had been placed in the buffer and it appeared that it was being used as a dwelling.

The Appellant appealed the Notice of Violation on 2/12/2021. Filing an Appeal stays further enforcement action for that specific violation issued on the site.

On 3/1/2021, Officer Lowe visited the site and observed continued and possibly new violations of the ordinance.

On 5/7/2021, Office Lower and Deputy County Attorney, David Goldberg, visited the subject site to observe conditions. Officer Lowe and Attorney Goldberg observed, and determined, that additional land disturbing and clearing was conducted on the site.

On 5/10/2021, Deputy County Attorney David Goldberg and Susie Morris, Planning and Zoning Manager, met with the property owner to discuss options for compliance.

A survey dated May 10, 2021, was provided by the Appellant which shows the calculations and delineations for the required Waterbody Buffer Zone. It also includes the proposed placement of the house and pool on the subject property. The survey confirms the accessory structure is in the buffer zone, along with the two additional structures and the RV. The area has also been graded, riprap and gravel placed in the buffer areas, and vegetation removed.

On 5/11/2021, a second Notice of Violation was issued for the subject property for new clearing related to identified wetlands on the site. A Stop Work Order was also issued for the entire site to prevent additional clearing or development in the required buffers.

Prior to the site visits by Officer Lowe in July and then in September, the Appellant was in contact with multiple staff members in Planning and Development about the requirements for the road right-of-way, soil suitability testing application submittal requirements, permitting requirements for a new home, pool, and an accessory structure to be located on the property after the new home was built.

She said the Board can see there are dates there listed: February 25, 2020, April 14, 2020, June 12, 2020, through June 25, 2020. So again, there were multiple communications with Staff during these times. The Board has that information in your packets.

She said the findings for the case are:

1. An accessory structure was constructed on the subject property some time prior to July 7, 2021.
2. The accessory structure was constructed without proper permits in place.
3. The accessory structure was constructed without a primary structure or use located on the site.

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4. The stream on the subject property is identified and classified as a perennial stream per USGS maps. There are also identified wetlands on the site. (The Board has a copy straight from the USGS maps in your packet)
5. An accessory structure has been built in the required buffer.
6. Grading has occurred in the required buffer.
7. The wetland area on the subject property has been disturbed.
8. Survey provided by Applicant for structure in question clearly shows that it is in the required buffer area.
9. Grading has occurred in the required buffer areas. Gravel and riprap have been placed in the required buffer area.
10. A structure is in the required buffer area.
11. Grading has occurred in the required buffer area.
12. Gravel and riprap have been placed in the required buffer area.
13. The property is subject to Cabarrus County Zoning and Construction Standards permitting.

Ms. Morris said along with all those findings, the Board also has the applicable sections of the Ordinance that relates to that particular finding. If the Board has any questions about those, we can go over them. But those are the specific areas of the Ordinance that were used when the notice of violation was issued.

In the Board packet you had the application materials provided by the Appellant, the Staff report and exhibits, adjacent parcels owner list, the letter that was sent to the adjacent parcel owners, and the letter that was sent to the applicant and a picture of the sign that was posted; everything related to the noticing on the property.

As you see in your staff report, there are a lot of different exhibits. All of those exhibits relate back to something specific on the site. Any staff that provided documentation, or that were in communication with Ms. Arstark, are here this evening if the Board has any questions about those specific exhibits.

Ms. Morris said the things the Board is looking at are that the building was constructed without permits, the building is in the stream buffer that is required on perennial streams. There were also some additional violations observed: those two buildings and the encroachments into the wetland

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areas, which also requires a buffer on it according to Chapter 4. Those are the primary things, and if you looked at the violations, you see that all those items were listed out. Mr. Lowe is here this evening, and he is the Zoning Enforcement Officer working this case, and again, the other staff for building permitting, and zoning permitting. Cabarrus Health Alliance, zoning takes that information in. If the Board has any questions about any of the documents that were included in your packet, they are here to answer those questions for you.

The Chair asked if there were any questions for Ms. Morris.

Mr. Paxton did not hear Ms. Morris say how many feet inside were the encroachment.

Ms. Morris said there is a survey in the Board packet that shows the building sits squarely in between. The minimum is 50 feet, and the maximum is 120 feet, and is based on a calculation. When the surveyor went back and applied those calculations, you can see that the barn is in the buffer area.

Ms. Morris (showed the diagram) and said that is the 30-foot setback which is the zoning setback that is depicted on there.

The Chair asked Mr. Goldberg to use his finger and point on the diagram.

Ms. Morris showed the 30-foot setback line, this is the standard zoning setback (30 feet), but because there is a perennial stream here, those setbacks change. She showed the calculated buffer area. This is the undisturbed area, and on top of that there is a 20 foot no build area, so minor disturbances are allowed in that particular area, but no structures are allowed. The first part next to the stream is to remain undisturbed, and then there is that additional 20 feet, so that no buildings are there, and no structures are there. This is all related to the 404 Permit we have for the reservoir and is intended to help water quality.

Mr. Goldberg said and to be clear, this was submitted by the Appellant.

Mr. Kevin Crutchfield asked if there had been any changes to the property since this was brought forward. Is everything still built the way it is shows on this that you are aware of?

Ms. Morris said as far as she knows, yes.

Mr. Goldberg said if it would be helpful, Mr. Lowe has been out there recently and can speak on the condition of the property if the Board would like.

Mr. James Lowe, Sr. Zoning Officer, addressed the Board stating that he has ridden by the property, and it did seem that they have gotten started on the house that was originally permitted. But, as far as the violation goes, it does not seem that any other violations have occurred.

Mr. Crutchfield asked Mr. Lowe if what was in the Board packet is currently what is out there.

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Mr. Lowe said he would say so.

Mr. Crutchfield asked if the barn is still erected and are the other buildings still onsite?

Mr. Lowe is not sure about the other buildings, the barn is though. He said due to the topography, the buildings are a little hard to see. But you can see the barn, he thinks it is from Bowman Barrier Road, pretty well. It has been about a month and a half since he has been there, maybe two months.

Mr. Paxton said when the applicant was notified there was an issue here, was there any comment or they just accepted it or took it under advisement?

Mr. Goldberg asked Mr. Lowe to come forward to answer since he had the first conversations.

Mr. Lowe thinks the first conversation we had was when he was out at the property to inspect something else; the setbacks on the house. He noticed that there was a barn constructed on the property. He realized that there was some type of stream close to that barn which brought concern to him. He was not sure what type of stream it was, typically we have perennial streams, and intermittent streams. He said with intermittent streams there really is no setbacks involved with those.

He did raise concern with the applicant at that time, that they did need to get permits. To the best of his knowledge, he thinks she said she was working on that, or she knew that she needed to get them, and that she had a survey turned in by a local surveyor that he was familiar with and has done work in the County quite often and has done good work. When he was told that his concerns sort of lighten somewhat because he thought well that is good, they got that done, it is probably just an intermittent stream, and everything is fine. She just needs to get the permits.

Later on, we realized that maybe there had been a mistake made and that that was a perennial stream, which did require setbacks.

Mr. Paxton said did they ever apply for a permit?

Mr. Lowe said they did.

Mr. David Hudspeth asked if they got a permit?

Mr. Lowe said they did.

The Chair asked if the information provided for the permit accurate.

Mr. Lowe said to the best of his knowledge it was not accurate. He did not issue the permit, but he has seen what was submitted and it did not seem accurate to him.

Mr. Paxton asked if the person who issued the permit here tonight?

Mr. Lowe said they are. When he says not accurate, to him it did not seem like the stream was denoted on there accurately and the wetlands and so forth.

Mr. Crutchfield said does the issue move from not being permitted to just because it is in the buffer area? Is that the primary concern for the barn?

Mr. Lowe said that is correct. He said doing this for as long as he has, there are a plenty of people you see that create violations by building without permits and so basically if the setbacks are okay, they can simply come in and they will get a double fee on those for building illegally but in this situation, that could have happened but since they are in the waterbody buffer it created more of a problem and remains a problem.

Mr. Goldberg said to clarify from the legal standpoint, it is the position of the County that because of the nature of the application not being representative of the facts on the ground in compliance with the directions provided to the applicant at the time. The permit was not properly granted and at this point applicable. You cannot issue an illegal permit and it is also noteworthy to be clear that the appellant did not rely upon the permit being issued to build the steel building. It existed and then was permitted.

A lot of times you will see it where if the permit happens and then it should not have happened, then they rely upon it and they construct. That is a completely different case. Here, the structure existed then it was permitted.

Mr. Hudspeth sees that this permit was issued on 9/28/2020. When was the structure built?

Mr. Goldberg asked Mr. Lowe to testify the first time that he saw it person.

Mr. Lowe said it was around July 7, 2020. It was constructed before then. That seems to be the first time that he was at the property.

Mr. Goldberg called Ms. Martha Hernandez to come forward and introduce herself.

Martha Hernandez, Sr. Permit Associate for Zoning, introduced herself.

Mr. Goldberg asked Ms. Hernandez if part of her job responsibilities were to answer questions to the public regarding the permit processes.

Ms. Hernandez said yes, to answer questions for the zoning permits process.

Mr. Goldberg said do you issue you them as appropriate.

Ms. Hernandez said yes.

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Mr. Goldberg asked Ms. Hernandez if she had any interaction with Ms. Arstark in regard to this project?

Ms. Hernandez said yes.

Mr. Goldberg said what he has here is a series of emails dated June 23, 2020, between you and Ms. Arstark. Does this look familiar to you?

Ms. Hernandez said yes.

Mr. Goldberg said on page 4 of the emails that were in the packet, who is this email from?

Ms. Hernandez said Ms. Connie Arstark.

Mr. Goldberg shows the email on the overhead and asks Ms. Hernandez who the email was to.

Ms. Hernandez said to me.

Mr. Goldberg asked Ms. Hernandez to read the email out loud.

Ms. Hernandez read the following: I have 43x30 metal barn installed on the property. Do I need a permit for that as well?

Mr. Goldberg said based off that, is it reasonable to conclude that the Appellant agrees that the barn existed at least on or before that day?

Ms. Hernandez said yes.

Mr. Goldberg said did she have a permit at that time?

Ms. Hernandez said no.

Mr. Goldberg asked if there were questions.

The Chair asked if there were any questions.

Mr. Crutchfield asked if this property was zoned AO.

Ms. Hernandez said she believes so.

Mr. Crutchfield asked if on any AO property, a permit is required to erect a barn anywhere in the county?

Ms. Hernandez said anytime you want to erect a structure, such as a barn, an accessory building

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onto a piece of property that is vacant, one, you must have a primary house or primary dwelling. Unless, it is a bona fide farm, but even then, there is a zoning permit that they must acquire. It is at no cost, but there is still a zoning permit that would be required.

Mr. Crutchfield said just for clarity, if a farmer wants to build a barn on his property and it is designated as a farm, they are required to get building and zoning permits?

Ms. Hernandez said zoning.

Mr. Crutchfield said zoning only.

Mr. Goldberg said that calls into question a legal dispute that we can talk through. He said there are two separate issues. One is, is this property AO and what are the uses in that property? Separate and apart from that is the question of is what is referred as a bona fide farm exemption and if it is a bona fide farm, what applies and what does not apply. Those are two very separate questions. The question here is in the AO can you possibly build this structure? The answer is yes, under the proper conditions and properties you can.

The question is can you do it in the wetland buffer? Do you have to do it with a zoning permit? And those answers are yes, even in the AO or anywhere else; that is standard course. The next question then becomes if you do have questions about this, is whether this is a bona fide farm at the time all this occurred and until this day. Separately, there is a question of even if it is a bona fide farm, does that apply to the wetlands, waterbody boundary buffer. Those are legal questions that we can get into and have an opportunity to dispute if appropriate.

Mr. Paxton asked if someone who has been out there describe exactly what this barn looks like. We keep referring to it as a barn.

Mr. Goldberg said it is in the packet. We can talk through some pictures if you like that were provided. (Mr. Goldberg showed some pictures of the barn) He said this is one of many. He asked Mr. Lowe to say what date is on this picture.

Mr. Lowe said March 1, 2021.

Mr. Goldberg asked Mr. Lowe if he took that picture.

Mr. Lowe said he did.

Mr. Goldberg said that is one of the earlier interactions is that correct?

Mr. Lowe said he believes so.

Mr. Goldberg said that is what we are referring to as the barn on that date, is that correct?

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Mr. Lowe said correct.

Mr. Goldberg asked Mr. Lowe what the date is on the next picture.

Mr. Lowe said it is March 1, 2021.

Mr. Goldberg asked Mr. Lowe if he took that picture.

Mr. Lowe said he did.

Mr. Goldberg asked Mr. Lowe what he sees there.

Mr. Lowe said a barn, an RV and two accessory buildings.

Mr. Goldberg asked Mr. Lowe to point to the barn.

Mr. Lowe pointed to the barn, the RV and the two accessory buildings.

Mr. Goldberg said we can do a couple more if the Board would like. There are a couple different angles across the way.

The Chair said Mr. Paxton said he is good.

Mr. Goldberg said we also have interior photos if they would be helpful as well.

Mr. Hudspeth said if this is a bona fide farm, what about the buffer?

Mr. Goldberg said if it would be helpful, he put together a small packet of legal opinion. On behalf of Staff, he can explain that question. He passed out the packet to the Board. He will summarize this so we can go into more detail, and he will walk the Board through.

The question in that regard is if this is a bona fide farm, does the waterbody buffer which is considered a local environmental regulation, is that exempt? His answer to the Board is no, and he will tell you why.

The Farm exemption Statute, which is 160D-903, in the back of the packet, second page from the back. (He also put it on the overhead) It refers to agricultural uses: County zoning regulations may not affect property used for bona fide farm purposes; provided, however this section...He said then there is a series of exceptions and explanations on how you qualify as a bona fide farm. We can talk about that more as applicable. There are many ways to kind of get there.

The question he wants to emphasize here is County Zoning regulations. That is a term of art. That is a defined term. If you go to third page you have the definitions applicable to Chapter

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160D-102. That is the law right now. If you go to item 35 at the end, Zoning regulation – a zoning regulation authorized by Article 7 of this Chapter; that is the definition.

A zoning regulation authorized by Article 7 of this Chapter, by this chapter, referring to Chapter 160D of the NC General Statutes (showed on the overhead). He said Article 7 refers to zoning regulations. The main authority here is:

“A local government may adopt zoning regulations. Except as provide in subsections b and c of this section, a zoning regulation may regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land.”

Mr. Goldberg said to be clear this is the source of authority. This is what lets you the County do what it does, which is enact zoning ordinance.

He said there is a serious case law mentioned in this memo on top from Lanvale vs Cabarrus County that talks about what is a zoning ordinance. It emphasizes, and we are talking about placement of districts and the appropriate uses and placement of building within them, districts.

So, separately there is a separate source of authority in our statutes for local environmental regulations. If you look at General Statute 160D-920, Local Environmental Regulations:

Local governments are authorized to exercise the powers conferred by Article 8 of Chapter 106A of the General Statutes and Article 6 of Chapter 153A of the General Statutes (Mr. Goldberg said to be clear, that is the County’s authorization to use the authorities in Chapter 160D to adopt land use regulations) to adopt and enforce local ordinances pursuant to this Part to the extent necessary to comply with State and federal law, rules and regulations or permits consistent with the interpretations and directions of the State or Federal agency issuing the permit.

Mr. Goldberg wants to emphasize a permit, here, so that is the difference there.

He said a little more information about this Waterbody Buffer Zone. In 1994, as a condition for approval of the Coddle Creek Reservoir, as a condition of the adoption, the Federal Government, through the Army Corp of Engineers, required as a special condition of the permit for the County to adopt and enforce a regulation. Essentially, the Water Body Buffer Zone Regulation. The details are here on the first page (an excerpt), and the full permit is included in the packet that he just passed out.

To be clear, none of what you see in the Ordinance is our idea, in the sense that it all draws entirely from the conditioning of this permit.

He will emphasize here: It must be in full force and effect before the permitted action will be allowed. The buffer zone shall be established as that area which extends 50 feet from the stream

bank perpendicular to the center line of the stream. If the buffer strip is presently wooded, it cannot be disturbed. Perennial streams are defined as those which are illustrated as solid blue lines on the USGS Quadrangle topographic maps for the county. He said that is the main emphasis there.

The thing he also wants to point out here is another excerpt: Failure to adequately implement or enforce the zoning amendment or unacceptable modification of the zoning amendment will require alternative mitigation measures to be implemented. The alternative mitigation requirement will include the restoration or creation of approximately 300 acres of forested wetlands as per a plan developed in conjunction with the N.C. Wildlife Resources Commission, the U.S. Fish and Wildlife Service, the EPA, and the Corps of Engineers.

He said the short end of it is, it is common practice as a condition for permits like this to ameliorate the effects of the permitted activity by doing other things. It will impact water over here, but we will have to do mitigating measures over here. This is one of those mitigating measures. It specifically authorizes at a local environmental regulation. So, yes this is in the Development Ordinance, but it is not a Zoning Ordinance. It is a local environmental regulation that is a result of a permit required. It is also important to point out, as you can see, if we do not adopt and enforce this requirement; we do not have the discretion, the consequences are prohibitive. Normally, we have a little more discretion in how we administer and a little more flexibility. Here, anything we do, we have to make sure that we are in compliance with the Corps expectations.

He said long story short is whether or not this is a bona fide farm is immaterial. It is the County's legal position (you may hear something else on this) that the Legislature created a comprehensive statutory scheme. They knew that this was out there, and they knew these permits exist and they knew that you would look in this permit. This is also the same authority for floodplain management requirements, the NFIP. There are no exceptions for bona fide farms and if we were to apply that, it would be in violation of these permits.

We think it is unlikely that the General Assembly constructed statute knowing that in all likelihood, that it would violate various local and environmental regulations and the conditions that are attached to them.

Mr. Goldberg said he stands ready for more questions or discussions.

Mr. Hudspeth asked if there was a remedy for this?

Mr. Goldberg said this is the difficult part. In some ways the answer is binary. If we believe there is a violation, it going to keep being a violation. Unfortunately, we have discussed with the appellant previously about a variance, but we do not believe that they would be eligible for a variance for a number of reasons. Ultimately, we cannot ignore this. If we ignore this, we are no longer adequately enforcing the waterbody permit that we agreed to, and it is giving jeopardy to the county.

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Our theory is, if we had a situation where if the appellant were to get a very thorough environmental consultant engineer report that acknowledged the violation, acknowledge the extent of it and the loss, and what the net effect is, and then offered ways to mitigate that. We have had some discussions with the Corp, that they could possibly be amiable towards that as a solution.

We have been in contact with the appellant and today, they did provide us with a report from a consultant, a very preliminary one and they can speak to it more. We did not find that it was sufficient to meet that middle ground. It did not adequately address the existence of the waterbody buffer and how it applied to the structures. But we will note that that has happened today.

The Chair asked if there were any more questions for staff.

Mr. Zach Moretz has some questions, he is the Attorney for the Appellant and would like the opportunity to cross examine the witnesses.

The Chair said he can ask his questions through the Board, and he will pass them on to Mr. Goldberg.

Mr. Goldberg said Mr. Moretz will be entitled to anybody that we have had come to talk here. He has the right to question anybody who was offered there. If it is amiable to the Chair, he would be okay with him directing questions directly to the witness if it is expedient and if you are conducive to it. Just for the attorney who is representing the Appellant if you would like and if supported by counsel.

Mr. Koch, County Attorney, said it is up to the Chair, if you are willing to allow him to ask questions directly to the witness that is fine.

The Chair does not have a problem with it.

Mr. Zach Moretz, Attorney, Moretz Law Group, Concord, NC addressed the Board stating that he is representing the Arstark's, the Appellant here.

He would like to ask a few questions and try not to make this too judicial or formal, but he would like to ask a few questions and if you do not mind, he would like to start with Mr. Goldberg.

Mr. Goldberg said of course.

Mr. Moretz would like to understand about the permit that was referenced; was that a state law, that is the permit for the Coddle Creek Reservoir or what is that exactly?

Mr. Goldberg said we have a copy of that here.

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Mr. Moretz said I see it here. He asked if that is an agreement between the County and the Corp of Engineers or what is it.

Mr. Goldberg said it is a condition on the permit issued to the County for Coddle Creek.

Mr. Moretz said would it be fair to characterize that as an agreement between the County and the Army Corp of Engineers?

Mr. Goldberg would not necessarily consider it a contractor agreement, but rather if you do this, we will allow you to do this, if you don't do this you will not be able to do this.

Mr. Moretz said fair enough, does it reference farms at all. Does the permit reference farm in anyway or agriculture?

Mr. Goldberg said he would have to look at that, are you talking in general or just the condition? Are you talking about just the condition that we are speaking about or the permit altogether?

Mr. Moretz said the permit altogether; it is pretty lengthy.

Mr. Goldberg said the best way to do this since he is not a witness to this, is to ask Ms. Morris to testify as to the nature of the permit.

Ms. Morris said as far as the actual permit, she does not believe that it has any reference in it to farms. It was specific that the County needed to adopt an ordinance and it set forth those buffers that we talked about earlier and how they would be calculated and then the penalties of that was not followed.

Mr. Moretz said the permit required that the ordinance be adopted?

Ms. Morris said correct.

Mr. Moretz said that we are arguing about today?

Ms. Morris said correct.

Mr. Moretz said alright fair enough. He thinks it is safe to say that the bona fide farm exemption from planning and zoning existed prior to the 1990 permit that was issued.

Mr. Goldberg said how so?

Mr. Moretz said in the General Statutes.

Mr. Goldberg said under what condition?

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Mr. Moretz said which came first, the permit or the exemption in the statutes for bona fide farms from planning and zoning?

Mr. Goldberg thinks you can look at the statutory history.

Mr. Moretz said would it surprise you if I stated that I think the exemption existed prior to 1990.

Mr. Goldberg said if you offered something to the Board to that affect.

Mr. Moretz is asking if Mr. Goldberg or Ms. Morris knows.

Ms. Morris said no.

Mr. Moretz asked to ask a question to Ms. Hernandez. He asked Ms. Hernandez if she had a great deal of communication with Ms. Arstark regarding the permitting process or the approval of the various structures out there, correct?

Ms. Hernandez said she spoke to her about the process of getting permits.

Mr. Moretz said right. You testified that a zoning compliance permit is required to build a barn on a bona fide farm?

Ms. Hernandez said she stated that any time you wanted to build something, yes you would need a permit; one for which we have an exemption for a bona fide farm. If it is a bona fide farm, there would be an exemption zoning permit required.

Mr. Moretz said you are not required to get a zoning compliance permit to build a barn on a bona fide farm or you are?

Ms. Hernandez said you are.

Mr. Moretz said what is the exemption?

Ms. Hernandez said it is just the name of the permit. It is either a zoning permit, a traditional one or there is a zoning permit exemption, which is still a permit.

Mr. Moretz said it just states that yes, you are a farm, so you are exempt from the requirement?

Ms. Hernandez said essentially, she does not recall exactly what it looks like.

Mr. Moretz said what about a building permit for a barn.

Ms. Hernandez cannot speak for building, she does zoning.

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Mr. Moretz said he can ask somebody else about building permits. He asked Ms. Hernandez if she issued a zoning compliance permit for this barn.

Ms. Hernandez said yes, she did after the fact.

Mr. Moretz said the barn was in existence at the time that the zoning compliance permit was issued?

Ms. Hernandez said yes.

Mr. Moretz said correct. In your colloquy with Ms. Arstark in your emails, she asked you what the setbacks were required to build the barn.

Ms. Hernandez said zoning setbacks, those are different

Mr. Moretz said did she ask you about those?

Ms. Hernandez said the zoning setbacks, yes.

Mr. Moretz said did you provide those to her?

Ms. Hernandez believes so.

Mr. Moretz asked if the barn is built in the proper respect as to the setbacks? In other words, outside the setbacks, does it respect the setbacks?

Ms. Hernandez said in reference to the plot plan that she submitted, the setbacks, yes.

Mr. Moretz said it does?

Ms. Hernandez said zoning setbacks, yes.

Mr. Moretz asked if later they were required to get a septic permit as well?

Ms. Hernandez said you have to get a septic inspection and approval prior to the construction of anything.

Mr. Moretz said because there was a bathroom inside the barn, correct?

Ms. Hernandez does not know. She is not aware of that.

Mr. Moretz said was that issued as well?

Ms. Hernandez said was what issued?

Mr. Moretz said the septic permit for the barn.

Ms. Hernandez said the Health Department had to provide a letter of authorization before zoning could provide their approval. She issued her approval based off information she assumed to be accurate when she receives it. That is how she issued her permits.

Mr. Moretz asked if she received a copy of the septic permit from the Cabarrus Health Alliance?

Ms. Hernandez said she received a letter that states they have gone out and inspected for septic approval, not for anything else.

Mr. Moretz said which was granted, correct, the septic approval?

Ms. Hernandez said yes.

Mr. Moretz asked if there were any other zoning compliance permits issued for this property?

Ms. Hernandez does not understand his question.

Mr. Moretz said they are constructing a house as well, correct?

Ms. Hernandez said yes.

Mr. Moretz asked if a zoning compliance permit issued by you for that?

Ms. Hernandez said yes, prior to this inquiry on the barn.

Mr. Moretz said he is referring to the house now.

Ms. Hernandez said yes, that is what she is saying. They did inquire about a permit for the house, but this was prior to this barn.

Mr. Moretz said prior to the barn situation?

Ms. Hernandez said yes.

Mr. Moretz said they had also provided the application and a little drawing and everything to you for that and they got a zoning compliance permit for that as well?

Ms. Hernandez said yes.

Mr. Moretz said and a building permit? You are not going to testify for the building permit.

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Ms. Hernandez said she cannot speak for building.

Mr. Moretz said is that reasonable that they do not have a building permit?

Ms. Hernandez does not know when they got their building permit.

Mr. Moretz asked who could testify that they have their building permits? Can we stipulate that they have their building permits? He has copies of them here.

Mr. Goldberg said there are permutations on that. If you want to talk about that, Mr. Matt Love is the Building Manager.

Mr. Moretz said he is just trying to cross examine, he is not trying to belabor it or anything. He thanked Ms. Hernandez.

Mr. Goldberg said before we do that, he would like the opportunity to redirect on that.

Mr. Moretz said to Ms. Hernandez?

Mr. Goldberg said yes.

Mr. Moretz said yes of course.

Mr. Goldberg said let's take a look at the application that you looked at to make sure we know what we are talking about. He showed a document and asked Ms. Hernandez what we are looking at here

Ms. Hernandez said it is the permit that she issued.

Mr. Goldberg said that is important setback information, was that also signed by her?

Ms. Hernandez said yes.

Mr. Goldberg said that was referenced there?

Ms. Hernandez said yes.

Mr. Goldberg said this is issued as a standard course in-line for a permit like this, correct?

Ms. Hernandez said yes.

Mr. Goldberg said a zoning permit type requested is checked right there?

Ms. Hernandez said yes, accessory building.

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Mr. Goldberg said do you recognize that as Ms. Arstark's signature there?

Ms. Hernandez said yes.

Mr. Moretz asked for the page number.

The Chair said it starts on page 54 and he is on page 57 now.

Mr. Goldberg said appreciates that, he does not have the numbers on his.

Mr. Goldberg said this is for the accessory building?

Ms. Hernandez said yes.

Mr. Goldberg asked Ms. Hernandez to walk them through what she is looking at (shown on the overhead). To be clear, about when was this submitted, this is dated September 17, 2020. Where were you working at the time?

Ms. Hernandez said working from home.

Mr. Goldberg said why were you working from home?

Ms. Hernandez said because this was during Covid.

Mr. Goldberg said do you normally have all the resources you normally have if you were at your desk?

Ms. Hernandez said yes.

Mr. Goldberg asked Ms. Hernandez to talk us through what she is looking at here (showed a diagram). What did she see at the time?

Ms. Hernandez said at the time she saw that there was a house in the front that she had issued a zoning permit for. In the back there is a barn that is 30 feet away from the rear, 43' x 30' and at the top there is an arrow that points in a direction that says to the creek. It does not provide anything related.

Mr. Goldberg said that arrow goes to the creek? That is not the creek?

Ms. Hernandez said yeah, and it also says 375 feet from creek.

Mr. Goldberg said what are we looking at here (showed memo)?

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Ms. Hernandez said this is the letter that the Health Department has to issue prior to any construction of any project on the property that is serviced by a septic system.

Mr. Goldberg said does this proposed barn have a bathroom?

Ms. Hernandez said yes, she thinks it states it there.

Mr. Goldberg said what are we looking at here?

Ms. Hernandez said this is a zoning application that she gives to everyone when they come in and are proposing to obtain a zoning permit. She also has this same writing in a body of an email that she sends to everybody automatically when they want to do a zoning permit.

Mr. Goldberg said this site plot plan, this is in lieu of a full survey for single family home, correct?

Ms. Hernandez said yes.

Mr. Goldberg said instead of having someone go to the expense of getting a survey they can do this kind of hand plan here.

Ms. Hernandez said yes.

Mr. Goldberg asked Ms. Hernandez to read what it says under the fourth box (on the zoning application the fourth box under site/plot plan section).

Ms. Hernandez read the following: location and dimensions of any bodies of water or water channels, ponds, streams, swales, etc.

Mr. Goldberg said looking at that drawing, do you believe that she adequately identified a waterbody as required by that application?

Ms. Hernandez said no.

Mr. Goldberg said what are we looking at here (showed building permit)?

Ms. Hernandez said that is actually the building permit. She thinks he is looking for a different page.

Mr. Goldberg said what are we looking at here (page 2 of zoning application)

Ms. Hernandez said that is page 2 of our zoning application that provides us with the construction that is going to be done, and at the bottom of that form, it states that whatever they are submitting is accurate and correct.

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Mr. Goldberg said affirm that the above information is accurate and correct to the best of my knowledge?

Ms. Hernandez said yes.

Mr. Goldberg said and understand that deviations from the plan submitted may be cause for a zoning violation or a stop work order. He said that is standard course there, right?

Ms. Hernandez said yes.

Mr. Goldberg said it says new construction. What are we new constructing here?

Ms. Hernandez said the accessory building.

Mr. Goldberg said this is dated June 12, 2020.

Ms. Hernandez thinks that is the one for the house.

Mr. Goldberg said and that is where it indicates a septic there?

Ms. Hernandez said yes.

Mr. Goldberg said what are we looking at here?

Ms. Hernandez said a Building Permit.

Mr. Goldberg said what are we looking at here?

Ms. Hernandez said the plot plan that they submitted.

Mr. Goldberg said as part of the single-family home plan.

Ms. Hernandez said yes.

Mr. Goldberg asked Ms. Hernandez to indicate where the waterbody was indicated on this plot plan.

Ms. Hernandez said there was not one indicated.

Mr. Goldberg said knowing what you know now, do you believe this is an accurate reflection of what is on there?

Ms. Hernandez said no.

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Mr. Zac Moretz has a few more questions. He said Ms. Hernandez you testified that this is a plot plan for what?

Ms. Hernandez said that was for when they did house. When they did the permit application for the house.

Mr. Moretz asked if the house was built in any type of buffer area or wetlands or violates any setbacks?

Ms. Hernandez does not think that is a question for her, she does not go out in the field.

Mr. Moretz said he is asking her, you do the zoning permits.

Ms. Hernandez said based off of this information, no it is not in any of those areas.

Mr. Moretz said again, this is for the house?

Ms. Hernandez said yes.

Mr. Moretz is turning back to what should be page 30 in the packet he believes. Let's try page 28.

Mr. Goldberg gave Mr. Crutchfield a hard copy of the staff report because his computer was not working.

Mr. Moretz asked if that was familiar to Ms. Hernandez as far as the Cabarrus Health Alliance.

Ms. Hernandez said it is the soil evaluation,

Mr. Moretz said for the septic?

Ms. Hernandez said yes.

Mr. Moretz asked if this drawing provided for that purpose.

Ms. Hernandez said that is the site plan they provided to get the soil tested.

Mr. Moretz said does that not reference a pond down in the lower right and a pond in the middle area.

Ms. Hernandez said it says proposed pond or well.

Mr. Moretz said a suggested waterbody there. He said go to the next page. Is that not an aerial from Cabarrus County GIS?

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Ms. Hernandez said no that is not an aerial from Cabarrus County GIS. She is not sure where that is from. She thinks a soil scientist did that.

Mr. Moretz asked if that shows the property?

Ms. Hernandez said yes.

Mr. Moretz asked if that was the creek running along on the right side that we are arguing about today. There are a couple of different lines there.

Ms. Hernandez said yeah, she guesses.

Mr. Moretz said you testified that you received this septic information in order to provide the zoning compliance permit.

Ms. Hernandez said that is not for a zoning compliance, that is for a soil evaluation request. She does that for the whole county. It is not until someone is actually going to build, that they submit an application for zoning.

Mr. Moretz said got you.

Ms. Hernandez said she does soil evaluation requests for Kannapolis, Concord, everywhere, so everybody just submits the information to her, so that she can upload it to the Health Department for them to decide.

Mr. Moretz said when in the process would that have occurred; the couple of pages we are looking at here?

Ms. Hernandez said those occurred in February.

Mr. Moretz said what year would that be?

Ms. Hernandez said 2020.

Mr. Moretz said 2020, pretty early in the process.

Ms. Hernandez said yes.

Mr. Moretz said no more questions for Ms. Hernandez. He has a few questions for Mr. Lowe.

Mr. Moretz said Mr. Lowe testified that he had been out to the property a number of times?

Mr. Lowe said correct.

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Mr. Moretz does not recall when Mr. Lowe said the first time was.

Mr. Lowe said July 7, 2020.

Mr. Moretz said alright, yes, that sounds right. A zoning compliance permit was issued not too long after that, correct?

Mr. Lowe said it seems it was two to three months later, maybe sometime in September.

Mr. Moretz said September was your testimony.

Mr. Lowe said that is correct.

Mr. Moretz said you had been out there by that time, what did you do when you went out there?

Mr. Lowe said the first time he went out there, he was inspecting a house. There had been permits issued for a house and pool. He was actually out there inspecting the setbacks for the house and of course, the house, nor the pool, were under construction yet, and that is when he saw the barn.

Mr. Moretz said there is no issues with pool or the house, right?

Mr. Lowe said there is not now, he thinks later on there was some discovery of the house perhaps being in some of that waterbody buffer, and they may have moved it. He is not totally sure about that. He thinks Ms. Morris and some other folks met with Ms. Arstark about that. He cannot remember if they actually had to move it or not but there was some discussion about that.

Mr. Moretz said you mean before they started construction? We are not here about that, that is not in dispute or anything like that.

Mr. Lowe said that is correct.

Mr. Moretz said when you went out there on July 7, 2020, you actually measured. There was a picture he thinks, somewhere that he saw, of Mr. Lowe measuring how far that barn is from that creek.

Mr. Lowe does not think there was a picture of that, but he did try to measure it. He just did not have the equipment to be able to do that and there was a slope and there was riprap there and he could not make an accurate measurement. But when Ms. Arstark told him that she did have a survey done, that did ease his mind a little bit because he thought we are probably looking at an intermittent stream, so he felt better about it.

Mr. Moretz asked Mr. Lowe if he saw the stream while he was there.

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Mr. Lowe said he did.

Mr. Moretz said it is pretty obvious.

Mr. Lowe said yeah, but again, it was wooded, and he cannot recall seeing the actual water because it was heavily wooded down through there and he could not climb over the riprap

Mr. Moretz said there was a barn 30 feet from the stream. It is not that heavily wooded, is it?

Mr. Lowe said it seemed to be at the time.

Mr. Moretz said a building permit was issued right after the zoning compliance permit, right?

Mr. Lowe cannot attest to that, he is not a building inspector. He does not know about the building inspector.

Mr. Moretz said you do not know if a building permit was issued?

Mr. Lowe cannot say for sure, he would assume it was.

Mr. Moretz said there is one in the record.

Mr. Lowe said that seems reasonable.

Mr. Moretz said there are no more questions for Mr. Lowe.

The Chair said the floor is still yours Mr. Goldberg.

Mr. Goldberg said at this point he would like to reserve an opportunity. He thinks this is a great time if Mr. Moretz has a case in chief that he would like to present and make a presentation. Mr. Goldberg ask for the opportunity to cross examine any witnesses that he offers and to provide any kind of rebuttal as appropriate with additional witnesses based on his defenses to what we have proposed. That would be his plan if amiable.

The Chair asked if there were any more questions before Mr. Goldberg sits down. There being none, he called on the applicant to make a presentation.

Mr. Moretz has some materials to handout. He does not mind proceeding but asked if anyone needed a break.

The Chair said this seems like a good stopping point and called for a five-minute break.

The Chair called the meeting back to order and called on Mr. Moretz to make a presentation.

Mr. Moretz appreciates everybody's understanding with the cross-examination process.

Again, my name is Mr. Zach Moretz, Attorney here in town and has been practicing here going on 24 years. He is a certified specialist in commercial real estate law, so we do this kind of stuff pretty regularly. He has not been before this Board in a long time though, thank you for your time tonight.

Mr. Moretz is briefly going to introduce what we are going to talk about, and then he is going to let Ms. Arstark give you sort of the story from her perspective and then he is going to get into all this legal stuff.

First of all, he wants to say we have great staff here, we are very fortunate, Mr. Koch and Mr. Goldberg, fantastic. We have a great planning staff, everybody has been great, and we are lucky to have the people that we have. We do have a fundamental, serious dispute and disagreement with them. But that does not mean that we do not respect them and enjoy working with them.

He said this is a farm and he thinks it was glossed over a little bit on the presentation by the County. This is a farm, and it has always been a farm. It has been a farm for generations and generations. First by the Hahn family which the road is named after and more recently the Arstark's bought the farm. They always wanted a little farm, and they are continuing to farm it.

As was mentioned, farms are exempt from planning and zoning and subdivision and building permitting ordinances. It is in the state law, long time state law; it is also in the Cabarrus County Planning and Zoning Ordinance. It says very specifically that farms are exempt.

Our basic theory here is, not only is it a farm but even if it were somehow subject to this additional overlay process or overlay that Mr. Goldberg has claimed is somehow outside of the zoning ordinance, there is no way that you will ever find this buffer anywhere in any public records. It is not shown on the GIS, the surveyor could not find it. It is not showing on any public documents other than if you know to go look for this USGS map somewhere and you can figure out what you are looking at on the USGS map. You can try to determine if that is your property because it does not have tax parcel on it or anything. It would be impossible for Ms. Arstark to have known that existed there anyway.

No survey is required when you apply for a zoning compliance permit. All you have to do is do a little drawing. You have the different drawings there that were provided at different times during the process, and you will see a squiggly line across the top that denotes a stream.

He said that is our basic case that we want the Board to be aware of. He is going to let Ms. Arstark come up and give the Board the basic background, so you will know who she is and what they are trying to do out there and how she views it, and then he will come back up if he can.

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The Board should have a packet that has all of our documents in it and also some photos that Ms. Arstark provided of the farm and the farm animals and things. We will reference those to you.

Ms. Connie Arstark, 3233 Hahn Scott Road, Mt. Pleasant, NC 28124, addressed the Board stating that she was born and raised here in Cabarrus County, family was the Blackwelder.

She bought the farm, a group owned farm from Steve McMath. She knows the Board has heard a lot of legal stuff today, but she thinks you need to hear the story from her how this all happened.

She is an average citizen in Cabarrus County. When we bought the farm and started building on this property, you all were in a pandemic in the county. So, you were having to work with people who were working from home, and it was a very difficult process, very difficult process. But she was diligent in trying to make sure that she got all of the information that she needed in order to be able to start her farm.

So, I did contact the County and we were able to get the building permit and the zoning permit for the house. We did so as well for the pool, and we also got a building permit and the zoning permit for the barn. Even after numerous times of the County visiting and approving, inspecting electrical, inspecting septic for the barn, inspecting power for the barn. The barn had always been there.

She knows Mr. Lowe referenced something about doing an inspection on July 7th. The barn was not built on July 7th the barn was built she thinks after July 17th. We did all of that trying to do that correctly and when they referenced the email they showed you, there are 20 pages in that email, and they only showed you one section.

When she asked Ms. Hernandez, do we need a permit, we were talking about septic because she does take the applications for the septic, and everything goes through her. You contact Tyler and he comes out and does the soil inspection and then in goes through Ms. Hernandez. She processes it, she is the one that takes the application, and she is the one that does the payments. That is when the ranch and the barn would have gone through the County; that is when it first started. That yes was to the septic, we were not talking about the barn at that time.

Ms. Arstark said it can get really convoluted and confusing, but the barn had a building permit issued. They came out to the property, they saw the barn and they approve the barn. After Mr. Jay Lowe came and met her on the farm, they went out there with a measuring tape and we measured it. She looked at him and asked if we are good and he said yes ma'am I think we are. She asked him if she could get her zoning permit. He said I'll tell you what, I am leaving to go on vacation, and it will be about a week before he would be back and for me to get him the survey. We got the survey in about almost a week and a half or two weeks, and they issued the zoning permit for the barn.

As a citizen of Cabarrus County, she is asking the Board to think about something. How would it ever be possible for any average person to go in there when your own building permit tells you to

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use GIS. The application tells you to use GIS and if your GIS is not up to date and it is not correct, and this perennial creek is that important, do you know how many other farmers are going to be affected by this? There are streams everywhere, everywhere in Mount Pleasant. The average person would not be able to know this, and to affect a family the way this has affected my family for two years, the financial hardship, attorney fees, engineers.

She had an engineer, and they threw this bone out to get another engineer. She has had two attorneys, engineers, she has had all of it. She has jumped through every hoop they asked me to do. I have now spent more money than the barn cost me.

But you know what? It is faith, it is God, and she is about principle. She did everything she could do as a person to follow the rules, to follow the protocol and do what she was expected to do to put the information that was provided to her from this county, and she did that.

Here we are today, this could happen to you, it could happen to your family. Someone coming into your farm and saying you have to tear your barn down. They ordered me to tear my barn down back in October, this has been over a year. She has horses, goats, chickens, and rabbits. I am a farm, I do crops, I have a farmer that farms my property with me. She does not understand how we got here.

Mr. Moretz said take a minute and describe the farm in a little more detail on how it works and the animals that you have there. He thinks Ms. Arstark has a picture.

Ms. Arstark said we have chickens that produce eggs. We also have goats that we use to clean the property and graze the property to keep some of the grass retained back. We have horses, we have a Clydesdale on the property. It is a farm, we have crops, we plant wheat, we plant hay, we plant corn, we have rabbits, we raise rabbits, and we sell rabbits. That is what we do on the farm.

She purchased this property because it was already in the farming program. It was already a farm. It is zoned agricultural for a farm. My adjacent neighbors that are here today want it to remain a farm. They made that very clear when she moved out there, and she let them know that it was her intention to keep her promise, that it is going to be a farm and we are going to farm this property. That is what we have done.

Mr. Moretz asked Ms. Arstark if she had 10 or more acres in farm use.

Ms. Arstark said yes sir. That has been another confusion. The GIS again was wrong, it had her only at ten acres. She had to contact the GIS, she had to take the survey down there. She told them they have 11.54 acres. She went down there to ask them to change it. They said they would change it and took 3 or 4 months before they got it changed. The GIS is not reliable, it does have errors in it, it does have errors in it.

So, we got that changed and so she thought okay here we go, now we are okay. Then another

incident happened. During all of this she was approved for the PUV program, the tax program because I am a bona fide farm.

Mr. Moretz asked Ms. Arstark to explain what that is because people do not know.

Ms. Arstark said it is the tax-exempt program. When you are farm, and you get in the PUV, it is a tax exemption for the farm. So, they came out and did a site evaluation, checked out the barn, and checked out the property and I was approved.

Mr. Moretz asked who came out.

Ms. Arstark believes her name was Leslie, she is the analyst.

Mr. Moretz said Leslie Rimer with the County?

Ms. Arstark said yes, Leslie Rimer with the County Tax office. She came out we met, we looked at the property. I had already sent in the application she had all the information she had asked for. She got a letter in the mail that she had been approved.

It got back to the County that her farm had been approved for the program and withing 40 days while she was “disturbing property”, we were cleaning up debris ready to plant corps and they put a Stop Work order on so we could not farm our property that year. We have lost money over this. We have lost money trying to make a living. We are in a pandemic folks, this is not the time to stop farmers from being able to profit on their farms and may their money and live. So that was rescinded.

She had a question that she asked them, how often have you ever gone out into the County approved them after a site evaluation for this program and rescinded it? They responded with highly unlikely that we would do that.

Mr. Goldberg is very sorry but has to object, as to hearsay.

Ms. Arstark said it is in an email, I have the email here for you.

Mr. Goldberg came to the microphone and stated that he made an objection as to hearsay meaning she is testifying to what some else said. He said we will want that document.

Mr. Moretz said we can withdraw that statement for now, it is not crucial.

Ms. Arstark said she will find it at the end, she does not want to take up your time. She is sorry.

Mr. Moretz asked Ms. Arstark to finish her summary on how this has affected her and what she is doing on the farm.

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Ms. Arstark said at that point then they rescinded it. Once they rescinded it you have to go to a hearing, and you do this process. Again, they argued that there was not enough production in acreage it was just another process that we kept going through. Then, we discover the farm is being denied now, because it is tied in with this situation here. That is unfair guys, and it is unreasonable.

Mr. Moretz asked Ms. Arstark how is it is tied to this situation?

Ms. Arstark said because they viewed that PUV would be taking the County's position as that it is a bona fide farm. It is already a bona fide farm. The State has already issue me, we have insurance on the property as a farm. We are listed with USDA as a farm. We are not subject to these zoning ordinances.

Mr. Moretz asked Ms. Arstark if she had her state sales tax exemption?

Ms. Arstark said yes, we have met all the criteria for a farm through the state. We submitted everything they asked us to do. We have it in email, and you have it in your packet. Also, that email from Mr. Thrift is in the packet as well. It is underlined, that sentence.

We are a bona fide farm. She asks tonight, that you guys please use the reasonable consideration to consider what is happening to my family, over a mistake that an employee made at the County. Listen, we are all human and we make mistakes, and she gets that. She does not hold any hard will to them, but you cannot hold my family hostage because you made an error with issuing a zoning permit that you should not have done. That should not be her burden to carry and certainly not worthy of tearing down her barn and uprooting her family from our farm. Because that is really what would happen, with this buffer overlay, and everything you are talking about tonight, you would cause us to be basically homeless. She does not think that is reasonable.

Mr. Moretz asked how much of the buffer if it were enforced; how much of your farmable property would it take away?

Ms. Arstark said according to the State, we do not have any buffers, according to what is in that packet from the Army Corps of Engineers. She also spoke with them yesterday and she is dealing with the Chief of the Army Corps of Engineers.

Mr. Goldberg said I'm sorry.

Mr. Moretz told Ms. Arstark that she has to focus on what he asks her, you cannot talk about other people or what other people said.

Mr. Goldberg said his objection is that she was making a hearsay statement. She was speaking what someone else said. We would ask that person be here to speak and for cross examination.

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Ms. Arstark said if you would do the buffer overlay, it looks like it could be 50 feet from the back. The County has not been able to officially, even calculate their own formula, so they are relying on me to use my surveyor to do that.

So, as far as we can tell it would potentially put a 50-foot buffer from the rear property. There is a 75-foot buffer from the front of the property so, this is a narrow skinny little section of property. It goes in and out because of the Branch; it follows that. So, that means that that property could go in and out in certain distances. So, at some point you are right, if you had a home there, and that little branch went this way and then went back out this way, all that land is no longer usable; it is not usable. That is why this is so important, that we make sure.

There it is, (shown on overhead) that is what she was telling you about, that little line there is what they are saying I did not put on there; you see it. Every time you do a permit, every different permit that you ask for you have to do another drawing, and you have to add that item to it. So, there won't be just one plot plan that you send it in, there will be four or five because we did so many with building the house, the barn and the pool and those things.

They have had ample time to know, and if you look on the top there, it says parcel ID. When that was first given to them, the County had the obligation to the citizens of Cabarrus County to pull up that parcel and when they pull it up at their desk if it is a perineal creek, they would have known it at that moment because they do have access to that information. The general public, we do not have access to that information, so it is critical.

Mr. Moretz said, let's not belabor it. He asked if anyone had questions for Ms. Arstark.

Mr. Goldberg said at the appropriate time he would like the option to cross examine Ms. Arstark.

Mr. Jeff Corley said we have talked about a lot of dates and sequences and his head is spinning with all these dates but is it your assertion that when this barn was built, that you had the permits that you were required to have or is your assertion that you knew you were not required to have permits.

Ms. Arstark said yes sir, it was her understanding that she did not need to have permits. Because she called Boyd Stanley with the building department, and I said I am building a barn on the property.

Mr. Goldberg is very sorry but objects to the hearsay.

Ms. Arstark does not know how to answer your question then. The County told me that I did not have to have a permit for a barn.

Mr. Charles Paxton said Ms. Arstark did not specifically say, is this a type of farm you go to on the weekend, do you live there, are you only farming?

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Ms. Arstark said it is her permanent residence, she is building her home there. She is living there in an RV on her farm.

Mr. Paxton asked if she only did farming?

Ms. Arstark said yes on the farm, yes that is correct.

Mr. Corley said to follow up to his first question, you were aware then that at the time the barn was built that you did not have permits because you did not feel you had to have them, is that correct?

Ms. Arstark did not feel, she was told that she did not need a permit.

Mr. Corley said but you were aware that you did not?

Ms. Arstark said yes, she did not have a building permit at the time, yes.

The Chair said did you not state earlier that you had inspections on the barn.

Ms. Arstark said yes, we did have inspections on the barn, it was electrical.

The Chair asked how she got inspections if she did not have a permit?

Ms. Arstark said that is a great question.

Mr. Moretz said we have a permit.

Ms. Arstark said we have an issued zoning permit now.

The Chair said let's clarify. There are zoning permits, and there are building permits. They are two separate items, two different departments within the County.

Ms. Arstark said the date that you are talking about before, we did not have a building permit when the barn was built. It was not discovered until after the barn was built that we needed a building permit. Boyd Stanley worked at the County at that time he issued the building permit. They came out and checked the barn out, we were putting electrical in, it was inspected. So that was another time the county came out and inspected the barn.

Then Mr. Lowe came out, met her at the property because he was in conflict about a set back at the front of the house. We have that in an email, and it is in the Board packet.

Then he asked her about the stream, and we went down the creek, we measured it and at that time is that is when the zoning permit was issued. So, he had an opportunity to see the barn, inspect it there and they still issued the zoning permit to her.

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The Chair asked if she is stating that was his first onsite visit?

Ms. Arstark said he claims that he had been there many times before hand. She is saying the time he met her there.

Mr. Corley said the reason you applied for that zoning permit afterwards was why?

Ms. Arstark said because once you get a building permit, they tell you that you need to get a zoning permit. It is kind of like a double edge sword. Most people in agriculture do not get permits for barns

Mr. Corley said you needed the building permit for the electrical which causes a need for a zoning permit.

Ms. Arstark said yes that is her understanding.

Mr. Paxton asked Mr. Moretz for a little more detail on this thing you submitted to the County today; there was some additional engineering.

Mr. Moretz said that was in the Board packet. It is number 6 in the packet towards the back. It is a letter we receive today from a licensed engineer who came out to the property. As you see there, he stated in his opinion no permits were required and that it was a farm and further did not perceive any significant impacts to the stream. The areas closest to the stream remain vegetated with native trees, shrubs, saplings, and herbaceous plants. There was not any observed physical evidence that land disturbance, sediment, or any water quality impacts resulting from the agricultural development of your parcel have impacted the stream.

That was his opinion, but we also asked him, if we wanted to in good faith, put in some buffer, put in some plantings to try to work this out with the County, could he draw something up. He said certainly that he could not do it today. We talked to him about drawing up some buffer plantings that would still allow them to use it as farm but also try to achieve any water quality that might satisfy the County even though they are not required to do that.

Mr. Paxton asked if the County had time to respond to that?

Mr. Moretz said yes. He spoke with Mr. Goldberg about it this morning.

Mr. Goldberg said we did have a brief opportunity to review this. He appreciates the Appellants submitting it, this is a step in the right direction and something we hoped would have started happening about a year ago, but we are here.

Everything you see (showed memo) from up until here we believe is not within the purview. Up until the second last paragraph is not within the purview of this person. This is a PG, Joel Lenk is

a Professional Geologist, and if he was here, Mr. Goldberg would say he is probably a credible witness. He does speak to environmental consultancy and he that is appropriate, and he would concede that.

Everything before that letter, is it a farm, is it not a farm, whether it qualifies, that really calls for a legal conclusion. Here we appreciate the fact that he is starting to talk about that he did not discern an impact on his brief visit. Our main concern is what we are hoping here is a report that says the buffer is there, the building is in the buffer, and that the buffer was designed to do X and because the building is in that buffer it is now doing less than X and in order to mitigate that buffer being in affect, propose some sort of alternative.

He said this is not ideal. If you look in the permit there is not ability for us to wave or vary this nor is there one in the ordinance. This would be working with the Corp, to see if they would allow us to exercise some level of discretion to get us to where we want to be which is not providing a hardship on Ms. Arstark, while also being in compliance with the Corps expectations and maintaining the environmental integrity.

He said the problem here is if you look for any reference to the waterbody buffer, it is not mentioned here, it is not considered in this report. It speaks entirely to the 30-foot setback that applies to any property of this zone that does not take into account the waterbody buffer.

As he has said before if the Appellant came back with a report that acknowledged the illegal violation. He would not go that far, but say this is the buffer, and the building is in this buffer, this is the effect, and this is how we can mitigate it. That may be enough that we can take back to the Corp to say this is not right and we get it this is a violation, but we think the net effect is de-minimis.

He said the other thing is that we would not want any further encroachment or violation of the buffer. So, it is about dealing with the issue that we have right now, not opening the door up wide. We are trying to stop the damage from happening and that goes to what the Stop Work Order is in your packet.

The idea is stop taking down trees, stop taking down trees because that is just going to be more, do not build the house until we get that survey, and it is clearly delineated in accordance with the buffer.

In sum, one of the reasons this has gone so long is because we have been trying to find a solution, from a very, very difficult solution. There are no guarantees when we are dealing with the Federal Government, but this is probably our best hope going forward. The other way to try to mitigate this is if there was something that said that this was not a perennial stream, other than GIS that would at least modify the buffer requirements, but we do not have that.

We are not able to exercise the level of enforcement discretion we would normally do because of this and unfortunately this does not give us what we need to even consider moving that forward.

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Mr. Paxton asked Mr. Moretz if he had a problem trying to help him solve his problem?

Mr. Moretz enjoys working with Mr. Goldberg and the County. But yes, the reason this Engineer or Professional Geologist, who is very respected in this field did not say it is because it does not apply to farms. That is why it does not say it in here and he does reference that down on the bottom of page one. He says it is not shown on any North Carolina Department of Environmental Quality, Surface Water Quality Classification Map, the State does not show any buffers.

Mr. Moretz thinks that he does say that and gives his opinion. You all can take it upon yourselves as evidentiary fact finders whether you think this gentlemen's letter is creditable or not. But I think the reason he says it is because he does not believe it applies which is the same as our belief.

Mr. Goldberg said very briefly since we are talking about our position. Before we move forward on this, just to be clear, is the statement that indicates that USACE, the United State Army Corps of Engineers (first page, second last paragraph) has no jurisdiction of stream buffers on the subject property.

We are not talking about the waters in the United States here, that would not be there. That would be in itself subject to the Clean Water Act. Also, a review of the North Carolina Department of Environmental Quality (NCDEQ), Surface Water Quality Classifications Map, it may or may not be on there, we are not talking about something subject to State regulations. This is a local ordinance that specifically incorporates the US Geological Survey Topographical Map as delineation of the extent of these perennials, waterbodies and to extent of the property.

All of this though, is unrelated to the legal question that we are having right now. Ultimately, it is a legal question, you take the facts, there is a law and there are the facts, and you have to decide how does that turn into reality. That is the Board's job, this is not a legal professional to opine upon.

Mr. Crutchfield thinks Mr. Lowe testified that when he was out there observing the property with Ms. Arstark, that he relayed to her that it was not a perennial creek or did not appear to be a perennial creek, is that correct?

Mr. Goldberg said the best he can do is offer Mr. Lowe to speak to that. He told Mr. Moretz that this is not eating his time.

Mr. Moretz appreciates it, we have not been very respectful of the time limits, he apologized and said we will try to speed it up.

Mr. Goldberg said this is good work.

Mr. Lowe said no, he did not indicate that because at that time he did not know what type of creek it was, he did not know. But, when Ms. Arstark told him that she did have a survey, he

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actually, knew the surveyor, and again he had done work in the county for many, many years. It did ease his mind a little bit in hopes that it was an intermittent stream. But at that time, he did not tell her either way because he did not know.

Mr. Crutchfield understands he is just trying to figure out how she is supposed to know if we do know and we run the County, how is she supposed to know?

Mr. Lowe said right, that is a good question, but again, her surveyor he does not think actually knew either to be honest with you.

Mr. Crutchfield said it sounds like there were a lot of people that did not know.

Mr. Lowe said right, correct.

Mr. Goldberg thinks there is something he can clarify on that. He is going into the zoning ordinance regarding the waterbody buffer zone.

Mr. Moretz said this my Case in Chief, so make it quick.

Mr. Goldberg said of course, he appreciates it.

The Chair said do not worry Mr. Moretz the clock is not running, you are good.

Mr. Moretz said you had your chance.

Mr. Goldberg said you are absolutely right, but he just wants to be clear about this.

Mr. Moretz said read the part at the beginning where it says it does not apply to farms if you are going to read the ordinance.

Mr. Goldberg said pardon.

Mr. Moretz said read the part at the beginning that says it does not apply to farms

Mr. Goldberg will leave that up to Mr. Moretz. He said if there is a waterbody present on the property it is required that the person obtain a survey that would indicate the extent of the water buffer boundary. So, the normal course of action would be if the staff during the permitting process had a waterbody indicated in there, that is the time that you are no longer eligible for the hand drawing and that would require a survey that would delineate that and that came much later.

Mr. Goldberg told Mr. Moretz he appreciates his deference.

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Mr. Moretz said no problem. He said we are jumping around a lot, and he wanted to be a lot more organized, but sometimes this is how it works.

He said looking at your packet there that he presented, page 5 has the drawing of one of the plot plans that was provided, and you can see a curvy line right up there at the top along with the Tax ID number at the top. He thinks those of us in the real estate industry, generally know when you see a really wavy line there is a creek there. When you see kind of a square line those are platted lots, or survey lines or roads. That curvy line there is clearly indicative of a creek and the tax Parcel ID is right there. So, just go look it up on the GIS, which he assumes Ms. Hernandez does and she can see there is a creek there.

You have a copy, turning back in your packet, of the permit that was issued, both the zoning compliance permit and the building permit, saying nothing about any waterbody buffer.

Mr. Corley said just to clarify, there are a lot of labels on that drawing. Your assertion is that an unlabeled wavy line is to be assumed to be a stream?

Mr. Moretz said with the additional information that you have there, which is the tax parcel ID among other things, he thinks is enough notice for a person that does this for a living to tell you what your setbacks and things that you have to comply with are and are going to issue a legally binding permit, that is enough information, yes.

Mr. Moretz said this is what this is about. This water quality buffer is something that the County agreed to in apparently 1990, when they did the Coddle Creek Reservoir and agreed that there would be an overlay upon all perennial streams of 50 to 120 feet or whatever it is. It depends on the slope of the stream bank and apparently, you have to do some calculations to figure actually how much the distance is. It is not shown anywhere on the GIS maps or anything that is readily available to a regular person. Nor did our surveyor, who Mr. Lowe just stated is well known here in town, Sam King, was not aware of it either. It is not shown on any of the surveys that were prepared for this until it became an issue.

Mr. Goldberg objected to the hearsay statement regarding Sam King's position on that.

The Chair asked if Sam King was here?

Mr. Moretz said you have the surveys with his seal on it in your packet. So, you do not need him here.

The Chair asked Mr. Moretz to tell him what number it is so he does not have to keep flipping.

Mr. Moretz said there were multiple surveys that were prepared. In the Board packet on page 64 and 65.

The Chair said that plat shows the buffer and the no build.

Mr. Moretz said page 64 would be an earlier one that showed before this buffer became in dispute because you see the barn there that is outside of 30-foot setback from the property line, and the house is 75 feet from the road and that the total acreage is 11.545 including 1.002 in the road right of way which would leave you in excess of 10 acres by the way for cultivation and farm use. You can see there is no water quality buffer shown there.

He said the next one is on page 65. Once all of this occurred, he was asked to research it further, and the County gave him the information that he needed, it was his understanding, and then he provided these other calculations.

Mr. Moretz wants to try to summarize what is in this packet so we can wrap up. Our first point is there is no violation here. Look at the building permit and the zoning compliance permit. There is nothing in there that we violated, okay? It says we are entitled to build this barn, gives us setbacks. Everybody's agreed we are within the setbacks, the building permit is the same. Nothing in there has been violated. He does not know how you can find a violation if there is nothing in those documents that have been violated.

The second thing, Arstark provided all the information that was required of them. Ms. Hernandez does this for a living. She tells people what they need to provide to get the permits, we provided it. No survey is required, a plot plan is all that is required. A plot plan was provided with the tax parcel id number, with the wavy lines, with the multiple versions, with the multiple visits of various folks coming out there. Everybody knew there was a stream there, the County missed it, the County missed it, that is what happened here. If it was something you could easily find yourself, it would not be a big deal. But this is not shown anywhere on any GIS document, and remember, they did have the septic application documents as well, which did have an aerial photo that did show the stream.

Second point, farms are exempt from zoning, planning, subdivisions, building permitting ordinances. That is State law, and it is clearly stated in the Cabarrus County Zoning Ordinance. You have to abide by your own ordinance.

Mr. Moretz said if you turn to page 25 in our packet. We provided copies of the zoning ordinance exemption. There are your provisions of the Cabarrus County Development Ordinance which we are here to interpret and to make a decision on.

Bona fide farms are exempt. It does not say other than certain parts, it is exempt from the entire ordinance. What is a bona fide farm? You can read down below we have included the definition of a bona fide farm. This is a bona fide farm.

If you go to page 26 in the information they have provided. The provision that we are here to argue about and are spending all this time on, down at the bottom of the page he has put a star beside it. Waterbody Buffer Zone, it talks about what the purpose of it is, Section 4.9, Effect upon bona fide farms. This is very important and he hopes everybody is looking at this: while

North Carolina law exempts bona fide farms from local zoning regulations, the County strongly encourages the use of best management practices in farming. He said it looks like this (showed on overhead) and asked if everyone had this.

He said the Board is the decision makers here. As Attorneys, we do a lot of statutory construction when we have too which means trying to figure out what the legislators meant when they wrote something or the County Commission. When they use the word "shall" that means you have to do it. This says strongly encourages. He does not know any other way you can read that other than it is not mandatory, but it is strongly encouraged. We are here to interpret this ordinance and apply it to this situation. This is a farm, and it is exempt.

The next page in the Board packet is the State Statute, 160D-903, farms are exempt from local, county zoning, land use development, subdivision and permitting ordinances. There are no ifs, ands, or buts about that, and it has been on books for many, many, many years. That section even tells you what constitutes a bona fide farm, you do not have to go out there and count the animals.

If we included all that detail; right there one, two, three and four, what establishes you as a bona fide farm.

1. A farm sales tax exemption certificate issued by the Department of revenue.

Mr. Moretz said we have that, the next page in your packet.

The Chair asked what was the date of that?

Mr. Moretz said August 25, 2021, is the date listed on there.

The Chair said thank you. He asked if that was yearly, how does that work? Is that a onetime issuance?

Mr. Moretz is not sure. He asked someone if they had to do that every year.

Someone in the audience said no, one time.

Mr. Moretz said one time, there are some farmers in the room.

2. A copy of the property tax listing showing that the property is eligible for participation the preset-use value program.

You heard Ms. Arstark testify that she submitted that application last year and it was granted, and then it was withdrawn, and they had a hearing, and there was further quibbling about how much acreage there was and now it is under appeal to the State Property Tax Commission

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because the County has continued to deny her the exemption. It has had that exemption as long as the exemption has been in existence. But all of a sudden, now the County is trying to delay it. Let's put it that way.

He said the last item in the Board packet is number 7, it is the current exemption application that currently has been provided to the County, but as of yet has not been acted upon. We feel the County has somewhat a conflict of interest on that because once they act on this which by all rights it should be granted. All the information is there to show you that it should be granted. Well, that will declare them as clearly a bona fide farm and then it would be very hard for them to argue that this ordinance applies when the ordinances and the law clearly says it does not apply to bona fide farms.

The next thing that you can provide that indicates that you are a bona fide farm exempt from development and zoning ordinances is a copy of the farm owners Schedule F, for their tax return. You have that also, as part of Item #7, that is Item F, from the tax return.

A good portion of this, the part that is cultivated, is leased to Mr. Britt, he farms that part of it. But that does not matter, it does not have to be farmed by the owner as long as it is farmed. So, you see, those are his Schedule F's to his tax returns because he is the one that farms that part of it and can provide those historical tax returns. They just moved on to it last year, so they do not have those yet.

Finally, a forest management plan. We do not have any forest on here. We are not claiming that, but any of those three, you can choose one of those, we have all three of them. You are going to hear a testimony from a few of the witnesses that this has been in the farm program forever and has always been a farm.

Mr. Moretz said we have some historic photos in that same section of the packet. If you want to look at those, you can see that it has been cultivated as farm land going back to at least the 1960's. It is great that the GIS now has these really old aerials photos so you can kind of see how land use changes over time but this one has not changed, going back to 1964.

There is no way to know these buffers were required. It is not shown on the GIS anywhere. We have some different pictures from the GIS, printouts. You can see where he went through and turned on all the things for water and stuff, and nothing appears. You have the line there that shows the creek.

He is at Section #4 now.

Mr. Corley said just to be clear, when you say nothing appears, the stream is obviously there. You mean there is no buffer shown?

Mr. Moretz said yes.

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Mr. Moretz said that did not make it into the Board packet. It is in Section 4 of the printed packet. This one was in color, they made an extra effort to print this out in color. He asked if everyone had that in their packet. He could pull it up on here, but you would not be able to see it anyway. He said, let me draw your attention to that. He asked if everyone had that or everyone that wants it anyway. He showed the Board what it looked like.

He thinks Mr. Corley is correct. There are multiple lines shown there, do you see that. He does not know what that is. See, there is a blue line, but there is another smaller blue line. So, what is that? He does not know, it is confusing, and he thinks that is kind of why we are here. You are supposed to show if there is a waterbody and you are supposed to show this waterbody buffer, but the waterbody buffer does not:

- a) appear in the GIS anywhere
- b) you have multiple streams shown on here that are not really defined

So, the first two pages there are just showing you the bottom part of the property and top part of the property. The next page he clicked on all the water related things and nothing further comes up. What does come up is a UT. If you look closely, you see the letters down there says UT, which he believes stand for unnamed tributary. He thinks that is right.

So, you can see the larger blue line and then the unnamed tributary and they sort of cross each other. He would say that is either wrong or very confusing on the GIS, to know what our property line is. What waterbody are we supposed to reference? Even if there was a buffer that you could turn on in the GIS, which you cannot, would it be 50 feet from which one of those, the small one or big one?

Finally, the bottom part of that page is what was provided to us as the actual USGS map. He said is that correct? Is that the USGS map that we are going by on this?

The Chair believes he is pointing to the correct USGS map that was in our packet.

Mr. Moretz said it should be just a screen shot from that.

The Chair showed Mr. Moretz the bottom of the page that was included in the Board packet and asked him if that is what he is referring to.

Mr. Moretz said that is correct. So, that blue line is what we are arguing about here, that is understanding, and they should have aware of. Again, this is a USGS map that you either have to contact the County and they will send it to you, or he does not know how you find it. He guesses you could contact the US Geology Survey somehow. But the point of these different maps, is to show the GIS does not show any sort of buffer and further it shows multiple different creeks along there. At least one of which does not exist. The actual creek has that big bend in it up towards the top. What this unnamed tributary is, nothing, there is no waterbody there.

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Mr. Crutchfield said you stated earlier that the farm use to be recognized as a bona fide farm and it was changed by the County. Is that correct?

Mr. Moretz said the property changed hands and he believes, the did not do this closing, but he believes they made a mistake at closing and did not renew it closing. So, when you do not renew it at closing when you buy the property, within he thinks 60 days, then you have to reapply.

Ms. Arstark speaking from the audience said that was for the PUV program not for the bona fide farm, it has always been a farm, that was for the PUV tax.

Mr. Moretz said right.

Mr. Crutchfield said so, the PUV program was revoked at one point, and the County did that?

Mr. Moretz said they did not issue it to her. They did issue it to her and then they revoked it.

The Chair asked Mr. Moretz if he just stated that when the transaction from a previous owner to the Arstark' s took place, that they did not transfer the bona fide farm from the State. Is that what you just stated?

Mr. Moretz said no. He stated that they did not get their Present Use Value tax exemption application in within the 60 days period.

The Chair said because Mr. Crutchfield was asking about the tax exemption for a farm. The Chair just wants to be clear about what Mr. Moretz was referring to.

Mr. Crutchfield said he was really trying to figure out how the PUV was revoked and who did that and why they did it.

Mr. Moretz said yeah. We do not really know why either, but we think it is related to this because that is one of the four things that establishes you as a bona fide farm, if you have that exemption and it was granted then we ran into this disagreement that we are into now and it was revoked.

Mr. David Hudspeth asked how many acres are in the farm? When you sell it and you resurvey, evidently, they take out the right of way, right? He said from the center of the road, it recalculates the acreage, is that right?

Mr. Moretz said that is the position that the County took at the Board of Equalization and Review. He said that was news.

Mr. Hudspeth said that is what is causing your problem with the PUV, right?

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Mr. Moretz said no, we just did not have a survey that showed the differentiated between how much was in the house, how much was in the right of way and how much was left in farm use.

Mr. Hudspeth said they take the right of way out, don't they? The original survey, the eleven something acres included the right of way.

Mr. Moretz said correct, that is the total acres of the property. There is a survey here he believes in that item number 7, which is our current PUV application, that shows he believes the actual acreage broken down by right of way.

The Chair said 10.954 acres for farm use, took out .552 acres for roadways and the proposed dwelling is .057 acres.

Mr. Hudspeth said so they still have their 10 acres?

Mr. Moretz said yes, they have 10.954 acres. They take out for the house and the right of way for the roads.

Mr. Hudspeth asked if they take out for the stream?

Mr. Moretz said no.

The Chair does not think they would take that out, that would still be considered a part of your property.

Mr. Moretz said unfortunately, the position was taken that this was not provided in time for the Board of Equalization and Review hearing, so they did not have this at their disposal and made a ruling that appeared to them that there was not 10 acres.

Mr. Goldberg said, I am sorry he will have to object. He said there could be records but he does not think that you can speak to what the Board said at the time.

Mr. Moretz said the denial was based on acreage, and they did not have this map at their disposal.

Mr. Goldberg said if it would be helpful, we do have the Tax Administrator here who could speak to that.

The Chair asked when was the property acquired?

Ms. Arstark from the audience said June 11, 2020.

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Mr. Moretz said let me try to finish getting through here, if there are no more questions on that topic, he knows it seems like it is being belabored. He wants to point out that there are no wetlands on the property that we are aware.

The Chair advised Mr. Moretz that his 30 minutes are up and to try and wrap it up.

Mr. Moretz said there is no wetlands on this property, there is no floodplains on this property, and there is no water quality buffer that we are aware, shown anywhere on this property.

Mr. Corley said quick question, and hate to interrupt, but no wetlands on the property? Did a professional make that determination?

Mr. Moretz said there has not been a wetlands delineation expert come out there but there is nothing shown on the survey or GIS.

Mr. Stephen Wise said on the zoning permit it says it is no wetlands.

Mr. Moretz said yes, on the zoning permit, as well as the building permit, if you look back on part one of the packet.

Mr. Wise said it says no floodplain or watershed within property.

Mr. Moretz appreciates Mr. Wise pointing that out. He said it is on the zoning compliance permit which is basically in the first part of the packet after the summary. You will see it says no floodplain or watershed within property. You can also flip a couple of pages more and you will see the building permit for the house which again, the house is not in dispute, but he believes we have in there the details from that as well. You will have to go through all the long emails with Ms. Hernandez. He showed item from the packet he said is from the County accelera system (second page) that says no floodplain or watershed within property.

Mr. Corley said would you mind him asking the County for a clarifying answer?

Mr. Moretz said of course.

Mr. Corley is making an assumption that when it says no watershed, we are talking about the water supply watershed areas, is that correct?

Mr. Goldberg said that is correct, it is not speaking to the watershed zone nor the floodplain. Those are separate delineations.

Mr. Moretz said it says floodplain doesn't it.

Mr. Goldbergs said a waterbody buffer is not a floodplain.

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The Chair does not think anybody has brought up floodplain but you guys.

Mr. Moretz is just saying that nothing is mentioned about all these other things and the waterbody buffer is not even listed on there at all, where it can say yes or no. If it was listed and they say no, it is not even listed for it to say yes or no. How are you supposed to know is our whole point on this?

He said there is no proceeding, or anything threatened by the Army Corps of Engineers or the State against Cabarrus County. You have an email from Allen Johnson with NCDNR and you have an email from Steve Jones with the Army Corps of Engineers stating we have not been in communication with Cabarrus County about this property nor about any violation of their 1990 Coddle Creek Reservoir permit. The County may be concerned about it, but the Feds and the State are not at this point.

He said wrapping up, we talked about number six on our summary about the Engineer that was there yesterday. Number seven is showing the packet that was supplied to the Tax Office for our Present Use Valuation which we have not received yet.

Mr. Corley said can I interrupt you one more time? You keep saying the word Engineer.

Mr. Moretz said yes, he is a geologist, he is sorry.

Mr. Corley would like to clarify.

Mr. Moretz said Professional Geologist.

Mr. Corley said Professional Geologist.

Mr. Moretz said correct. Finally, Arstark has a common law right to build here. They relied on the permit they got. First, they had the word from Boyd Stanley, that no permit of any kind is required to build a barn on a farm.

Mr. Goldberg is very sorry, but he will have to object to hearsay.

Mr. Moretz said you can object but he is going to state it and we can let the fact finders decide whether they want to allow it or not.

Mr. Koch said you cannot consider hearsay evidence.

Mr. Moretz said you heard from the applicant that she was told by the County that she did not require a permit for building or zoning.

The Chair said Mr. Moretz you cannot enter that.

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Mr. Moretz said you can listen to what she said.

The Chair said that is hearsay.

Mr. Moretz said she testified to what she was told, what she understood, whether she was required to have permit.

Mr. Koch said that is classic hearsay.

Mr. Moretz said classic hearsay is saying somebody else said it. What she understood is she did not have to have a permit, that is not hearsay. The Ordinance says you do not have to have a permit, okay? We gave you the Ordinance and the State Law, you do not have to have permit; she relied on that. When you rely on that you get common law zoning vested rights that you can proceed there under.

Was the barn built prior to the permit being officially given them, yes. It was under construction based on the understanding under the law that it was not required. The only reason it was required was so they could get electrical which they got. It was provided and it is order.

The bottom line is there is no way for a lay person or even a professional surveyor apparently to know there is this water buffer thing. If it is so important and it has been around since 1990, why is it not on the GIS? All kinds of other stuff on GIS, you can look at an aerial photo from 1934, but this water buffer thing is not on there, why not? They have the data and the ability to do that.

This is news to folks that farm in this County, which he thinks you are going to hear from some of the people who signed up to speak, that there are these buffers. They farm up to the edges of the creeks and streams in this county. If there are 50-to-120-foot buffers on every stream in the County and Mount Pleasant and every place else. That is going to make a huge difference on your airable land that you can farm. There is going to be a sea change in this county and if that is the position that is being taken just because there is just one little barn, we need to think about the repercussion that is going to have.

He will wrap it up here because he is already overtime. He will be happy to answer any questions the Board may have.

Mr. Goldberg would like an opportunity to cross examine Ms. Arstark.

The Chair asked the Board if there were any objections to Mr. Goldberg cross examining Ms. Arstark. There were no objections.

Mr. Goldberg asked Ms. Arstark come forward.

Mr. Kevin Crutchfield has a question on conflict. As he is a farmer in Cabarrus County that

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abuts up to a river, he just wants to go on the record as stating that he has that experience and make sure that is not a conflict on what you are trying to do.

Mr. Koch said the fact that you own land and a farm he does not see that as a conflict. Different members of this Board have different backgrounds, and some of them might be similar to what is in front of you and some of them might not, that is not a conflict.

Mr. Crutchfield just wanted to make sure, thank you.

Mr. Goldberg said good evening Ms. Arstark.

Ms. Arstark said good evening.

Mr. Goldberg said before her he has in Chapter 160D-903 of the North Carolina General Statutes, Subsection A. He asked her to read on the second line beginning at however through the end of that sentence.

Ms. Arstark read the following: However, that this section does not limit zoning regulation with respect to the use of farm property for nonfarm purposes.

Mr. Goldberg asked Ms. Arstark if she has a Facebook page.

Ms. Arstark said I do.

Mr. Goldberg said do you recognized this Facebook photo page?

Ms. Arstark said I do, that is when the barn was built.

Mr. Goldberg said excellent. He said members, this will be key, and he has copies that would like to pass out. He passed out the copies to the Board.

Mr. Goldberg asked Ms. Arstark to read the statement on her post and the date.

Ms. Arstark read the following: a lot of people have asked me what the barn looks like on the inside. There really isn't much to see at the moment, but here you go. It is still a work in progress.

Mr. Goldberg said can you tell me what the lighting on the top of that is?

Ms. Arstark said I love this story. The inspector that came to the farm...

Mr. Goldberg said I am sorry very sorry ma'am, I asked you to tell me what the light is there. Is it a chandelier?

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Ms. Arstark said it is a chandelier.

Mr. Goldberg said yes ma'am. He said later on the post, Heather H. Brown said (he pointed to the post) what are you going to do in the barn. He asked Ms. Arstark what did you say?

Ms. Arstark said, I don't really know yet.

Mr. Goldberg said please go on.

Ms. Arstark said, playhouse for me and the Huskies? Ha, Ha, Ha.

Mr. Goldberg asked what Huskies are she referring too?

Ms. Arstark said to my puppies.

Mr. Moretz from the audience objected, that is hearsay, she is not here to testify.

Ms. Arstark thinks you see a lot of joking, smiley faces, and weird quirk faces, don't you?

Mr. Goldberg said playhouse for me and my huskies. So, that is your statement? Connie Arstark, playhouse for me and my huskies.

Outburst from audience. The Chair said if there are any more outburst, he will ask you to leave the room.

Ms. Arstark said yes, that is me talking. Playhouse for me and the Huskies, ha, ha, ha, ha, hee, hee, hee, yes.

Mr. Goldberg said later on you were prompted; are you planning on moving to the barn to live? How did you respond.

Ms. Arstark said, I said no, we have an RV.

Mr. Goldberg asked Ms. Arstark where she lives now.

Ms. Arstark said in the RV on the farm.

Mr. Goldberg asked under the Development Ordinance are you allow to occupy a residence as a RV on that lot?

Ms. Arstark asked if she could ask Mr. Goldberg a question.

Mr. Goldberg said I am very sorry.

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Ms. Arstark said if you are under oath, and I am under oath, we met in private.

Mr. Moretz said you have to answer the question if you don't know.

Ms. Arstark said I don't know I live in an RV on the farm.

Mr. Goldberg said he understands, thank you.

He said this is a bigger packet and he will make sure that it gets entered into the record. He asked Ms. Arstark what she sees on the big screen here.

Ms. Arstark said that is the Royal Huskies of the Carolinas.

Mr. Goldberg asked Ms. Arstark if she owns or operates the Royal Huskies of the Carolinas?

Ms. Arstark said yes.

Mr. Goldberg said what do you do with the Royal Huskies of the Carolinas?

Ms. Arstark said that is her families puppies. She raises long hair royal puppies, and she breeds then once a year.

Mr. Goldberg said this indicates the price as \$1500 per puppy.

Ms. Arstark said yes, that is correct.

Mr. Goldberg said is that the price you charge?

Mr. Arstark said, well some of them could be a little more but yes, the base price is \$1500 a puppy.

Mr. Goldberg said this indicates that there are two males and four females.

Mr. Moretz objects.

Mr. Goldberg said to the Board if I may.

The Chair said yes please, he would like to see where she's going.

Mr. Goldberg said the point here that we are going to be working toward is that even if there is a farm at some point or other, this barn that we are talking about today is not being used for farm purposes; we are not farming dogs. If I may continue?

The Chair said you may.

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Ms. Arstark said you came to the farm and took pictures. Don't you have the pictures you took inside the barn sir.

Mr. Moretz said he has to ask you a question.

Ms. Arstark said I am sorry what did you want me to answer?

Mr. Goldberg said it indicates on the posting, two males and four females, is that correct?

Ms. Arstark said yes.

Mr. Goldberg said right now if we go to the farm, if we go to the property, forgive me. We will find two Siberian Huskies, two males and four females for sale?

Ms. Arstark said no sir. They are at the rental house now, they are gone. The puppies that were there on that site were sold.

Mr. Goldberg said okay.

Ms. Arstark said you will find three adult females.

Mr. Goldberg said three adult females.

Ms. Arstark said yes sir.

Mr. Goldberg said in the last six months, how many dogs have been born and sold under the Royal Huskies?

Ms. Arstark said there are three mothers, one had four puppies, one had six puppies and one had five puppies, total of 16 or 17.

Mr. Goldberg said at \$1500 per puppy?

Ms. Arstark said at \$1500 per puppy that were sold, but not all were sold.

Mr. Goldberg said okay. He said this is a Facebook page of the Royal Huskies of the Carolinas. He asked Ms. Arstark if she controls this page.

Ms. Arstark said yes, she does.

Mr. Goldberg asked if that 704 number was Ms. Arstark's phone number.

Ms. Arstark said yes, it is.

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Mr. Goldberg asked Ms. Arstark when this post was made.

Ms. Arstark said she is sorry, she does not know. Is there a date on there that you can see it?

Mr. Goldberg will say that this was printed out today, so it does indicate three hours. Does that sound appropriate.

Ms. Arstark does not know. She does not know when that was, but she knows who that puppy is. Is that what you are asking me, or do you want to know what day I put that picture in there?

Mr. Goldberg said let me ask you this.

Ms. Arstark said okay.

Mr. Goldberg said I see that cage there, is that at the property in question?

Ms. Arstark said yes, it is outside of the Husky Hut.

Mr. Goldberg said the Husky Hut, thank you. All these are more pictures of the Husky's that you were selling.

Ms. Arstark said yes, that is correct.

Mr. Goldberg said these are more pictures?

Ms. Arstark say yes sir.

Mr. Goldberg said okay. He asked what we are looking at in this picture.

Ms. Arstark said that is outside door of the Husky Hut, outside.

Mr. Goldberg said what wall is that?

Ms. Arstark said that is the runs along the side of the barn. The barn is here, and it runs along the side on this side of the barn.

Mr. Goldberg said is this coming towards the waterbody, the stream?

Ms. Arstark said it is beside the barn.

Mr. Goldberg said yeah so that is coming towards it, it is coming closer to it?

Ms. Arstark said, well when you still measure it, it still the same distance.

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Mr. Goldberg said I am sorry ma'am. It is coming closer to the waterbody, correct?

Ms. Arstark said you want me to say something that she cannot say. It is on the side of the barn. If that is what you me to say.

Mr. Goldberg said yes.

The Chair thinks he wants you to say which side of the barn.

Ms. Arstark said oh okay, facing the barn it would be on the right side of the barn.

The Chair going towards the creek or towards the road.

Ms. Arstark said toward the creek, towards the boundary.

Mr. Goldberg said can you tell me about the picture here, what are we looking at?

Ms. Arstark said that is the Husky Hut.

Mr. Goldberg said okay, how many dogs are we looking at there?

Ms. Arstark said seven.

Mr. Goldberg said okay, from three females, correct? At one point or the other?

Ms. Arstark said at different times.

Mr. Goldberg said you had three litters this season?

Ms. Arstark said we only breed them once a year. One dog had one litter, one dog had one litter and one dog had one litter.

Mr. Goldberg said okay, at \$1500 a piece?

Ms. Arstark said yes.

Mr. Goldberg said or more, you give some away?

Ms. Arstark said some we placed. We do not sell all the puppies. We do it for the purpose of seeing how they evolve.

Mr. Goldberg said okay, of course. He said in this picture here, what are those stones there?

Ms. Arstark said that is the rocks.

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Mr. Goldberg said these are all the different dogs here, correct?

Ms. Arstark said those are the same puppies just over the pictures. The puppies were born in November and that is Bentley.

Mr. Goldberg said that is another one of what you refer to as a Husky Hut.

Ms. Arstark said yes that is a Husky Hut.

Mr. Goldberg asked Ms. Arstark is it were true that she is a license realtor in the states of North Carolina and South Carolina?

Ms. Arstark said yes, that is correct.

Mr. Goldberg said as part of your responsibilities, training, and experience, are you familiar with the requirements of zoning regulations in North Carolina and South Carolina?

Ms. Arstark said not South Carolina just North Carolina.

Mr. Goldberg said South Carolina does not train you.

Ms. Arstark said she is not licensed in South Carolina, so she would not know.

Mr. Goldberg said you are not in South Carolina?

Ms. Arstark said no sir.

Mr. Goldberg said in North Carolina though you are familiar with existence of zoning laws?

Ms. Arstark said we are not trained in zoning.

Mr. Goldberg said what are you trained in.

Ms. Arstark said you are selling property and real estate, housing, inspections, those types of things. But you are not trained in zoning.

Mr. Goldberg said do you receive information about any kind of information on this training through zoning or about zoning.

Ms. Arstark said the only thing she can rely on as a real estate agent is the GIS. She would rely on the County for that information, you would be my resource.

Mr. Goldberg asked how many transactions Ms. Arstark has done in her career in North Carolina and Cabarrus County in general?

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Ms. Arstark has no idea.

Mr. Goldberg said more than ten?

Ms. Arstark said more than ten, yes.

Mr. Goldberg said more than 100?

Ms. Arstark does not know.

Mr. Goldberg said is this another depiction near the Husky?

Ms. Arstark said the Husky Hut, yes.

Mr. Goldberg asked Ms. Arstark what is the date on there?

Ms. Arstark said November 15th.

Mr. Goldberg said what does it say on there?

Ms. Arstark said the farm is ready for the holiday season.

Mr. Goldberg said I am sorry.

Ms. Arstark said Holiday Husky's.

Mr. Goldberg asked Ms. Arstark if she built the barn, the building in reliance on any permits being issued.

Ms. Arstark said that question, what are you asking me?

Mr. Goldberg said I am asking you were there any permits issued prior to you building the barn, the building?

Ms. Arstark said were any permits issued before the barn was built, is that correct?

Mr. Goldberg said yes.

Ms. Arstark said there were no permits issued before the barn was built. They were issued after the barn was built. After they came and did a site evaluation.

Mr. Goldberg said at that point what would you have done if Ms. Hernandez identified and said we think this is in violation of the waterbody buffer prior to the issuance of the permit.

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Ms. Arstark said I have no idea. That is like asking a crystal ball or something. I don't know.

Mr. Goldberg said so, you did not rely upon any permits being issued. You didn't think you were the clear and then you built it and the County pulled it back?

Ms. Arstark did not think I was in the clear?

Mr. Goldberg said you did not rely upon any permits being issued. Nothing in the County said it in writing?

Ms. Arstark does not remember Boyd Stanley telling her she needed a permit because she was building a barn.

Mr. Goldberg said that should end the cross examination at this time. If there is an opportunity to offer rebuttal information, he would like that opportunity.

Mr. Moretz said it is not illegal to breed dogs.

The Chair said wait a minute Mr. Moretz.

Mr. Moretz said he is entitled to follow up on those questions. If you do not mind, he will keep it brief

Mr. Koch is not sure what he is doing.

Mr. Moretz said she can explain her answers and that is what he is giving her the chance to do.

Mr. Koch said are you giving her a redirect, is that what you are doing?

Mr. Moretz said sure. He asked Ms. Arstark if she would like to explain any of her answers to Mr. Goldberg. You can say no.

Ms. Arstark said yes.

Mr. Moretz asked if the Huskies were still there.

Ms. Arstark said there are three puppies there, yes.

Mr. Moretz said have you had Huskies for long time?

Ms. Arstark said yes.

Mr. Moretz said you do you have a house to live in currently with you Huskies?

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Ms. Arstark said yes, we have a rental house.

Mr. Moretz said are they at the rental house?

Ms. Arstark said yes, they are at the rental house, they go back and forth.

Mr. Moretz said do you live on the farm?

Ms. Arstark said I live on the farm

Mr. Moretz said Jim lives at the rental house?

Ms. Arstark said yes, that is correct.

Mr. Moretz said you just breed them once a year?

Ms. Arstark said breed them once a year.

Mr. Moretz said farms have dogs do they not?

Ms. Arstark said I hope so.

Mr. Moretz said what other animals does she have on the farm?

Ms. Arstark said she has a registered Clydesdale horse, four goats, three chickens, and four rabbits, and she is getting ready to add another horse to the program

Mr. Moretz said is a large part of the property also cultivated?

Ms. Arstark said oh yes, everything is for the crops and cultivated.

Mr. Moretz said the part that is not used for those animals and your house?

Ms. Arstark said that is right, correct.

Mr. Moretz said there was a discussion about Mr. Thrift and what he had stated as far as your application, did he send you an email?

Ms. Arstark said yes sir.

Mr. Moretz showed the email and asked Ms. Arstark if that was the email you were referring to?

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Ms. Arstark said yes.

Mr. Moretz said there was some controversy about whether it was admissible, but that is the email you received?

The Chair asked Mr. Moretz if that had been entered into the record? He does not believe that is part of your original packet. You will need to provide that to the Clerk.

Mr. Moretz said that is the only copy he has, and he will give to the Clerk

Mr. Goldberg is fine with that and will make sure that it gets on the record.

Mr. Moretz asked Ms. Arstark if there is a chandelier in your barn.

Ms. Arstark said yes, the day that the inspector came to inspect the barn.

Mr. Moretz said which inspector.

Ms. Arstark said the electrical inspector. It was an old light that we had laying in the back of the barn that we had for whatever various reasons. He said you cannot get it approved if you don't turn the light on. So, the poor guy had to go out there and get that light and hang it to get the power and approval for the inspection. So, that is why that ugly light is hanging there, that is the only reason.

She would like to say that the County has been out, and they asked me for a personal meeting to come out to ensure that the barn is being used for agriculture purposes and Mr. Goldberg knows that because he is the one who came out and took pictures of her barn. There is hay in there, there was a Clydesdale horse in there, there is feed in there, there is seed in there, there is farming equipment in there. So, it is being used for a barn and it will always be used as a barn, and it has been.

Mr. Paxton has seen several barns with chandeliers, so he is not upset by that. The second thing is, you said that you were not sure exactly what you were going to use the barn for. What was that comment about?

Ms. Arstark said in the beginning she did not know what all she could put into the barn what was going to fit in there because it is a metal barn, and it is not built by wood. So, one of the main problems we had was getting it designed so we could measure the metal structs to put the door frames in to fit a Clydesdale. We started with that process because this is very new.

She really wanted to build a wooden barn, she did not want to build a metal barn. But with the pandemic and the cost of lumber and the prices it did not give her any choices, she had to do for that purpose. So that is what she was talking about, how am I going to use the inside of this barn. It was weird in the beginning, the way it looked, but we have been able to figure that out.

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Mr. Paxton said several people have used these barns as wedding venues and stuff like that. He said that was never your intention.

Ms. Arstark said no, that was never. You will hear the people speaking. That is a family farm out there and it was made very clear to her what the farm was and that was her intentions and to keep her promise to continue farming it and that is exactly what we have has done. That was the whole intention from the beginning.

She grew up on a farm, she wanted to go back to the farm. Her children did not get an opportunity to experience growing up on a farm, but she did, it is something she thinks every kid should experience, just going back to her roots is all she was doing.

Mr. Moretz said pictures were provided that show the interior.

The Chair said the County packet had inside pictures your packet only had one or two.

Mr. Paxton said several minutes ago he asked a question, Mr. Goldberg has a problem, and your definition was I don't have to worry about his problem because I don't have to answer to that. What is your position on making his problem go away? With regard to the request that he has, so that we can move this process along. He is trying to solve a problem here.

Mr. Moretz thinks we would be happy to plant some buffer along that creek, but it would be in the 30-foot setback area. If you look at the map and you had to do 50 to 80 feet, this is a long skinny piece of property, you would have no property left.

The Chair said staff, correct me if I am wrong, but that is not what is before us? It is whether the appeal is valid or not, it is not to work out any issues. That is something we can be looked at once we have made our decision.

Mr. Koch said the Board would have the option to table it if you want to have discussion.

The Chair said for those who did not hear, Mr. Koch said, if the Appellant and the County want to try work through this, we could table this if you want to try to work toward something. But here today, we are here to determine if the violation is valid or not.

Mr. Corley asked if there are violations accruing? Are there any fines or anything that are accruing at the moment, and if we do table do those pause or do those continue?

Mr. Goldberg said the enforcement is stayed during the pendency of the appeal. So, we are stuck right now, but if we table it, they will not continue to accrue. He will say that he is not optimistic.

We explained the County's position, and what we would need in this report, and he is not optimistic that we would get there, to the point of where we would be aligned, where we would have an acknowledgement of a buffer. But a mediation plan, an acknowledgment of a violation.

A remediation plan, and a condition to no longer, further, violate the buffer. He said it does appear that we are far apart on that, unfortunately.

Mr. Hudspeth said wouldn't it be pretty important to try to resolve this? We do not want to make a decision tonight that would require them to tear that barn down yet, would we?

Mr. Goldberg said what you see here has been going on for more than a year. This has been a good step, but he has not seen a strong indication that we are going to reach an agreement on remediation. He thinks that is us assuming that we can get the court to agree, that they will look the other way, that they will exercise enforcement discretion. He said Mr. Moretz could speak to that otherwise, but we are far away and have been far away since more than a year now unfortunately with ongoing discussions.

Mr. Corley said you do not have to answer this if you do not want to. If we were to vote tonight, to uphold this, the county would still be amenable to a resolution?

Mr. Goldberg would say absolutely. The enforcement would proceed in accordance with the ordinance, but just like we did not bring this here after the second violation happened, the second appeal this kept going, trying to work toward a solution. So, as long as we are talking in good faith. We do not take barns down, we do not like that. We are in a tough spot because of the nature of this permit, and we really bent over backward looking for a solution.

Mr. Crutchfield said Mr. Moretz testified that these wetlands and buffers are not defined anywhere on county maps for anyone to get, is that correct?

Mr. Goldberg said that is correct, the reason is because they vary. If you look at the formula it depends on the slope of the bank. So, there is no GIS capability that we are aware of, at least in the platform that we use, that would be able to automatically calculate that. It is not technologically possible to delineate the extent of the buffer in there.

Mr. Corley will add that on some of those stream maps that were presented, the reason there are two different lines is because those are two different data sources. Really, the only way to ever portray that buffer in an enforceable place, everywhere for all to see, would be to legitimately survey those entire areas of perineal streams to be able to display them. To that point, these streams move overtime, right? So, ten years later that thing may have moved 15 feet one way or the another, so the buffer went with it, right?

Mr. Goldberg said to that point, that is why as part of the ordinance, if there is a waterbody on the property being developed, it requires a survey and that you actually stake out the extent of it. That is what got the house moving forward, was we finally got that November 10, 2021, King survey that delineated the waterbody buffer. If you look at the delineated plan, the pool and the house went right up to that no build buffer but did not cross that, he staked that out. That one was great. We were not going to question that, that is exactly what we needed. The problem is it also delineated with the steel building inside the waterbody buffer.

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Ultimately, these tools that are available online are tools, they are not the law, they are not the ordinance, and they are helpful, and we rely upon them, but they are not definitive. The ordinance specifically speaks to the USGS topographic maps in this instance are what are being referenced for the purposes of the waterbody buffer and that is in accordance with the 1994 permit.

Ms. Holly Grimsley asked if the county has had any conversation with the Corps of Engineers regarding any type of mitigation or any response to any of this without her having to go through the packet and look?

Mr. Goldberg said we have had discussions subsequently with the Corps of Engineers. Initially, we are hoping for an opportunity to do a variance. We attested to whether they would be amiable to do a variance. Ultimately, we figured out that it would not be eligible for a variance. He said without going into detail, you have to have a hardship and the hardship is she violated the law and that is not a valid reason for a variance. He could not bring that to the Board, and you would not be able to approve it.

In that discussion we also talked about minor violations and that is where they kind of opened the door. He could not get them to commit to any specific thing.

Ms. Grimsley said her question is if we do not have a definitive answer from them, how would we be able to say that you could go back to the table with them and work on it, any type of mitigation plan.

Mr. Goldberg said unfortunately he cannot, in the sense that he is optimistic under the right circumstances that they would be able to say we are not going to exercise enforcement discretion. But they have been unwilling to commit themselves to that until they see what is in front of them.

Ms. Grimsley said is there an answer from them that there has been a true violation. She knows the interpretation but their response, from the Corps of Engineers. Do we have anything definitive from them stating what the actual infraction is and what their response would be to it? Since it is them that we are actually talking about that has the problem.

Mr. Goldberg said to be clear, we have a problem, this is our ordinance that has been adopted. So, there problem would be if we did not enforce this.

Ms. Grimsley said do we have that from them? I hear you say it is the county's problem.

The Chair said it is the permit from 1990 states.

Ms. Grimley said right, but now we are here and as they have all moved and could have done that, and now that might look a little different from where that map was originally done. How

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would we be able to use something that long ago to state that it is still enforceable by that same area?

Mr. Goldberg said their position he cannot speak for them, but their permit states that wherever that USGS map depicts that blue line, they require us to adopt and enforce a buffer emanating from that. The map shows that and that is our commitment to follow that permit and they are unwilling to commit to not enforcing that permit condition on us.

Ms. Grimsley guesses that is her question. If we are saying the two of you would be able to go back and work this out, how would you do that if they are not willing to commit to anything definitive?

Mr. Goldberg said how best case hope he thinks, is if we came with that engineering plan and from a credentialed expert that did the comprehensive review. We would essentially say, Corps everyone admits that there is a violation, but it is not that bad, and we have made the best of it we can. Can you exercise a level of enforcement discretion? They will not exercise that enforcement discretion proactively, unfortunately.

Mr. Moretz would like to reference Section 5, of the packet that was provided to you, we have recent emails from the Corps stating they were not contemplating any action with regard to this or with regard to Cabarrus County at all.

He said the application for a permit says you may use the GIS to print out the subject parcel and create a plot plan if a survey of the property is not available. The County specifically tells you to go to the GIS system when you are applying for these permits. He does not know how you cannot rely on that.

The Chair said she did not do that, you just did a hand drawn map.

Mr. Moretz said there was a GIS photo provided, there was a GIS Tax Parcel ID number there.

The Chair asked Mr. Moretz to show him the GIS map that Ms. Arstark provided with her permit application.

Mr. Moretz said it is there with the septic application.

The Chair said septic, Cabarrus Health Alliance is not Cabarrus Zoning.

Mr. Moretz said Ms. Hernandez stated that she handles that.

Mr. Goldberg said at the appropriate time we would offer a rebuttal.

Mr. Moretz said he is just pointing that out. We are going to conclude it on that. He needs to register a couple of objections for the record since this could go to Superior Court.

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He wants to object for the record, just get this on the record, that first of all, case law provides that the County is subject to the same appeal guide lines as property owners are, so they had 60 days to appeal the issuance of the permit, the zoning compliance permit. They did not do that, that 60 days has long passed, so they have missed their opportunity to appeal the issuance of the permit, probably why they are setting this up as a violation, which again, if you look back at it there is nothing that has been violated within that permit. We would object to that.

Also, he objects to the introduction in the County's packet of the USGS map. It was not certified by the County Clerk. State Law provides that any maps used for evidence by the County must be certified by the County Clerk, that map has not been certified by the County Clerk. So, the USGS Map that is in the packet provided to you by the County should not be considered by the Board. It is not admissible in this proceeding. He thanked the Board for its time.

The Chair has a question for Mr. Moretz since you entered more evidence. He asked if anyone from the Tax Office here?

Mr. Moretz said yes, he thinks so.

The Chair wants to ask his question first. Ms. Arstark stated the property was purchased in June of 2020, is that correct. This evidence you provided here says the lot was created in 2019, is that correct?

Mr. Moretz asked what the Chair was referring to.

The Chair said the document you just gave us, the email from the Tax Office. The parcel existed now as it was created in 2019. Was this a part of a larger tract and it was subdivided?

Mr. Moretz said no.

The Chair if there was anyone from the Tax Office that could answer that?

Mr. Moretz said Mr. Thrift is here, that is his email.

Mr. Goldberg said maybe the best way to do this is, he was going to bring him up for rebuttal and have him kind of walk through the events.

The Chair that is okay.

Mr. Goldberg called on Mr. Thrift.

The Chair said before we get started does anyone need a quick, quick, quick break? If not, we will charge on.

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Ms. Morris reminded the Board that they lock the building, and we have to be out of here preferably by 10:30 so everyone can vacate the building.

The Chair said we will move forward and if we get close on time, we may have to find a stopping point and table. But we will address it as we get closer.

Mr. Goldberg asked Mr. Thrift to state his name for the record.

Mr. David Thrift, Tax Administrator for Cabarrus County, appointed as the County Assessor and the County Tax Collector.

Mr. Goldberg said pursuant to those job duties, do you normally oversee the issuance of Present Use Value determinations?

Mr. Thrift said yes sir.

Mr. Goldberg asked if Mr. Thrift was familiar with the Arstark case and the handling and taxation of it?

Mr. Thrift said yes sir.

Mr. Goldberg asked Mr. Thrift to take us through the sequence of events, the status of the property, when it was PUV, when it was out of the PUV program. Just very briefly, because ultimately, our contention is that this does not necessarily change anything. We think it is appropriate to address.

Mr. Thrift said all the way to the present?

Mr. Goldberg said please.

Mr. Thrift said our tax year and the assessment starts on January 1 of each year. January 1, 2019, this parcel was part of 24.523-acre tract owned by Mr. Paul Stephen McMath. In December 2019, he recorded a Deed 13870, page 165, that transferred about 14.5 acres to Leslie Couch. That transfer left a remaining portion and our records at that point had just over ten acres that was remaining from that property. That property as the remaining ten acres, did not have enough acreage actually in production, in agriculture, to continue qualification in Present Use Value. So, we do what we call a rollback of the property taxes. They had to pay the deferred taxes for the current, plus the previous three years.

Mr. Goldberg said to be clear, he really does not want to get into the nitty gritty of it but, we are talking about actual production. So, not necessarily the lot size, but the area of actual production, growing and raising things.

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Mr. Thrift said that is correct. He said it was over ten acres even at that point, but there was not ten acres in actual production. So, it was disqualified, we created the roll back bills, Mr. McMath paid those bills.

Mr. Goldberg asked what was taking up the space within the ten acres at the time?

Mr. Thrift said of the ten acres, in addition to the right of way from the center of the road, which has been discussed, there were two distinct fields that were in production in agriculture. His measurements indicated it was about 7.5 acres, give or take, those are not exact measurements. The rest of the area was wooded or not farmed, by his imagery. So, that left a large portion of the property, even though there was ten acres, it was not in production from an agriculture standpoint and that was not disputed by Mr. McMath who paid the rollback bills on that.

The Chair asked if any of that was in the forestry program?

Mr. Thrift said no sir. He said the rollback bills were paid. January 1, 2020, Mr. McMath still owned the property, it was no longer in Present Use Value at that time, so we had an assessed value at market value. The property transferred, the deed he sees recorded was 14293, page 108 to Connie and James Arstark, June 30, 2020.

At that point, the property was not in the Present Use Value Program so, there was no opportunity to continue the use, which was described earlier as they missed an opportunity. But that did not exist as an opportunity so, it really was not a missed opportunity. The property was not in Present Use at that time.

January 13, 2021, an AV5 application was filed by Connie and James Arstark. That is when it was signed, requesting Present Use Value Deferral Program for tax year 2021.

Mr. Goldberg asked Mr. Thrift if this is a copy of that (showed AV5 application).

Mr. Thrift said yes. He said based on the information provided in the application and our staff discussed that with Ms. Arstark, actually took a site visit to look at the property and saw that there was agriculture taking place, and she approved the application based on that and it was done on February 25th.

Mr. Goldberg said briefly, the parcel ID, open land not in production (showed the AV5 application). He asked Mr. Thrift what is that number right there?

Mr. Thrift said 11.54 is not in production.

Mr. Goldberg said homesite there?

Mr. Thrift said .6.

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Mr. Goldberg said that would not apply towards.

Mr. Thrift said that would be extracted out of the calculation.

Mr. Goldberg said that would be a nonfarm purpose. It does mention farm activities, soybeans, and corn?

Mr. Thrift said that is correct.

Mr. Goldberg said and then here 2020, 2019, 2018, soybeans and corn.

Mr. Thrift said that is correct.

Mr. Goldberg said that is ten acres each?

Mr. Thrift said that is what is presented in the application.

Mr. Goldberg asked if it was Ms. Arstark's signature?

Mr. Thrift said based on our information, it seems so.

Mr. Goldberg said it is dated January 13, 2021?

Mr. Thrift said that is correct.

Mr. Goldberg said continue.

Mr. Thrift said our staff initially, approved that application based on the numbers provided there. After the fact, he actually reviewed that property looking at our information, and identified as he mentioned earlier the areas based on just an aerial calculation, areas that were not in production. On March 19, 2021, he sent a letter to Mr. and Mrs. Arstark rescinding our approval of that PUV application.

Mr. Goldberg showed the letter and asked Mr. Thrift if that was the letter?

Mr. Thrift said yes.

Mr. Crutchfield said just for clarification, would the footprint of the barn be concluded in that area of production.

Mr. Thrift said if barn is used for agricultural purposes, the land underneath it does qualify for that program. If it is not, then it would not.

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Mr. Crutchfield said the house parcel would be deducted because farmers do not have the homeplace listed.

Mr. Thrift said the homesite is not included in that calculation of the acreage in production.

Mr. Goldberg asked Mr. Thrift if in his opinion, was raising and breeding of dogs considered agricultural purpose?

Mr. Thrift said that portion of the property probably would not qualify. So, we sent the letter rescinding the Present Use Value. The reason cited there was the lack of acreage in actual production. Ms. Arstark appealed that within a timely appeal to the Board of Equalization and Review, there was an initial hearing, information was presented, and the Board asked for a follow-up meeting with Ms. Arstark.

He and Ms. Arstark met to discuss what was taking place at the property. I explained our position was looking at January 1, 2021, was an application for 2021 taxes and the deferment of those. We had a subsequent final hearing on September 30th, the Board of Equalization and Review denied the application and her appeal of that. She presented a letter to the PTC, that was November 5, and December 2 was a response letter from the PTC acknowledging her initial request to appeal, explaining what she needed to do and the lack of timely AV14 and what that could potentially result in, and we have not heard anything beyond that. Her submission to the PTC in our opinion, is not a validate appeal but that is not his decision to make.

Mr. Goldberg (showed an application) asked Mr. Thrift what are we looking at here?

Mr. Thrift said she has also submitted a 2022 AV5 application for Present Use Deferment for the Tax year 2022.

Mr. Goldberg said so now in the homesite is how much?

Mr. Thrift said it is now listed as .4 on the application with 11.14 in open land production.

Mr. Goldberg said in 2021, we are seeing corn and hay. Hay and soybeans in previous years?

Mr. Thrift said that is what the application reads, yes.

Mr. Goldberg said showed tax forms and said this was submitted?

Mr. Thrift said yes, as part of the application.

Mr. Goldberg said that is for, it is tough to make out, but that is a 2019 tax return for John Britt?

Mr. Thrift said yes, sir.

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Mr. Goldberg said and subsequently, most recently John Britt 2020.

Mr. Thrift said yes, sir.

Mr. Goldberg said there is no numbers on there?

Mr. Thrift said it is an IRS form that looks like it was submitted everything blacked out for only us to see.

Mr. Goldberg said at what point was this property in the PUV? What was the most recent time that it was in the PUV?

Mr. Thrifts said for tax year 2019. It was initially part of a larger tract that was in Present Use, those taxes were deferred. By December that year it was disqualified, and the roll back taxes took place, so those deferments were paid in December 2019.

Mr. Goldberg said based on that, it was not in the Present Use Value Program at the time the building was constructed?

Mr. Thrift said that is correct.

Mr. Goldberg said, and it is not right now?

Mr. Thrift said, that is correct.

Mr. Goldberg said there was a few days period where it was initially, and then you revoked it?

Mr. Thrift said that is correct, officially from February 25 to March 19, was his letter of rescinding that.

The Chair asked if there were any questions for Mr. Goldberg.

Mr. Crutchfield asked if it were required to be in the program to have a barn?

Mr. Goldberg said there are multiple different ways to get there. There are three safe harbors: if you show a PUV, you get it. If you have a state sales tax exemption, which we have not seen yet unfortunately, you get it, at the time especially. He believes there is a third qualification. There are safe harbors. He said separately, if it meets the definition in Statute of farm or agricultural, then separately, you can be considered a bona fide farm. But remember, it also has to be a farm use for that particular structure.

Mr. Crutchfield thought they presented a certificate of sales tax exemption.

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The Chair said they did, dated August 25, 2021. It's in the packet. He said while they are looking do you know if the state tax exemption from the state revenue is yearly or a onetime thing?

Mr. Thrift said that is an income tax exemption that he is not an expert on.

Mr. Crutchfield said it is a one-time thing, subject to audit.

Mr. Goldberg said looking at this, he believes this is a certificate of registration, in the sense that you have a certificate that you collect sales tax. If you go online, he did it today and ask for farm tax exemption, he was not able to find on associated with the property. We can double check that, but he has not seen anything to that affect. This he believes means she is able to collect sales tax, and he has not seen anything that says she qualifies for the farm sales tax exemption.

Mr. Paxton said she stated that she has hay in the barn. If that hay was for sale, would that be considered an agricultural use?

Mr. Thrift thinks hay certainly is a product of agriculture, from our prospective. If that barn stored hay, we would suggest that. Just to be clear, we have not made a determination within our discussion, that the property did not meet the required acres within production. We did not make the calculation to remove that portion of the barn. So, at that time we did not dispute that the barn was being used for agricultural purposes. Our dispute was that the acreage that was being farmed, soybeans and corn that we could identify, was just over seven acres and that was the reason, we were not at the ten and therefore not in.

Mr. Goldberg said to be clear about this though, it has the testimony of Ms. Arstark that she is not farming this land, the crops. She is having someone else do it. We have not seen anything that says that metal structure, the hay is being collected from there, it is being used to farm that. She has testified previously that the neighbor is doing it and we have not seen anything that testifies that says it is being used for that crop raising purpose.

Mr. Crutchfield said it is not necessary. He has a farm, and he hires people to crop his farm but that does not exempt the rest of the farm from being in the farm program.

Mr. Goldberg said no, but as far as applying the barn, the metal structures footage towards the ten or more acres of active production if it is an agriculture structure. If it is being used for these agriculture purposes, you get the building, you get the curtilage towards that acreage. If it is not being used for that purpose, and it is being used for a nonagricultural or nonfarm purpose then that it would not be.

Our position would be, is we are not really sure that this structure is being used. Like the hay, we have not had evidence one way or the other that that was collected from the field and being there and sold. It may just as well have been placed there, bought off farm and placed there. We have not had that in evidence either way. He wants to be clear about that nuance.

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The Chair said is it a correct statement that whether the barn is farm use or not, it does not get enough acreage to get you over the ten acres based upon your calculations?

Mr. Thrift said yes, the land directly underneath the barn for or against was not part of our calculation for actual production, it did not meet that.

The Chair said adding hypothetical, a half an acre is not going to get you over ten when you are a little over seven.

Mr. Thrift said that is correct.

Mr. Goldberg said if there are no more questions for Mr. Thrift, he would like to get Ms. Hernandez back up very briefly.

Mr. Moretz would like to question Mr. Thrift.

Mr. Zac Moretz asked Mr. Thrift how he determined that it was not up to ten acres when he revoked it.

Mr. Thrift said his initial review was based on a number of different aerial photography, Pictometry, which is ortho-aerial imagery, as well as GIS.

Mr. Moretz asked if those were the same aerials that is on the GIS that he can look at or anybody can look at that you are referring to?

Mr. Thrift said the aerials on the GIS are one piece of that, the Pictometry, ortho-imagery is internal. He said that was presented to our Board of Equalization and Review, that evidence was presented to them. They used that to make their determination.

Mr. Moretz said you used the GIS in a large way to make that determination?

Mr. Thrift said GIS was one of the applications we used.

Mr. Moretz asked if anyone went out there and measure?

Mr. Thrift has not physically gone and measured the property, that is not something he would do.

Mr. Moretz said you do it by using the GIS or aerial topography.

Mr. Thrift said right.

Mr. Moretz said when you do these, do you subtract out the buffer, the water buffer we are talking about?

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Mr. Thrift said we typically do not try to subtract out water buffer, if it can be shown as in this case, it is kind of the edge of the property line. We have not made a calculation to subtract that out from looking at the calculation of Present Use Value, what is in production.

Mr. Moretz said as far as you are concerned it can be used in production.

Mr. Thrift said we do not make an effort to extract that in our calculation.

Mr. Moretz said as far as you are concerned it can be used for production and counted towards it.

Mr. Thrift said that portion would be part of our calculation of acreage and production that the fields go up to, that is correct.

Mr. Moretz said you have been provided a survey now, that shows the different acreage and things.

Mr. Thrift has seen a number of surveys that would provide that.

Mr. Moretz said there was one that was the latest and greatest one that was provided for the current application does show the amount for the house and shows the amount in the road right of way and the amount devoted to farm use.

Mr. Thrift thinks the most recent that was submitted with the 2022 application had some breakdown of what is in road right of way and what remaining land that is not in the homesite. He said that is not consistent with our calculation, what is actually in production. That has never been part of the determination. The survey did not measure the fields that were agriculture production versus the wooded areas that is not.

Mr. Moretz said, it does not all have to be in production, does it?

Mr. Thrift said there has to be ten acres in production to make the standard.

Mr. Moretz said isn't it correct to say in farm use, so it can be used for livestock or barns or storage of farm equipment for example, right?

Mr. Thrift said in order to meet the qualifications for Present Use Value deferment, which is a property tax deferment, there has to be ten acres in actual production in that initial ten acres. There can be other acreage beyond that but the initial ten acres in actual production has to be in place.

Mr. Moretz asked if livestock count?

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Mr. Thrift said if livestock were part of the use of property that could be considered a part of actual production.

Mr. Moretz said and a barn as well in that case?

Mr. Thrift said if the barn is being used for that, the land underneath would be part of the calculation.

Mr. Crutchfield said just for clarification, if you have a ten-acre parcel and you have a chicken house in the middle of it, the only thing that is really producing anything is the chicken house but there is an allowance for the property around the chicken house because you have to be able to get a tractor around that chicken house or some way by which to service that chicken house. How do you determine what part of that is production and what part is not?

Mr. Thrift said if the structure itself is used as part of the agricultural product, then the land underneath is considered such and the appropriate use around it as well. In an instance where there is ten acres, the only structure on the property is a chicken house, if that is part of the production in the actual calculation, then the land underneath that counts as part of those ten acres and that property could qualify.

Mr. Crutchfield said given that ten acres, if it is a one-acre chicken house, nine acres around it would still be considered in production because of the chicken house existing on it?

Mr. Thrift said if the chicken house was separate from the agricultural use of the property, we would subtract that out. If it was part of the agricultural use of the property it would be part of the ten-acre calculation. We would not subtract out the use of a building that was used for agricultural purposes.

Mr. Crutchfield is trying to get to what the other nine acres is considered, because you do not have chickens on all ten acres, you only have it on one, but you still have to get to the chicken house to service it. You have to be able to get tractors around it and deal with maintaining it. How do we decide how much of the ten acres is really in production?

Mr. Thrift said if nine acres surrounding the chicken house was not being used for agriculture purposes, it would not be in actual production, and therefore the whole property would not qualify.

Mr. Crutchfield said you have to realize that is kind of unrealistic. Even when you have a barn, there is an area around the barn that is used in the movement of equipment and hay and tractors, so on and so forth, that is not actually producing anything, but it is necessary for the operation of a farm.

You said, you used aerial maps to determine what the production was. He is not sure what

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time of year those aerial maps were taken but it is really hard from an aerial map to tell what is being produced on a farm.

Mr. Goldberg is concerned about getting relevance at this point. In the since that whether it is in the PUV or not in the PUV, and whether that was handled appropriately by the Board of Equalization, that is a complete separate process.

Mr. Thrift's testimony mainly consisted of what the PUV status as we go, as an indicator of a bona fide farm for use exemption for this. He does not want to cut any one short, but he wants to make sure that we are clear that you do not have the authority to question the Board of Equalization's determination.

Mr. Crutchfield said he understands, but it just feels, and pardon him if he is wrong, that what we are trying to do is to determine that the property is not a bona fide farm and therefore has no exemption from the building requirements for permits for barns. That is what it feels like to him that we are headed. He is trying to make sure, that if that is true, that we are being fair and clear about how we define that it is or is not production.

Mr. Goldberg said the acreage is just for the PUV status and so if PUV, then bona fide farm and then we can have the legal discussions. So separately, if not PUV or one of those safe harbors that we talked about substantively whether it is, he would argue though, that if you have a ten-acre lot and you put a goat on there you are not a goat farmer, you have pet.

The key about actual production is whether you are using the land as an economic driver, you are producing on it. For ten acres, we would expect to see not one chicken coop, we would need a lot of chicken coops, correct him if he is wrong, to justify using that entire ten acres.

Mr. Hudspeth said even if we decide this is a bona fide farm, it still does not resolve the problem we have in front of us.

Mr. Goldberg said that would be the County's position.

Mr. Moretz said you mentioned that a lot of that was blacked out on the tax returns. Isn't it typical for most folks to take out the financial information? All the statute requires is that they actually file a Schedule F for their tax return. Isn't that pretty typical for people to redact out their financials?

Mr. Thrift thinks it is typical to redact out financials if you are just wanting to show that Mr. Britt, in this case filed a Schedule F. This gives no indication that, that Schedule F was related to that property in anyway. He is not sure they are using that for declaration of actual income.

Mr. Moretz when they can expect to know if you are going to approve it or not. It was sent in early January.

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Mr. Thrift said we are in the process of review those now, so that will be shortly.

Mr. Goldberg would like to have Ms. Hernandez clarify her process. He asked her if she reviews the septic permitting applications, is that part of your job function?

Ms. Hernandez said she intakes the information that the Health Department has requested of her to intake. She does not review it to whether it is appropriate or what is needed for their process.

Mr. Goldberg said in the normal course of your business do you use the submissions for the septic permits that you forward over to the Health Department, do you use that for your permitting decisions?

Mr. Hernandez said no, never because the changes happen after the Health Department has come out there. She wanted to add one thing. They mentioned that there were several site plans submitted. Well, anytime you change a property, you would be expected to reflect the current situation, that is the reason why you see several plot plans.

Mr. Goldberg asked Ms. Hernandez if she is authorized to issue permits that are not in accordance with the law.

Ms. Hernandez said no.

Mr. Goldberg said special exemptions, waivers, do you have that authority?

Ms. Hernandez said no.

Mr. Goldberg said to be clear, you issued that permit for the accessory building after it was built.

Ms. Hernandez said yes.

Mr. Goldberg said what would have happened if at that point it had been identified as being in the waterbody buffer.

Ms. Hernandez said it would have been denied.

Mr. Goldberg called Mr. Love to come forward to very briefly, clarify the building permit time line.

Mr. Matt Love, Chief Building Inspector introduced himself.

Mr. Goldberg said as part of your duties and responsibilities are you familiar with the issuance of permits on the subject property?

Mr. Love said yes, sir.

Mr. Goldberg said based on the information that you have, explain the history of the permitting process.

Mr. Love said any permit?

Mr. Goldberg said no, in this case. At what point did the permitting happen for the accessory building?

Mr. Love said the permit was issued after the building was erected. We were notified that there was an accessory building on the property so, after they got there zoning permit, we issued a building permit.

Mr. Goldberg said the accessory building was built prior to an application for a building permit?

Mr. Love said that is correct.

Mr. Goldberg asked if there was anything Mr. Love wanted to add on his testimony on that or anything the Board wanted to ask?

Mr. Crutchfield asked if the permit was for the building or for the electrical work in the building?

Mr. Love said we actually have a permit for both the building and the electrical. We have done electrical inspections on the building.

Mr. Goldberg said are there any plumbing permitting for the accessory structure?

Mr. Love said no.

Mr. Goldberg asked if there had been any permits for the pool?

Mr. Love said we have an application for a pool permit and they have paid the permit fees for the pool, but it has not been issued at the time.

Ms. Holly Grimsley asked what is the holdup is on the pool permit?

Mr. Love said just ready to be issued.

Ms. Grimsley said would there have been any red flags for you to deny that building permit or the electrical permit if the zoning permit had been permitted?

Mr. Love said if we have a zoning permit, we cannot hold it up.

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The Chair asked Mr. Moretz if he had any questions.

Mr. Moretz said no, thank you.

Mr. Goldberg would like to take a minute to summate. The fact of the matter is we would have loved to have caught this early. Unfortunately, we have not had that opportunity. There has been back and forth and back and forth. This has been anything but ordinary unfortunately. There has been this back and forth, and we do not usually find ourselves at this point for a number of reasons, and a lot of it hinges on the communication from the applicant. We rely heavily on that, rather than having to spend the time necessarily doing every single permit, going out there doing a full survey and we balance that risk, expediency versus accuracy and with knowledge that sometimes it has to be corrected on the back end.

Keep in mind this is not that, the building was built, regardless of permitting. There is no indication here, that she relied on anything that said you are exempt. Our position is it would not be exempt and even if it was exempt from County zoning regulations, it would not be exempt from local and environmental regulations like the ones we are talking about here today on the waterbody buffer.

He said ultimately this is a fairly straight forward issue, and he hopes that the Board will focus on the issues before you which is: did she build a structure without a permit, yes or no? Did she enter the waterbody buffer, yes or no? Did it apply, yes or no?

The answer is she built without a permit, she built in the waterbody buffer. Part of the laws of our County, are that we are required by law to enforce appropriately, and in this case being overseen by the Corps of Engineers, and ultimately here we are. The reason this has been going on for a year, in part, is because we have been looking for every single out that we can find, and we have not found it yet. Here we are coming to a head.

He invites the public to voice that and he thinks that is appropriate and he stands ready for any questions that might come up.

The Chair said number three and four of the rules states that there will be 15 minutes for the opponents and the proponents. We are approaching 10:25, would it be a correct assumption to not open the public hearing and table this because we are not going to get through this before they close the building.

Mr. Koch thinks they should finish the public hearing. He asked how many cards the Chair had.

The Chair said that is the thing, he has four, and this is the confusing part, people put in favor. He does not know if they mean in favor of approving the appeal or in favor of the violation. So, he has four and one. He thinks they know what they meant.

The Chair said how does the rest of the Board feel, should we do the public portion?

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Mr. Wise makes a motion to table it. It will be fresher to hear the other side. He hates to delay it another month but that is his thoughts.

Mr. Koch asked if that was a motion?

The Chair asked if anyone else had anything to add.

Mr. Corley said just to be clear, according to the cards, I know we are confused but there appears to be four on one side and one on the other?

The Chair said correct.

Mr. Corley said the reason he would side with Mr. Wise would be that he is very concerned with beginning and potentially hearing one side and then coming back and only hearing a second side. He does have a fundamental issue with that.

Mr. Goldberg asked if there is anyone here to speak on the County's position. There was no response.

He asked if there was anyone here to speak on the appellant's position? There were five hands.

The Chair said there is five to nothing. He said they have fifteen minutes and that is it. They can talk or we can come back, or we can come back, and they can talk.

Mr. Charles Paxton made a motion to table the appeal process for APPL2021-00001 until the April 12, 2022, meeting.

Ms. Holly Grimsley said do we feel like we can get through the speakers? She feels like if all the speakers are here for them.

Mr. Corley said just to clarify, the reason that we are considering tabling is so we can hear everything you have to say. He just wants to make that clear. We are not kicking this can, to have to have to come back. What we do not want to have to do is cut you off in mid-sentence and all get out of here. He said he could go either way, and there is a motion on the floor. But it is going to be up to the five presenters.

Mr. Koch said if they can keep from being repeating what has already been stated.

Mr. Paxton withdraws his motion.

The Chair opened the public hearing. He will call on those speaking generally in favor of this request. He called Mr. Tim Hahn.

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Mr. Tim Hahn, 3475 Hahn-Scott Road, Mt. Pleasant, NC, addressed the Board. He lives just above Connie and Jim. his family has owned this property, all of his ancestors. He knows this wetland, so called creek very well. He played there his whole life, in the summertime there is not a drop of water in it. There is no wetland, he does not see any problem with what is going on. It is his just his opinion, this is not a perennial creek. It is not much more than an ephemeral, it catches water from storm runoff.

The Chair called Ms. Melanie Lawrence.

Melanie Lawrence, 3475 Hahn Scott Road, Mt. Pleasant, NC addressed the Board stating that she lives 2.2 miles from the Arstark's. She said the barn is used for her horse. She has personally gone over and helped her halter her Clydesdale in the barn, and it is not just used for the puppies. Just know that was Facebook, and yes that is her dogs at the moment, but her horse has been there. She does not know the specifics of how long she has had the horse, but she has a 60-foot round pen, she has a horse, the horse goes in the stall. There is stall for the horse, there is hay, there is grain, there is everything for the horse in the barn.

Also, she lives on this so-called perennial creek that as Tim mentioned, there is not a lot of water in this creek. I run across to the neighbors and my feet are not getting wet. Our property, since they have moved in, is actually draining better than it has drained in the three years that she has lived there.

She has also lived on Bowman Barrier since 1980 off and on. She has been on this property as well for many, many years, and it is draining better than it ever has with them just cleaning things out, not taking bushes down, they just cleaned the property. She said they are a farm.

One thing that she saw that was interesting, that is by your Zoning Board, is to protect farmland, to protect water, to protect pastures. Part of this property that they are saying is not in use for crops, may not be in use for crops, but it is housing a horse. She does not know how that can be not considered a farm when you have a horse, you have goats, you have feed, you have everything.

The Chair called Mr. Steve McMath.

Mr. Steve McMath, 3215 Woodchuck Drive, Kannapolis, NC addressed the Board stating that he is the former owner of that property. It was in the Hahn family, he and his late wife inherited it. Her father who inherited it from his father, who inherited it from his father. It has been in farm production ever since. He moved there in 1989, went into the farm program and farmed all of this property since 1989. Part of the time he had animals on there. He raised sheep and they used wooded parts of his property to bed down in the hot summer days. Even though it is a little bit of wooded area it is used for animals to survey the heat.

The perennial stream is a stream. He looked it up. It is a stream that always has water in it. He

lived there for 20 years, he owned the property for 30 years and he was a tenant with the property for another 10 years. He has been around that property for 40 years. He has spent many, many times in the summer walking in that creek with no water. That is an intermittent creek. He knows how it is classified but it is not, and nobody would have ever thought that it was anything other than an intermittent creek and there are no wetlands there. There have never been any wetlands other than one time when beavers built a dam on property downstream and backed up on to our property and finally the state came in and broke the dam out.

The Chair called Mr. Robbie Britt.

Mr. Robbie Britt, 10701 Bowman-Barrier Road, Mt. Pleasant, NC addressed the Board stating that his legal name is John Britt and those were his tax returns. It is going to be hard to cover it all three minutes. He is also subject to USDA, FSA, Soil and Water regulations and rules. He has not been notified of any wetland disturbance or that there were any wetlands on the property. As Mr. McMath said, I have farmed it for 20 years after he quit farming it; I was his tenant. My tax returns are there, and that Schedule F includes every piece of parcel that he farms. It is not just for that. That is why those numbers are blacked out. All he has to provide is that he filed the form.

He said the creek is intermittent. In the summertime it is going to be dry. He has lived there for 20 years and there is no basis for it being a perennial creek.

As far as the barn, the barn stores hay and feed and farm implements, and tools. He has seen it and knows what it is used for. They even call it a barn.

The Chair asked if there were any other questions or comments for staff before closing the public hearing? There being none the Chair closed the public hearing.

Mr. Charles Paxton, **MOTIONED, SECONDED** by Ms. Holley Grimsley to **TABLE** APPL2021-00001 until April 12, 2022, meeting.

Mr. Rich Koch reminded the Board not to discuss the case outside of the meeting and wait to discuss it next month between the Board.

Mr. Corley said just for the audience sake, there will be no additional public hearing.

Mr. Koch said that is correct, it has been closed.

The Chair said you are welcome to come but will not be able to speak.

No Legal Update

No Directors Report

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There being no further discussion, Ms. Holly Grimsley **MOTIONED, SECONDED** by Mr. Andrew Nance, to adjourn the meeting at 10:36 p.m. The vote was unanimous.

APPROVED BY:



Mr. Adam Dagenhart

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:

Susie Morris, Planning and Zoning Manager

Petition: RZON2021-00005 Rezoning

Applicant Information: Larry Hamrick
305 Rolling Green Avenue
New Castle, DE 19720

Owner Information: Larry Hamrick
305 Rolling Green Avenue
New Castle, DE 19720

Existing Zoning: LDR (Low Density Residential)

Proposed Zoning: LDR (Low Density Residential) with MH-2 Overlay

Current Permitted Uses: All uses permitted in the LDR zoning district are currently permitted on the subject property.

Proposed Uses: All uses permitted in the underlying LDR zoning district in addition to all uses permitted in the MH-2 Overlay.

Parcel ID Numbers: 5603-49-9885

Property Addresses: 5952 Yale Avenue

Area in Acres: ± .25 acres (Lot is approximately 75' x 150')

Site Description: The property is currently vacant. Based on historic aerials, it appears the subject parcel was originally developed with a single-wide manufactured home in the early 1970's. It was replaced by a double-wide manufactured home that occupied the property until a time between February of 2017 and February of 2019.

Adjacent Land Use: North: Residential
East: Residential
South: Residential
West: Residential

Surrounding Zoning: North: LDR (Low Density Residential)
East: LDR (Low Density Residential)
South: LDR (Low Density Residential)
West: LDR (Low Density Residential)

Utility Service Provider: The subject property is served by Kannapolis water and a septic system.

Exhibits

- A. Staff Report
- B. Application
- C. Historical Information and Maps
- D. Staff Maps
- E. Adjacent Property Owner & Property Owner Letters
- F. Neighborhood Meeting Information and minutes

Intent of Zoning Districts

PROPOSED OVERLAY DISTRICT: Mobile Home Overlay 2 District (MH-2)

The purpose of the MH-2 district is to provide for the principal use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building, provided the specific design and/or installation regulations appearing in section 4-28 are met.

EXISTING DISTRICT: LOW DENSITY RESIDENTIAL (LDR)

This district is designed to provide permanent protection for those who want to live in a low-density residential environment. The district, while focused on single-family residential development, is designed to allow a wide variety of residential types.

RATIONALE

This land use district was created as a direct result of the County's systematic area planning process. As a reaction to the growth of the past decade (as much as 80% in some townships) many residents are anxious to see their areas retain the appeal that inspired the resident to make his or her original investment. This district helps implement a growth management philosophy before the fact, rather than after. In summary, the principal purpose of this district is to provide some land area in the County for a permanent country, rural residential lifestyle.

Agency Review Comments

Planning Review:

Staff Report, Sandy Howell, Planner Cabarrus County

NCDOT Review:

No Comments. *Marc Morgan, NCDOT*

Fire Marshal Review:

No comments, Matthew Hopkins, County Fire Marshal

EMS Review:

No comments. Justin Brines, Cabarrus County EMS Director

Sheriff's Office Review:

No comments. Ray Gilleland, Cabarrus County Sheriff's Lieutenant

Soil and Water Review:

No comments. Tammi Remsburg, Cabarrus County Resource Conservation Manager

Cabarrus Health Alliance Review:

The existing system was originally permitted for 3 bedrooms in 1972. The exact location could not be determined by the plot plan. With any proposed new use, a re-evaluation of the system will be required.

Land Use Plan Analysis

The subject property is located within the boundary of the Northwest Area Future Land Use Plan (Plan). The Plan recommends the area development with residential use of two to four units per acre.

While the Plan recommends a certain density, this request is intended to allow the applicant to place a double-wide manufactured home on an existing lot of record where manufactured home are currently not permitted as a building type. Therefore, this request would not have any effect on the application of the Plan. The area is already developed within the range that is recommended by the Plan.

Conclusions

- The subject property is an existing lot of record with LDR zoning.
- GIS show that the existing lot is approximately 11,108 SF. A conventional lot in the LDR district requires a two-acre lot or a one-acre lot if the minor subdivision option is used.
- The location of the existing septic system is unknown and may restrict the buildable area.
- The proposed request does not allow for any further increases to density. The request is for the MH-2 overlay district to voluntarily be added to the subject property, which allows a double wide manufactured home to be substituted on the property as the principal building versus a modular home or stick built home.

- A double wide manufactured home was present on the property until 2017, when it was removed. Surrounding structures in the area are single-family dwellings.
 - Pursuant to Chapter 14, Section 14-8 Manufactured homes on individual lots of record that do not have the Manufactured Home Overlay may be removed and replaced provided that the replacement manufactured home is equal to, or greater than, the size of the manufactured home being replaced and meets the design and installation standards for individual manufactured homes in Chapter 4.
 - Pursuant to Chapter 14, Section 14-6, B, if the existing non-conforming use ceases for more than 6 months, subsequent use or development of the land must conform to district regulations.

This is a conventional rezoning request; therefore, all uses permitted within the underlying LDR zoning district and the proposed MH-2 Overlay would be allowed on the subject property if approved. The Planning and Zoning Commission should consider all the information provided and determine if the proposed rezoning is consistent with the Commission's vision for this area of Cabarrus County.



CABARRUS COUNTY REZONING APPLICATION

STAFF USE ONLY:
 Application/Accela#: RZON2021-00005
 Reviewed by: SDWH
 Date: 12/22/2021
 Amount Paid: \$400.00

INSTRUCTIONS/PROCEDURES:

1. Schedule a pre-application meeting with Staff to discuss the procedures and requirements for a zoning map amendment request.
2. Submit a complete application for an amendment to the official zoning map to the Planning Division. All applications must include the following:
 - Cabarrus County Land Records printout of all adjacent property owners. This includes properties located across the right-of-way and all on-site easement holders. The list must include owner name, address, and Parcel Identification Number.
 - A recent survey or legal description of the property or area of the property to be considered for rezoning.
 - Any additional documents essential for the application to be considered complete. (Determined as part of the pre-application meeting)
3. Submit cash, check, or money order made payable to Cabarrus County.
 - Fees: Residential rezoning request 1 acre or less = \$400.00
 - Residential rezoning request greater than 1 acre = \$400.00 *plus* \$15 per acre
 - Non-residential rezoning request = \$650.00 *plus* \$15 acre
 - (Plus, cost of advertising and engineering fees if applicable)
 - (if a 3rd submittal is required, an additional review fee will be assessed)

The deadline for submittal is always the same day as the Planning and Zoning Commission Meeting which is the second Tuesday of the month. Applications must be submitted before 2:00 PM that day for consideration on the next available agenda.

Incomplete applications will be returned to the applicant and will not be processed.

PROCESS SUMMARY:

1. Hold a pre-application meeting with Staff to discuss your rezoning request and the map amendment process.
2. Submit a complete application with the appropriate fees to the Cabarrus County Planning Division.

Staff will review your complete application, prepare a staff report, schedule a public meeting date and notify adjacent property owners of the public meeting/public hearing date. A sign advertising the public hearing will also be placed on the property being considered for rezoning.

Meeting Information: Meetings are held the second Tuesday of each month at 6:30 PM in the Cabarrus County Governmental Center located in downtown Concord at 65 Church Street, SE.

Expedited Vote: A vote of $\frac{3}{4}$ or more of the members of the Planning and Zoning Commission is considered an Expedited Vote and will constitute a final decision. If approval or denial of a rezoning request is by a vote of less than $\frac{3}{4}$ of the members, or if an appeal of the decision is filed within 15 days of the date of the decision, the application will automatically be forwarded to the Board of Commissioners for final consideration at a *de novo* hearing.

Questions: Any questions related to rezoning your property or to the rezoning process may be directed to the Planning Division at 704-920-2141, between 8 AM and 5 PM, Monday through Friday.

SUBJECT PROPERTY INFORMATION:

Street Address _____

PIN(s) (10 digit #) 5603-49-9885; _____ -- _____ -- _____

Deed Reference Book 9075 Page 98

Township # 04

DESCRIPTION OF SUBJECT PROPERTY:

Size (square feet or acres) 75 X 150

Street Frontage (feet) 75'

Current Land Use of Property Residential

Surrounding Land Use North Residential

South Residential

East Residential

West Residential

REQUEST:

Change Zoning From LDR To _____

Purpose for Request:

Dear Cabarrus County. I would like to have the above named property rezoned to accommodate for a mobile home. This property has been in my family for over 50 years. I would like to put a brand new mobile home with a foundation. I promise it will be done in good taste. And installed in quality. This will be professionally done.

LAND USE PLAN CONSISTENCY STATEMENT

Describe how the proposed rezoning meets the land use plan(s) for the subject parcel(s):

The property has had a mobile on the property since 74 and would like to replace the old home. Property already has septic. Thank You!

Would like to have land rezoned to accommodate
A quality built mobile homes. That will be
installed by professionals And will be
A new mobile homes. Thanks.

UTILITY SERVICE:

Water Supply Well or *Public* Service Provider _____

Wastewater Treatment Septic Tank(s) or Service Provider _____

PROPERTY OWNER/AGENT/APPLICANT INFORMATION:

It is understood by all parties hereto including owner, petitioner, and/or agents that while this application will be carefully considered and reviewed, the burden of proving its need rests with the below named petitioner(s).

I do hereby certify that the information that I have provided for this application is, to the best of my knowledge, true and correct.

PROPERTY OWNER

AGENT/APPLICANT

Larry D. Hamrick
NAME

Larry D. Hamrick
NAME

5952 YALE AVE
ADDRESS

305 Rolling Green Ave
ADDRESS

KANAWOODS N.C. 28081
CITY, STATE, ZIP CODE

New Castle DE 19720
CITY, STATE, ZIP CODE

484-432-3331
PHONE NUMBER

484-432-3331
PHONE NUMBER

FAX NUMBER

FAX NUMBER

Larry_Hamrick@msn.com
E-MAIL ADDRESS

Larry_Hamrick@msn.com
E-MAIL ADDRESS

Signature of Property Owner: Larry D. Hamrick Date: 11-2-21

Signature of Property Agent/Applicant: Larry D. Hamrick Date: 11-2-21

9075
0098

Exhibit C

FILED
CABARRUS COUNTY NC
LINDA F. McABEE
REGISTER OF DEEDS
FILED Mar 01, 2010
AT 03:51 pm
BOOK 09075
START PAGE 0098
END PAGE 0099
INSTRUMENT # 04279
EXCISE TAX \$0.00

Excise Tax \$ 0.00

Recording Time, Book and Page

NORTH CAROLINA GENERAL WARRANTY DEED

Tax Lot No. **4-5-44.00** Parcel Identifier No. _____
Verified by _____ County on the _____ day of _____

by

File Mail after recording to Ferguson, Scarbrough, Hayes, Hawkins & DeMay, P.A., PO BOX 444, Concord, NC 28026
This instrument was prepared by RYAN C. HAWKINS

NO TITLE OPINION RENDERED, EXPRESSED or IMPLIED

Brief Description for the index

Lots 3-5 PRINCETON PARK

THIS DEED made this **1st** day of **March 2010**, by and between

GRANTOR

GRANTEE

Thomas Jeff Ware, Unmarried

Larry Donnell Hamrick, Unmarried

Mailing Address:

Mailing Address:

**1301 Don Castle Ct. Apt. 1301
Concord, NC 28025**

**305 Rolling Green Avenue
New Castle, DE 19720**

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Kannapolis, Number Four (4) Township, CABARRUS County, North Carolina and more particularly described as follows:

Lying in Number Four (4) Township, and being Lots Nos. 3, 4 and 5 in Block "D", as shown on the map of PRINCETON PARK, a map of said property being on file in the office of the Register of Deeds in Map Book 10 at Page 69, and described as follows:

BEGINNING at a stake in the eastern edge of Yale Avenue at the front corner of Lots Nos. 5 and 6 in Block "D", this beginning point being S. 7-56 W. 225 feet from the southeastern corner of the intersection of Yale Avenue and Harvard Street, and runs thence S. 66-23 E. 150 feet with the line of Lot No. 6 to a stake, back corner of Lots Nos. 5 and 6; thence S. 7-56 W. 75 feet to a stake, corner of Lot No. 3 and Ralph Cannon; thence N. 66-23 W. 150 feet to a stake, corner of Lots Nos. 1 and 3 in the eastern edge of Yale Avenue; thence N. 7-56 E. 75 feet with the eastern edge of Yale Avenue to the point of BEGINNING, and is that property described in a deed dated January 31, 1973, from Kannapolis Real Estate Agency, Inc. to Ola Mae Ware, Single, recorded in Record of Deeds Book No. 429, Page 231, Cabarrus County Registry.

Being the same property conveyed by deed recorded in Deed Book 2541, Page 123, Cabarrus County Registry.

2/22

9075
0099

The property hereinabove described was acquired by Grantor by instrument recorded in Book 2541, Page 123.

All or a portion of the property herein conveyed does or does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book 10, Page 69.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

SUBJECT TO easements and restrictions of record.
SUBJECT TO easements and setback lines as shown on the recorded plat.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

(Corporate Name) Thomas Jeff Ware (SEAL)
Thomas Jeff Ware

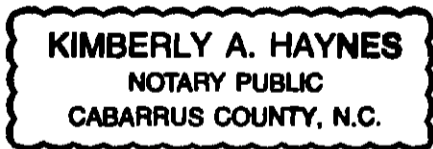
By: _____ (SEAL)
_____ President

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

Thomas Jeff Ware
Date: 3-1-2010

(Official Seal)



Kimberly A. Haynes Notary Public
Printed or Typed Name: Kimberly A. Haynes
My commission expires: May 23, 2014

The foregoing _____ Certificate(s) of _____ is/are certified to be correct. This instrument and this certificate are duly registered at the date and in the Book and Page shown on the first page hereof.

_____ REGISTER OF DEEDS FOR _____ COUNTY
By _____ Deputy/Assistant-Register of Deeds.

10 KNOCKVILLE

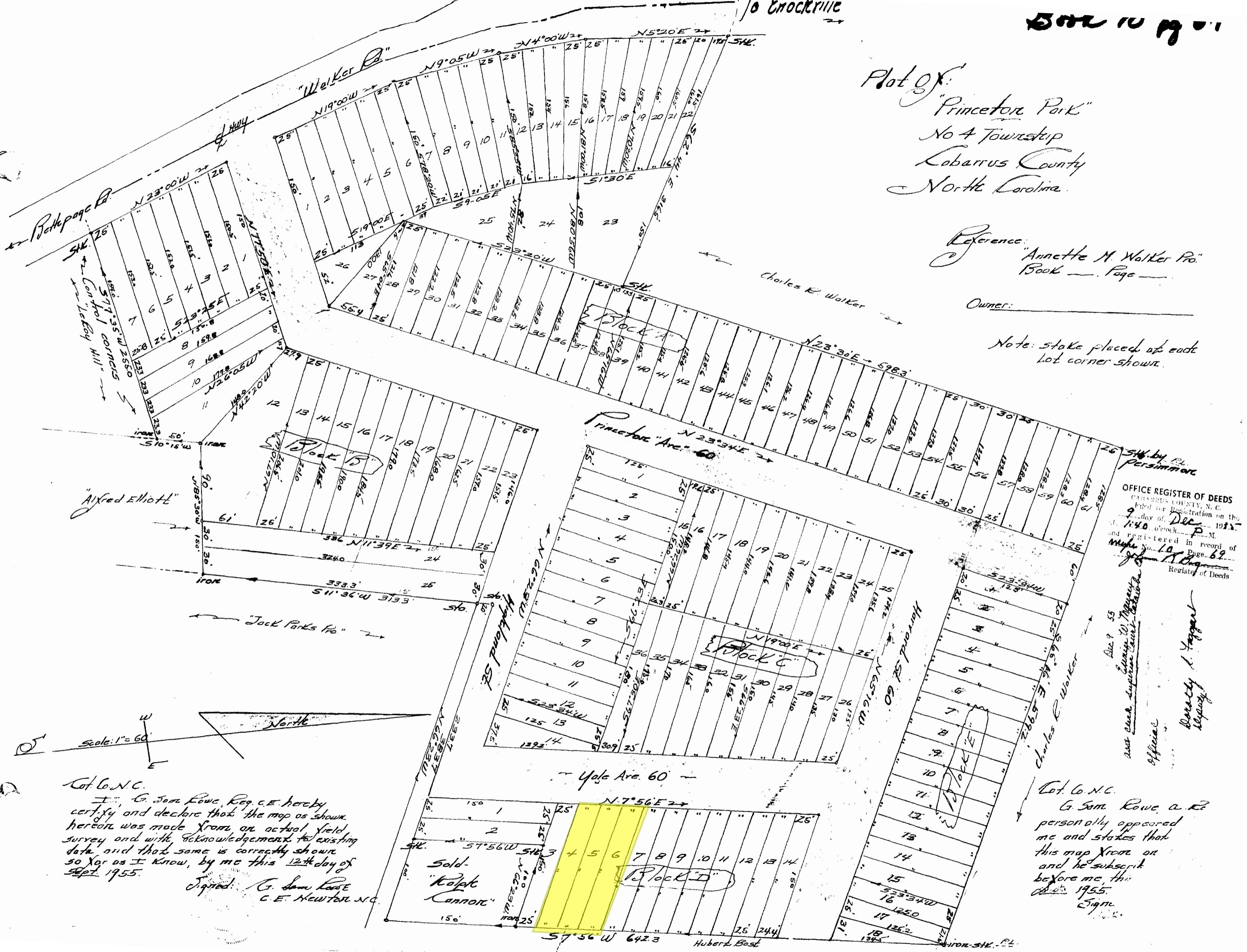
5000 10 19 55

Plot of:
"Princeton Park"
No 4 Township
Cobarrus County
North Carolina.

Reference:
"Annette M. Walker Pro"
Book — Page —

Owner: _____

Note: stake placed at each
lot corner shown.



OFFICE REGISTER OF DEEDS
 COBARRUS COUNTY, N. C.
 Filed for registration on the
 day of Dec 9, 1955
 at 1:40 o'clock P. M.
 and registered in record of
 Map No. 10 Page 69
 J. H. King
 Register of Deeds

Dec 9 55
 G. Sam Rowe, Register of Deeds
 Official
 Dorothy L. Faggart
 Deputy

Not Co. N.C.
 I, G. Sam Rowe, Reg. C.E. hereby
 certify and declare that the map as shown
 hereon was made from an actual field
 survey and with acknowledgement to existing
 data and that same is correctly shown
 so far as I know, by me this 12th day of
 Sept 1955.
 Signed: G. Sam Rowe
 C. E. NEWTON, N.C.

Not Co. N.C.
 G. Sam Rowe a Reg.
 personally appeared
 me and states that
 this map was made
 and he subscribes
 before me this
 12th day of Sept 1955.
 Signed: _____

Sold:
 "Kalek
 Cannon"



WARE, OIA MAY

No. 6527

CABARRUS COUNTY HEALTH DEPARTMENT SEPTIC TANK LAYOUT AND PERMIT

Owner OIA May Ware Date 9/29/72

Mail Address Rt 3 Box 111, Lenoir

Directions off Charlie Walker Rd. TR. Princeton Rd. - TR
at 1st bend in R curve take L curve

No. of Bedrooms MH - 3 1/2

Garbage Disposal no - washer

Perc Test (1) 40 (2) 55 (3) 60 MPI By JAS

Size of Tank 700 Gal.

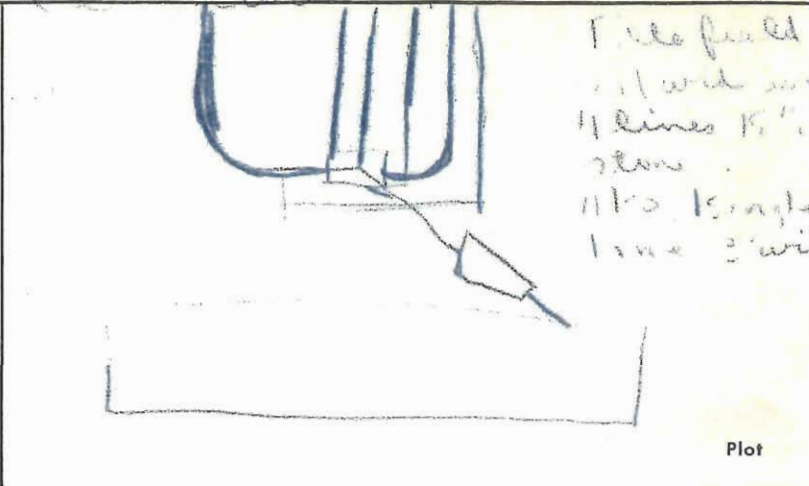
Nitrification Line 750' x 750 Sq. Ft.

Material Under Line 1" (1" - 12) Inches

Washing Machine Line _____ Sq. Ft.

Material Under Line _____ Inches

Layout By JAS



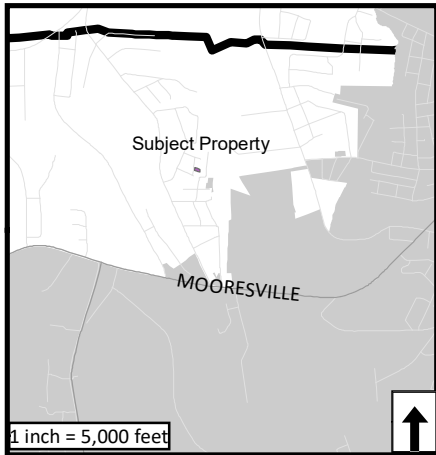
Date 9/7/72 Installed By Harrison Robinson Approved By James D. Osborne

Northwest Planning Area Aerial Map



Applicant: Larry Hamrick
Owner: Larry Hamrick
Case: RZON2021-00005
Address: 5952 Yale ave
Purpose: LDR to LDR with MH-2
PINs: 5603-49-9885

- Cabarrus County
- Municipal District
- Tax Parcels



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

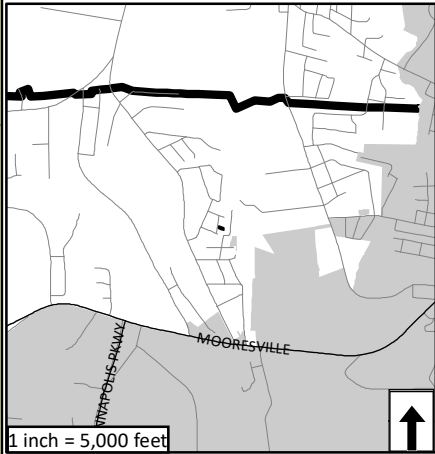
Map Prepared by Cabarrus County Planning & Development - January 2022



**Northwest Planning Area
Existing Zoning**

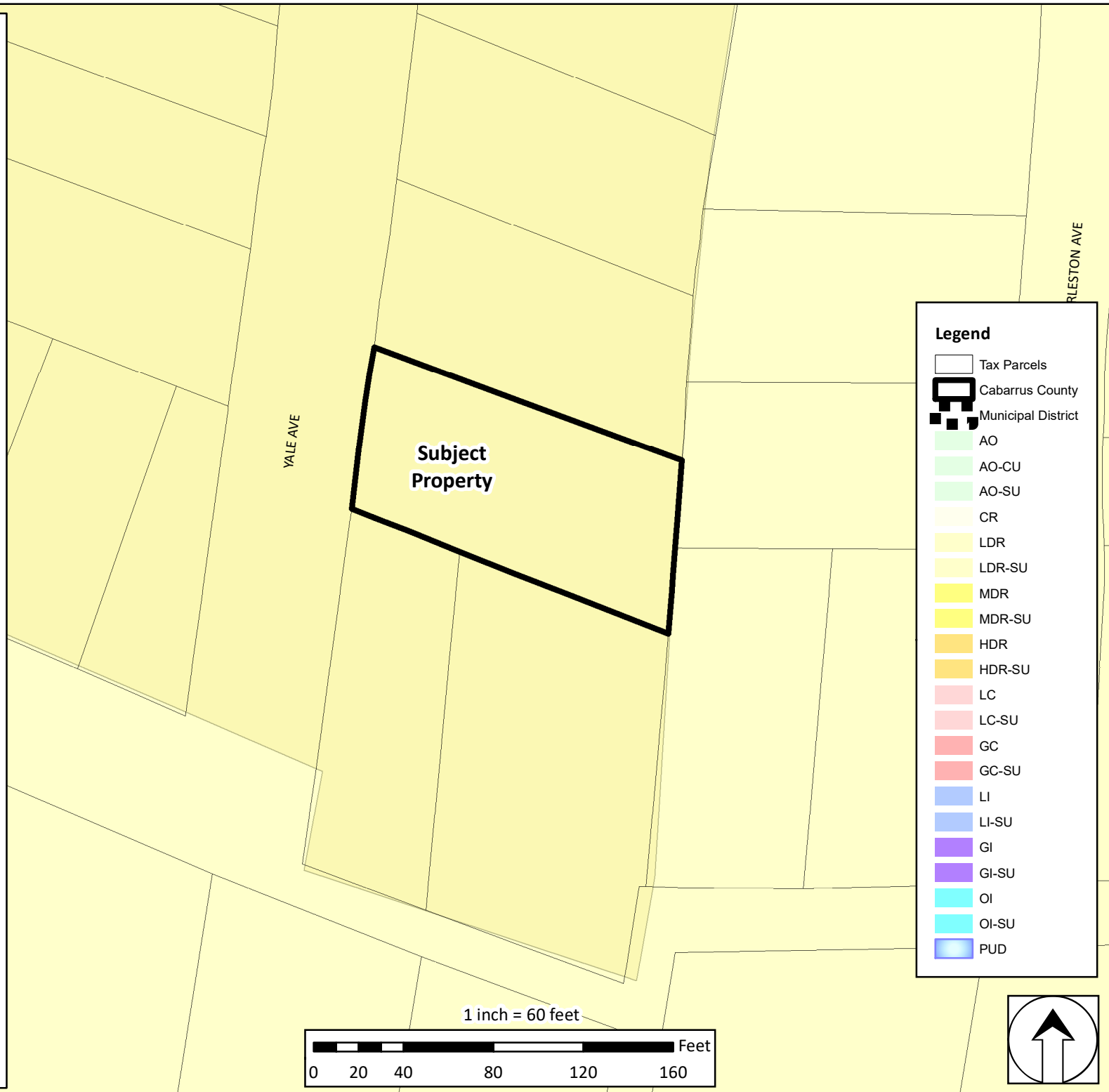


Applicant: Larry Hamrick
 Owner: Larry Hamrick
 Case: RZON2021-00005
 Address: 5952 Yale Ave
 Purpose: LDR to LDR with MH-2
 PINs: 5603-49-9885



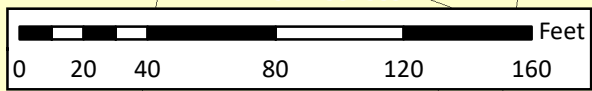
Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

Map Prepared by Cabarrus County Planning & Development - January 2022



Legend

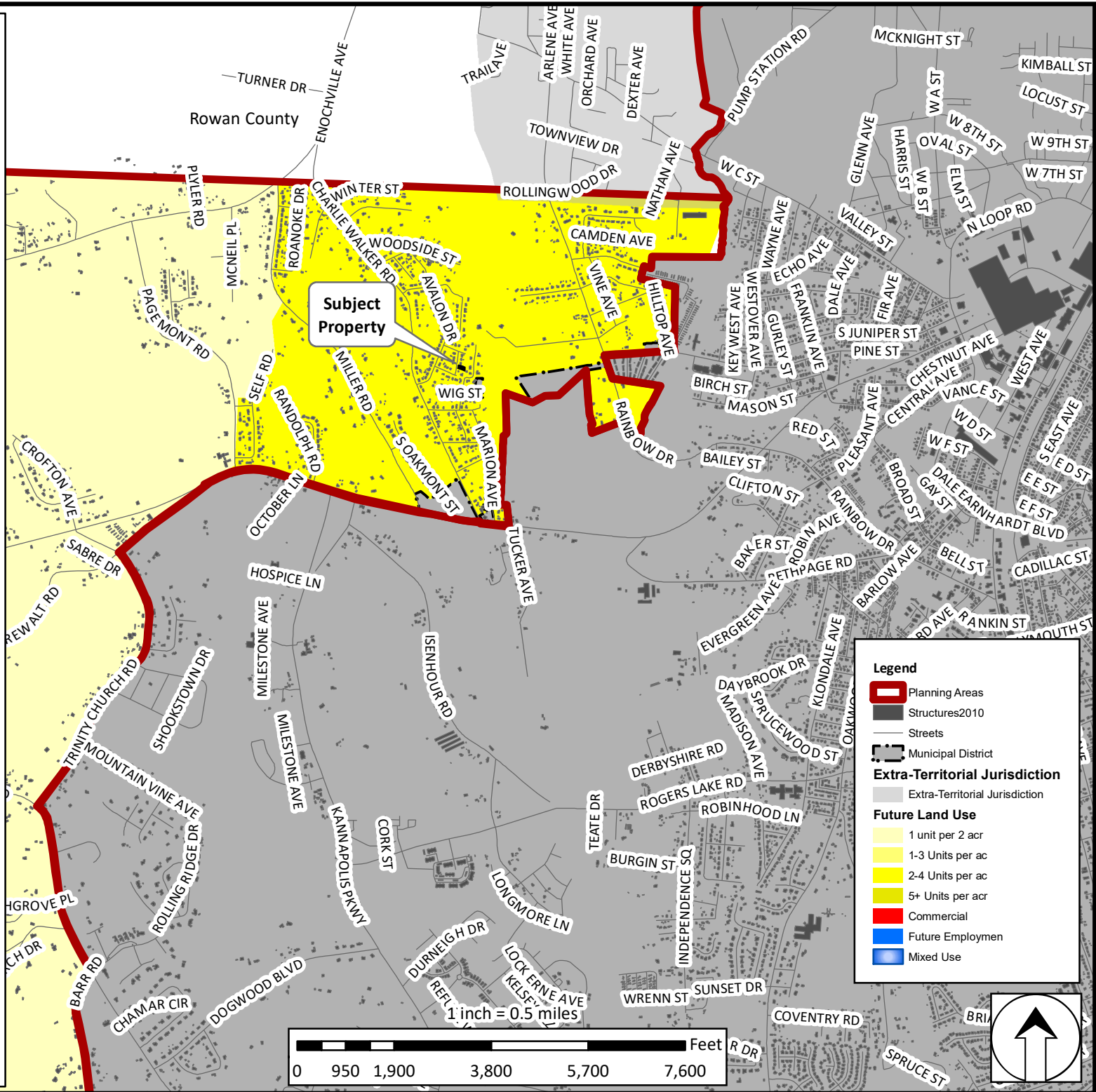
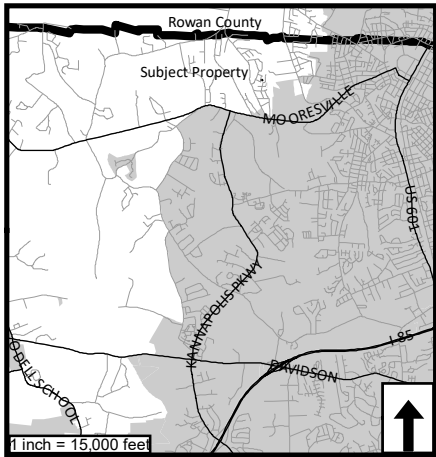
- Tax Parcels
- Cabarrus County
- Municipal District
- AO
- AO-CU
- AO-SU
- CR
- LDR
- LDR-SU
- MDR
- MDR-SU
- HDR
- HDR-SU
- LC
- LC-SU
- GC
- GC-SU
- LI
- LI-SU
- GI
- GI-SU
- OI
- OI-SU
- PUD



Northwest Cabarrus Planning Area Future Land Use



Applicant: Larry Hamrick
 Owner: Larry Hamrick
 Case: RZON2021-00005
 Address: 5952 Yale Ave.
 Purpose: LDR to LDR with MH-2
 PINs: 5603-49-9885



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

Subject Property
 Larry Hamrick
 305 Rolling Green Av
 New Castle, DE 19720

5603-59-1855 Pablo Valadez & Consuelo Hernandez 5923 Charleston Av Kannapolis, NC 28081	5603-49-9982 Gregory & Maurice Washington 5930 Charleston Av Kannapolis, NC 28081	5603-49-9732 NC Godwin Properties LLC 3077 Winners Cir SW Concord, NC 28025
5603-49-8739 Melissa Morrison 2931 Townsend Dr Frisco, TX 75033	5603-59-0793 Dennis Brawley 6825 Plyler Rd Kannapolis, NC 28081	5603-59-0619 David Miller Realty & Investments Inc c/o David & Amy Miller 1640 Dale Earnhardt Blvd Kannapolis, NC 28083
5603-49-8923 FERRAM 1 LLC 13300 SW 72 nd Av Pinecrest, FL 33156		



Cabarrus County Government – Planning and Development Department

December 20, 2021

Dear Property Owner:

A Zoning Map Amendment Petition has been filed in our office for property **adjacent** to yours. The properties and specifics of the rezoning are listed below. The Cabarrus County Planning and Zoning Board will consider this petition on Tuesday, January 11, 2021 at 6:30 PM in the 2nd floor Commissioner’s Chambers of the Cabarrus County Governmental Center, located at 65 Church Street S Concord, NC 28025. A Public Hearing will be conducted, and public input will be allowed during that time. If you have any comments about the rezoning, I encourage you to attend this meeting.

• Petitioner	Larry Hamrick
• Petition Number	RZON2021-00005
• Property Location	5952 Yale Ave.
• Parcel ID Number	5603-49-9885
• Existing Zoning	Low Density Residential (LDR)
• Proposed Zoning Map Change	LDR with MH-2 Overlay

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2181.

Sincerely,

A handwritten signature in blue ink that reads "Sandy Howell".

Sandy Howell
Planner
Cabarrus County Planning and Development
704.920.2149



Cabarrus County Government – Planning and Development Department

December 20, 2021

Dear Property Owner:

A Zoning Map Amendment Petition has been filed in our office for your property. The specifics of the request are listed below. The Cabarrus County Planning and Zoning Board will consider this petition on Tuesday, January 11, 2021 at 6:30 PM in the 2nd floor Commissioner's Chambers of the Cabarrus County Governmental Center, located at 65 Church Street S Concord, NC 28025. A Public Hearing will be conducted, and public input will be allowed during that time. If you have any comments about the rezoning request, I encourage you to attend this meeting.

• Petitioner	Larry Hamrick
• Petition Number	RZON2021-00005
• Property Location	5952 Yale Ave.
• Parcel ID Number	5603-49-9885
• Existing Zoning	Low Density Residential (LDR)
• Proposed Zoning Map Change	LDR with MH-2 Overlay

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2181.

Sincerely,

A handwritten signature in blue ink that reads "Sandy Howell".

Sandy Howell
Planner
Cabarrus County Planning and Development
704.920.2149

Dec 20, 2021 at 8:57:07 AM
5952 Yale Ave
Cabarrus County



CABARRUS COUNTY
ZONING
NOTICE
RZON2021—00005
FOR DETAILS CALL
704-920-2141



November 25, 2021

Hello Neighbors,

I am Larry Hamrick the owner of the open lot at 5952 Yale Ave Kannapolis NC. I wanted to take time out to inform you as my neighbors of my plans at 5952 Yale Ave. I am asking the county to rezone my land to allow a new structure to be added or built on the land. This property has been in my family for over 50 years. I plan on possibly adding a single or double wide manufactured home or building a small home or a modular home on the site . I can promise you it will be done in good taste and always maintained to complement the area. If you have any concerns, you can reach me with at 484 432 3331. Please contact me before Dec 30th or anytime. Thank You
Larry D Hamrick.

Email 1/3/2022

I have not heard anything yet from any neighbors, I mailed out 10 letters the last week of November. I also made 7 phone calls with no responses.

Staff received one phone call from Mr. Valadez of 5923 Charleston Ave on 12/30/2021.

He did not have an issue with the rezoning.

He was calling to make sure his attendance was not required.

Memo

To: Cabarrus County Planning and Zoning Commission

From: Phillip Collins, Senior Planner, AICP

CC: File

Date: March 1, 2022

Re: VARN2022-00001

Evolution Recreation & Aquatics submitted an application for variances from Section 7-3.59.c and Table 9-4 and Part II of Chapter 9 of the Development Ordinance to allow relief from the setback requirements for swimming clubs and the landscaping and buffering requirements for commercial facilities in the OI zoning district.

The applicant is requesting that the case be tabled until the April Board of Adjustment meeting to in order to address site plan and design issues for the proposed changes to the facility.

The case has been advertised, the sign has been posted and adjacent property owners notified.

The Board of Adjustment will need to vote to table the meeting until the April meeting, or the next available agenda due to COVID-19 regulations and guidelines.

Petition: APPL2021-00001
Appeal of Interpretation of Cabarrus County Zoning and Subdivision Ordinances

Appellant Information: Connie Arstark

Zoning: Agriculture Open

Property Location: 3233 Hahn Scott Road
Mount Pleasant NC 28124

PIN#: 5589-24-3362

Request: Appellant is contesting a Notice of Violation issued for construction of a structure without permits, disturbance of the required water body buffers and wetland disturbance.

Noticing

Letters sent:	February 21, 2022
Newspaper Ad:	February 23, 2022 March 2, 2022
Sign Posted:	February 21, 2022

History

7/7/2020 Senior Enforcement Officer James Lowe (Officer Lowe) visited the site to discuss the setbacks for the house with the property owner. An accessory structure was located on the property at that time. Permits were not issued for the structure. At that time, Officer Lowe advised the Appellant that permits would be needed for the structure.

9/25/2020 A complaint was filed with Planning and Development regarding a building being constructed without permits. When Officer Lowe visited the site that same day, it was determined that an accessory structure had been constructed without the proper permits. He also observed grading and tree removal in the required Waterbody Buffer. It also appeared that the newly constructed structure was encroaching into the required Waterbody Buffer Zone area. (See Site Photo dated September 25, 2020)

- Per the Cabarrus County Development Ordinance (CCDO), accessory structures are not permitted unless there is a primary structure on site.
- Per the CCDO, undisturbed buffers are required on all perennial streams as well as any ponds located along those streams. Wetlands also must be buffered.

Officer Lowe talked with the property owner and suggested that work be stopped pending a survey of the site and required buffer areas to determine the level of encroachment and where

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

Staff Use Only:
Approved: _____
Denied: _____
Tabled _____

additional structures could be located on the site in the future. The property owner stated that a survey of the property was available and that it would be provided to Officer Lowe.

A survey dated 11/1/2020 was provided by the Appellant to Staff. The survey did not show the required buffers on the stream, or the wetlands located on the property. Only the standard setbacks were noted on the property. (See Survey #1)

Officer Lowe advised Appellant the minimum requirement for the stream buffer was 50 feet. The survey determined that a violation of the ordinance existed and that the accessory structure was in the required buffer area. Additionally, based on the survey provided, clearing and grading had occurred in the buffer area as well. A Notice of Violation was issued on 1/14/2021. (See ZNC2021-00023 Notice of Violation)

1/26/2021 Officer Lowe visited the site for a follow up. At that time, it was determined that the property owner had placed two additional structures on the property without permits. The new structures also appeared to be in the waterbody buffer zone. Additionally, there is an RV on the site that has been placed in the buffer and it appears that it is being used as a dwelling. (See Photos dated January 25, 2021) The Appellant appealed the Notice of Violation on 2/12/2021. Filing an Appeal stays further enforcement action for that specific violation issued on the site.

3/1/2021 Officer Lowe visited the site and observed continued, and possibly new, violations of the ordinance. (See Photos Dated March 1, 2021)

5/7/2021 Office Lower and Deputy County Attorney, David Goldberg, visited the subject site to observe conditions. Officer Lowe and Attorney Goldberg observed, and determined, that additional land disturbing and clearing was conducted on the site. (See Photos Dated March 1, 2021)

5/10/2021 Deputy County Attorney David Goldberg and Susie Morris, Planning and Zoning Manager, met with property owner to discuss options for compliance.

A survey dated May 10, 2021, was provided by the Appellant which shows the calculations and delineates the required Waterbody Buffer Zone for the property. It also includes the proposed placement of the house and pool on the subject property. The survey confirms the accessory structure is in the buffer zone, along with the two additional structures and the RV. The area has also been graded, riprap and gravel placed in the buffer area, and vegetation removed. (See Survey #2)

5/11/2021 An second Notice of Violation was issued for the subject property for new clearing related to identified wetlands on the site. A Stop Work Order was also issued for the entire site to prevent additional clearing or development in the required buffers. (See ZNC2021-00215

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

Staff Use Only:
Approved: _____
Denied: _____
Tabled _____

Notice of Violation, May 7 Photos, Informal and Preliminary Notice of Buffer Violation, Stop Work Order)

Prior to the site visits by Officer Lowe in July and then in September, the Appellant was in contact with multiple staff members in Planning and Development about the requirements for the road right-of-way, soil suitability testing application submittal requirements, permitting requirements for a new home, pool, and an accessory structure (barn) to be located on the property after the new home was built. (See Timeline for Staff Contacts and Emails)

- *February 25, 2020 - Appellant submitted for soil suitability analysis testing for property located at 3233 Hahn Scott Road.*
- *April 14, 2020 - The Appellant initiated contact with the Zoning Office in April of 2020 regarding applying for a permit to build a new single-family home and how to apply for soil suitability testing, also commonly known as a perc test, and a well permit.*
- *6/12/2020-6/25/2020 During the month of June, the Appellant continued conversations with Staff about permitting for the house, an accessory use (swimming pool) and the right-of-way width requirements for the road.*
- *The Appellant asked questions of Staff related to a barn. Appellant was informed that a permit would be required for the accessory structure (barn). A letter would also be needed from CHA to say that the accessory structure could be placed in the proposed location without impacting the well and septic systems.*

Findings

1. An accessory structure was constructed on the subject property some time prior to July 7, 2021.
2. The accessory structure was constructed without proper permits in place.

Per Chapter 12, section 12-3, Zoning Compliance Permit

A Zoning Compliance Permit must be obtained from the Zoning Administrator prior to the use or occupancy of any building or premises, or both, hereinafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure.

Additionally, no nonconforming structure or use can similarly be changed or extended without a Zoning Compliance Permit or Certificate of Non-Conformity Adjustment being issued.

3. The accessory structure was constructed without a primary structure or use located on the site.

Chapter 2 of the Cabarrus County Development Ordinance (CCDO) defines accessory use as a subordinate use of a building or use of land which is:

- *Conducted on the same parcel as the principal use to which it is related, and*
- *Clearly incidental to and customarily found in connection with the principal use of the building, structure, or land.*

4. The stream on the subject property is identified and classified as a perennial stream per USGS maps. There are also identified wetlands on the site. (See USGS Map)

5. An accessory structure has been built in the required buffer. (See Survey #2).

6. Grading has occurred in the required buffer. (See Site Photos)

7. The wetland area on the subject property has been disturbed.

Per Chapter 4 of the Cabarrus County Development Ordinance, Section 4-10 The requirements of the Waterbody Buffer Zone:

- *A minimum 50-foot buffer shall be established from the stream bank on all sides of perennial streams in addition to any lakes, ponds or impoundments located along, or on, those streams. Perennial streams include all rivers, streams, lakes, ponds, or waterbodies shown on the USGS Quadrangle Maps as a solid blue line or identified in the Cabarrus County Geographic Information System.*
- *A minimum 25-foot-buffer shall be established along the edge of any identified wetlands.*

8. Survey provided by Appellant for structure in question clearly shows that it is in the required buffer area.

Per Chapter 4 of the Cabarrus County Development Ordinance, Section 4-10 The requirements of the Waterbody Buffer Zone:

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

Staff Use Only:
Approved: _____
Denied: _____
Tabled _____

- *The applicant must provide a detailed survey that field verifies the location of all perennial streams, lakes, ponds, impoundments, and wetlands on the subject property and within 100 feet of the boundary of the subject property for all proposed plats and site plans.*

9. Grading has occurred in the required buffer areas. Gravel and riprap have been placed in the required buffer area.

Per Chapter 4 of the Cabarrus County Development Ordinance, Section 4-10 The requirements of the Waterbody Buffer Zone:

- *The Waterbody Buffer Zone shall be determined and clearly delineated on site prior to any development or pre-development activity occurring in order to protect the required buffer from encroachment or damage. No development, including soil disturbing activities or grading, shall occur within the established buffer area.*

10. A structure is in the required buffer area.

11. Grading has occurred in the required buffer area.

12. Gravel and riprap have been placed in the required buffer area.

Per Chapter 4 of the Cabarrus County Development Ordinance, Section 4-10 The requirements of the Waterbody Buffer Zone:

All buffer areas shall remain in a natural, vegetated state. If the buffer area is wooded, it shall remain undisturbed.

13. The property is subject to Cabarrus County Zoning and Construction Standards permitting.

BONA FIDE FARM - The production and activities relating to or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in G.S.106-581.1.

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

Staff Use Only:
Approved: _____
Denied: _____
Tabled _____

For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- a. A farm sales tax exemption certificate issued by the Department of Revenue.*
- b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S.105-277.3.*
- c. A copy of the farm owner's or operator's Schedule F from the owner or operator's most recent federal income tax return.*
- d. A forest management plan.*

Information Provided

1. Application Materials Provided by Appellant
2. Staff Report and Exhibits
3. Adjacent Parcel Owner List
4. Letter Sent to Adjacent Parcel Owners
5. Letter Sent to Applicant
6. Picture of Posted Sign

KEY FOR STAFF CONTACTS:

Martha Hernandez (Senior Permit Associate/Primary for Zoning Permitting), Boyd Stanley (Senior Planner), Jay Lowe (Senior Enforcement Officer/Conducts site visits, inspections, and issues NOVs) Susie Morris (Planning and Zoning Manager)

NOTE: There is a period where there were questions about how the ROW should be looked at to establish setbacks for the property. As early as June 29, the surveyor was working on staking the house on the lot and asking questions about the ROW and setbacks. Legal provided determination for how setbacks would be determined for property.

4/14/2020	Emailed Connie Arstark information about permitting zoning, answered questions
6/12/2020	Emailed Connie Arstark information about permitting zoning, answered questions
6/12/2020	Received completed zoning application for house at 3233 Hahn Scott
6/12/2020	Emailed approval for zoning permit related to house related to 3233 Hahn Scott
6/15/2020	Received email with questions on the well fee and building related to 3233 Hahn Scott
6/15/2020	Responded to email on well & building questions, also emailed back and forth (5 different emails), trying to get signature on house zoning permit related to 3233 Hahn Scott
6/22/2020	Received email with questions on building pool related to 3233 Hahn Scott
6/22/2020	Responded with application and swimming pool requirements related to 3233 Hahn Scott
6/22/2020	Processed zoning application and permit for pool related to 3233 Hahn Scott
6/23/2020	Received email with the question if a zoning permit is required for a barn, related to 3233 Hahn Scott
6/23/2020	Answered questions via email on the zoning requirements for a barn related to 3233 Hahn Scott
6/23/2020	Informed Connie via email the septic permit did not reflect her proposed barn therefore CHA needed to provide letter of approval, I also emailed her the contact information for CHA
6/23/2020	Connie continued to question via email if a zoning permit was really required for barn to which I gave a simple answer of "Yes.", related to 3233 Hahn Scott
6/24/2020	Connie asked for help with getting approval from CHA, I emailed her with contact information for Tyler at CHA
6/25/2020	Connie emailed questions on setbacks and the possible change in address related to 3233 Hahn Scott

6/25/2020 Answered questions via email on the setback requirements for a barn related to 3233 Hahn Scott

7/7/2020

- Met on site with owner to discuss setbacks for house.
- At that time barn was built. I questioned owner about distance from creek, owner indicated that a survey was done (by Chad Byrd). I recommended that she provide it to our office.

7/15/2020 Emailed Connie reminder that I had not received signed pool permit related to 3233 Hahn Scott

9/15/2020 Received complaint via PC on barn being built without permit on 3233 Hahn Scott

9/15/2020 Emailed Connie information on obtaining a zoning permit

9/15/2020 Emailed Jay Lowe information on the complaint related to 3233 Hahn Scott

9/17/2020 Received zoning application from Connie for barn related to 3233 Hahn Scott

9/17/2020 Emailed informing her that I had to wait for the approval of CHA

9/17/2020 Emailed Jay the information received from Connie, and questioned if the property reflected the plot plan submitted for 3233 Hahn Scott

9/23/2020 Received letter of approval from CHA for property related to 3233 Hahn Scott

9/23/2020 Processed zoning application and permit for barn related to 3233 Hahn Scott

9/23/2020- Took \$150.00 payment over the phone from Connie Arstark for the permit

9/23/2020- Responded to Martha/Connie's email with receipt for payment

9/25/2020

- Site Inspection was made
- Barn had already been built prior to being issued a zoning permit
- Barn looks as though it may be encroaching into the Water Body Buffer
- Further research will need to be done
- Owner indicated that a survey had been done by Chad Byrd (Surveyor) and that he had indicated that the buffer from the creek should only be approximately 30 feet
- Requested that applicant provide copy of the survey

10/2/2020 Emailed reminder that I still had not received signed permit for barn related to 3233 Hahn Scott

11/6/2020 Received email on if I had received survey to complete barn permit something that I didn't know about since she had already submitted her plot plan to me on property related to 3233 Hahn Scott

11/6/2020 Connie emailed Martha and me and asked if we had received a survey from Chad Byrd/Sam King. We had not.

11/10/2020 Chad Byrd sent an email/survey locating the barn and property lines

11/23/20 Spoke with Sam King around 11/23 about my concerns with the placement of the barn. At that time, he indicated that he did not realize that the stream was a perennial and he felt certain that the barn is within the Water Body Buffer. He later sent me his survey map. Staff then followed up with our own mapping of the WBB and discovered that the barn was within the WBB.

12/2/2020 I received a voicemail from Connie asking about the stream and I sent an email showing her a snapshot of the USGS maps, which classify the stream as a perennial.

12/10-2020 Sent detailed email to Susie with all the exhibits, maps, applications, etc. for the case

1/4/2021 Further research shows that an encroachment into the WBB exists and that the location of the building will need to be shifted

1/5/2021 I called Connie to let her know the barn is in violation and would need to be moved

1/6/2021 Received a voicemail from Connie about a letter/NOV and responded to her via email

1/14/21 Warning letter was sent via regular mail and certified

1/26/21

- Site inspection was made
- It seems that property owner has now placed two more buildings on the property without permits. They also look to be in the waterbody buffer
- There also seems to be an RV placed in the waterbody buffer

2/9/2021 Applicant requested an appeal form

3/1/2021 Site inspection was made, more pictures taken

Susie Morris

From: Martha Hernandez
Sent: Tuesday, June 23, 2020 4:52 PM
To: Connie Arstark
Subject: RE: do I need a permit for Barn?

Yes.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



From: Connie Arstark <connie@arstark.com>
Sent: Tuesday, June 23, 2020 4:51 PM
To: Martha Hernandez <mhernandez@cabarruscounty.us>
Subject: RE: do I need a permit for Barn?

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Do we need it if I intend to be a farm once the home is built?
Ca

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Martha Hernandez <mhernandez@cabarruscounty.us>
Date: 6/23/20 4:42 PM (GMT-05:00)
To: Connie Arstark <connie@arstark.com>
Subject: RE: do I need a permit for Barn?

The septic permit doesn't reflect the barn on the lay-out. We would need approval from the Health Alliance.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



From: Connie Arstark <connie@arstark.com>
Sent: Tuesday, June 23, 2020 4:35 PM
To: Martha Hernandez <mhernandez@cabarruscounty.us>
Subject: RE: do I need a permit for Barn?

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Ok can you email me what I need for that permit? Lol

You guys are taking all my money! Lol

Connie

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Martha Hernandez <mhernandez@cabarruscounty.us>

Date: 6/23/20 4:33 PM (GMT-05:00)

To: Connie Arstark <connie@arstark.com>

Subject: RE: do I need a permit for Barn?

yes

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

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From: Connie Arstark <connie@arstark.com>
Sent: Tuesday, June 23, 2020 4:32 PM
To: Martha Hernandez <mhernandez@cabarruscounty.us>
Subject: RE: do I need a permit for Barn?

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

I have a 43x30 metal barn installed on the property. Do I need permit for that as well?

Connie

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Martha Hernandez <mhernandez@cabarruscounty.us>

Date: 6/23/20 4:03 PM (GMT-05:00)

To: Connie Arstark <connie@arstark.com>

Cc: Boyd Stanley <bvstanley@cabarruscounty.us>

Subject: RE: Zoning Permit Requirements-POOL Permit?

Your zoning permit (**ZN2020-00653**) request has been approved. It is ready for payment (**\$75.00**). Someone from our department will be calling you to take your payment over the phone.

Please sign on the **2 places** marked and return attached permit. The permit will not be valid until payment is made **AND** signed permit is returned.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



From: Connie Arstark <connie@arstark.com>

Sent: Monday, June 22, 2020 2:53 PM

To: Martha Hernandez <mhernandez@cabarruscounty.us>

Subject: RE: Zoning Permit Requirements-POOL Permit?

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Here you go.

thanks so much

Connie

From: Martha Hernandez <mhernandez@cabarruscounty.us>

Sent: Monday, June 22, 2020 2:37 PM

To: Connie Arstark <connie@arstark.com>

Subject: RE: Zoning Permit Requirements-POOL Permit?

Complete the application attached and submit a plot plan that shows measurements on pool and concrete surrounding it.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227



From: Connie Arstark <connie@arstark.com>
Sent: Monday, June 22, 2020 2:22 PM
To: Martha Hernandez <mhernandez@cabarruscounty.us>
Subject: RE: Zoning Permit Requirements-POOL Permit?

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Pool Permit? What info is needed to get this processed.

connie

From: Martha Hernandez <mhernandez@cabarruscounty.us>
Sent: Monday, June 15, 2020 9:31 AM
To: Connie Arstark <connie@arstark.com>
Subject: RE: Zoning Permit Requirements

Yes. The \$725.00 fee includes the well permit.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Cabarrus County

65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



From: Connie Arstark <connie@arstark.com>
Sent: Friday, June 12, 2020 4:46 PM
To: Martha Hernandez <mhernandez@cabarruscounty.us>
Subject: RE: Zoning Permit Requirements

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Does this include my well permit as well?

I need it too.

Thanks

Ca

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Martha Hernandez <mhernandez@cabarruscounty.us>

Date: 6/12/20 4:30 PM (GMT-05:00)

To: connie@arstark.com

Cc: Boyd Stanley <bvstanley@cabarruscounty.us>

Subject: RE: Zoning Permit Requirements

Your zoning permit (**ZN2020-00614**) request has been approved. It is ready for payment (**\$100.00**). In addition to the zoning permit, you also need to pay **\$725.00** for the septic permit (**SE2020-00062**) Someone from our department will be calling you to take your payment over the phone.

Please sign on the **2 places** marked and return attached permit. The permit will not be valid until payment is made **AND** signed permit is returned.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227



From: connie@arstark.com <connie@arstark.com>
Sent: Friday, June 12, 2020 1:39 PM
To: Martha Hernandez <mhernandez@cabarruscounty.us>
Cc: Connie Arstark <connie@arstark.com>
Subject: RE: Zoning Permit Requirements

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

From: Martha Hernandez <mhernandez@cabarruscounty.us>
Sent: Friday, June 12, 2020 12:45 PM
To: connie@ARSTARK.com
Subject: Zoning Permit Requirements

You can email me application, plot plan and supporting documentation. We will then process and notify when its ready for payment over phone with credit card. Please feel free to call at 704-920-2147 should you have any questions.

I have attached zoning permit application and plot/site plan example. Dimensions of all structures and the applicable setbacks must be included in the plot/site plan submitted. You may use GIS to print out the subject parcel and create a plot plan if a survey of the property is not available. The link for accessing the County's GIS system is below.

GENERAL REQUIREMENTS:

CABARRUS HEALTH ALLIANCE:

- If the property has an **existing** septic system, call the Cabarrus Health Alliance at 704-920-1207 or visit them at 300 Mooresville Road, Kannapolis, for an inspection. CHA will provide a letter for you to turn in with your application.
- If the property requires a **new** septic system, a site evaluation application will need to be completed at the Cabarrus County Governmental Center at 65 Church Street, SE, Concord.

SITE/PLOT PLAN (to scale) that shows:

- size and configuration of the property, including lot dimensions and acreage
 - location and dimensions of all existing structures
 - location and dimensions of all existing parking and driveway areas
 - location and dimensions of any bodies of water or water channels (ponds, streams, swales, etc.)
 - location of identified flood hazard areas, including floodway, 100-year and 500-year
 - location and dimensions of proposed work (new structure, pool, addition to existing building, deck, etc.)
 - setbacks for the applicable zoning district (proposed work must meet established setbacks for district)
- All requests for zoning permits must comply with the standards of the Cabarrus County Development Ordinance.
- Additional information may be needed, or may be required on the plot plan, if the property lies within an Overlay District as defined in Chapter 4 of the Cabarrus County Development Ordinance.

<https://location.cabarruscounty.us/mapcabarrus/>

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

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Susie Morris

From: Boyd Stanley
Sent: Monday, June 29, 2020 2:23 PM
To: Chad Byrd; Sam King Jr.; Connie Arstark; Martha Hernandez; Phillip Collins
Cc: Kelly Sifford
Subject: RE: 3233 Hahn Scott Road Mt. Pleasant

Follow Up Flag: Follow up
Flag Status: Completed

Chad,

We spoke with the County Attorney and we're waiting to hear back from Jeff Burleson w/ NCDOT. In short, we just need verification from NCDOT it is not a 60' right-of-way and they only have maintenance from ditch to ditch. Assuming it not a 60' r-o-w, then we can start the 75' setback at the back of the ditch. If not, we'll need to go with the setback from the 60' (approximately 30' from centerline).

I think you have already done this research, but I will let you know when I hear back from Jeff. Thanks.

Boyd V. Stanley, AICP

Senior Planner

Planning and Development

Cabarrus County
65 Church St S
Concord NC 28025
O: 704-920-2149
F: 704-920-2144



From: Chad Byrd <chad@kingengineernc.com>
Sent: Monday, June 29, 2020 9:53 AM
To: Boyd Stanley <bvstanley@cabarruscounty.us>; Sam King Jr. <samkingjr@gmail.com>; Connie Arstark <connie@arstark.com>; Martha Hernandez <mhernandez@cabarruscounty.us>; Phillip Collins <PECollins@cabarruscounty.us>
Cc: Kelly Sifford <KFSifford@cabarruscounty.us>
Subject: Re: 3233 Hahn Scott Road Mt. Pleasant

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Boyd thanks for your quick response, Connie and Jim have decided on facing the house towards Hahn Scott.

Chad A. Byrd
Senior Project Manager
King Engineering of Concord, Inc.

Susie Morris

From: Brandy Webster
Sent: Thursday, June 25, 2020 4:24 PM
To: Boyd Stanley; Martha Hernandez
Cc: connie@arstark.com
Subject: RE: 3233 Hahn Scott Road

Follow Up Flag: Follow up
Flag Status: Completed

10555 Bowman Barrier Rd.

Thank you,
Brandy Webster
E911 Addressing Coordinator

From: Boyd Stanley <bvstanley@cabarruscounty.us>
Sent: Thursday, June 25, 2020 4:15 PM
To: Brandy Webster <bewebster@cabarruscounty.us>
Subject: RE: 3233 Hahn Scott Road

Bowman-Barrier Road

Boyd V. Stanley, AICP
Senior Planner

Planning and Development
Cabarrus County
65 Church St S
Concord NC 28025
O: 704-920-2149
F: 704-920-2144



From: Brandy Webster <bewebster@cabarruscounty.us>
Sent: Thursday, June 25, 2020 4:13 PM
To: Boyd Stanley <bvstanley@cabarruscounty.us>
Subject: RE: 3233 Hahn Scott Road

Where will the driveway take access from?

Thank you,
Brandy Webster
E911 Addressing Coordinator

From: Boyd Stanley <bvstanley@cabarruscounty.us>
Sent: Thursday, June 25, 2020 3:01 PM

To: Brandy Webster <bewebster@cabarruscounty.us>

Subject: 3233 Hahn Scott Road

Hey Brandy,

Hope all is well with you. We have issued permits for a new house at the subject address. She would like change her permit/site plan and rotate the house to face Bowman-Barrier. Can you issue an address for Bowman-Barrier so I can revise the permits? Thanks.



Boyd V. Stanley, AICP
Senior Planner

Planning and Development
Cabarrus County
65 Church St S

35 Church Street S
Suite 107
Concord, NC 28025
704.791.5606

From: Boyd Stanley <bvstanley@cabarruscounty.us>
Sent: Monday, June 29, 2020 9:48:37 AM
To: Chad Byrd <chad@kingengineernc.com>; Sam King Jr. <samkingjr@gmail.com>; Connie Arstark <connie@arstark.com>; Martha Hernandez <mhernandez@cabarruscounty.us>; Phillip Collins <PECollins@cabarruscounty.us>
Cc: Kelly Sifford <KFSifford@cabarruscounty.us>
Subject: RE: 3233 Hahn Scott Road Mt. Pleasant

Chad,

I chatted with Connie last week and explained the setback would start from the street right-of-way. In my expertise, we have not made our determination on whether the right-of-way is dedicated or assumed only what is shown as ROW of GIS.

Based on my conversations with Connie last week, she obtained an new address and was going to revise permit to front the house on Bowman-Barrier.

Let me know if we need to chat further about this. Thanks.

Boyd V. Stanley, AICP

Senior Planner

Planning and Development

Cabarrus County
65 Church St S
Concord NC 28025
O: 704-920-2149
F: 704-920-2144



From: Chad Byrd <chad@kingengineernc.com>
Sent: Monday, June 29, 2020 9:34 AM
To: Kelly Sifford <KFSifford@cabarruscounty.us>; Connie Arstark <connie@arstark.com>; Sam King <sam@kingengineernc.com>
Subject: 3233 Hahn Scott Road Mt. Pleasant

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Kelly

I am working with Connie Arstark, included in this email on staking a new dwelling, as well as other structures on the 10+ acres located at 3233 Hahn Scott Road Mt. Pleasant. This property is zoned AO, and has a 75' front setback,. NCDOT does not have a dedicated Right of Way on Hahn Scott, and our front property line generally runs with the center of the road. The position of the front setback is critical to what the Arstark's plans are. I spoke with the lady that answers the phone in your office, and she says GIS indicates a 60' RW on Hahn Scott which I have verified both through NCDOT as well as searching for any out conveyance on the property to NCDOT. I have also check several houses along Hahn Scott and found that their positioning does not adhere to a 75' setback from an assumed RW of 60', or a total of 105' from the front property line. Can you please let us know if we use the property line to establish the front setback? Or direct me to the correct place in the ordinance where it addresses roads that do not have a RW?
Please call me anytime to discuss. 704.791.5606

Thanks

Chad A. Byrd
Senior Project Manager
King Engineering of Concord, Inc.
35 Church Street South Suite 107
Concord, NC 28025
704.791.5606

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- Improvement Permit
- Authorization to Construct

Cabarrus Health Alliance
Application for Improvement Permit
and / or Authorization to Construct

- Survey plat to scale* submitted
 - Scaled* site plan submitted
 - Unscaled site plan submitted
scale of 1" = no more than 60'

Sent to: _____

IF THE INFORMATION IN THE APPLICATION FOR AN IMPROVEMENTS PERMIT IS FALSIFIED, CHANGED, OR THE SITE IS ALTERED, THEN THE IMPROVEMENTS PERMIT AND AUTHORIZATION TO CONSTRUCT SHALL BECOME INVALID. The permit is valid for either 60 months or without expiration depending upon documentation submitted. (complete site plan= 60 months; complete plat= without expiration)

APPLICANT INFORMATION

Septic Application SE2020-00062 2/25/2020

CONNIE ARSTARK 5625 WEDDINGTON RD (704) 788-2615

 Applicant name Applicant address Applicant Phone

MCMATH PAUL STEPHEN 3215 WOODCHUCK DR _____

 Owner Address Home and Work Phone

PROPERTY INFORMATION

PIN: 55892433620000 Date originally deeded & recorded: _____

3233 HAHN SCOTT RD _____ 10.01 EAST SIDE HAHN-SCOTT RD

 Street Address Subdivision Name Lot Size (acres) Desc

- Property Ready for Evaluation
- Property not Ready for Evaluation

Directions to site: _____

DEVELOPMENT INFORMATION

Residential Specifications

- New Single Family Residence Max number of bedrooms / occupants: 4 / 8
- Expansion of Existing System If expansion: Current number of bedrooms: _____
- Non-Residential Type of Structure Will there be a basement? Yes
- Multi-Family If yes, will there be plumbing in the basement? Yes
- Repair to Malfunctioning Sewage Disposal System

Non-Residential Specifications:

Type of business: _____ Total square footage of building: _____
 Max number of employees: _____ Max number of seats: _____

- Water Supply:** Are there any existing wells, springs or existing waterlines on this property? yes no
- New Well Existing Well Community Well Public Water Spring

If applying for authorization to construct, please indicate desired system type(s): (systems can be ranked in order of your preference)

___ Alternative 2 Conventional ___ Innovative
1 Accepted ___ Any ___ Modified Conventional Other (specify): _____

The applicant shall notify the local health department upon submittal of this application if any of the following apply to the property in question. If the answer to any question is "yes" applicant must attach supporting documentation.

- yes no Does the site contain any jurisdictional wetlands?
- yes no Does the site contain any existing wastewater systems?
- yes no Is any wastewater going to be generated on the site other than domestic sewage?
- yes no Is the site subject to approval by any other public agency?
- yes no Are there any easements or right-of-ways on this property?

I have read this application and certify that the information provided herein is true, complete and correct. Authorized county and state officials are granted the right of entry to conduct necessary inspections to determine compliance with applicable laws and rules. I understand that I am solely responsible for the proper identification and labeling of all property lines and corners and making the site accessible so that a complete site evaluation can be performed.

Connie Arstark (handwritten signature)

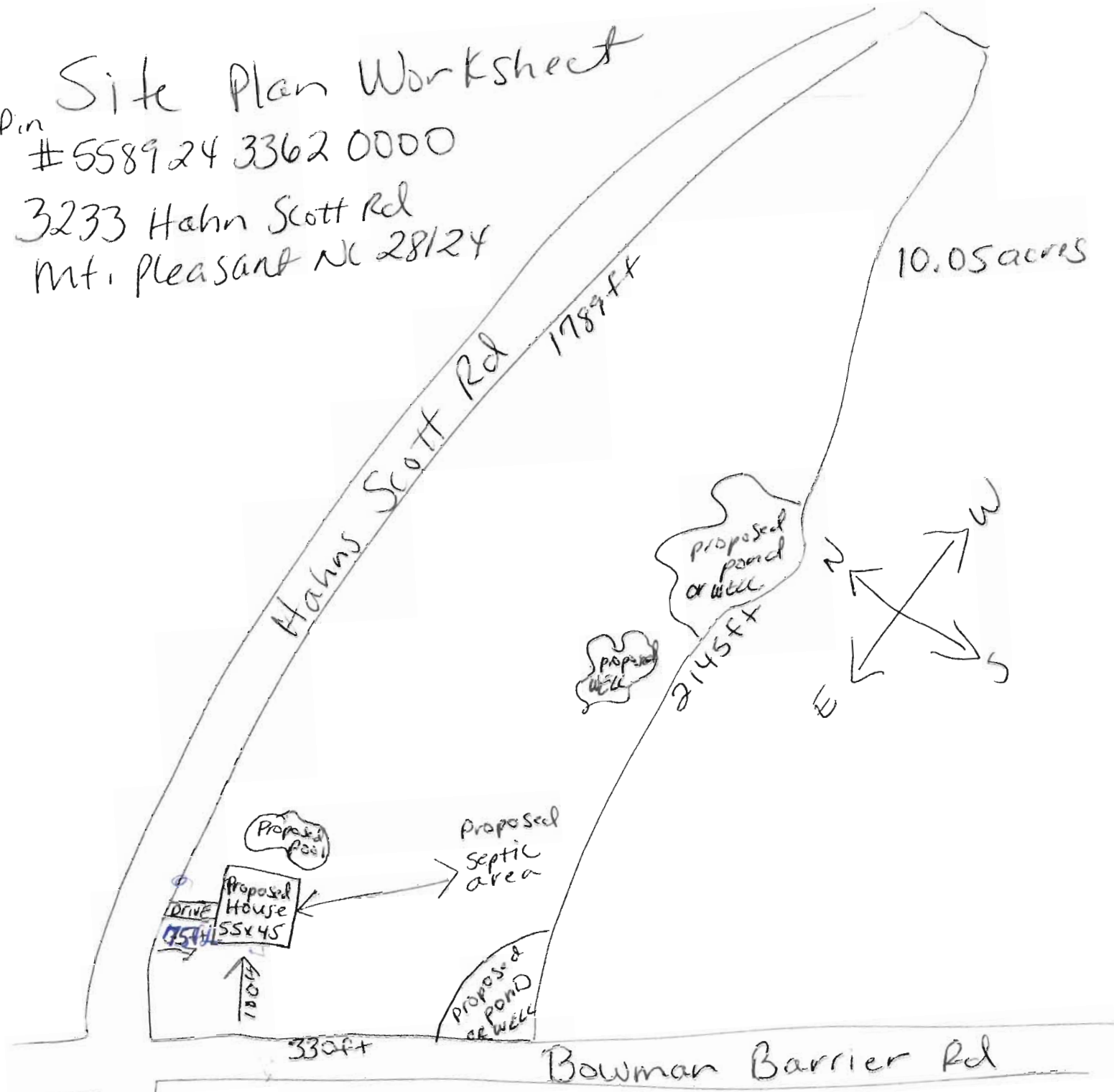
2/25/2020 (handwritten date)

Property owner's or owner's legal representative signature (required)** **Date**

**Must provide documentation to support claim as owner's legal representative.

Site Plan Worksheet

Pin #558924 3362 0000
3233 Hahn Scott Rd
Mt. Pleasant NC 28124



See attached - Diagram
Soil and Site Evaluation
#9 or #11 location
for conventional system
2 chamber w/ pump for
4 BR Basement



3233 → #10
 address for #10
 Hahn Scott Rd
 #11 - perc Test
 #9 - perc Test



Prepared For:
 Paul Stephen
 McMath

Soil and Site Evaluation
 Hahn-Scott Road
 Mt. Pleasant, NC 28124
 Cabarrus County, North Carolina

Date:
 November 2019
 Scale:
 0 50 100 ft
 TEC Job #:
 19-116

Figure
1

#11 or #9 For House Location

245

~~2100 Lin~~

2145 Feet
~~59 ft~~

330 Feet

1789 ft (4)

)

3233 Hahn Scott Rd
Mt. Pleasant NC 28124

45.24
55.54

55.24
45.54

2.344
4.557

14.17A
8852

2.72A



3180³²³⁵ Hahn Scott Road
Mount Pleasant NC 28124
Tax ID: 5589-14-9533-0000
* 5589-24-3342-0000

SOIL AND SITE EVALUATION

Hahn-Scott Road
Mount Pleasant, NC 28124

Prepared For:

Paul Stephen McMath
3215 Woodchuck Drive
Kannapolis, NC 28081

Prepared By:



Thompson Environmental Consulting, Inc.
PO Box 541
Midland, NC 28107

November 23, 2019



INTRODUCTION & SITE DESCRIPTION

This Soil and Site Evaluation was performed on a portion of a 24.23-acre tract located in the northeast quadrant of the intersection of Bowman-Barrier Road and Hahn-Scott Road in Mount Pleasant, North Carolina (Cabarrus County Tax Parcel 55891495330000). Thompson Environmental Consulting, Inc. (TEC) was retained to determine areas that are suitable for placement of an onsite subsurface wastewater septic system for a single-family residence. The property was evaluated in accordance with North Carolina statutes for waste disposal (“Laws and Rules for Sewage Treatment and Disposal Systems”, amended April 1, 2017).

The property is currently undeveloped and is being used for agricultural production. There is a stream that runs along the eastern property line.

INVESTIGATION METHODOLOGY & SITE PHYSICAL CHARACTERISTICS

Pits were dug with a compact excavator and evaluated. Soil color was determined with a Munsell Soil Color Chart and observations of the landscape (slope, drainage patterns, etc.) as well as soil properties (depth, texture, structure, seasonal wetness, restrictive horizons, etc.) were recorded.

FINDINGS

The field survey was conducted on November 22, 2019 by Larry Thompson, LSS. Ten pits excavated, logged, and their locations noted on the attached Figure 1.

Pits 1, 2, 3, 4, 6, 7, 8, and 9 were rated as “Provisionally Suitable” for Accepted or Low-Profile Chamber Systems. Surfaces typically exhibited a friable silt clay loam texture with weak, medium, subangular blocky structure 2 to 8 inches in depth. Upper subsurface horizons exhibited firm silty clay textures with moderate, medium, subangular blocky structure ranging in depth from 22 to 36 inches. A long-term acceptance rate (LTAR) of 0.275 to 0.3 gal./day/sq. ft. would typically be recommended for these soils.

Pits 5 and 10 were rated as “Provisionally Suitable” for Non-Treated Subsurface Drip Dispersal. Surfaces typically exhibited a friable silt clay loam texture with weak, medium, subangular blocky structure 5 to 8 inches in depth. Upper subsurface horizons exhibited firm silty clay textures with moderate, medium, subangular blocky structure ranging in depth from 18 to 20 inches. A long-term acceptance rate (LTAR) of 0.12 to 0.15 gal./day/sq. ft. would typically be recommended for these soils.

CONCLUSION

The soils evaluated appear to be adequate to support the installation of an Accepted or Low-Profile Chamber System with a Non-Treated Drip Dispersal repair area for a 4-bedroom single family residence. The initial system could be designed with a LTAR of 0.3 gal./day/sq. ft. and would require approximately 4,100 square feet of suitable soil to be allocated and completely

available for a system installation. The proposed repair system would require approximately 3,900 square feet of are to be set aside for this purpose.

The findings presented herein represent TEC's professional opinion based on this Soil and Site Evaluation and knowledge of the current laws and rules governing on-site wastewater systems in North Carolina. Soils naturally change across a landscape and contain many inclusions. As such, attempts to quantify them are not always precise and exact. Due to this inherent variability of soils and the subjectivity when determining limiting factors, there is no guarantee that a regulating authority will agree with the findings of this report. This report does not guarantee or represent approval or issuance of an Improvement Permit, which can only be authorized by the Cabarrus Health Alliance.

Thompson Environmental Consulting, Inc.
 PO Box 541
 Midland, NC 28107

Sheet 1 of 3
 PROPERTY ID #: 558014522_000
 COUNTY: Currituck

SOIL/SITE EVALUATION
 for ON-SITE WASTEWATER SYSTEM

OWNER: Paul Steven McMath
 ADDRESS: 3415 Woodchuck Dr. Williams, NC 28581
 PROPOSED FACILITY: Pool PROPOSED DESIGN FLOW (.1949): _____
 LOCATION OF SITE: Hain-Scott Level, Williams, NC
 WATER SUPPLY: Private Public Well Spring Other _____
 EVALUATION METHOD: Auger Boring Pit Cut

DATE EVALUATED: 11.22.19
 PROPERTY SIZE: 694.523 ac
 PROPERTY RECORDED: _____

TYPE OF WASTEWATER: Sewage Industrial Process Mixed

PROFILE #	.1940 LANDSCAPE POSITION/ SLOPE %	HORIZON DEPTH (IN.)	SOIL MORPHOLOGY (.1941)		OTHER PROFILE FACTORS				PROFILE CLASS & LTAR
			.1941 STRUCTURE/ TEXTURE	.1941 CONSISTENCE/ MINERALOGY	.1942 SOIL WETNESS/ COLOR	.1943 SOIL DEPTH	.1956 SAPRO CLASS	.1944 RESTR HORIZ	
1	LS 5%	0-3	GR/SIC	FR/med	N/A	36"	lean	N/A	PS 0.3
		3-7	CS/SIC	FR/med					
		7-36	SB/SIC	FR/med					
		36"	N/A	FR/med					
2	LS 5%	0-3	GR/SIC	FR/med	N/A	26"	N/A	24" Pm	PS 0.3
		3-7	SB/SIC	FR/med					
		7-24	SB/SIC	FR/med					
3	LS 5%	0-2	GR/SIC	FR/med	N/A	22"	N/A	25" Pm	PS 0.3
		2-7	SB/SIC	FR/med					
		7-20	SB/SIC	FR/med					
4	LS 5%	0-6	SB/SIC	FR/med	N/A	29"	N/A	25" Pm	PS 0.3
		6-29	SB/SIC	FR/med					

DESCRIPTION	INITIAL SYSTEM	REPAIR SYSTEM	OTHER FACTORS (.1946):
Available Space (.1945)	DS	PS	SITE CLASSIFICATION (.1948): <u>Provisionally Suitable</u>
System Type(s)	Accepted	Low profile or deep	EVALUATED BY: <u>Larry Thompson, LSS</u>
Site LTAR	0.3	0.3/0.2	OTHER(S) PRESENT: <u>Various Corals</u>

COMMENTS:

SOIL/SITE EVALUATION
(Continuation Sheet-Complete all field in full)

PROPERTY ID #: 5589149533 0000
 DATE OF EVALUATION: 11-22-11
 COUNTY: COBARRIS

PROFILE #	.1940 LANDSCAPE POSITION/SLOPE %	HORIZ ON DEPTH (IN.)	SOIL MORPHOLOGY (.1941)		OTHER PROFILE FACTORS				PROFILE CLASS & LTAR
			.1941 STRUCTURE/TEXTURE	.1941 CONSISTENCE/MINERALOGY	.1942 SOIL WETNESS/COLOR	.1943 SOIL DEPTH	.1956 SAPRO CLASS	.1944 RESTR HORIZ	
5	LS 12%	0-2	SS/SIC	Fine sand	n/a	30"	n/a	30" (H)	0.3
		2-30	SS/SIC	Fine sand					
6	LS 5%	0-2	SS/SIC	Fine sand	n/a	30"	n/a	30" (H)	0.3
		2-8	SS/SIC	Fine sand					
		8-9	SS/SIC	Fine sand					
7	LS 5%	0-6	SS/SIC	Fine sand	n/a	33"	n/a	33" (H)	0.3
		6-33	SS/SIC	Fine sand					
8	LS 8%	0-2	SS/SIC	Fine sand	n/a	30"	n/a	30" (H)	0.3
		2-15	SS/SIC	Fine sand					
9	LS 10%	0-7	SS/SIC	Fine sand	n/a	30"	n/a	30" (H)	0.3
		7-33	SS/SIC	Fine sand					

COMMENTS:

SOIL/SITE EVALUATION
(Continuation Sheet-Complete all field in full)

Sheet 3 of 3

PROPERTY ID #: 5589149533.0000
DATE OF EVALUATION: 11-22-14
COUNTY: Calaveras

P R O F I L E #	.1940 LANDSCAPE POSITION/ SLOPE %	HORIZ ON DEPTH (IN.)	SOIL MORPHOLOGY (.1941)		OTHER PROFILE FACTORS				PROFILE CLASS & LTAR
			.1941 STRUCTURE/ TEXTURE	.1941 CONSISTENCE/ MINERALOGY	.1942 SOIL WETNESS/ COLOR	.1943 SOIL DEPTH	.1956 SAPRO CLASS	.1944 RESTR HORIZ	
9	LS 5%	0-7	Sb ₁ /S2CL	Fine sand, steep	M ₁ H	27"	M ₁	57" PM	1-3 2-3
		7-29	Sb ₂ /S2C	Fine sand, steep					
10	LS 5%	0-8	Sb ₁ /S2CL	Fine sand, steep	M ₁ H	18"	M ₁	45" PM	1-3 2-3
		8-19	Sb ₂ /S2C	Fine sand, steep					

COMMENTS: _____

LEGEND

use the following standard abbreviations

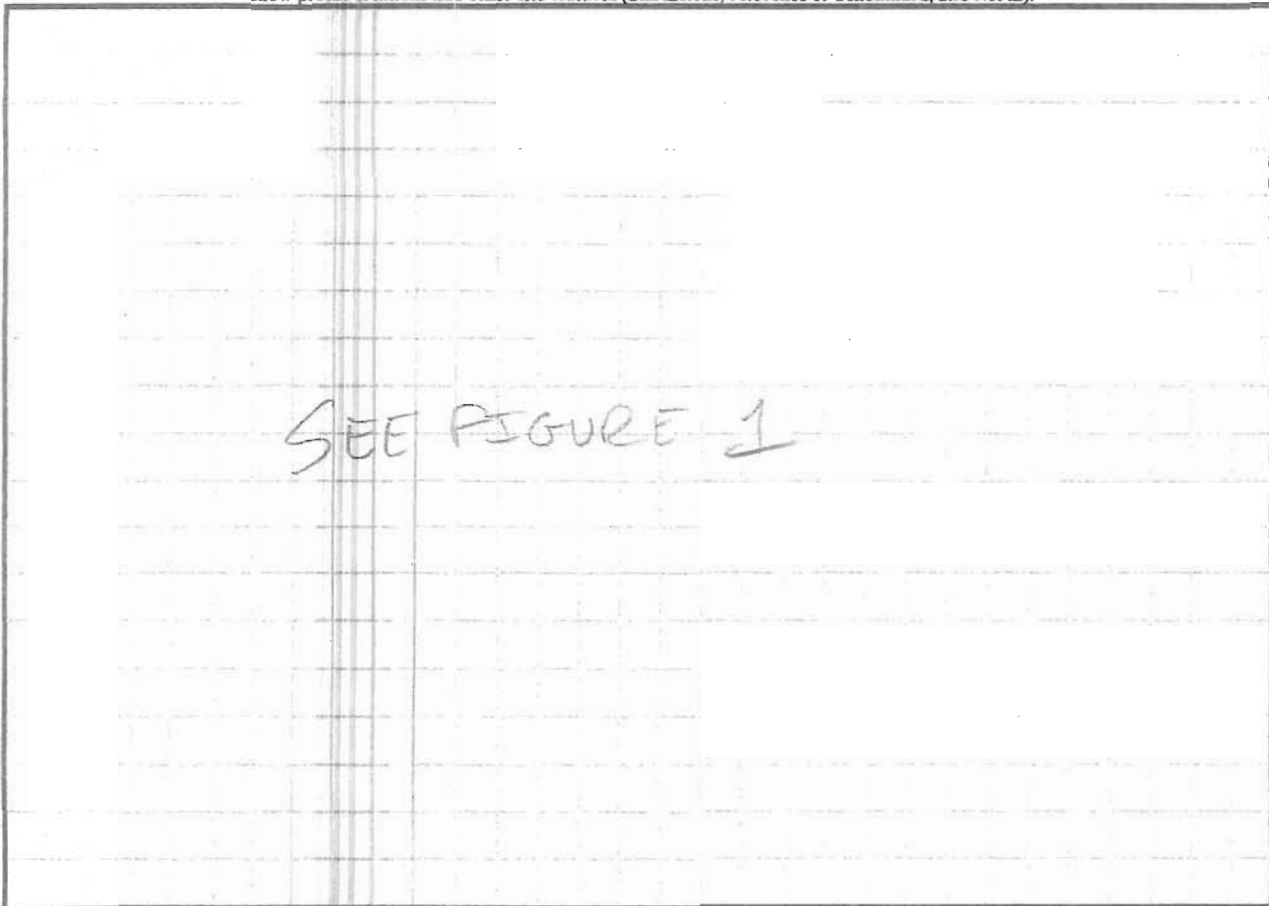
LANDSCAPE POSITION	GROUP	SOIL	CONVENTIONAL	LPP	MINERALOGY/	STRUCTURE
		TEXTURE	.1955 LTAR*	.1957 LTAR*	CONSISTENCE	
CC (Concave Slope)	I	S (Sand)	1.2 - 0.8	0.6 - 0.4	SEXP (Slightly Expansive) EXP (Expansive)	G (Single Grain)
CV (Convex Slope)		LS (Loamy Sand)				M (Massive)
D (Drainage Way)	II	SL (Sandy Loam)	0.8 - 0.6	0.4 - 0.3		CR (Crumb)
DS (Debris Slump)		L (Loam)				GR (Granular)
FP (Flood Plain)	III	Si (Silt)	0.6 - 0.3	0.3 - 0.15		SBK (Subangular Blocky)
FS (Foot Slope)		SiCL (Silty Clay Loam)				ABK (Angular Blocky)
H (Head Slope)	IV	CL (Clay Loam)	0.4 - 0.1	0.2 - 0.05		PL (Platy)
L (Linear Slope)		SCL (Sandy Clay Loam)				PR (Prismatic)
N (Nose Slope)		SiL (Silt Loam)				
R (Ridge)					<u>MOIST</u>	<u>WET</u>
S (Shoulder Slope)					VFR (Very Friable)	NS (Non-sticky)
T (Terrace)					FR (Friable)	SS (Slightly Sticky)
					FI (Firm)	S (Sticky)
					VFI (Very Firm v. Very Sticky)	VS (Very Sticky)
					EFI (Extremely Firm)	NP (Non-plastic)
						SP (Slightly Plastic)
						P (Plastic)
						VP (Very Plastic)

*Adjust LTAR due to depth, consistence, structure, soil wetness, landscape, position, wastewater flow and quality.

NOTES

- HORIZON DEPTH** In inches below natural soil surface
 - DEPTH OF FILL** In inches from land surface
 - RESTRICTIVE HORIZON** Thickness and depth from land surface
 - SAPROLITE** S(suitable) or U(unsuitable)
 - SOIL WETNESS** inches from land surface to free water or inches from land surface to soil colors with chroma 2 or less - record Munsell color chip designation
 - CLASSIFICATION** S (Suitable), PS (Provisionally Suitable), or U (Unsuitable)
- Evaluation of saprolite shall be by pits.
 Long-term Acceptance Rate (LTAR): gal/day/ft²

Show profile locations and other site features (dimensions, reference or benchmark, and North).





The applicant is responsible for preparing property for a site evaluation by an Environmental Health Specialist. The applicant must address each of the items listed below prior to the evaluation

1. **Property Lines must be marked:** All property lines and corners must be clearly marked and readily identifiable. If you are proposing to subdivide property, the proposed property lines must be clearly marked.
2. **The area to be evaluated must be accessible:** In order to conduct a site evaluation, the lot must be easily accessible. If fallen trees, underbrush, or other obstacles prevent free movement across the property, then clearing will be required. Clearing "sight lines" (clearing paths to see the ground) in the area to be evaluated (example: cleared undergrowth to allow easy accessibility and at least 50 feet visibility in any direction; All sites may not require clearing. **NOTE: Soil disturbance must be minimized during the clearing process in order to avoid removing natural soil and adversely affecting site/soil characteristics.**
3. **House/structures must be marked:** The proposed location of a house or any other structure must be clearly marked on the property.

PLEASE CHECK ONE OF THE FOLLOWING:

- My property presently meets the conditions mentioned above and is ready to be evaluated by Cabarrus Health Alliance Environmental Health*
- My property presently does not meet the conditions mentioned above. When these conditions are met I will contact the Environmental Health office at **704-920-1207** to have my property scheduled for a soils evaluation.*

I understand if the aforementioned conditions are not met the property will not be evaluated and that BEING ON SITE AT THE TIME OF THE EVALUATION IS NOT A SUBSTITUTE FOR MARKING THE PROPERTY. All applications are scheduled on a first come first serve basis.

Signature *Connie H. Stark*

PLEASE NOTE:

- Test sites are done in one acre increments
- A plat or tax map that shows property dimensions MUST be included with the application.
- If a proper evaluation cannot be accomplished with an auger (example: rock at shallow depths or too close to the surface), the NC Administrative Code states that you may be required to dig backhoe pits which will permit us to do a more complex evaluation.

OFFER TO PURCHASE AND CONTRACT - VACANT LOT/LAND
[Consult "Guidelines" (form 12G) for guidance in completing this form]

NOTE: This contract is intended for unimproved real property that Buyer will purchase only for personal use and does not have immediate plans to subdivide. It should not be used to sell property that is being subdivided unless the property has been platted, properly approved and recorded with the register of deeds as of the date of the contract. If Seller is Buyer's builder and the sale involves the construction of a new single family dwelling prior to closing, use the standard Offer to Purchase and Contract--New Construction (Form 800-T) or, if the construction is completed, use the Offer to Purchase and Contract (Form 2-T) with the New Construction Addendum (Form 2A3-T).

For valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Buyer offers to purchase and Seller upon acceptance agrees to sell and convey the Property on the terms and conditions of this Offer To Purchase and Contract and any addendum or modification made in accordance with its terms (together the "Contract").

1. TERMS AND DEFINITIONS: The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

- (a) "Seller": Paul Stephen McMath, spouse Brenda Fowler McMath
- (b) "Buyer": JIM and CONNIE ARSTARK
- (c) "Property": The Property shall include all that real estate described below together with all appurtenances thereto including the improvements located thereon.

NOTE: If the Property will include a manufactured (mobile) home(s), Buyer and Seller should consider including the Manufactured (Mobile) Home provision in the Additional Provisions Addendum (Standard Form 2A11-T) with this offer.

Street Address: 3233 Hahn Scott Rd
City: Mount Pleasant Zip: 28124
County: Cabarrus, North Carolina


NOTE: Governmental authority over taxes, zoning, school districts, utilities and mail delivery may differ from address shown.

Legal Description: (Complete ALL applicable)
Plat Reference :Lot/Unit 10.05ac, Block/Section —, Subdivision/Condominium none
Hahn Scott Rd - 17004, as shown on Plat Book/Slide _____ at Page(s) _____
The PIN/PID or other identification number of the Property is: 5589 24 33620000
Other description: 10 acres at the corner of Hahn Scott Rd and Bowman Barrier
Some or all of the Property may be described in Deed Book 13870 at Page 165

(d) "Purchase Price":

\$ 85,000
 \$ 1500
 \$ 0
 \$ 0
 \$ 0
 \$ 0
 \$ 83,500

paid in U.S. Dollars upon the following terms:
 BY DUE DILIGENCE FEE made payable and delivered to Seller by the Effective Date.
 BY INITIAL EARNEST MONEY DEPOSIT made payable and delivered to Escrow Agent named in Paragraph 1(f) by cash personal check official bank check wire transfer, electronic transfer, EITHER with this offer OR within five (5) days of the Effective Date of this Contract.
 BY (ADDITIONAL) EARNEST MONEY DEPOSIT made payable and delivered to Escrow Agent named in Paragraph 1(f) by cash, official bank check, wire transfer or electronic transfer no later than 5 p.m. on _____,
TIME BEING OF THE ESSENCE.
 BY ASSUMPTION of the unpaid principal balance and all obligations of Seller on the existing loan(s) secured by a deed of trust on the Property in accordance with the attached Loan Assumption Addendum (Standard Form 2A6-T).
 BY SELLER FINANCING in accordance with the attached Seller Financing Addendum (Standard Form 2A5-T).
 BALANCE of the Purchase Price in cash at Settlement (some or all of which may be paid with the proceeds of a new loan).

 This form jointly approved by:
North Carolina Bar Association
North Carolina Association of REALTORS®, Inc.



STANDARD FORM 12-T
Revised 7/2019
© 7/2019

Buyer initials [Signature] Seller initials [Signature]

Should Buyer fail to deliver either the Due Diligence Fee or any Initial Earnest Money Deposit by their due dates, or should any check or other funds paid by Buyer be dishonored, for any reason, by the institution upon which the payment is drawn, Buyer shall have one (1) banking day after written notice to deliver cash, official bank check, wire transfer or electronic transfer to the payee. In the event Buyer does not timely deliver the required funds, Seller shall have the right to terminate this Contract upon written notice to Buyer.

(e) **"Earnest Money Deposit"**: The Initial Earnest Money Deposit, the Additional Earnest Money Deposit and any other earnest monies paid or required to be paid in connection with this transaction, collectively the "Earnest Money Deposit", shall be deposited and held in escrow by Escrow Agent until Closing, at which time it will be credited to Buyer, or until this Contract is otherwise terminated. In the event: (1) this offer is not accepted; or (2) a condition of any resulting contract is not satisfied, then the Earnest Money Deposit shall be refunded to Buyer. In the event of breach of this Contract by Seller, the Earnest Money Deposit shall be refunded to Buyer upon Buyer's request, but such return shall not affect any other remedies available to Buyer for such breach. In the event of breach of this Contract by Buyer, the Earnest Money Deposit shall be paid to Seller. The payment of the Earnest Money Deposit to Seller and the retention of any Due Diligence Fee by Seller (without regard to their respective amounts, including zero) together shall serve as liquidated damages ("Liquidated Damages") and as Seller's sole and exclusive remedy for such breach, but without limiting Seller's rights under Paragraphs 4(d) and 4(e) for damage to the Property. It is acknowledged by the parties that the amount of the Liquidated Damages is compensatory and not punitive, such amount being a reasonable estimation of the actual loss that Seller would incur as a result of a breach of this Contract by Buyer. The payment to Seller and/or retention by Seller of the Liquidated Damages shall not constitute a penalty or forfeiture but actual compensation for Seller's anticipated loss, both parties acknowledging the difficulty determining Seller's actual damages for such breach. If legal proceedings are brought by Buyer or Seller against the other to recover the Earnest Money Deposit, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney fees and court costs incurred in connection with the proceeding.

(f) **"Escrow Agent"** (insert name): NA

NOTE: In the event of a dispute between Seller and Buyer over the disposition of the Earnest Money Deposit held in escrow, a licensed real estate broker ("Broker") is required by state law (and Escrow Agent, if not a Broker, hereby agrees) to retain the Earnest Money Deposit in the Escrow Agent's trust or escrow account until Escrow Agent has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction. Alternatively, if a Broker or an attorney licensed to practice law in North Carolina ("Attorney") is holding the Earnest Money Deposit, the Broker or Attorney may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of N.C.G.S. §93A-12.

THE PARTIES AGREE THAT A REAL ESTATE BROKERAGE FIRM ACTING AS ESCROW AGENT MAY PLACE THE EARNEST MONEY DEPOSIT IN AN INTEREST BEARING TRUST ACCOUNT AND THAT ANY INTEREST EARNED THEREON SHALL BE DISBURSED TO THE ESCROW AGENT MONTHLY IN CONSIDERATION OF THE EXPENSES INCURRED BY MAINTAINING SUCH ACCOUNT AND RECORDS ASSOCIATED THEREWITH.

(g) **"Effective Date"**: The date that: (1) the last one of Buyer and Seller has signed or initialed this offer or the final counteroffer, if any, and (2) such signing or initialing is communicated to the party making the offer or counteroffer, as the case may be. The parties acknowledge and agree that the initials lines at the bottom of each page of this Contract are merely evidence of their having reviewed the terms of each page, and that the complete execution of such initials lines shall not be a condition of the effectiveness of this Agreement.

(h) **"Due Diligence"**: Buyer's opportunity to investigate the Property and the transaction contemplated by this Contract, including but not necessarily limited to the matters described in Paragraph 2 below, to decide whether Buyer, in Buyer's sole discretion, will proceed with or terminate the transaction.

(i) **"Due Diligence Fee"**: A negotiated amount, if any, paid by Buyer to Seller with this Contract for Buyer's right to terminate the Contract for any reason or no reason during the Due Diligence Period. It shall be the property of Seller upon the Effective Date and shall be a credit to Buyer at Closing. The Due Diligence Fee shall be non-refundable except in the event of a material breach of this Contract by Seller, or if this Contract is terminated under Paragraph 6(n) or as otherwise provided in any addendum hereto. Buyer and Seller each expressly waive any right that they may have to deny the right to conduct Due Diligence or to assert any defense as to the enforceability of this Contract based on the absence or alleged insufficiency of any Due Diligence Fee, it being the intent of the parties to create a legally binding contract for the purchase and sale of the Property without regard to the existence or amount of any Due Diligence Fee.

(j) **"Due Diligence Period"**: The period beginning on the Effective Date and extending through 5:00 p.m. on on or before May 01, 2020 **TIME BEING OF THE ESSENCE.**

Buyer initials  Seller initials 

(k) **"Settlement"**: The proper execution and delivery to the closing attorney of all documents necessary to complete the transaction contemplated by this Contract, including the deed, settlement statement, deed of trust and other loan or conveyance documents, and the closing attorney's receipt of all funds necessary to complete such transaction.

(l) **"Settlement Date"**: The parties agree that Settlement will take place on May 31, 2020 (the "Settlement Date"), unless otherwise agreed in writing, at a time and place designated by Buyer.

(m) **"Closing"**: The completion of the legal process which results in the transfer of title to the Property from Seller to Buyer, which includes the following steps: (1) the Settlement (defined above); (2) the completion of a satisfactory title update to the Property following the Settlement; (3) the closing attorney's receipt of authorization to disburse all necessary funds; and (4) recordation in the appropriate county registry of the deed(s) and deed(s) of trust, if any, which shall take place as soon as reasonably possible for the closing attorney after Settlement. Upon Closing, the proceeds of sale shall be disbursed by the closing attorney in accordance with the settlement statement and the provisions of Chapter 45A of the North Carolina General Statutes. If the title update should reveal unexpected liens, encumbrances or other title defects, or if the closing attorney is not authorized to disburse all necessary funds, then the Closing shall be suspended and the Settlement deemed delayed under Paragraph 9 (Delay in Settlement/Closing).

WARNING: The North Carolina State Bar has determined that the performance of most acts and services required for a closing constitutes the practice of law and must be performed only by an attorney licensed to practice law in North Carolina. State law prohibits unlicensed individuals or firms from rendering legal services or advice. Although non-attorney settlement agents may perform limited services in connection with a closing, they may not perform all the acts and services required to complete a closing. A closing involves significant legal issues that should be handled by an attorney. Accordingly it is the position of the North Carolina Bar Association and the North Carolina Association of REALTORS® that all buyers should hire an attorney licensed in North Carolina to perform a closing.

(n) **"Special Assessments"**: A charge against the Property by a governmental authority in addition to ad valorem taxes and recurring governmental service fees levied with such taxes, or by an owners' association in addition to any regular assessment (dues), either of which may be a lien against the Property. A Special Assessment may be either proposed or confirmed.

"Proposed Special Assessment": A Special Assessment that is under formal consideration but which has not been approved prior to Settlement.

"Confirmed Special Assessment": A Special Assessment that has been approved prior to Settlement whether payable in a lump sum or future installments.

NOTE: Any Proposed and Confirmed Special Assessments must be identified by Seller in paragraph 5(b), and Buyer's and Seller's respective responsibilities for Proposed and Confirmed Special Assessments are addressed in paragraphs 4(a) and 6(k).


2. **BUYER'S DUE DILIGENCE PROCESS:**

WARNING: BUYER IS STRONGLY ENCOURAGED TO CONDUCT DUE DILIGENCE DURING THE DUE DILIGENCE PERIOD. If Buyer is not satisfied with the results or progress of Buyer's Due Diligence, Buyer should terminate this Contract, *prior to the expiration of the Due Diligence Period*, unless Buyer can obtain a written extension from Seller. SELLER IS NOT OBLIGATED TO GRANT AN EXTENSION. Although Buyer may continue to investigate the Property following the expiration of the Due Diligence Period, Buyer's failure to deliver a Termination Notice to Seller prior to the expiration of the Due Diligence Period will constitute a waiver by Buyer of any right to terminate this Contract based on any matter relating to Buyer's Due Diligence. Provided however, following the Due Diligence Period, Buyer may still exercise a right to terminate if Seller fails to materially comply with any of Seller's obligations under paragraph 6 of this Contract or for any other reason permitted under the terms of this Contract or North Carolina law.

(a) **Loan:** Buyer, at Buyer's expense, shall be entitled to pursue qualification for and approval of the Loan if any.

NOTE: Buyer's obligation to purchase the Property is not contingent on obtaining a Loan. Therefore, Buyer is advised to consult with Buyer's lender prior to signing this offer to assure that the Due Diligence Period allows sufficient time for the appraisal to be completed and for Buyer's lender to provide Buyer sufficient information to decide whether to proceed with or terminate the transaction.

(b) **Property Investigation:** Buyer or Buyer's agents or representatives, at Buyer's expense, shall be entitled to conduct all desired tests, surveys, appraisals, investigations, examinations and inspections of the Property as Buyer deems appropriate, including but NOT limited to the following:

Buyer initials  Seller initials 

- (i) **Soil And Environmental:** Reports to determine whether the soil is suitable for Buyer's intended use and whether there is any environmental contamination, law, rule or regulation that may prohibit, restrict or limit Buyer's intended use.
- (ii) **Septic/Sewer System:** Any applicable investigation(s) to determine: (1) the condition of an existing sewage system, (2) the costs and expenses to install a sewage system approved by an existing Improvement Permit, (3) the availability and expense to connect to a public or community sewer system, and/or (4) whether an Improvement Permit or written evaluation may be obtained from the County Health Department for a suitable ground absorption sewage system.
- (iii) **Water:** Any applicable investigation(s) to determine: (1) the condition of an existing private drinking water well, (2) the costs and expenses to install a private drinking water well approved by an existing Construction Permit, (3) the availability, costs and expenses to connect to a public or community water system, or a shared private well, and/or (4) whether a Construction Permit may be obtained from the County Health Department for a private drinking water well.
- (iv) **Review of Documents:** Review of the Declaration of Restrictive Covenants, Bylaws, Articles of Incorporation, Rules and Regulations, and other governing documents of any applicable owners' association and/or subdivision. If the Property is subject to regulation by an owners' association, it is recommended that Buyer review the completed Owners' Association And Addendum (Standard Form 2A12-T) provided by Seller prior to signing this offer. It is also recommended that the Buyer determine if the owners' association or its management company charges fees for providing information required by Buyer's lender or confirming restrictive covenant compliance.
- (v) **Appraisals:** An appraisal of the Property.
- (vi) **Survey:** A survey to determine whether the property is suitable for Buyer's intended use and the location of easements, setbacks, property boundaries and other issues which may or may not constitute title defects.
- (vii) **Zoning and Governmental Regulation:** Investigation of current or proposed zoning or other governmental regulation that may affect Buyer's intended use of the Property, adjacent land uses, planned or proposed road construction, and school attendance zones.
- (viii) **Flood Hazard:** Investigation of potential flood hazards on the Property, and/or any requirement to purchase flood insurance in order to obtain the Loan.
- (ix) **Utilities and Access:** Availability, quality, and obligations for maintenance of utilities including electric, gas, communication services, storm water management, and means of access to the Property and amenities.
- (x) **Streets/Roads:** Investigation of the status of the street/road upon which the Property fronts as well as any other street/road used to access the Property, including: (1) whether any street(s)/road(s) are public or private, (2) whether any street(s)/road(s) designated as public are accepted for maintenance by the State of NC or any municipality, or (3) if private or not accepted for public maintenance, the consequences and responsibility for maintenance and the existence, terms and funding of any maintenance agreements.

NOTE: NC General Statutes Section 136-102.6(f) (the "Statute") requires that under circumstances described in the Statute, a buyer must be provided a subdivision streets disclosure statement prior to entering into an agreement to buy subdivided property described in the Statute. If Buyer or Seller are uncertain whether the sale of the Property described in this Contract is subject to the Statute, consult a NC real estate attorney.

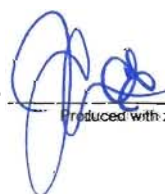
- (xi) **Sale/Lease of Existing Property:** As noted in paragraph 3(b), this Contract is not conditioned upon the sale/lease or closing of other property owned by Buyer. Therefore, if Buyer must sell or lease other real property in order to qualify for a new loan or to otherwise complete the purchase of the Property, Buyer should seek to close on Buyer's other property prior to the end of the Due Diligence Period or be reasonably satisfied that closing on Buyer's other property will take place prior to the Settlement Date of this Contract.

(c) **Buyer's Obligation to Repair Damage:** Buyer shall, at Buyer's expense, promptly repair any damage to the Property resulting from any activities of Buyer and Buyer's agents and contractors, but Buyer shall not be responsible for any damage caused by accepted practices applicable to any N.C. licensed professional performing reasonable appraisals, tests, surveys, examinations and inspections of the Property. This repair obligation shall survive any termination of this Contract.

(d) **Indemnity:** Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property except for any loss, damage, claim, suit or cost arising out of pre-existing conditions of the Property and/or out of Seller's negligence or willful acts or omissions. This indemnity shall survive this Contract and any termination hereof.

(e) **Buyer's Right to Terminate:** Buyer shall have the right to terminate this Contract for any reason or no reason, by delivering to Seller written notice of termination (the "Termination Notice") during the Due Diligence Period (or any agreed-upon written extension of the Due Diligence Period), **TIME BEING OF THE ESSENCE**. If Buyer timely delivers the Termination Notice, this Contract shall be terminated and the Earnest Money Deposit shall be refunded to Buyer.

Buyer initials



Seller initials



(f) **CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION UNLESS PROVISION IS OTHERWISE MADE IN WRITING.**

3. **BUYER REPRESENTATIONS:**

(a) **Loan:** Buyer does does not intend to obtain a new loan in order to purchase the Property. If Buyer is obtaining a new loan, Buyer intends to obtain a loan as follows: Conventional Other: _____ loan at a Fixed Rate Adjustable Rate in the principal amount of _____ for a term of _____ year(s), at an initial interest rate not to exceed _____ % per annum (the "Loan").

NOTE: Buyer's obligation under this Contract are not conditioned upon obtaining or closing any loan.

NOTE: If Buyer does not intend to obtain a new loan, Seller is advised, prior to signing this offer, to obtain documentation from Buyer which demonstrates that Buyer will be able to close on the Property without the necessity of obtaining a new loan.

(b) **Other Property:** Buyer DOES DOES NOT have to sell or lease other real property in order to qualify for a new loan or to complete the purchase. *(Complete the following only if Buyer DOES have to sell or lease other real property:)*

Other Property Address: 5625 WEDDINGTON ROAD, CONCORD NC 29027

(Check if applicable) Buyer's other property IS under contract as of the date of this offer, and a copy of the contract has either been previously provided to Seller or accompanies this offer. *(Buyer may mark out any confidential information, such as the purchase price and the buyer's identity, prior to providing a copy of the contract to Seller.)* Failure to provide a copy of the contract shall not prevent this offer from becoming a binding contract; however, SELLER IS STRONGLY ENCOURAGED TO OBTAIN AND REVIEW THE CONTRACT ON BUYER'S PROPERTY PRIOR TO ACCEPTING THIS OFFER.

(Check if applicable) Buyer's other property IS NOT under contract as of the date of this offer. Buyer's property *(check only ONE of the following options):*

is listed with and actively marketed by a licensed real estate broker.

will be listed with and actively marketed by a licensed real estate broker.

Buyer is attempting to sell/lease the Buyer's Property without the assistance of a licensed real estate broker.

NOTE: This Contract is NOT conditioned upon the sale/lease or closing of Buyer's other property. If the parties agree to make this Contract conditioned on a sale/lease or closing of Buyer's other property, an appropriate contingency addendum should be drafted by a North Carolina real estate attorney and added to this Contract.

(c) **Performance of Buyer's Financial Obligations:** To the best of Buyer's knowledge, there are no other circumstances or conditions existing as of the date of this offer that would prohibit Buyer from performing Buyer's financial obligations in accordance with this Contract, except as maybe specifically set forth herein.

4. **BUYER OBLIGATIONS:**

(a) **Responsibility for Proposed Special Assessments:** Buyer shall take title subject to all Proposed Special Assessments.

(b) **Responsibility for Certain Costs:** Buyer shall be responsible for all costs with respect to:

(i) any loan obtained by Buyer, including charges by an owners association and/or management company as agent of an owners' association for providing information required by Buyer's lender;

(ii) charges required by an owners' association declaration to be paid by Buyer for Buyer's future use and enjoyment of the Property, including, without limitation, working capital contributions, membership fees, or charges for Buyer's use of the common elements and/or services provided to Buyer, such as "move-in fees";

(iii) determining restrictive covenant compliance;

(iv) appraisal;

(v) title search;

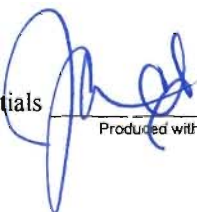
(vi) title insurance;

(vii) any fees charged by the closing attorney for the preparation of the Closing Disclosure, Seller Disclosure and any other settlement statement;

(viii) recording the deed; and

(ix) preparation and recording of all instruments required to secure the balance of the Purchase Price unpaid at Settlement.

(c) **Authorization to Disclose Information:** Buyer authorizes the Buyer's lender(s), the parties' real estate agent(s) and closing attorney:(1) to provide this Contract to any appraiser employed by Buyer or by Buyer's lender(s); and (2) to release and disclose any buyer's closing disclosure, settlement statement and/or disbursement summary, or any information therein, to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).



5. **SELLER REPRESENTATIONS:**

(a) **Ownership:** Seller represents that Seller:

- has owned the Property for at least one year.
- has owned the Property for less than one year.
- does not yet own the Property.

(b) **Assessments:** To the best of Seller's knowledge there are are not any Proposed Special Assessments. If any Proposed Special Assessments, identify: _____

Seller warrants that there are are not any Confirmed Special Assessments. If any Confirmed Special Assessments, identify: _____

NOTE: Buyer's and Seller's respective responsibilities for Proposed and Confirmed Special Assessments are addressed in paragraphs 4(a) and 6(k).

(c) **Owners' Association(s) and Dues:** To best of Seller's knowledge, ownership of the Property subjects does not subject Buyer to regulation by one or more owners' association(s) and governing documents, which impose various mandatory covenants, conditions and restrictions upon the Property and Buyer's enjoyment thereof, including but not limited to obligations to pay regular assessments (dues) and Special Assessments. If there is an owners' association, then an Owners' Association Disclosure and Addendum For Properties Exempt from Residential Property Disclosure Statement (Standard Form 2A12-T) shall be completed by Seller, at Seller's expense, and must be attached as an addendum to this Contract.

(d) **Sewage System Permit:** (Applicable Not Applicable) Seller warrants that the sewage system described in the Improvement Permit attached hereto has been installed, which representation survives Closing, but makes no further representations as to the system.

(e) **Private Drinking Water Well Permit:** (Applicable Not Applicable) Seller warrants that a private drinking water well has been installed, which representation survives Closing, but makes no further representations as to the well. (If well installed after July1,2008, attach Improvement Permit hereto.)

6. **SELLER OBLIGATIONS:**

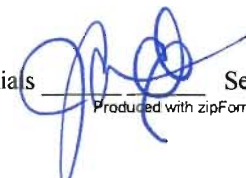

(a) **Evidence of Title, Payoff Statement(s) and Non Foreign Status:**

- (i) Seller agrees to use best efforts to provide to the closing attorney as soon as reasonably possible after the Effective Date, copies of all title information in possession of or available to Seller, including but not limited to: title insurance policies, attorney's opinions on title, surveys, covenants, deeds, notes and deeds of trust, leases, and easements relating to the Property.
- (ii) Seller shall provide to the closing attorney all information needed to obtain a written payoff statement from any lender(s) regarding any security interest in the Property as soon as reasonably possible after the Effective Date, and Seller designates the closing attorney as Seller's agent with express authority to request and obtain on Seller's behalf payoff statements and/or short-pay statements from any such lender(s).
- (iii) If Seller is not a foreign person as defined by the Foreign Investment in Real Property Tax Act, Seller shall also provide to the closing attorney a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act). In the event Seller shall not provide a non-foreign status affidavit, Seller acknowledges that there maybe withholding as provided by the Internal Revenue Code.

(b) **Authorization to Disclose Information:** Seller authorizes: (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys, and (3) the closing attorney to release and disclose any seller's closing disclosure, settlement statement and/or disbursement summary, or any information therein, to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).

(c) **Access to Property:** Seller shall provide reasonable access to the Property through the earlier of Closing or possession by Buyer, including, but not limited to, allowing the Buyer and/or Buyer's agents or representatives an opportunity to (i) conduct Due Diligence, (ii) verify the satisfactory completion of negotiated repairs/improvements, and (iii) conduct a final walk-through inspection of the Property. Seller's obligation includes providing existing utilities operating at Seller's cost including any connections and dewatering. To the extent applicable, Seller shall also be responsible for timely clearing that portion of the Property required by the County to perform tests, inspections and/or evaluations to determine the suitability of the Property for a sewage system and/or private drinking water well.

NOTE: See WARNING in paragraph 2 above for limitation on Buyer's right to terminate this Contract as a result of Buyer's continued investigation of the Property following the expiration of the Due Diligence Period.

Buyer initials  Seller initials 

(d) **Removal of Seller's Property:** Seller shall remove from the Property, by the date possession is delivered, (i) all personal property which is not a part of the purchase and (ii) unless otherwise agreed, all garbage and debris.

(e) **Affidavit and Indemnification Agreement:** Seller shall furnish at Settlement an affidavit(s) and indemnification agreement(s) in form satisfactory to Buyer and Buyer's title insurer, if any, executed by Seller and any person or entity who has performed or furnished labor, services, materials or rental equipment to the Property within 120 days prior to the date of Settlement and who may be entitled to claim a lien against the Property as described in N.C.G.S. §44A-8 verifying that each such person or entity has been paid in full and agreeing to indemnify Buyer, Buyer's lender(s) and Buyer's title insurer against all loss from any cause or claim arising there from.

(f) **Designation of Lien Agent, Payment and Satisfaction of Liens:** If required by N.C.G.S. §44A-11.1, Seller shall have designated a Lien Agent, and Seller shall deliver to Buyer as soon as reasonably possible a copy of the appointment of Lien Agent. All deeds of trust, deferred ad valorem taxes, liens and other charges against the Property, not assumed by Buyer, must be paid and satisfied by Seller prior to or at Settlement such that cancellation may be promptly obtained following Closing. Seller shall remain obligated to obtain any such cancellations following Closing.

(g) **Good Title, Legal Access:** Seller shall execute and deliver a GENERAL WARRANTY DEED for the Property in recordable form no later than Settlement, which shall convey fee simple marketable and insurable title, without exception for mechanics' liens, and free of any other liens, encumbrances or defects, including those which would be revealed by a current and accurate survey of the Property, except: ad valorem taxes for the current year (prorated through the date of Settlement); utility easements and unviolated covenants, conditions or restrictions that do not materially affect the value of the Property; and such other liens, encumbrances or defects as may be assumed or specifically approved by Buyer in writing. The Property must have legal access to a public right of way.

NOTE: Buyer's failure to conduct a survey or examine title of the Property prior to the expiration of the Due Diligence Period does not relieve the Seller of their obligation to deliver good title under this paragraph.

NOTE: If any sale of the Property may be a "short sale," consideration should be given to attaching a Short Sale Addendum (Standard Form 2A14-T) as an addendum to this Contract.

(h) **Deed, Taxes, and Fees:** Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Contract, and for state and county excise taxes, and any deferred, discounted or rollback taxes, and local conveyance fees required by law. The deed is to be made to: JAMES N. ARSTARIK
CONNIE G. ARSTARIK (MARRIED)

(i) **Agreement to Pay Buyer Expenses:** Seller shall pay at Settlement \$ _____ toward any of Buyer's expenses associated with the purchase of the Property, at the discretion of Buyer and/or lender, if any, including any FHA/VA lender and inspection costs that Buyer is not permitted to pay.

(j) **Owners' Association Fees/Charges: Seller shall pay:** (i) any fees required for confirming Seller's account payment information on owners' association dues or assessments for payment or proration; (ii) any fees imposed by an owners' association and/or a management company as agent of the owners' association in connection with the transaction contemplated by this Contract other than those fees required to be paid by Buyer under paragraph 4(b) above; and (iii) fees incurred by Seller in completing the Residential Property and Owners' Association Disclosure Statement, and resale or other certificates related to a proposed sale of the Property.

(k) **Payment of Confirmed Special Assessments:** Seller shall pay, in full at Settlement, all Confirmed Special Assessments, whether payable in a lump sum or future installments, provided that the amount thereof can be reasonably determined or estimated. The payment of such estimated amount shall be the final payment between the Parties.

(l) **Late Listing Penalties:** All property tax late listing penalties, if any, shall be paid by Seller.

(m) **Owners' Association Disclosure and Condominium Resale Statement Addendum** (Standard Form 2A12-T): If applicable, Seller shall provide the completed Owners' Association Disclosure and Condominium Resale Statement Addendum to Buyer on or before the Effective Date.

(n) **Seller's Failure to Comply or Breach:** If Seller fails to materially comply with any of Seller's obligations under this Paragraph 6 or Seller materially breaches this Contract, and Buyer elects to terminate this Contract as a result of such failure or breach, then the Earnest Money Deposit and the Due Diligence Fee shall be refunded to Buyer and Seller shall reimburse to Buyer the reasonable costs actually incurred by Buyer in connection with Buyer's Due Diligence without affecting any other remedies.

Buyer initials  Seller initials 
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legal proceedings are brought by Buyer against the Seller to recover the Earnest Money Deposit, the Due Diligence Fee and/or the reasonable costs actually incurred by Buyer in connection with Buyer's Due Diligence, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney fees and court costs incurred in connection with the proceeding.

7. **PRORATIONS AND ADJUSTMENTS:** Unless otherwise provided, the following items shall be prorated, with Seller responsible for the prorated amounts through the date of Settlement, and either adjusted between the parties or paid at Settlement:

- (a) **Taxes on Real Property:** Ad valorem taxes and recurring governmental service fees levied with such taxes on real property shall be prorated on a calendar year basis;
- (b) **Rents:** Rents, if any, for the Property;
- (c) **Dues:** Owners' association regular assessments (dues) and other like charges.

8. **RISK OF LOSS/CONDITION OF PROPERTY AT CLOSING:** The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller. Seller is advised not to cancel existing insurance on the Property until after confirming recordation of the deed.

Buyer's obligation to complete the transaction contemplated by this Contract shall be contingent upon the Property being in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted. If the Property is not in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted, Buyer may terminate this Contract by written notice delivered to Seller and the Earnest Money Deposit shall be refunded to Buyer. If the Property is not in such condition and Buyer does NOT elect to terminate this Contract, Buyer shall be entitled to receive, in addition to the Property, the proceeds of any insurance claim filed by Seller on account of any damage or destruction to the Property.

9. **DELAY IN SETTLEMENT/CLOSING:** Absent agreement to the contrary in this Contract or any subsequent modification thereto, if a party is unable to complete Settlement by the Settlement Date but intends to complete the transaction and is acting in good faith and with reasonable diligence to proceed to Settlement ("Delaying Party"), and if the other party is ready, willing and able to complete Settlement on the Settlement Date ("Non-Delaying Party") then the Delaying Party shall give as much notice as possible to the Non-Delaying Party and closing attorney and shall be entitled to a delay in Settlement. If the parties fail to complete Settlement and Closing within fourteen (14) days of the Settlement Date (including any amended Settlement Date agreed to in writing by the parties) or to otherwise extend the Settlement Date by written agreement, then the Delaying Party shall be in breach and the Non-Delaying Party may terminate this Contract and shall be entitled to enforce any remedies available to such party under this Contract for the breach.

10. **POSSESSION:** Unless otherwise provided herein, possession, including all means of access to the Property (keys, codes, including security codes, gate openers, electronic devices, etc.) shall be delivered at Closing as defined in Paragraph 1(m). No alterations, excavations, tree or vegetation removal or other such activities may be done before possession is delivered.

11. **ADDENDA:** CHECK ALL STANDARD ADDENDA THAT MAY BE A PART OF THIS CONTRACT, IF ANY, AND ATTACH HERETO. ITEMIZE ALL OTHER ADDENDA TO THIS CONTRACT, IF ANY, AND ATTACH HERETO.

- | | |
|---|---|
| <input type="checkbox"/> Additional Provisions Addendum (Form 2A11-T) | <input type="checkbox"/> Owners' Association Disclosure And Addendum For Properties Exempt from Residential Property Disclosure Statement (Form 2A12-T) |
| <input type="checkbox"/> Additional Signatures Addendum (Form 3-T) | <input type="checkbox"/> Seller Financing Addendum (Form 2A5-T) |
| <input type="checkbox"/> Back-Up Contract Addendum (Form 2A1-T) | <input type="checkbox"/> Short Sale Addendum (Form 2A14-T) |
| <input type="checkbox"/> Loan Assumption Addendum (Form 2A6-T) | |

Identify other attorney or party drafted addenda: Mineral Rights Conveyed w/ Land

NOTE: UNDER NORTH CAROLINA LAW, REAL ESTATE BROKERS ARE NOT PERMITTED TO DRAFT ADDENDA TO THIS CONTRACT.

12. **ASSIGNMENTS:** This Contract may not be assigned without the written consent of all parties except in connection with a tax-deferred exchange, but if assigned by agreement, then this Contract shall be binding on the assignee and assignee's heirs and successors.

13. **TAX-DEFERRED EXCHANGE:** In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Buyer and Seller shall execute such additional

Buyer initials [Signature] Seller initials [Signature]

documents, including assignment of this Contract in connection therewith, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

14. **PARTIES:** This Contract shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

15. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

16. **ENTIRE AGREEMENT:** This Contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties. Nothing contained herein shall alter any agreement between a REALTOR® or broker and Seller or Buyer as contained in any listing agreement, buyer agency agreement, or any other agency agreement between them.

17. **CONDUCT OF TRANSACTION:** The parties agree that any action between them relating to the transaction contemplated by this Contract may be conducted by electronic means, including the signing of this Contract by one or more of them and any notice or communication given in connection with this Contract. Any written notice or communication may be transmitted to any mailing address, e-mail address or fax number set forth in the "Notice Information" section below. Any notice or communication to be given to a party herein, any any fee, deposit of other payment to be delivered to a party herein, may be given to the party or to such party's agent. Seller and Buyer agree that the "Notice Information" and "Acknowledgment of Receipt of Monies" sections below shall not constitute a material part of this Contract, and that the addition or modification of any information therein shall not constitute a rejection of an offer or the creation of a counter offer.

18. **EXECUTION:** This Contract may be signed in multiple originals or counterparts, all of which together constitute one and the same instrument.

19. **COMPUTATION OF DAYS/TIME OF DAY:** Unless otherwise provided, for purposes of this Contract, the term "days" shall mean consecutive calendar days, including Saturdays, Sundays, and holidays, whether federal, state, local or religious. For the purposes of calculating days, the count of "days" shall begin on the day following the day upon which any act or notice as provided in this Contract was required to be performed or made. Any reference to a date or time of day shall refer to the date and/or time of day in the State of North Carolina.

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

This offer shall become a binding contract on the Effective Date. Unless specifically provided otherwise, Buyer's failure to timely deliver any fee, deposit or other payment provided for herein shall not prevent this offer from becoming a binding contract, provided that any such failure shall give Seller certain rights to terminate the contract as described herein or as otherwise permitted by law.

Date: 2-22-2020
Buyer: _____

Date: 2/22/2020
Seller: Stephen McMath

Date: 2-22-2020
Buyer: Connie Adcock

Date: 2/22/2020
Seller: Brenda Fowler McMath

Entity Buyer:

(Name of LLC/Corporation/Partnership/Trust/etc.)

Entity Seller:

(Name of LLC/Corporation/Partnership/Trust/etc.)

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

WIRE FRAUD WARNING

TO BUYERS: BEFORE SENDING ANY WIRE, YOU SHOULD CALL THE CLOSING ATTORNEY'S OFFICE TO VERIFY THE INSTRUCTIONS. IF YOU RECEIVE WIRING INSTRUCTIONS FOR A DIFFERENT BANK, BRANCH LOCATION, ACCOUNT NAME OR ACCOUNT NUMBER, THEY SHOULD BE PRESUMED FRAUDULENT. DO NOT SEND ANY FUNDS AND CONTACT THE CLOSING ATTORNEY'S OFFICE IMMEDIATELY.

TO SELLERS: IF YOUR PROCEEDS WILL BE WIRED, IT IS RECOMMENDED THAT YOU PROVIDE WIRING INSTRUCTIONS AT CLOSING IN WRITING IN THE PRESENCE OF THE ATTORNEY. IF YOU ARE UNABLE TO ATTEND CLOSING, YOU MAY BE REQUIRED TO SEND AN ORIGINAL NOTARIZED DIRECTIVE TO THE CLOSING ATTORNEY'S OFFICE CONTAINING THE WIRING INSTRUCTIONS. THIS MAY BE SENT WITH THE DEED, LIEN WAIVER AND TAX FORMS IF THOSE DOCUMENTS ARE BEING PREPARED FOR YOU BY THE CLOSING ATTORNEY. AT A MINIMUM, YOU SHOULD CALL THE CLOSING ATTORNEY'S OFFICE TO PROVIDE THE WIRE INSTRUCTIONS. THE WIRE INSTRUCTIONS SHOULD BE VERIFIED OVER THE TELEPHONE VIA A CALL TO YOU INITIATED BY THE CLOSING ATTORNEY'S OFFICE TO ENSURE THAT THEY ARE NOT FROM A FRAUDULENT SOURCE.

WHETHER YOU ARE A BUYER OR A SELLER, YOU SHOULD CALL THE CLOSING ATTORNEY'S OFFICE AT A NUMBER THAT IS INDEPENDENTLY OBTAINED. TO ENSURE THAT YOUR CONTACT IS LEGITIMATE, YOU SHOULD NOT RELY ON A PHONE NUMBER IN AN EMAIL FROM THE CLOSING ATTORNEY'S OFFICE, YOUR REAL ESTATE AGENT OR ANYONE ELSE.

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NOTICE INFORMATION

NOTE: INSERT AT LEAST ONE ADDRESS AND/OR ELECTRONIC DELIVERY ADDRESS EACH PARTY AND AGENT APPROVES FOR THE RECEIPT OF ANY NOTICE CONTEMPLATED BY THIS CONTRACT. INSERT "N/A" FOR ANY WHICH ARE NOT APPROVED.

BUYER NOTICE ADDRESS:

Mailing Address: 5625 WEDDINGTON RD CONCORD NC 28027

Buyer Fax#: 704-788-2615

Buyer E-mail: connie@arstark.com

SELLER NOTICE ADDRESS:

Mailing Address: 3215 Woodchuck Dr. Kannapolis, NC 28081

Seller Fax#: _____

Seller E-mail: smcmath@net.net

CONFIRMATION OF AGENCY/NOTICE ADDRESSES

Selling Firm Name: _____
Acting as [] Buyer's Agent [] Seller's(sub)Agent [] Dual Agent
Firm License#: _____
Mailing Address: _____

Listing Firm Name: _____
Acting as [] Seller's Agent [] Dual Agent
Firm License#: _____
Mailing Address: _____

Individual Selling Agent: _____
[] Acting as a Designated Dual Agent (check only if applicable)

Individual Listing Agent: _____
[] Acting as a Designated Dual Agent (check only if applicable)

Selling Agent License#: _____

Listing Agent License#: _____

Selling Agent Phone#: _____

Listing Agent Phone#: _____

Selling Agent Fax#: _____

Listing Agent Fax#: _____

Selling Agent E-mail: _____

Listing Agent E-mail: _____

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ACKNOWLEDGMENT OF RECEIPT OF MONIES

Seller: _____ ("Seller")

Buyer: _____ ("Buyer")

Property Address: _____ ("Property")

LISTING AGENT ACKNOWLEDGMENT OF RECEIPT OF DUE DILIGENCE FEE

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Seller of a Due Diligence Fee in the amount of \$ _____, receipt of which Listing Agent hereby acknowledges.

Date: _____

Firm: _____

By: _____

(Signature)

(Print name)

SELLER ACKNOWLEDGMENT OF RECEIPT OF DUE DILIGENCE FEE

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Seller of a Due Diligence Fee in the amount of \$ 1500.00, receipt of which Seller hereby acknowledges.

Date: 2-22-2020

Seller: *R. Stephen M. Smith*

(Signature)

Date: 2-22-2020

Seller: *Brenda J. Smith M. Smith*

(Signature)

ESCROW AGENT ACKNOWLEDGMENT OF RECEIPT OF INITIAL EARNEST MONEY DEPOSIT

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Escrow Agent of an Initial Earnest Money Deposit in the amount of \$ _____. Escrow Agent as identified in Paragraph 1(f) of the Offer to Purchase and Contract hereby acknowledges receipt of the Initial Earnest Money Deposit and agrees to hold and disburse the same in accordance with the terms of the Offer to Purchase and Contract.

Date: _____

Firm: _____

By: _____

(Signature)

(Print name)

ESCROW AGENT ACKNOWLEDGMENT OF RECEIPT OF (ADDITIONAL) EARNEST MONEY DEPOSIT

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Escrow Agent of an (Additional) Earnest Money Deposit in the amount of \$ _____. Escrow Agent as identified in Paragraph 1(f) of the Offer to Purchase and Contract hereby acknowledges receipt of the (Additional) Earnest Money Deposit and agrees to hold and disburse the same in accordance with the terms of the Offer to Purchase and Contract.

Date: _____

Firm: _____

Time: _____ AM. PM

By: _____

(Signature)

(Print name)








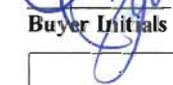
STATE OF NORTH CAROLINA
MINERAL AND OIL AND GAS RIGHTS MANDATORY DISCLOSURE STATEMENT

Instructions to Property Owners

1. The Residential Property Disclosure Act (G.S. 47E) ("Disclosure Act") requires owners of certain residential real estate such as single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units, to furnish purchasers a Mineral and Oil and Gas Rights Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this purpose.
2. A disclosure statement is not required for some transactions. For a complete list of exemptions, see G.S. 47E-2(a). **A DISCLOSURE STATEMENT IS REQUIRED FOR THE TRANSFERS IDENTIFIED IN G.S. 47E-2(b)**, including transfers involving the first sale of a dwelling never inhabited, lease with option to purchase contracts where the lessee occupies or intends to occupy the dwelling, and transfers between parties when both parties agree not to provide the Residential Property and Owner's Association Disclosure Statement.
3. You must respond to each of the following by placing a check in the appropriate box.

MINERAL AND OIL AND GAS RIGHTS DISCLOSURE

Mineral rights and/or oil and gas rights can be severed from the title to real property by conveyance (deed) of the mineral rights and/or oil and gas rights from the owner or by reservation of the mineral rights and/or oil and gas rights by the owner. If mineral rights and/or oil and gas rights are or will be severed from the property, the owner of those rights may have the perpetual right to drill, mine, explore, and remove any of the subsurface mineral and/or oil or gas resources on or from the property either directly from the surface of the property or from a nearby location. With regard to the severance of mineral rights and/or oil and gas rights, Seller makes the following disclosures:

	Yes	No	No Representation
 Buyer Initials	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1. Mineral rights were severed from the property by a previous owner.			
 Buyer Initials	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Seller has severed the mineral rights from the property.			
 Buyer Initials	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Seller intends to sever the mineral rights from the property prior to transfer of title to the Buyer.			
 Buyer Initials	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Oil and gas rights were severed from the property by a previous owner.			
 Buyer Initials	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Seller has severed the oil and gas rights from the property.			
 Buyer Initials	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Seller intends to sever the oil and gas rights from the property prior to transfer of title to Buyer.			

Note to Purchasers

If the owner does not give you a Mineral and Oil and Gas Rights Disclosure Statement by the time you make your offer to purchase the property, or exercise an option to purchase the property pursuant to a lease with an option to purchase, you may under certain conditions cancel any resulting contract without penalty to you as the purchaser. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of this Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

Property Address: 3233 Hahn Scott Rd / Bowman Barrier Rd

Owner's Name(s): Paul and Brenda McMath

Owner(s) acknowledge having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: P. Alpha McMath Date 2/22/2020

Owner Signature: Brenda Louise McMath Date 2/22/2020

Purchaser(s) acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owner or owner's agent; and that the representations are made by the owner and not the owner's agent(s) or subagent(s).

Purchaser Signature: Counie Arstark Date _____

Purchaser Signature: Counie Arstark Date 2/22/2020

Zoning / Compliance Certificate
Cabarrus County, NC (704) 920-2137
Date: 9/23/2020



Application #: ZN2020-01166
Parcel Number: 55892433620000

Fees: Residential Addition / Accessory structures zoning permit (accessory) \$150.00 9/23/2020
TOTAL \$150.00

Project Name: CONNIE ARSTARK

Applicant: ARSTARK **Work Location:** 3233 HAHN SCOTT RD
5625 WEDDINGTON RD MT PLEASANT, NC 28124
CONCORD, NC 28027 **Phone:** 7044006366

Property Owner: ~~MCMATH PAUL STEPHEN~~ ^{CONNIE} ARSTARK **Owner Phone:**

Contractor: *Connie Arstark* **Proposed use:** ACCESSORY BUILDING 1290 SQ.FT,
WITH 43 'X 30 ' DIMENSIONS
Previous use: RESIDENCE UNDER CONSTRUCTION

Setback Information

Front Corner Lot: – **Front Local Road:** 50' **Front Minor Collector:** 75'
Side Yard: 20-40' **Side Yard Accessory:** 20-40' **Max Impermeable Surface:** 15'
Rear Yard: 30' **Rear Yard Accessory Setback** 5' **Max Structural Coverage:** 10'
15ft or less:

Subdivision and Lot Number:

Total Lot Area: 10 **Max Acc Bldg Size:** 8712 **Number Of Dwelling Units:**

Max Height (Principal/Acc): 40/40' **Project Description:** ACCESSORY BUILDING 1290 SQ.FT, WITH 43 'X 30 ' DIMENSIONS

Zone: AO Conventional

Development of this property will also involve:

Approve Site Plan Accessory / Building / Structure Signs Watershed Overlay District
 Fence / Screen / Buffer Yard Flood Damage Prevention Ordinance

Comments: NO FLOODPLAIN OR WATERSHED WITHIN PROPERTY

ACCESSORY BUILDING - A BUILDING LOCATED ON THE SAME LOT AND CUSTOMARILY INCIDENTAL AND SUBORDINATE TO THE PRINCIPAL DWELLING

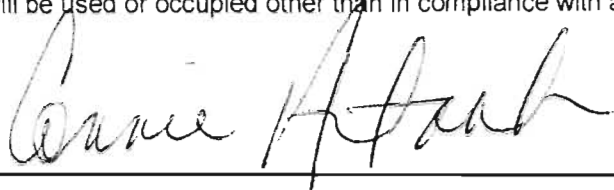
ACCESSORY BUILDINGS UP TO 15 FEET IN HEIGHT MUST MEET THE FRONT AND SIDE SETBACKS REQUIREMENTS OF THE PRIMARY STRUCTURE. THE REAR SETBACK SHALL BE NO LESS THAN 5 FEET. IF STRUCTURE IS GREATER THAN 15 FEET IN HEIGHT THEN ALL PRIMARY STRUCTURE SETBACKS MUST BE MET IN ACCORDANCE WITH CABARRUS COUNTY ORDINANCE CHAPTER 7, SECTION 3, PART 1.

Zoning Staff Signature:

Martha Hernandez

I, the undersigned, certify that all work designated on this application and on approved attached plans (if any) will be performed as indicated, and arrangement of land and / or structures will conform to all information presented herein and to all regulations of the zoning ordinance. No structures will be used or occupied other than in compliance with a valid certificate of zoning compliance / occupancy issued.

Signature of Owner or Applicant as Owners' Authorized Agent:



Important Setback Information

CABARRUS COUNTY

65 CHURCH STREET S - PO Box 707

CONCORD, NC 28025

Office - 704-920-2137 Fax - 704-920-2144

This notice is to inform you that all proposed principle and/or accessory structures shall be built or placed on the subject property in compliance with the setback standards listed on your Zoning Compliance Permit.

Example structures shall include but not be limited to:

- Residential Structures: Site Built, Modular, Mobile Homes
- Residential Accessory Structures: Pools, Storage Buildings, Garages
- Non Residential Structures: Offices, Warehouses, Fire Stations, Banks
- Non Residential Accessory Structures: Display Areas, Gas Pumps, ATM's

A structure built or placed on a property which encroaches a setback boundary shall be considered a violation of the Zoning Ordinance. Such violations are subject to all civil penalties and remedies set forth in the Zoning Ordinance.

Prior to construction, verify setbacks to ensure the structure will be properly built or placed on the property.

All setbacks shall be measured from the existing or proposed right of way of record.

If you question the possibility of an encroachment consult with a land surveyor of your choice to plot out the structure placement.

I HAVE READ AND UNDERSTAND THESE REQUIREMENTS:

Applicant: Connie A. Stark

Date:

Staff: Martha Hernandez

Date:

Owner Copy

Staff Copy

STAFF USE ONLY:

Application/Accela#: _____
 Reviewed by: _____
 Date: _____
 Amount Paid: _____

ZONING PERMIT TYPE REQUESTED:

<input type="checkbox"/>	New Construction
<input checked="" type="checkbox"/>	Accessory Building
<input type="checkbox"/>	Swimming Pool
<input type="checkbox"/>	Deck/Porch

<input type="checkbox"/>	Addition/Expansion
<input type="checkbox"/>	Accessory Dwelling
<input type="checkbox"/>	Manufactured Home
<input type="checkbox"/>	Other:

UTILITIES:

<input type="checkbox"/>	Septic Tank
<input type="checkbox"/>	Private Well

<input type="checkbox"/>	Public Sewer
<input type="checkbox"/>	Public Water

GENERAL INFORMATION:

Barn / Building
 PROJECT DESCRIPTION
3233 Hahn Scott Rd Pleasant Mt. NC 28124
 PROJECT ADDRESS
5589 24 336 20000
 PROJECT PARCEL NUMBER (PIN)
Cabarrus County
 COUNTY ZONING DESIGNATION FOR PROPERTY

CONNIE ARSTARK
 PROPERTY OWNER NAME
6305 Lynnwood Dr. Concord NC 28027
 PROPERTY OWNER MAILING ADDRESS
704-400-6366
 PHONE NUMBER
connie@arstark.com
 EMAIL ADDRESS

APPLICANT INFORMATION:

This person will receive the official correspondence to and from Cabarrus County regarding the zoning permit application and plot plan review.

CONNIE ARSTARK
 NAME
704 400 6366
 PHONE NUMBER
connie@arstark.com
 EMAIL ADDRESS

owner
 CONTRACTOR LICENSE NUMBER
6305 Lynnwood Dr. Concord NC 28027
 ADDRESS
Concord NC 28027
 CITY, STATE, ZIP CODE

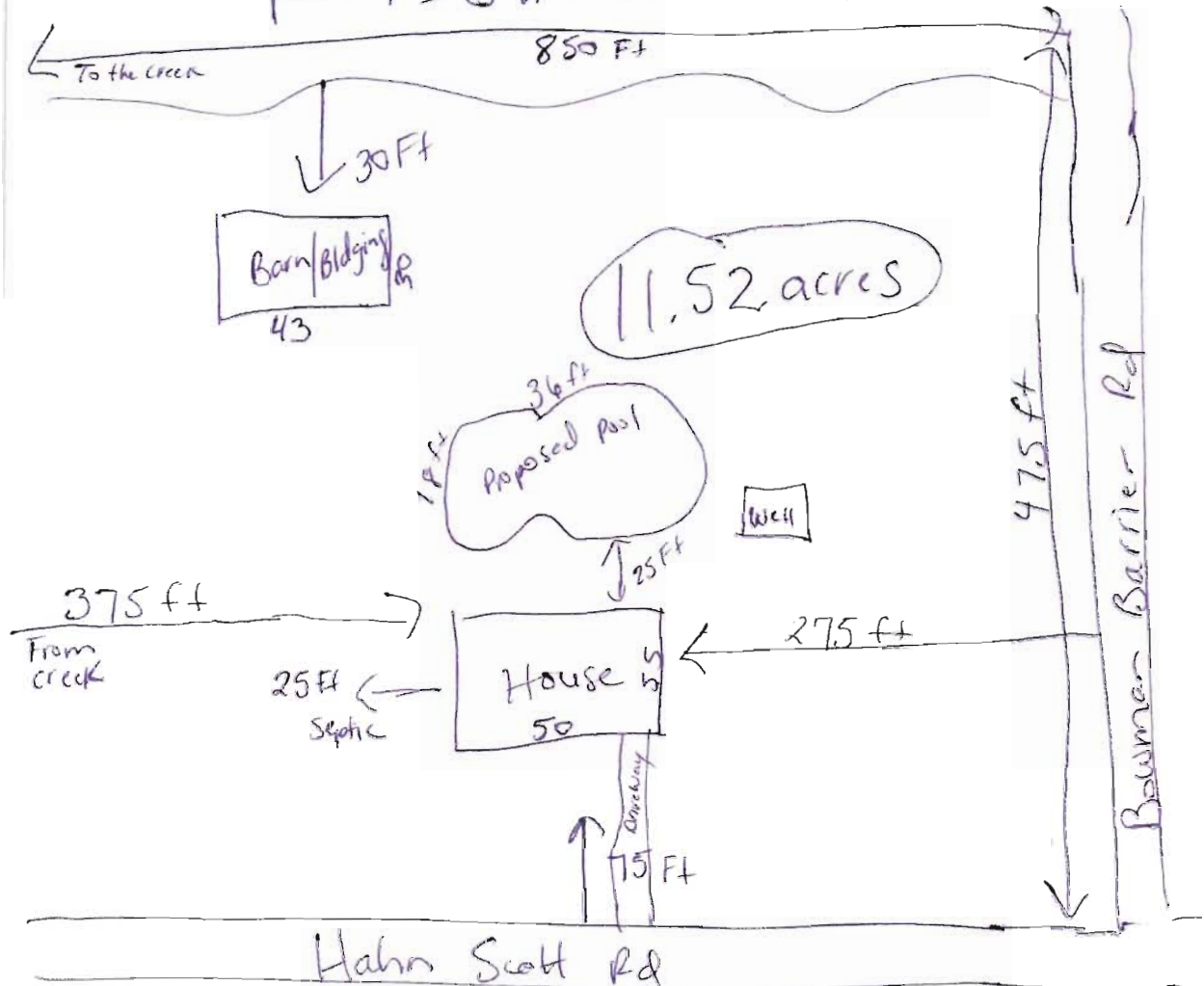
I hereby affirm that the above information is accurate and correct to the best of my knowledge. By signing below, I agree to conform to all applicable County ordinances and regulations and understand that deviations from the plan submitted may be cause for a zoning violation or a stop work order to be issued.

Signed by: Connie Arstark

Date: 9/17/2020

Plot Plan: 3233 Hahn Scott Rd

Parcel ID #: 55892433620000





Date: 9/23/20

File # 20-77

Connie Arstark

3233 Hahn Scott rd.

Mt Pleasant, NC 28124

Dear Ms. Arstark

On September 22, 2020 an existing septic inspection was performed at 3233 Hahn Scott rd. The proposed barn with a bathroom (no bedroom) appears to meet 15A NCAC 18A .1950. And permission is granted to construct.

The structure must be located a minimum of five feet away from any part of the existing septic tank system and twenty five feet away from the well.

You may call or write the local health department if you need any additional information or assistance.
7049201261

Sincerely,


Tyler W. Robertson, R.E.H.S.

Important Setback Information

CABARRUS COUNTY

65 CHURCH STREET S - PO Box 707

CONCORD, NC 28025

Office - 704-920-2137 Fax - 704-920-2144

This notice is to inform you that all proposed principle and/or accessory structures shall be built or placed on the subject property in compliance with the setback standards listed on your Zoning Compliance Permit.

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All setbacks shall be measured from the existing or proposed right of way of record.

If you question the possibility of an encroachment consult with a land surveyor of your choice to plot out the structure placement.

I HAVE READ AND UNDERSTAND THESE REQUIREMENTS:

Applicant:

Date:

Staff:

Date:

Owner Copy

Staff Copy



ZONING PERMIT APPLICATION CABARRUS COUNTY-ZONING DIVISION

STAFF USE ONLY:

Application/Accela#: _____

Reviewed by: _____

Date: _____

Amount Paid: _____

WHEN IS A ZONING PERMIT APPLICABLE?

Zoning permits are required for all new construction. Whether it is a new residential or commercial structure, an addition to an existing structure, an outside storage building, or an attached deck, a zoning permit is required. Permits are also required for the installation of swimming pools (above or in ground), car ports, and to change the use of an existing structure.

GENERAL REQUIREMENTS:

CABARRUS HEALTH ALLIANCE:

- If the property has an **existing** septic system, call the Cabarrus Health Alliance at 704-920-1207 or visit them at 300 Mooresville Road, Kannapolis, for an inspection. CHA will provide a letter for you to turn in with your application.
- If the property requires a **new** septic system, a site evaluation application will need to be completed at the Cabarrus County Governmental Center at 65 Church Street, SE, Concord.

SITE/PLOT PLAN (to scale) that shows:

- size and configuration of the property, including lot dimensions and acreage
 - location and dimensions of all existing structures
 - location and dimensions of all existing parking and driveway areas
 - location and dimensions of any bodies of water or water channels (ponds, streams, swales, etc.)
 - location of identified flood hazard areas, including floodway, 100-year and 500-year
 - location and dimensions of proposed work (new structure, pool, addition to existing building, deck, etc.)
 - setbacks for the applicable zoning district (proposed work must meet established setbacks for district)
- All requests for zoning permits must comply with the standards of the Cabarrus County Development Ordinance.
- Additional information may be needed, or may be required on the plot plan, if the property lies within an Overlay District as defined in Chapter 4 of the Cabarrus County Development Ordinance.

ZONING PERMIT APPLICATION SUBMISSION:

Zoning is located on the second floor of the Cabarrus County Governmental Center at 65 Church Street SE, Concord. The application package should include a complete application form along with the appropriate zoning permit fee, plot/site plan, and supporting documentation.

Incomplete plan submittals and applications will not be processed and will be returned to the applicant

BUILDING PLAN SUBMISSION:

The zoning review process does not include NC Building Code review. When you submit the zoning permit application, you should also submit to Cabarrus County Building Standards. For additional information, call 704-920-2128.

STAFF USE ONLY:

Application/Accela#: _____
Reviewed by: _____
Date: _____
Amount Paid: _____

ZONING PERMIT TYPE REQUESTED:

<input checked="" type="checkbox"/>	New Construction
<input type="checkbox"/>	Accessory Building
<input type="checkbox"/>	Swimming Pool
<input type="checkbox"/>	Deck/Porch

<input type="checkbox"/>	Addition/Expansion
<input type="checkbox"/>	Accessory Dwelling
<input type="checkbox"/>	Manufactured Home
<input type="checkbox"/>	Other:

UTILITIES:

<input checked="" type="checkbox"/>	Septic Tank
<input type="checkbox"/>	Private Well

<input type="checkbox"/>	Public Sewer
<input type="checkbox"/>	Public Water

GENERAL INFORMATION:

Arstark Custom Home
PROJECT DESCRIPTION

3233 Hahns Scott Rd
PROJECT ADDRESS

55892433620000
PROJECT PARCEL NUMBER (PIN)

Cabarrus
COUNTY ZONING DESIGNATION FOR PROPERTY

CONNIE ARSTARK
PROPERTY OWNER NAME

6035 Lynwood Drive
PROPERTY OWNER MAILING ADDRESS *Concord NC 28027*

704 400 6366
PHONE NUMBER

connie@arstark.com
EMAIL ADDRESS

APPLICANT INFORMATION:

This person will receive the official correspondence to and from Cabarrus County regarding the zoning permit application and plot plan review.

CONNIE ARSTARK
NAME

704 400 6366
PHONE NUMBER

connie@arstark.com
EMAIL ADDRESS

NA
CONTRACTOR LICENSE NUMBER

ADDRESS

CITY, STATE, ZIP CODE

I hereby affirm that the above information is accurate and correct to the best of my knowledge. By signing below, I agree to conform to all applicable County ordinances and regulations and understand that deviations from the plan submitted may be cause for a zoning violation or a stop work order to be issued.

Signed by: Connie Arstark

Date: 6/12/2020

Applicant's Name: CONNIE Arstark Company Name: _____

Email: connie@arstark.com Phone: 704 784-1078

Job Site Address: 3233 Hahn Scott Road Mt. Pleasant 28124 Lot # _____

- Occupancy: Custom/Model/Single Family Single Fam Repeat Single Family Townhome Single Family Duplex
- Modular Multi Family Units (Comm) Single Family Manufactured Home Single Family Remodel/Upfit
- Assembly: Religious/Theater Assembly: Spectator Seating Assembly: Rest and Banquet Hall Small Rest
- Office, Med, Prof, etc. Educ Bld K-12 Med/24 Hr Care Day Care Fac Retail Sales Repair Gar/Serv St
- Storage (Mod Haz) Park Gar or Low Haz Storage Hotel/Motel
- Type of Work: New Addition Renovation Shell Upfit Complete Demolition Accessory

Residential

Total Sq. Ft: 3100

Total Cost: \$ _____

Stories: 2

Habitable Rooms: _____

Bedrooms: 5

Bathroom(s): 3

Fireplace(s): 2

Basement Finished Sq. Ft. 1000

Unfinished Sq. Ft. _____

Septic Septic # _____

City Water and Sewer

Commercial

Total Cost \$ _____

Square Footage _____

Domestic Water Line Size _____

Vanilla Box
Shell
Complete

Multi-Family Units # Units: _____

Other

Signs Total sq. ft. _____

Total Project Cost: \$ _____

Wall Signs # of signs _____

Monuments Sign # of signs _____

Pole Sign # of signs _____

Pools Total sq. ft. _____

Total Project Cost: \$ _____

Decks/Piers Total sq. ft. _____

Total Project Cost: \$ _____

Mobile Home

Sq. Footage _____

Est. Cost of Set Up \$ _____

Is this mobile home replacing an existing mobile home at this address?
 YES NO

If YES, please provide documentation from ZONING showing fees paid for this address. If NO, you must choose one of the options below.

New WSACC fees
Domestic Water Line Size _____

New Well/ Septic
Septic # _____

Mobile Homes

~ Completed Application

~ Approved and paid Zoning

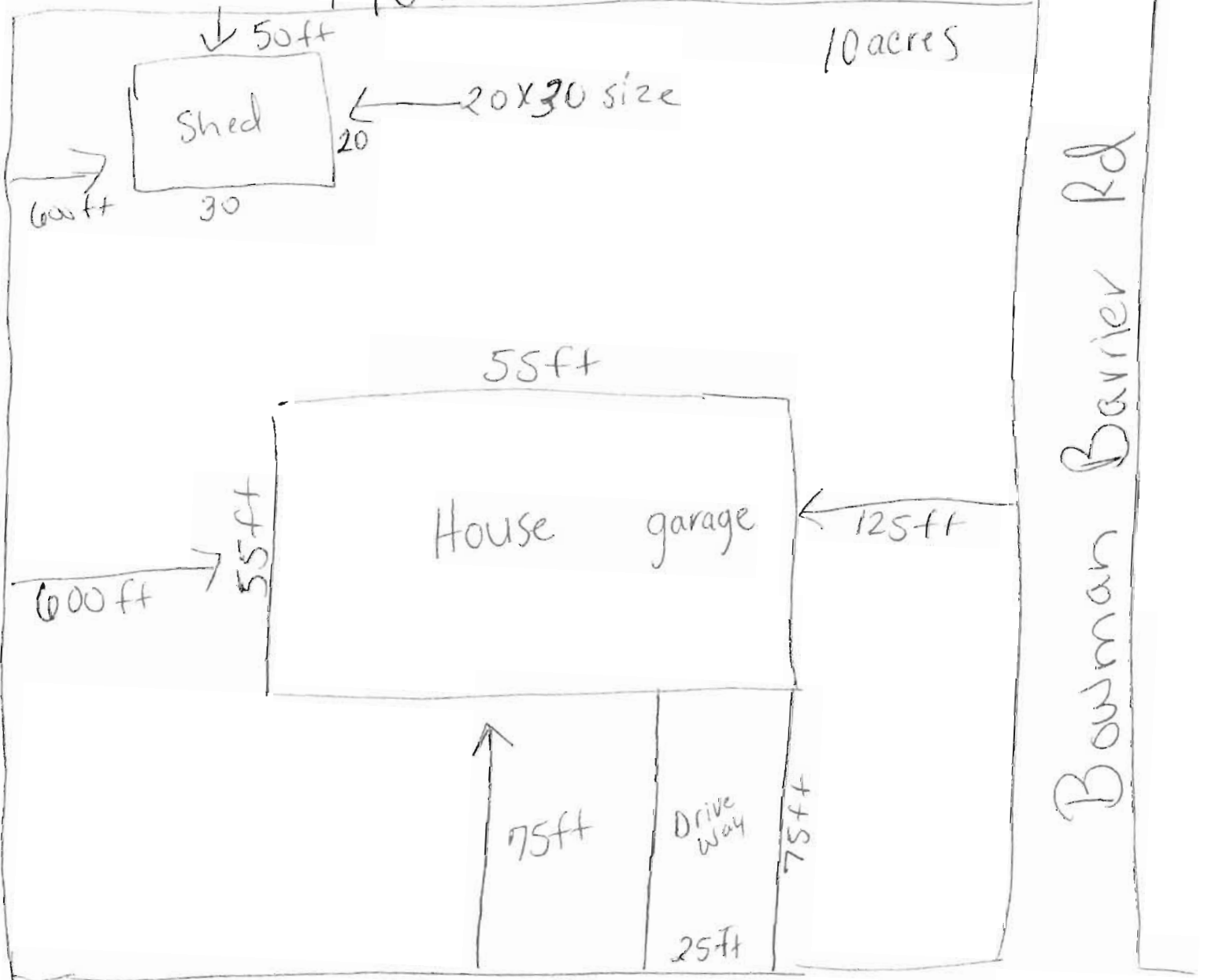
~ Tax Assessors form if the mobile home has never been in Cabarrus County before (signed and stamped on 1st floor)

~ Well/Septic or WSACC Info-new lots on City water /Sewer will be charged WSACC fee (\$2,040.00) unless a letter is provided from zoning or WSACC proving sewer was on lot before.

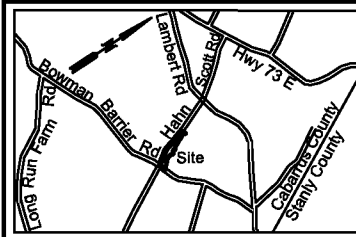
*Permit Fee is based on square footage and includes all trade permits.

*Mobile Homes from 1976- present can be moved and set up.

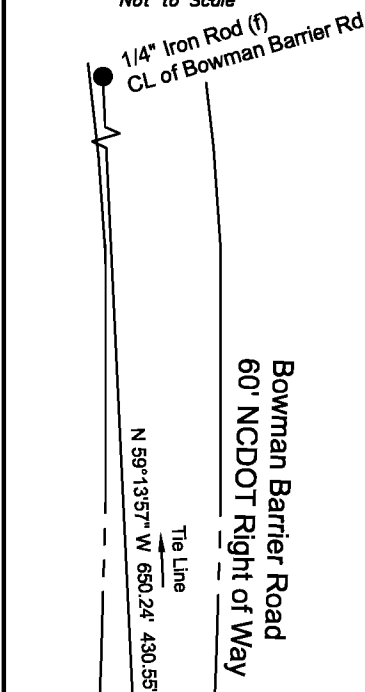
Plot Plan



3233 Hahn Scott Rd



Vicinity Sketch
Not to Scale



Robert A. Krusinski
D.B. 8154 Pg. 192
Parcel ID 5589-14-6057

NCGS Long Run 2018
N:598,347.370
E:1,576,333.110

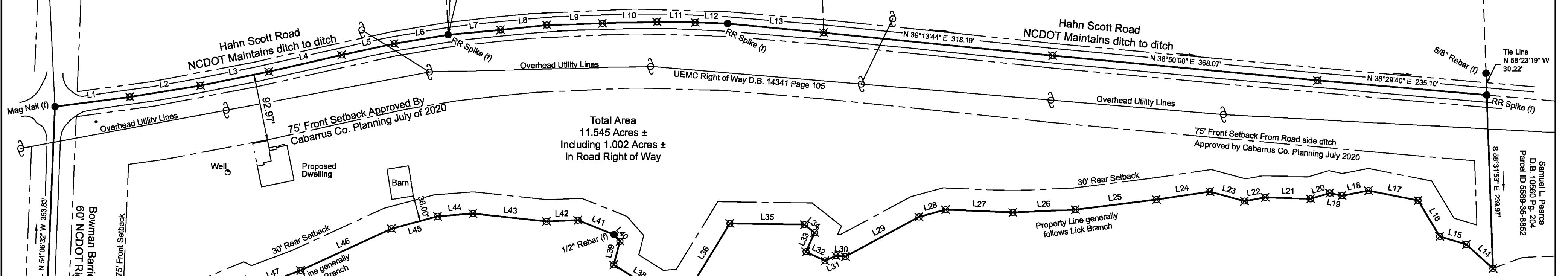
Leslie Ann Couch
D.B. 13870 Pg. 165
Parcel ID 5589-14-6635

- All distances are horizontal unless otherwise noted.
- All acreage is by coordinate method.
- The Client acknowledges (1) that boundary surveying services do not determine land ownership and that the professional land survey provides only an opinion of previously described boundary lines which may or may not be upheld by a court of law and, (2) the general survey does not include the location of all easements and, (3) in services relating to boundary surveys, the consultant limits the liability to the professional fee charged to the client.
- Broken lines indicate lines not surveyed.
- This survey does not constitute a title search by Surveyor. Surveyor has made no investigation or independent search for easements or record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
- This property is not located in a 100 year flood zone as shown on F.E.M.A. Firm Map # 3710558800J Effective Date: November 5, 2008.
- Copyright © King Engineering of Concord, RLLP All rights reserved. No part of this drawing may be reproduced by photocopying, recording or by any other means, or stored, processed or transmitted electronically without the prior written permission of the surveyor. This survey is valid only for the parties indicated the title block and is non transferable to subsequent parties.
- Basis of bearings is based on the N.C. Continuously Operating Reference stations (CORS) GPS Network. NAD 83 NSRS 2011.

NC Grid NAD 83

Joann K. Hahn
D.B. 1086 Pg. 54
Parcel ID 5589-15-7229

Patsy Hahn Moser
D.B. 364 Pg. 65
Parcel ID 5589-26-2017



Total Area
11.545 Acres ±
Including 1.002 Acres ±
In Road Right of Way

Thomas L. Fitzgibbons
D.B. 4973 Pg. 50
M.B. 43 Pg. 12
Parcel ID 5589-34-5293

Thomas L. Fitzgibbons
D.B. 4973 Pg. 50
M.B. 43 Pg. 12
Parcel ID 5589-34-5293

LINE	BEARING	DISTANCE
L1	N 26°11'26\"/>	
L2	N 24°26'55\"/>	
L3	N 22°00'29\"/>	
L4	N 20°36'53\"/>	
L5	N 21°23'38\"/>	
L6	N 24°07'05\"/>	
L7	N 28°11'08\"/>	
L8	N 27°33'18\"/>	
L9	N 31°45'07\"/>	
L10	N 32°01'14\"/>	
L11	N 34°12'06\"/>	
L12	N 35°36'34\"/>	
L13	N 38°56'46\"/>	
L14	S 75°34'55\" W	
L15	S 50°16'12\" W	
L16	N 87°24'14\" W	
L17	S 44°42'48\" W	
L18	S 22°38'24\" W	
L19	S 45°50'45\" W	
L20	S 16°50'51\" W	
L21	S 35°18'44\" W	
L22	S 23°26'05\" W	
L23	S 48°48'48\" W	
L24	S 25°08'25\" W	
L25	S 26°22'26\" W	
L26	S 30°57'56\" W	
L27	S 35°49'03\" W	
L28	S 18°21'12\" W	
L29	S 05°14'41\" W	
L30	S 38°25'53\" W	
L31	S 09°02'05\" W	
L32	S 58°20'42\" W	
L33	N 32°09'07\" W	
L34	S 71°27'14\" W	
L35	S 34°26'39\" W	
L36	S 24°56'48\" E	
L37	S 28°03'15\" W	
L38	S 65°37'05\" W	
L39	N 41°56'21\" W	
L40	S 82°20'28\" W	
L41	S 55°12'42\" W	
L42	S 31°20'25\" W	
L43	S 39°35'44\" W	
L44	S 29°00'40\" W	
L45	S 18°29'48\" W	
L46	S 08°55'00\" W	
L47	S 13°00'00\" W	
L48	S 58°37'45\" W	
L49	S 11°07'56\" W	
L50	S 10°22'20\" E	
L51	S 26°16'23\" W	
L52	S 03°53'40\" E	
L53	S 20°10'34\" W	
L54	S 35°21'40\" E	
L55	S 23°38'46\" W	
L56	S 23°38'46\" W	
L57	N 33°31'00\" E	
L58	N 56°29'00\" W	
L59	S 56°29'00\" E	
L60	S 56°29'00\" E	

I certify that this map was drawn under my supervision from an actual survey made under my supervision (deed description recorded in D.B. 1623, Pg. 48); that the boundaries not surveyed are indicated as drawn from information in M.B. 43, Pg. 12; that the ratio of precision or positional accuracy is 1:82,215; and that this map meets the requirements of the Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600)

This 1st day of November, 2020.

Samuel L. King, Jr.
Professional Land Surveyor License No. L-3089



Revised November 1st 2020 to show Barn and proposed dwelling.

Revised October 8, 2020 to show relocated UEMC Utility Poles, and new Barn.

Boundary Survey for:
James N. Arstark & Connie G. Arstark
3233 Hahn Scott Road Mt. Pleasant, North Carolina, 28124
11.546 Acre ± Tract Parcel ID 5589-24-3362
Recorded in Deed Book 1623 Page 46
Number Eight Township Cabarrus County, North Carolina

Plat Prepared By:
King Engineering of Concord, RLLP
35 Church Street South Suite 107
Concord, NC 28025
Phone (828) 403 - 5586
Mailing Address:
401 Potat Drive, Morganton, NC 28655

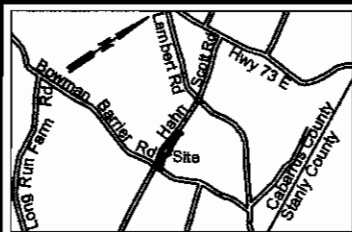
November 1, 2020
Job Number 202097

Scale: 1" = 100'

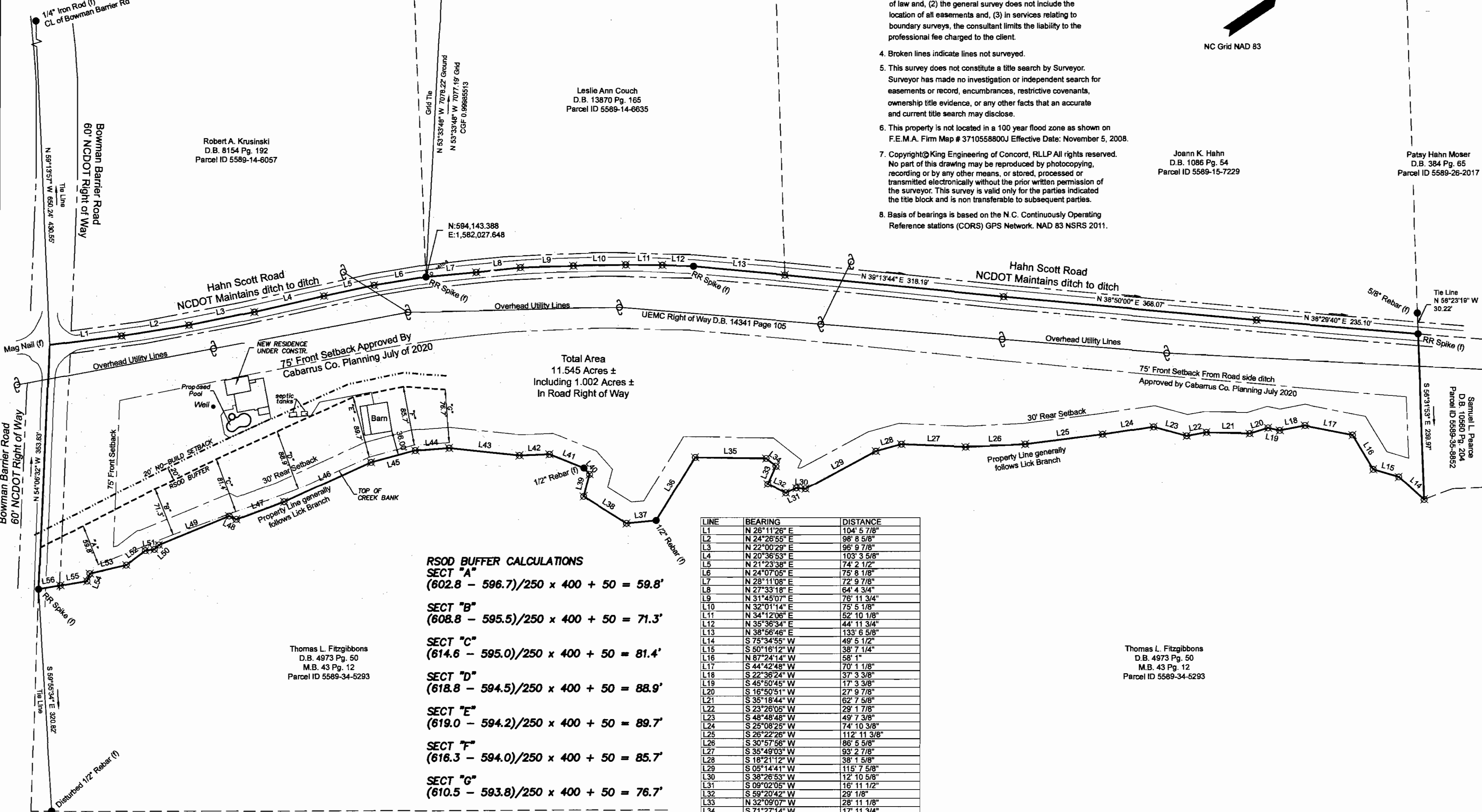


Legend

- ⊗ Denotes Computed Point no Monument Set
- 1/2" Rebar (r) Denotes Existing Monumentation
- Right of Way
- N90°00'00"E Property Line
- - - - - Setback Line
- - - - - Adjoining Property Line
- ⊕ Utility Pole



Vicinity Sketch
Not to Scale



RSOD BUFFER CALCULATIONS

SECT "A"
 $(602.8 - 596.7)/250 \times 400 + 50 = 59.8'$

SECT "B"
 $(608.8 - 595.5)/250 \times 400 + 50 = 71.3'$

SECT "C"
 $(614.6 - 595.0)/250 \times 400 + 50 = 81.4'$

SECT "D"
 $(618.8 - 594.5)/250 \times 400 + 50 = 88.9'$

SECT "E"
 $(619.0 - 594.2)/250 \times 400 + 50 = 89.7'$

SECT "F"
 $(616.3 - 594.0)/250 \times 400 + 50 = 85.7'$

SECT "G"
 $(610.5 - 593.8)/250 \times 400 + 50 = 76.7'$

LINE	BEARING	DISTANCE
L1	N 26°11'26" E	104' 5 7/8"
L2	N 24°26'55" E	98' 8 5/8"
L3	N 22°00'29" E	96' 9 7/8"
L4	N 20°36'53" E	103' 3 5/8"
L5	N 21°23'38" E	74' 2 1/2"
L6	N 24°07'05" E	75' 8 1/8"
L7	N 28°11'08" E	72' 9 7/8"
L8	N 27°33'18" E	64' 4 3/4"
L9	N 31°45'07" E	76' 11 3/4"
L10	N 32°01'14" E	75' 5 1/8"
L11	N 34°12'06" E	52' 10 1/8"
L12	N 35°36'34" E	44' 11 3/4"
L13	N 38°56'46" E	133' 6 5/8"
L14	S 75°34'55" W	49' 5 1/2"
L15	S 50°16'12" W	38' 7 1/4"
L16	N 87°24'14" W	58' 1"
L17	S 44°42'48" W	70' 1 1/8"
L18	S 22°36'24" W	37' 3 3/8"
L19	S 45°50'45" W	17' 3 3/8"
L20	S 16°50'51" W	27' 9 7/8"
L21	S 35°18'44" W	62' 7 5/8"
L22	S 23°28'05" W	29' 1 7/8"
L23	S 48°48'48" W	49' 7 3/8"
L24	S 25°08'25" W	74' 10 3/8"
L25	S 26°22'26" W	112' 11 3/8"
L26	S 30°57'56" W	86' 5 5/8"
L27	S 35°49'03" W	93' 2 7/8"
L28	S 18°21'12" W	38' 1 5/8"
L29	S 05°14'41" W	115' 7 5/8"
L30	S 38°26'53" W	12' 10 5/8"
L31	S 09°02'05" W	16' 11 1/2"
L32	S 59°20'42" W	29' 1/8"
L33	N 32°09'07" W	28' 11 1/8"
L34	S 71°27'14" W	17' 11 3/4"
L35	S 34°28'39" W	103' 7/8"
L36	S 24°56'48" E	107' 6 5/8"
L37	S 28°03'15" W	43' 3/4"
L38	S 65°37'05" W	72' 7 1/8"
L39	N 41°56'21" W	33' 7 1/2"
L40	S 82°20'28" W	12' 2 5/8"
L41	S 55°12'42" W	53' 10 5/8"
L42	S 31°20'25" W	43' 7 1/2"
L43	S 39°35'44" W	102' 2"
L44	S 29°00'40" W	49' 1/4"
L45	S 18°29'46" W	66' 0"
L46	S 08°55'00" W	138' 4 5/8"
L47	S 13°00'00" W	73' 10"
L48	S 58°37'45" W	11' 6 1/8"
L49	S 11°07'56" W	109' 11 3/4"
L50	S 10°22'20" E	9' 2 1/8"
L51	S 26°16'23" W	13' 1 3/4"
L52	S 03°53'40" E	34' 2 3/4"
L53	S 20°10'34" W	53' 8 1/8"
L54	S 35°21'40" E	11' 6 1/8"
L55	S 23°38'46" W	39' 1 1/2"
L56	S 23°38'46" W	31' 11 3/4"
L57	N 33°31'00" E	8"
L58	N 56°29'00" W	14' 7 1/2"
L59	S 56°29'00" E	5' 0"
L60	S 56°29'00" E	2' 0"

I certify that this map was drawn under my supervision from an actual survey made under my supervision (see description recorded in D.B. 1623, Pg. 46); that the boundaries not surveyed are indicated as drawn from information in M.B. 43, Pg. 12; that the ratio of precision or positional accuracy is 1:62,215; and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (21 NCAC 58-160).

This 1st day of November, 2020.

Samuel L. King, Jr.
 Professional Land Surveyor License No. L-3089

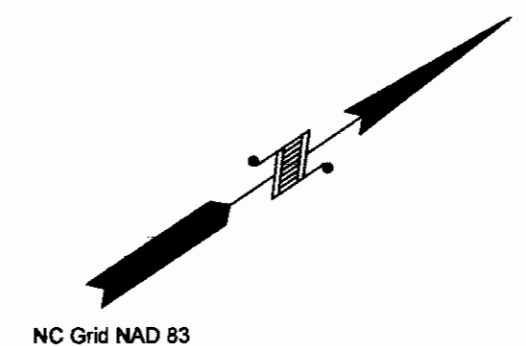


Revised May 10, 2021 to River Stream Overlay District, (RSOD), new residence, well, septic and proposed pool.

Revised November 1, 2020 to show Barn and proposed dwelling, and new Barn.

Revised October 8, 2020 to show relocated UEMC Utility Poles, and new Barn.

- All distances are horizontal unless otherwise noted.
- All acreage is by coordinate method.
- The Client acknowledges (1) that boundary surveying services do not determine land ownership and that the professional land survey provides only an opinion of previously described boundary lines which may or may not be upheld by a court of law and, (2) the general survey does not include the location of all easements and, (3) in services relating to boundary surveys, the consultant limits the liability to the professional fee charged to the client.
- Broken lines indicate lines not surveyed.
- This survey does not constitute a title search by Surveyor. Surveyor has made no investigation or independent search for easements or record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
- This property is not located in a 100 year flood zone as shown on F.E.M.A. Firm Map # 3710558800J Effective Date: November 5, 2008.
- Copyright © King Engineering of Concord, RLLP All rights reserved. No part of this drawing may be reproduced by photocopying, recording or by any other means, or stored, processed or transmitted electronically without the prior written permission of the surveyor. This survey is valid only for the parties indicated the title block and is non transferable to subsequent parties.
- Basis of bearings is based on the N.C. Continuously Operating Reference stations (CORS) GPS Network. NAD 83 NSRS 2011.



Joann K. Hahn
 D.B. 1086 Pg. 54
 Parcel ID 5589-15-7229

Patsy Hahn Moser
 D.B. 384 Pg. 65
 Parcel ID 5589-26-2017

Thomas L. Fitzgibbons
 D.B. 4973 Pg. 50
 M.B. 43 Pg. 12
 Parcel ID 5589-34-5293

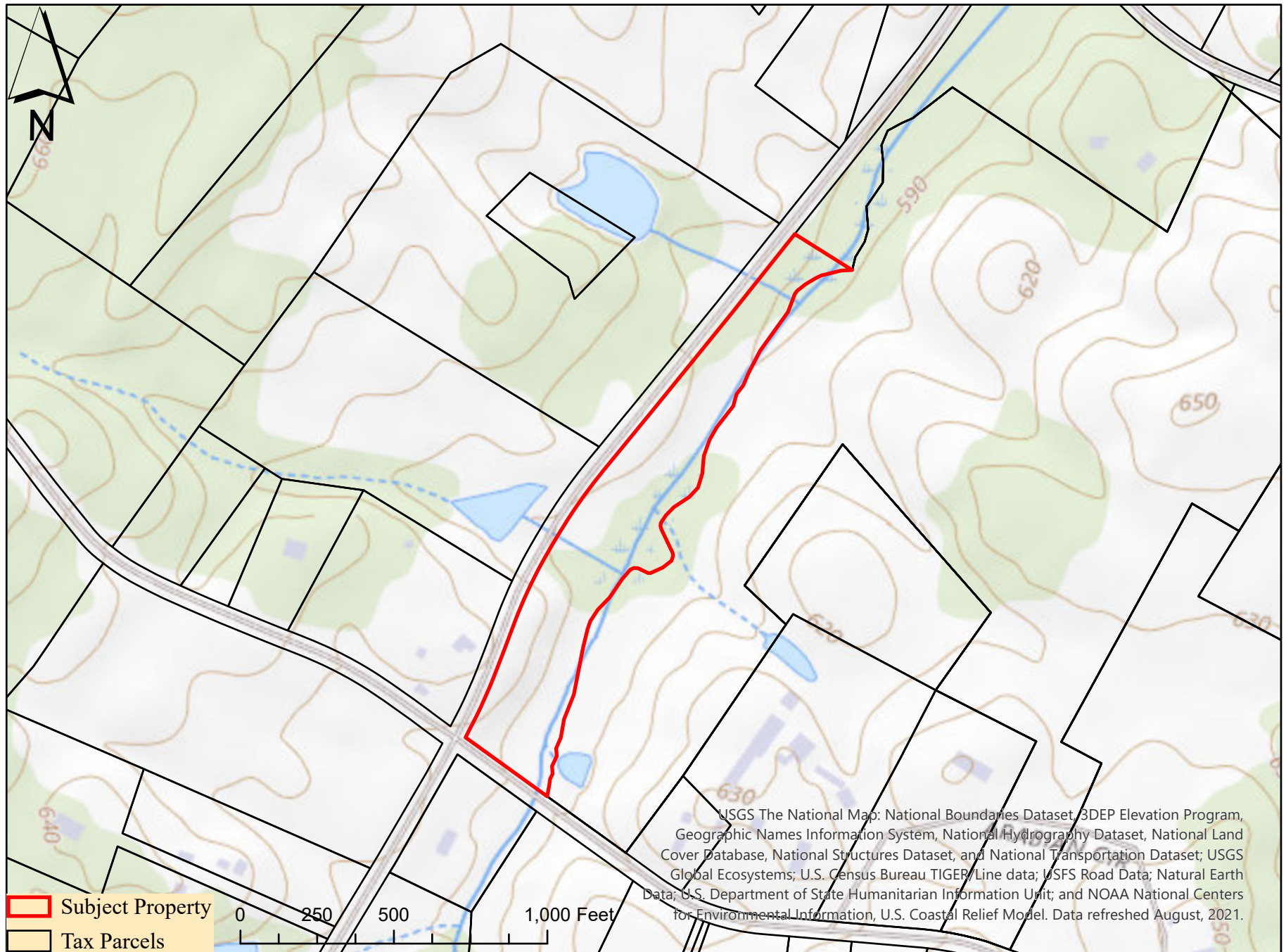
Boundary Survey for:
James N. Arstark & Connie G. Arstark
 3233 Hahn Scott Road Mt. Pleasant, North Carolina, 28124
 11.546 Acre ± Tract Parcel ID 5589-24-3362
 Recorded in Deed Book 1623 Page 46
 Number Eight Township Cabarrus County, North Carolina

Plat Prepared By:
 King Engineering of Concord, RLLP
 35 Church Street South Suite 107
 Concord, NC 28025
 Phone (828) 403 - 5586
 Mailing Address:
 401 Potat Drive, Morganton, NC 28655

November 1, 2020
 Job Number 202097
 Scale: 1" = 100'

- Legend**
- ⊗ ⊙ Denotes Computed Point no Monument Set
 - 1/2" Rebar (f) Denotes Existing Monumentation
 - Right of Way
 - N90°00'00"E Property Line
 - - - - - Setback Line
 - - - - - Adjoining Property Line
 - ⊕ Utility Pole

USGS MAP OF SUBJECT PROPERTY



From: [David Goldberg](#)
To: connie@arstark.com
Cc: [Susie Morris](#); [Jay Lowe](#); lawoffice@RichardKochLaw.com
Subject: Informal and Preliminary Notice of Buffer Violations
Date: Friday, May 7, 2021 10:07:00 PM
Attachments: [RE_Arstark.pdf](#)
Importance: High

Dear Ms. Arstark,

Thank you very much for showing Jay and I around your property (PIN 55892433620000) earlier today. Our visit gave us more context on the property's current state and your plans for it. Ultimately, we hope to be on a path towards a fair and lawful resolution of the status of the steel building.

Unfortunately, Jay and I also observed other conditions on the property that gave us great concern. After discussing it with county staff, we believe your ongoing and imminent actions likely constitute further violations of the [Cabarrus County Development Ordinance \(CCDO\)](#). Cabarrus County has a duty to faithfully implement the ordinance and to take enforcement action as needed. I am writing to give you informal and preliminary notice of our concerns in hopes that you do not do cause further irreparable harm before we are able to issue formal administrative actions next week. Further violations will only make it more difficult to resolve this matter to your satisfaction.

Destruction of Natural Vegetation in Waterbody Buffer Zone

During our visit, Jay and I saw that you were in the process of clearing trees, plants, and other vegetation near the Lick Branch stream. We saw a backhoe, piles of vegetation, and ground recently cleared of vegetation very close to the stream. You stated that your neighbor was clearing the area to increase farmable land and that he planned to continue the clearing activities soon.

We believe the clearing activities we saw encroached in the Waterbody Buffer Zone established pursuant to Cabarrus County Development Ordinance Sec. 4-10. As we have explained previously in relation to the steel building on the property, the Lick Branch stream is a perennial stream identified on both the USGS Quadrangle Maps as a solid blue line and in the Cabarrus County Geographic Information System. As such, this stream is protected by the Waterbody Buffer Zone, which ranges from 50 ft to 120 ft from the top of the stream bank depending on slope. There is also a 25 ft buffer from identified wetlands. Areas within the Waterbody Buffer Zone must "remain in a natural, vegetated state" and wooded areas in the buffer must remain "undisturbed". CCDO § 4-10(8). The ordinance further provides that "all disturbed areas within the buffer zone shall be revegetated with appropriate vegetation immediately." CCDO § 4-10(12). In addition to the legal requirements, violations of the buffer may have caused irreparable harm to the surrounding environment. Violations may also imperil Cabarrus County's compliance with a federal Clean Water Act § 404 permit issued by the Army Corp of Engineers in 1990 that requires the adoption and strict enforcement of the buffer requirements.

Based on our observations, Cabarrus County intends to issue a Notice of Violation and Stop Work Order next week. These administrative actions will further notify you of our concerns, demand that you cease the unlawful activities described, and the process for appealing those actions. [Urge you](#)

to immediately stop all activities disturbing or encroaching on the Waterbody Buffer Zone on your property until this matter is resolved. You should also ensure that your activities comply with applicable state and federal laws surrounding the protection of waterbodies and wetlands.

House Construction May Encroach on Waterbody Buffer Zone

We were also concerned when you told us that you plan to begin construction on a house on the property in the coming days. On June 12, 2020, you submitted a Zoning Permit Application for the “Arstark Custom Home” project. The application asked you to submit a “Site/Plot Plan” that, in part, indicated the “location and dimensions of any bodies of water or water channels (ponds, streams, swales, etc.).” Your application did not indicate the Lick Branch stream or any other waterbody. The County approved this permit application based on your representations.

Subsequent site visits and surveys you submitted suggested that the planned house would encroach in the “Minimum Building Setback”, also known as the “No Building Buffer Area”. This area extends at least 20 feet from the waterbody buffer zone described above. See CCDO § 4-10(14). Property owners may not construct any buildings or other structures within this area. Further, only “minimal land disturbance” is permitted within this area. *Id.* “No development, including soil disturbing activities or grading, shall occur within the established buffer area.” § 4-10(6).

Since the King Engineering survey you sent did not indicate the Waterbody Buffer Zone, county staff performed a GIS-based estimate of the zone and overlaid it over the survey. The analysis showed that most of the steel structure and parts of the planned house construction encroached on the buffer. County Attorney Rich Koch notified your attorney at the time, Jim Scarbrough, of our findings on March 19, 2021. In the email, Mr. Koch stated “the County strongly urges your client to hold off on further construction on that property that could violate the buffer and no build zone.” I have attached the email string for your reference.

You explained to Jay and I today that you intend to start construction of the house in the coming days despite the county’s concerns regarding compliance with the Waterbody Buffer Zone. As we explained, the county has cause to believe that this construction will violate the buffer and beginning construction could be a costly mistake. The best way to ensure compliance with the buffer is by obtaining a stamped survey defining the Waterbody Buffer Zone and No Building Buffer Area and showing that the planned construction is outside of these areas. Such survey is required under CCDO § 4-10(3), which states:

The applicant must provide a detailed survey that field verifies the location of all perennial streams, lakes, ponds, impoundments and wetlands on the subject property and within 100 feet of the boundary of the subject property for all proposed plats and site plans.

This survey will then allow you to mark the limits of the buffer on the site in compliance with CCDO § 4-10(6). It will also allow you to comply with CCDO § 4-10(7), which requires that the buffer “be shown on all site plans or subdivision plats related to the project submitted for review.”

To prevent construction in the buffer prior to obtaining this survey, Cabarrus County plans to formally revoke the zoning permit for the house next week and issue a Stop Work Order if also

appropriate. These administrative actions will further notify you of our concerns, tell you how to reinstate the permit, and how to appeal the decision. I urge you to not begin construction on the house until we can ensure that it will not violate the Waterbody Buffer Zone and the permit is restored. You mentioned that you have had two surveys performed on the property so far and have consulted with surveyors on the extent of the buffer, so I am hoping that this can be resolved quickly.

While I imagine this is disappointing news, we thought it was important to give you as much warning possible before we take the more formal actions described above. I hope that this information will help you avoid further violations and put this project on the path towards compliance.

Best,
David Goldberg

David B. Goldberg
Deputy County Attorney

County Manager's Office
Cabarrus County
O: (704) 920-2408
M: (919) 675-1042





STOP WORK ORDER

Mr. James Arstark and Mrs. Connie Arstark:

You are ordered to immediately stop all activity or work within the Waterbody Buffer Zone established pursuant to Cabarrus County Development Ordinance (CCDO) § 4-10. The Waterbody Buffer Zone extends from 50 feet to 120 feet from the top of a stream bank, depending on slope, with an additional 20 foot no build buffer. The Waterbody Buffer Zone also extends 25 feet from identified wetlands.

Subject Location

This order applies to 3233 Hanh Scott Road, Mt. Pleasant, North Carolina 28124 (PIN 5589-24-3362).

Reason for Order

On Friday, March 7, 2021, Senior Zoning Enforcement Officer Jay Lowe observed active and ongoing destruction of trees, plants, and other vegetation within and adjacent to Lick Branch stream and associated wetlands on the subject location, which are identified on the USGS topographic maps and the U.S. Fish and Wildlife Service National Wetlands Inventory.

The observed activity is in substantial non-compliance with Cabarrus County Development Ordinance § 4-10. Areas within the Waterbody Buffer Zone must "remain in a natural, vegetated state" and wooded areas in the buffer must remain "undisturbed". CCDO § 4-10(8)

Conditions Under Which Work or Activity May Be Resumed

1. Cease all work or activity within the Waterbody Buffer Zone.
2. Provide a detailed survey that field verifies the location of all covered waterbodies and wetlands and mark the buffer on the site.
3. Revegetate all disturbed areas within the buffer zone with appropriate vegetation in compliance with CDDO § 4-10(13).
4. Follow all other requirements in the CDDO.

Authority

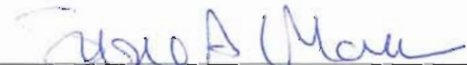
This order is authorized by NC. Gen. Stat. § 160D-4-4(b) and CCDO § 12-30.2.

Penalty

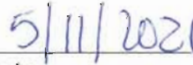
Violation of this order constitutes a Class 1 misdemeanor.

Effective Date

This order is effective upon signing and continues until rescinded by the Cabarrus County Zoning Administrator.



Zoning Administrator



Date

Zoning Complaint: ZNC2021-00023

Tuesday, January 12, 2021

Inspector: James Lowe
Jurisdiction: Cabarrus County
Complaint: Disturbance of WBB
Building in WBB
Construction of a structure with no permits
Violator: ARSTARK CONNIE GAIL
Zoning: AO
Parcel: 55892433620000
Location: Northeast corner of Bowman Barrier Road and Hahn Scott Road
Address: 3233 HAHN SCOTT RD

Complaint History

01/12/2021 **Type: Initial**
Site inspection was made 9/25/20.
Barn had already been built prior to being issued a zoning permit.
Barn looks as though it may be encroaching into the Water Body Buffer.
Further research will need to be done.
Owner indicated that a survey had been done by Chad Byrd (Surveyor) and that he had indicated that the buffer from the creek should only be approximately 30 feet.
I did ask the applicant to provide us with a copy of the survey.
1/4/21 Further research shows that an encroachment into the WBB exists and that the location of the building will need to be shifted.

01/14/2021 **Type: History**
Warning letter was sent via regular mail and certified.

01/26/2021 **Type: Follow Up**
Site inspection was made.
It seems that property owner has now placed two more buildings on the property without permits. They also look to be in the waterbody buffer.
There also seems to be an RV placed in the waterbody buffer.

02/09/2021 **Type: History**
Applicant requested an appeal form

05/07/2021 **Type: Follow Up**
Site inspection was made.
County Attorney, David Goldberg and I met the property owners on the site.
Additional violations of the Waterbody Buffer were discovered.
Pictures were taken.



1/14/2021

File # : ZNC2021-00023

Arstark Connie Gail
3233 Hahn Scott Rd
Mt Pleasant, NC 28124

Inspection Date: 01/14/2021

NOTICE OF VIOLATION

RE: 3233 HAHN SCOTT RD Zoning: AO
Parcel(s): 5589-24-3362
Nature of Violation: Disturbance of Required Waterbody Buffer.
Building in Required Waterbody Buffer.
Construction of a structure with no permits

The following provision(s) of the CABARRUS COUNTY Zoning Ordinance has been violated:

- 04-10 WATER BODY BUFFER ZONE
- 06-02 ZONING AFFECTS EVERY STRUCTURE AND USE
- 12-03 ZONING COMPLIANCE PERMIT REQUIRED

Dear Arstark Connie Gail,

An on-site inspection of your property has found you to be in violation of the Cabarrus County Zoning Ordinance Sections 4-10, 6-2 and 12-03. You have constructed an accessory structure within the required water body buffer prior to acquiring a zoning permit.

This notice is to serve as a warning

In order to correct this violation, you must: move the structure outside of the waterbody buffer zone and restore the site to its previous condition.

You have 10 days from the receipt of this letter to comply with this ordinance.

You may appeal this decision to the Board of Adjustment within thirty (30) days. This department reserves the right to exercise the following remedies per NC G.S.153A-123:

- Issue a civil starting at \$450.00 and if unpaid a judgment could become a lien on the property.
- File lawsuit against a property owner in North Carolina Superior Court for violation of the Zoning Ordinance.

In order to avoid any monetary citations please correct this matter within the aforementioned time frame.

If you have any questions concerning this matter or if you are in the process of clearing this matter, please call our office at (704) 920-2140 so we can make appropriate arrangements.

Thank you in advance for your cooperation.

Sincerely,

James Lowe, Senior Zoning Inspector



Cabarrus County
Planning & Development
Post Office Box 707
Concord, NC 28026-0707
www.cabarruscounty.us

attn: Jay Lowe



U.S. POSTAGE >> PITNEY BOWES



ZIP 27409 \$ 007.05⁰
02 4W
0000373342 JAN 15 2021



7004 1160 0002 691

UNK

ARSTARK CONNIE GAIL
ARSTARK JAMES N
3233 Hahn Scott Rd.
Mt. Pleasant, NC 28124

1-24
2-3

28026-0707

7004 1160 0002 6994 8900

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT *J.L. Zowling*
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Sent To

ARSTARK CONNIE GAIL

Street, Apt. No.,
or PO Box No. ARSTARK JAMES N

City, State, ZIP+4 3233 Hahn Scott Rd.
Mt. Pleasant, NC 28124

PS Form 3800, July 2010 Use for Instructions

Zoning Complaint: ZNC2021-00215

Monday, May 10, 2021

Inspector: James Lowe
Jurisdiction: Cabarrus County
Complaint: Disturbance of the Required Water Body Buffer
Violator ARSTARK CONNIE & JAMES
Zoning: AO
Parcel: 55892433620000
Location: Corner of Hahn Scott and Bowman Barrier
Address: 3233 HAHN SCOTT RD

Complaint History

05/10/2021 **Type: Initial**
Site inspection was made on 5/7/2021.
The owner had encroached into the required Waterbody Buffer and cleared additional natural vegetation.

05/10/2021 **Type: History**
Warning Citation



5/11/2021

Arstark Connie & James
3233 Hahn Scott Rd
Mt Pleasant, NC 28124

File #: ZNC2021-00215

Inspection Date: 05/07/2021

NOTICE OF VIOLATION

RE: 3233 HAHN SCOTT RD Zoning: AO

Parcel(s): 55892433620000

Nature of Violation: Disturbance of Waterbody Buffer Zone

The following provision(s) of the CABARRUS COUNTY Development Ordinance has been violated:

Section 4-10 (Waterbody Buffer Zone)

Dear Connie & James Arstark,

An on-site inspection of your property on Friday, May 7, 2021 indicated the clearing of trees, plants, and other vegetation on the property adjacent to Lick Branch stream and adjacent wetlands. This clearing activity encroached on the Waterbody Buffer Zone established pursuant to Cabarrus County Development Ordinance (CCDO) § 4-10. The Lick Branch stream is a perennial stream identified on both the USGS Quadrangle Maps as a solid blue line and in the Cabarrus County Geographic Information System. The USGS topographic maps also identify wetlands on your property. As such, the stream and wetlands are protected by the Waterbody Buffer Zone, which ranges from 50 ft to 120 ft from the top of the stream bank depending on slope with an additional 20 ft no build buffer. There is also a 25 ft buffer from identified wetlands. Areas within the Waterbody Buffer Zone must "remain in a natural, vegetated state" and wooded areas in the buffer must remain "undisturbed". CCDO § 4-10(8).

This notice is to serve as a Warning Citation

In order to correct this violation, you must:

Restore the impacted areas to their previous condition in compliance with CDDO § 4-10(12) and (13).

You have 30 days from the receipt of this letter to comply with this ordinance.

You may appeal this decision to the Board of Adjustment within thirty (30) days. This department reserves the right to exercise the following remedies per G.S. 160D-404:

- Issue a civil starting at \$450.00 and if unpaid a judgment could become a lien on the property.
- File lawsuit against a property owner in North Carolina Superior Court for violation of the Development Ordinance.

In order to avoid any monetary citations please correct this matter within the aforementioned time frame.

If you have any questions concerning this matter or if you are in the process of clearing this matter, please call our office at (704) 920-2140 so we can make appropriate arrangements.

Thank you in advance for your cooperation.

Sincerely,

James Lowe, Senior Zoning Inspector

J. L. [redacted] Zoning

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ARSTARK CONNIE GAIL
 ARSTARK JAMES N
 323 Mahn Scott Rd.
 Mt. Pleasant, NC 28124



9590 9402 2195 6193 5377 59

2. Article Number *(Transfer from service label)*

7001 0518 0808 5044 4

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature *CONNIE ARSTARK* Agent
 Addressee

B. Received by (Printed Name) *CONNIE ARSTARK*

C. Date of Delivery *5/19/21*

D. Is delivery address different from item 1? Yes
 No
 If YES, enter delivery address below:

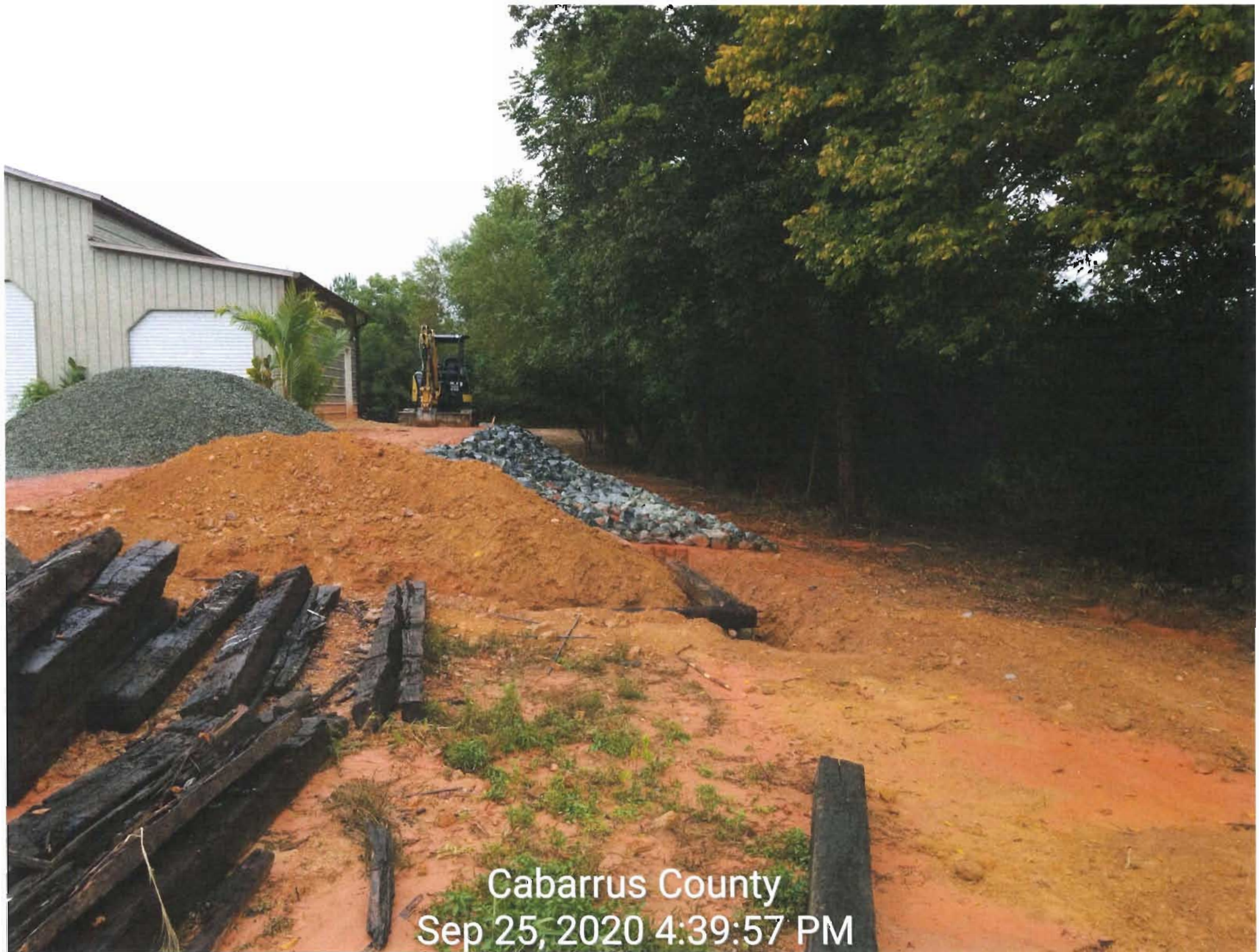
USPS

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Insured Mail Restricted Delivery (over \$500)
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Domestic Return Receipt

September 25th, 2020
Gay Lowe





Cabarrus County
Sep 25, 2020 4:39:57 PM



Cabarrus County
Sep 25, 2020 4:38:56 PM



Cabarrus County

Jan 26, 2021 5:21:49 PM



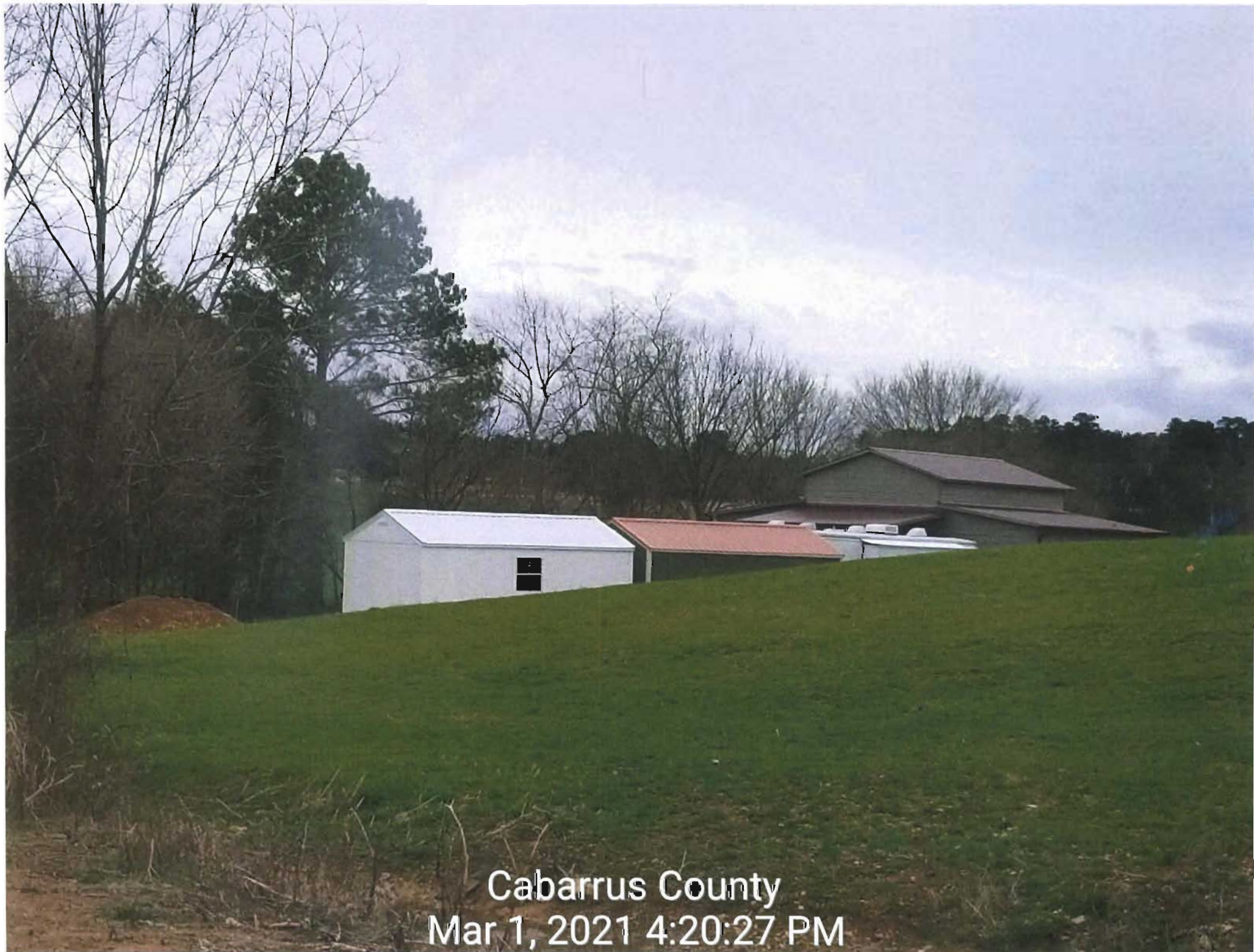
Cabarrus County
Jan 26, 2021 5:21:18 PM



Cabarrus County
Mar 1, 2021 4:21:41 PM



Cabarrus County
Mar 1, 2021 4:24:23 PM



Cabarrus County
Mar 1, 2021 4:20:27 PM

May 7, 2021 at 1:20 PM



May 7, 2021 at 1:37 PM



May 7, 2021 at 1:37 PM



May 7, 2021 at 1:36 PM



May 7, 2021 at 1:41 PM



May 7, 2021 at 1:41 PM



May 7, 2021 at 1:43 PM



May 7, 2021 at 1:39 PM



May 7, 2021 at 1:41 PM



May 7, 2021 at 2:19 PM



May 7, 2021 at 2:12 PM



May 7, 2021 at 1:45 PM



May 7, 2021 at 1:48 PM



May 7, 2021 at 1:44 PM





Cabarrus County Government – Planning and Development Department

February 21, 2022

Dear Property Owner:

An appeal of a Notice of Violation has been filed in our office for your property. The specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday March 8, 2022 at 6:30 PM in the 2nd floor Commissioner's Chambers of the Cabarrus County Governmental Center, located at 65 Church Street S Concord, NC 28025. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about this request, I encourage you to attend this meeting.

Petitioner	Connie Arstark
Petition Number	APPL2021-00001
Property Location	3233 Hahn Scott Road
Parcel ID Number	5589-24-3362
Existing Zoning	Agriculture / Open Space (AO)
Appeal of Notice of Violation	Section 4-10 Cabarrus County Development Ordinance

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2181.

Sincerely,

Phillip Collins, AICP
Senior Planner
Cabarrus County Planning and Development
704.920.2181



Cabarrus County Government – Planning and Development Department

February 21, 2021

Dear Property Owner:

An appeal of a Notice of Violation has been filed in our office for property **adjacent** to yours. The specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday March 8, 2022 at 6:30 PM in the 2nd floor Commissioner’s Chambers of the Cabarrus County Governmental Center, located at 65 Church Street S Concord, NC 28025. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about this request, I encourage you to attend this meeting.

Petitioner	Connie Arstark
Petition Number	APPL2021-00001
Property Location	3233 Hahn Scott Road
Parcel ID Number	5589-24-3362
Existing Zoning	Agriculture / Open Space (AO)
Appeal of Notice of Violation	Section 4-10 Cabarrus County Development Ordinance

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2181.

Sincerely,

A handwritten signature in cursive script that reads "Phillip Collins".

Phillip Collins, AICP
Senior Planner
Cabarrus County Planning and Development
704.920.2181

Surrounding Property Owners					
PIN	Name	Mailing Address	City	State	Zip Code
5589-13-0771	AUSTIN C & HAYDEN L RADFORD	7980 MOUNT OLIVE RD	CONCORD	NC	28025
5589-23-1019	CURTIS L & COLLEEN A PYLE	10690 BOWMAN BARRIER RD	MT PLEASANT	NC	28124
5589-15-7229	JOANNE K HAHN	PO BOX 1415	MT PLEASANT	NC	28124
5589-13-8331	KELLY & TRACY CRUSE	3411 HAHN SCOTT RD	MT PLEASANT	NC	28124
5589-14-6635	LESLIE A & WILLIAM K COUCH	7206 TIMOTHY DR	CONCORD	NC	28025
5589-26-2017	PATSY HAHN MOSER	307 LARRY DR	KANNAPOLIS	NC	28083
5589-14-6057	ROBERT A & SHERRY L KRUSINSKI	3250 HAHN SCOTT RD	MT PLEASANT	NC	28124
5589-35-8852	SAMUEL L PEARCE	33 POWDER VIEW CT	BALTIMORE	MD	21236
5589-34-5293	THOMAS L FITZGIBBONS	249 LEEWARD ISLAND DR	ST AUGUSTINE	FL	32080
Owner Information					
5589-24-3362	CONNIE G & JAMES N ARSTARK	3233 HAHN SCOTT RD	MT PLEASANT	NC	28124

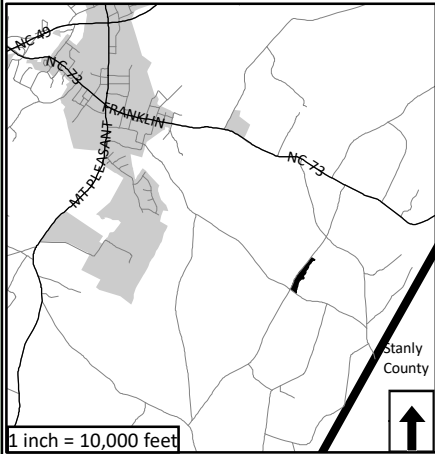
Monday, February 21, 2022 11:14AM
Cabarrus County



**Eastern Planning Area
Existing Zoning**

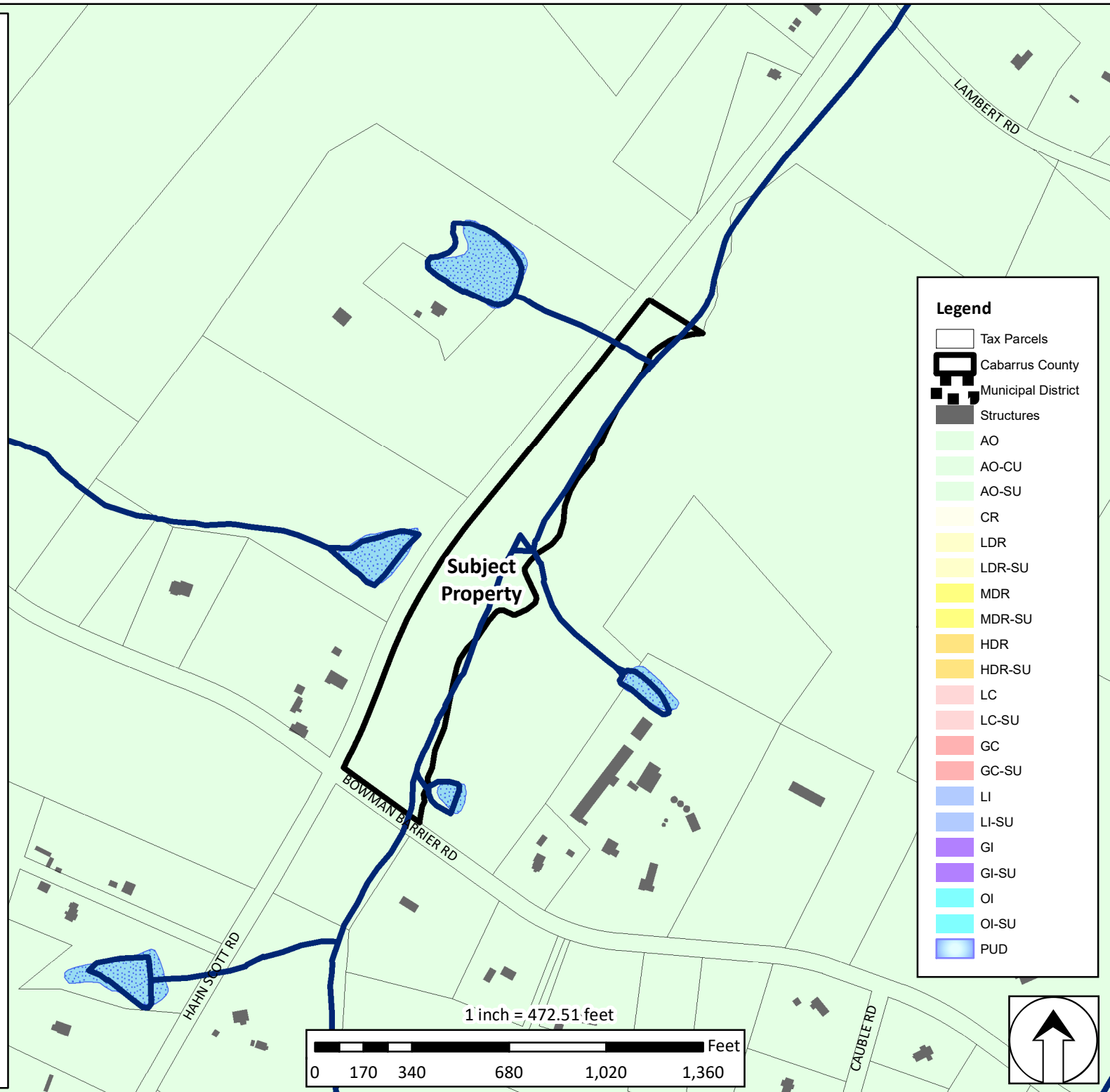


Appellant: Connie Arstark
 Owner: Connie Arstark
 Case: APPL2021-00001
 Address: 3233 Hahn Scott Road
 Purpose: Appeal of Notice of Violation
 PIN: 5589-24-3362



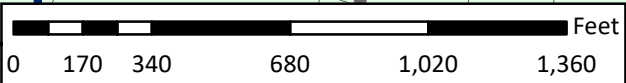
Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

Map Prepared by Cabarrus County Planning & Development - March 2021



Legend

- Tax Parcels
- Cabarrus County
- Municipal District
- Structures
- AO
- AO-CU
- AO-SU
- CR
- LDR
- LDR-SU
- MDR
- MDR-SU
- HDR
- HDR-SU
- LC
- LC-SU
- GC
- GC-SU
- LI
- LI-SU
- GI
- GI-SU
- OI
- OI-SU
- PUD

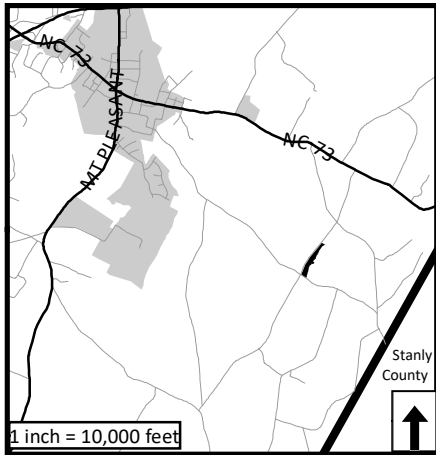


Eastern Planning Area Aerial Map



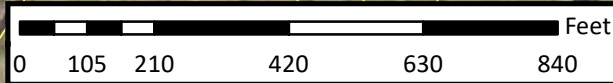
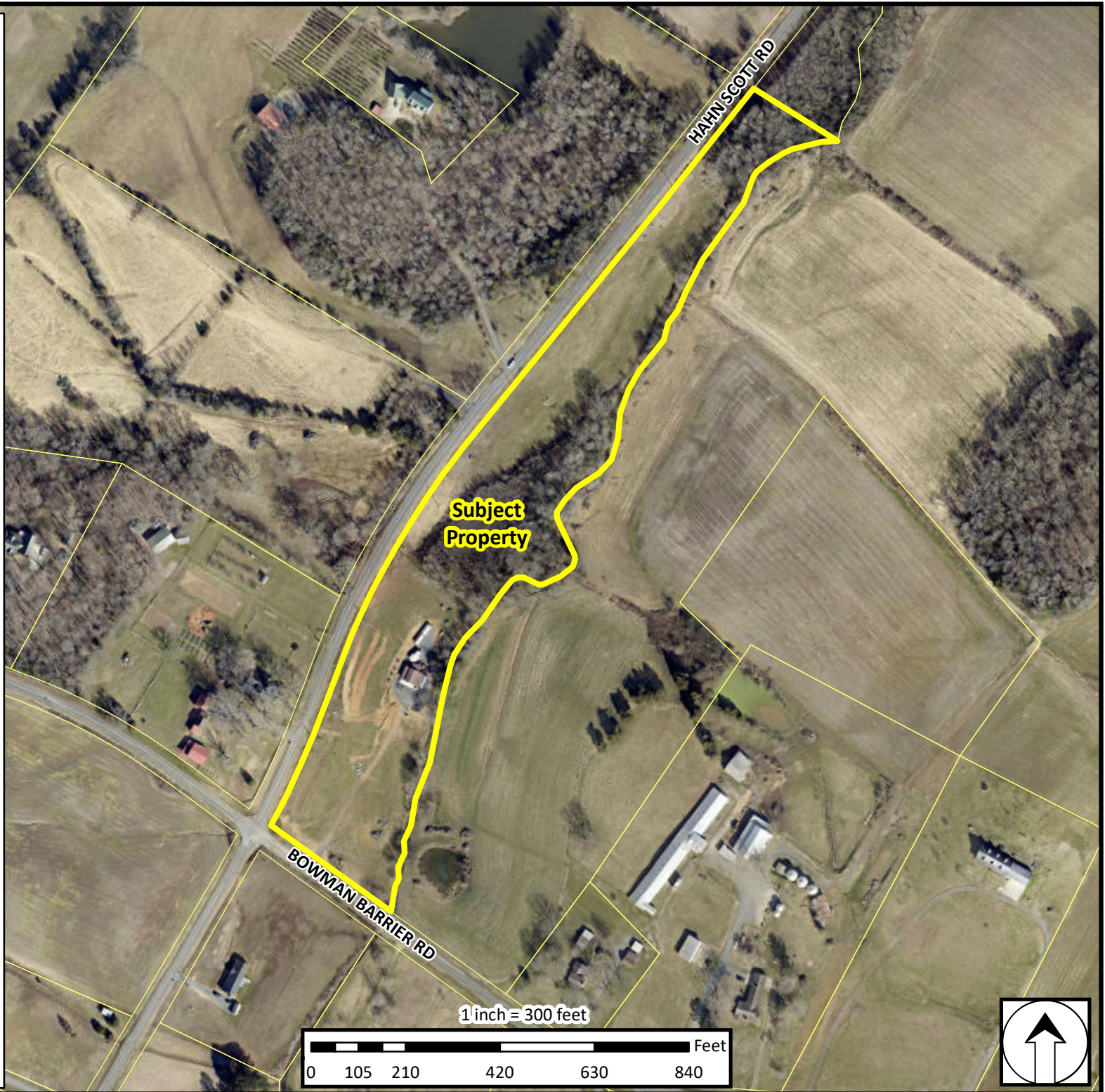
Appellant: Connie Arstark
Owner: Connie Arstark
Case: APPL2021-00001
Address: 3233 Hahn Scott Road
Purpose: Appeal of Notice of Violation
PIN: 5589-24-3362

- Cabarrus County
- Municipal District
- Tax Parcels



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

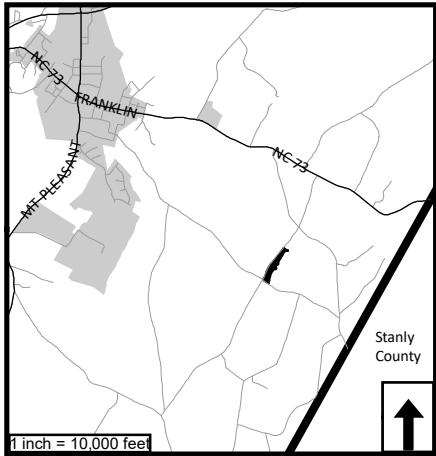
Map Prepared by Cabarrus County Planning & Development - March 2021



**Eastern Planning Area
Future Land Use**

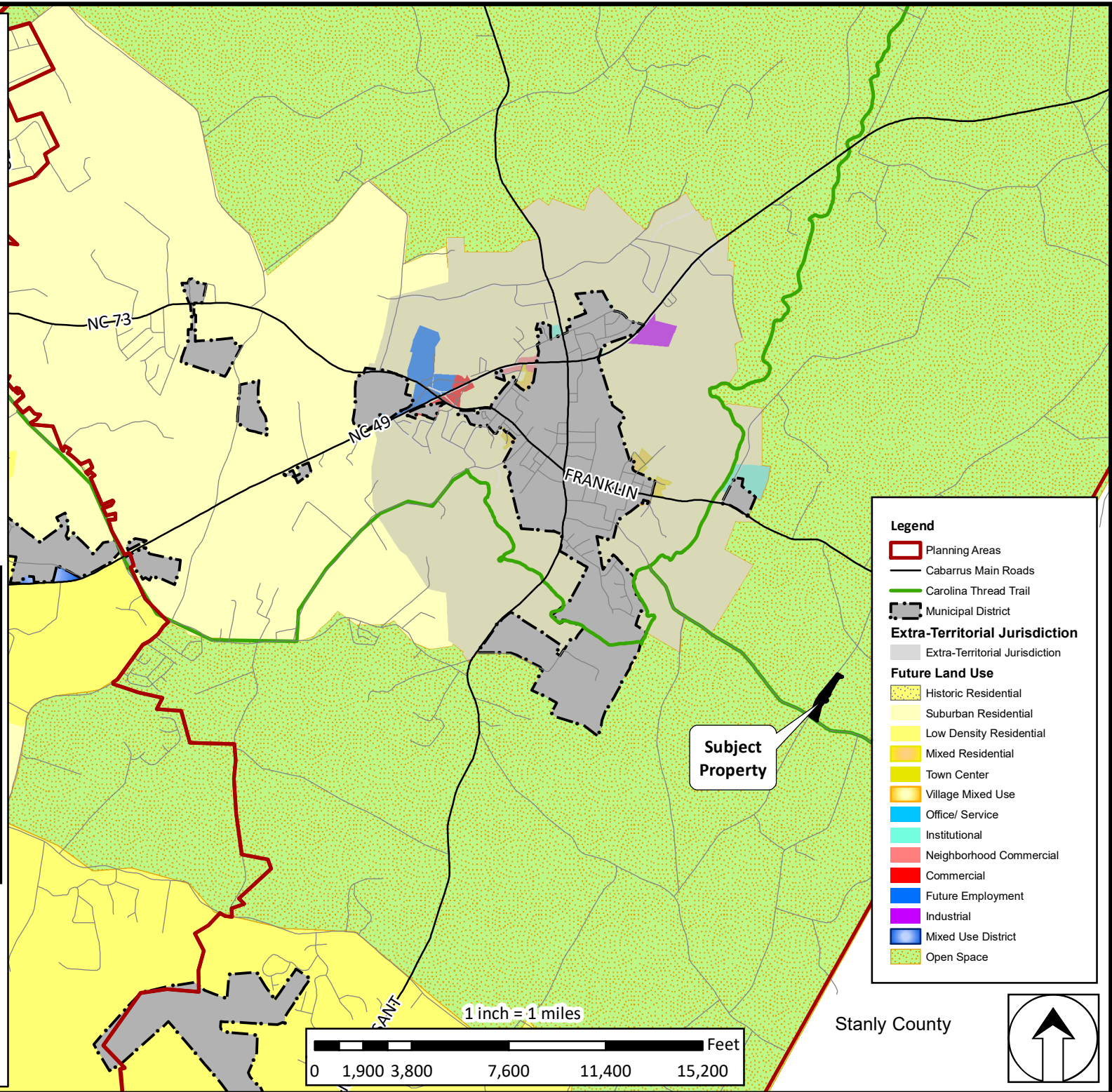


Appellant: Connie Arstark
 Owner: Connie Arstark
 Case: APPL2021-00001
 Address: 3233 Hahn Scott Road
 Purpose: Appeal of Notice of Violation
 PIN: 5589-24-3362



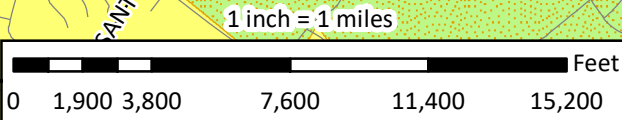
Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

Map Prepared by Cabarrus County Planning & Development - March 2021



Legend

- Planning Areas
- Cabarrus Main Roads
- Carolina Thread Trail
- Municipal District
- Extra-Territorial Jurisdiction**
- Extra-Territorial Jurisdiction
- Future Land Use**
- Historic Residential
- Suburban Residential
- Low Density Residential
- Mixed Residential
- Town Center
- Village Mixed Use
- Office/ Service
- Institutional
- Neighborhood Commercial
- Commercial
- Future Employment
- Industrial
- Mixed Use District
- Open Space



Stanly County



— SCARBROUGH —
SCARBROUGH & TRILLING PLLC
— ATTORNEYS AT LAW —

JAMES E. SCARBROUGH
JES@SandsLegal.net

February 12, 2021

HAND DELIVERED

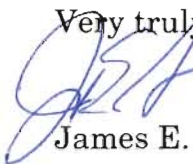
To: Cabarrus County Board of Adjustments

I represent the appellant Connie Gail Arstark. Enclosed is the application, fee of \$450.00 and copies of some documentation to be submitted for appeal in your file 2 NC2021-00023 for 3233 Hahn Scott Rd., Mt. Pleasant, NC 28124.

There will be additional documentation submitted as evidence at the hearing. At this point, please provide immediately 1) a copy of the county's file in this matter, 2) the name of any complainant and any complaint communicated to the county in this matter, and 3) the rules of procedure adopted by the Board pursuant to G. S. 160D-308..

Pursuant to G. S. 160D-406, I will submit a request for the subpoena of documents and possibly witnesses which I will identify. If a subpoena is needed for the information requested in the preceding paragraph, please let me know.

Very truly yours,



James E. Scarbrough

cc: Rich Koch



**APPEAL OF ADMINISTRATIVE
DECISION, INTERPRETATION
OR NOTICE OF VIOLATION**

STAFF USE ONLY:

Application/Accela#: APPPL2021-00001

Reviewed by: PEC

Date: 2-12-21

Amount Paid: \$450

In order to request an appeal from an interpretation or administrative decision made by the Zoning Administrator, the applicant must submit the following:

1. Complete application
2. Fee of \$450.00 plus cost of advertising and noticing
3. Copies of any documentation to be submitted to the Board of Adjustment as evidence. (If large format copies are included in the documentation, applicant must submit 18 copies.)

If there are additional questions concerning this process, please call the Planning and Development Department at (704) 920-2141, Monday through Friday, 8:00 am to 5:00 pm.

Incomplete applications will be returned to the applicant and will not be processed.

To the Cabarrus County Board of Adjustment:

I **CONNIE GAIL ARSTARK**, hereby appeal the following decision of the Zoning Administrator to the Board of Adjustment: **DECISION OF JAY LOWE IN ZONING DIVISION, FILE ZNC 2021-00023; COPY ATTACHED; SEC. 4-10 AND 6-2 AND 12-03 CONSTRUCTED STRUCTURE WITHIN WATER BUFFER PRIOR TO ZONING PERMIT.**

You may attach additional sheet(s) if needed.

I request an interpretation of:

The Zoning Atlas (Zoning classification of subject property)

The following section(s) of the Zoning Ordinance:

4-10; 6-2; 12-03.

You may attach additional sheet(s) if needed.

As it relates to the use of the property located at:

ADDRESS: **3233 HAHN SCOTT ROAD, MT. PLEASANT, NC 28124**

PARCEL IDENTIFICATION NUMBER (PIN): **5589-24-3362**

PROPERTY OWNER: **JAMES N. ARSTARK and CONNIE G. ARSTARK**

In the space provided below, present your interpretation of the Zoning Atlas or Zoning Ordinance provision(s) in question and state what reasons you have for believing that your interpretation is the correct one. In addition, state the facts you are prepared to present to the Board of Adjustment to show that the decision was erroneous.


SEE ATTACHED.

You may attach additional sheet(s) if needed.

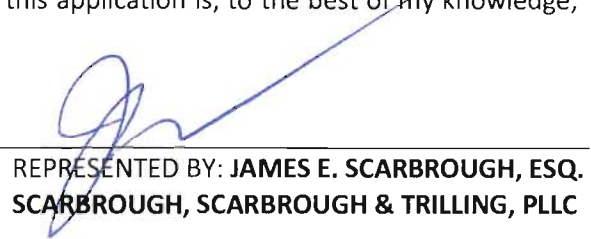
Required Vote: The vote requirement for an appeal of the Administrator’s decision or interpretation to be upheld or overturned is a simple majority.

APPLICATION CERTIFICATION:

I certify that all of the information presented by me in this application is, to the best of my knowledge, true and correct.



SIGNATURE OF APPLICANT



REPRESENTED BY: **JAMES E. SCARBROUGH, ESQ.**
SCARBROUGH, SCARBROUGH & TRILLING, PLLC

ADDRESS

ADDRESS
137 UNION STREET SOUTH

CITY, STATE, ZIP CODE

CITY, STATE, ZIP CODE
CONCORD, NC 28025

PHONE NUMBER

PHONE NUMBER
704-782-3112

FAX NUMBER

FAX NUMBER
704-782-3116
JES@SANDSLEGAL.NET

E-MAIL ADDRESS

E-MAIL ADDRESS

Appeal in File ZNC 2021-00023 (additional sheet)

1. James N. Arstark, a landowner, has not received a notice of violation as required by county ordinance and G. S. 160D-404. Therefore, the notice of violation is defective.
2. The necessary permits have been issued for the structure(s) in question.
3. A zoning compliance permit has been issued. It was issued after the issue of the water buffer issue was raised. Therefore, the setback issue has been resolved by the county in favor of appellant.
4. Prior to construction and on several occasions, appellant requested of the county all setback requirements. Appellant was given the setbacks for the AO district. The water buffer zone, if applicable, and the setback for the buffer zone, if applicable, were not given to applicant by the county. Applicant was only given the AO zone setbacks and they were followed.
5. The county cannot overrule or set aside the permits issued regarding this structure by issuing a notice of violation.
6. The “water body” in question is not identified as a perennial stream on any county maps. It only contains water after a heavy rainfall.
7. The county application for zoning and building permits does not require the applicant to identify stream or water buffers.
8. The survey map submitted by appellant to the county prior to construction showed a “creek” on it and the county gave the AO setbacks to appellant to follow.
9. All claims of violations in the notice of violation are denied.



Amount Paid: _____

**APPEAL OF ADMINISTRATIVE
DECISION, INTERPRETATION
OR NOTICE OF VIOLATION**

STAFF USE ONLY:

Application/Accela#: _____

Reviewed by: _____

Date: _____

TABLE OF CONTENTS

- 1. NORTH CAROLINA GENERAL WARRANTY DEED
-BOOK 14293, PAGE 108- CABARRUS COUNTY REGISTRY**
- 2. JUNE 30, 2020 LETTER FROM CABARRUS HEALTH ALLIANCE
-SEPTIC TANK APPROVAL**
- 3. APRIL 14, 2020 CABARRUS HEALTH ALLIANCE PRIVATE DRINKING
WATER WELL CONSTRUCTION PERMIT
-WELL PERMIT**
- 4. EMAILS
-BARN BUILDING PERMIT**
- 5. ZONING COMPLIANCE PERMIT
-BARN**
- 6. JULY 11, 2020 & NOVEMBER 1, 2020- BOUNDARY SURVEY MAPS**
- 7. EMAILS
-JUNE 12, 2020 THROUGH JUNE 29, 2020**

FILED Jun 30, 2020
AT 01:27:00 PM
BOOK 14293
START PAGE 0108
END PAGE 0111
INSTRUMENT # 20415
EXCISE TAX \$170.00

Excise Tax \$ 170.00

Recording Time, Book and Page

NORTH CAROLINA GENERAL WARRANTY DEED

FILE # 20-2188te

Tax Lot No. Parcel Identifier No. 55892433620000

Mail after recording to Ferguson, Hayes, Hawkins & DeMay, PLLC, PO BOX 444, Concord, NC 28026
This instrument was prepared by RYAN C. HAWKINS, Ferguson, Hayes, Hawkins & DeMay, PLLC

Brief Description for the index

[Empty box for Brief Description for the index]

THIS DEED made this 30th day of June, 2020, by and between

GRANTOR

GRANTEE

**P. STEPHEN MCMATH and wife,
BRENDA F. MCMATH**

**JAMES N. ARSTARK and wife,
CONNIE G. ARSTARK**

Mailing Address:

3215 Woodchuck Drive
Kannapolis, North Carolina 28081

Mailing Address:

3233 Hahn Scott Road
Mt. Pleasant, North Carolina 28124

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Number EIGHT (8) Township, CABARRUS County, North Carolina and more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

Submitted electronically by "Ferguson, Hayes, Hawkins & DeMay, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the Memorandum of Understanding with
the Office of the Register of Deeds of Cabarrus County. NCGS 47-14(a1)(5).

The property hereinabove described was acquired by Grantor by instrument recorded in Book 11589, Page 141.

All or a portion of the property herein conveyed does or does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book __, Page __.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

SUBJECT TO easements and restrictions of record.

SUBJECT TO easements and setback lines as shown on the recorded plat.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

P. Stephen McMath (SEAL)
P. STEPHEN MCMATH

Brenda F. McMath (SEAL)
BRENDA F. MCMATH

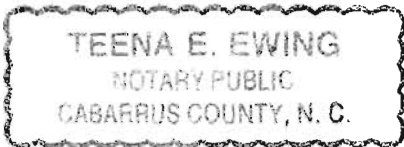
STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

P. STEPHEN MCMATH

Date: **June 30, 2020**

(Official Seal)



Teena E. Ewing Notary Public

Printed or Typed Name: **Teena E. Ewing**

My commission expires: **1/13/2022**

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

BRENDA F. MCMATH

Date: **June 30, 2020**

(Official Seal)



[Signature] Notary Public

Printed or Typed Name: RYAN C HAWKINS

My commission expires: 12/14/2021

EXHIBIT "A"

(legal description for 3233 Hahn Scott Road Mt. Pleasant, NC)

Lying and Being in Number Eight (8) Township of Cabarrus County, North Carolina, adjoining the property of W. E. Hahn, J. F. Hahn, and George L. Barrier, and being more fully described as follows: Old Description

BEGINNING at a point in the center of Lick Branch, a corner of J. F. Hahn, and runs thence North, with his line, 59 West (passing an iron pin on the West bank of the Branch at 12.0 feet) 1343.1 feet to a stone, corner of J. F. Hahn; thence South 59 West 190.0 feet to a stone, corner of J. F. Hahn; thence South 35-07 West 1175.9 feet to a point, corner of J. F. Hahn and George L. Barrier property; thence with the line of Barrier, South 34-57 West 1235.2 feet to an iron pin in a stump hole; thence South 37-57 West 44.5 feet to an iron pin, thence South 65-56 East 1656.7 feet (passing an iron pin on the West side of Lick Branch at 1651.7 feet) to a point in the center of Lick Branch; thence in a Northeastern direction with Lick Branch as it meanders to a point in the center of the bridge in the road leading from Mt. Pleasant to Mission; thence down said Lick Branch as it meanders to the BEGINNING, containing 84.02 acres, more or less, according to a survey made by Brown Engineering Company, dated August 6, 1957, of the property of Bart M. Hahn.

Less and Excepted from the above described property are the 3 tracts shown as Tract A, B, and C in Deed dated March 18, 1996 and recorded in Book 1623, Page 46, Cabarrus Registry, to which Deed reference is hereby made for a complete description of the property excepted herein; and additionally, any other portions of the above described property which have been conveyed prior hereto, including but not limited to the property conveyed in Book 13870 Page 165, Book 11323, Page 285, Cabarrus Registry and in Book 8154, Page 192, Cabarrus Registry.

For back title reference see the property designated as Tract 1 in the deed recorded in Deed Book 11589, Page 141, Cabarrus County Registry.



CABARRUS
HEALTH
ALLIANCE

at NC Research Campus

Date: 6/30/20

File # 20-77

Connie Arstark

3233 Hahn Scott Rd.

Mt Pleasant, NC 28124

Approved

Dear Ms. Arstark

On June 29, 2020 an existing septic inspection was performed at 3233 Hahn Scott rd. The proposed Barn with no plumbing appears to meet 15A NCAC 18A .1950. And permission is granted to construct.

The structure must be located a minimum of five feet away from any part of the existing septic tank system and twenty five feet away from the well.

You may call or write the local health department if you need any additional information or assistance.
7049201261

Sincerely,

Tyler W. Robertson, R.E.H.S.

CABARRUS HEALTH ALLIANCE PRIVATE DRINKING WATER WELL CONSTRUCTION PERMIT

(Permit Expires 5 Years from Date Issued)

Permit Number 20-77 Date Issued 4/14/20

Physical Location 3233 Hahn Scott - Rd., Mt. Pleasant, NC 28124

THIS WELL IS REQUIRED TO BE GROUTED TO A DEPTH OF 35 FEET YES NO

Well Owner Information

Name Connie Arstark Telephone Number 704-400-6366
Address 5625 Weddington Rd.
City Concord State NC Zip Code 28027

MUST MAINTAIN 100 foot minimum separation from:

- Any subsurface ground absorption waste disposal system
- Animal barns, Animal feedlots, or manure piles
- Fertilizer, pesticide, herbicide or other chemical storage areas
- Non-hazardous waste storage, treatment or disposal lagoons
- Land Clearing and Inert Debris (LCID) landfills
- Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N: (without secondary containment)
- All other petroleum or chemical storage tank systems

MUST MAINTAIN 50 foot minimum separation from:

- Surface water bodies which act as sources of groundwater recharge, such as ponds, lakes and reservoirs
- Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N: (with secondary containment)
- Gravesites
- Above ground or underground storage tanks which contain petroleum fuels used for heating equipment, boilers or furnaces, with the exception of tanks used solely for storage of propane, natural gas, or liquefied petroleum gas
- All other potential sources of groundwater contamination

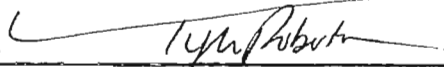
MUST MAINTAIN 25 foot minimum separation from

- Building perimeters, including any attached structures 25 feet
- All other surface water bodies, such as brooks, creeks, streams, rivers

For a water supply well on a lot serving a single-family dwelling and intended for domestic use, where lot size or other fixed conditions preclude the separation distances specified, the required horizontal separation distances shall be the maximum possible but shall in no case be less than:

- 50 feet from a septic tank and drainfield, or designated repair areas, except saporlite systems
- 25 feet from sewage or liquid-waste collection or transfer facility constructed to water main standards in accordance with 15A NCAC 02T .0305(g)(2) or 15A NCAC 18A .1950(e),
- 50 feet from an animal barns

SEE BACK OF
PERMIT FOR
PERMITTED
WELL LOCATION
Call 704-920-1207 if
well cannot be
located in proposed
area



(Authorized REHS)

ALL REQUESTS FOR GROUT INSPECTIONS SHALL BE CALLED IN BY 8:45 AM ON
THE DAY IT IS NEEDED CALL 704-920-1237

All North Carolina Department of Environmental Quality (NCDEQ) GIS data is expressly provided "AS IS" and "WITH ALL FAULTS". The NCDEQ makes no warranty of any kind, express or implied, concerning this information, including but not limited to any warranties of merchantability or fitness for any particular purpose. The NCDEQ assumes no responsibility or legal liability concerning the Data's accuracy, reliability, completeness, timeliness, or usefulness. The data is not intended to constitute advice nor is it to be used as a substitute for specific advice from a professional. Users should not act (or refrain from acting) based upon information in the Data without independently verifying the information and obtaining any necessary professional advice. Users are solely responsible for ensuring the accuracy, currency and other qualities of any products derived from or in connection with the NCDEQ's Data. The Data is collected from various sources and may be modified over time without notice to improve spatial and attribute accuracy. The NCDEQ disclaims responsibility for the spatial accuracy and attribution of GIS features and makes no warranty concerning same.

Connie

From: Theresa Wilkinson <tmwilkinson@cabarruscounty.us>
Sent: Monday, September 28, 2020 9:14 AM
To: Connie Arstark
Subject: RE: BARN BU2020-03328 see attached
Attachments: BU2020-03328.pdf; PLACARD 03328.pdf

Connie,
Please sign and return the building permit.
Thank you!

Theresa M. Wilkinson

Permit Associate
Construction Standards

Office Email: CitizenAccess@CabarrusCounty.us
Accela Website: www.citizenaccess.cabarruscounty.us

Direct: 704-920-2159

Office: 704-920-2128
Fax: 704.920.2144

Physical Address: 65 Church Street S., Concord, NC 28025
Mailing Address: PO Box 707, Concord, NC 28026



From: Connie Arstark <connie@arstark.com>
Sent: Friday, September 25, 2020 4:29 PM
To: Theresa Wilkinson <tmwilkinson@cabarruscounty.us>
Subject: RE: BARN BU2020-03328 see attached

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

From: Theresa Wilkinson <tmwilkinson@cabarruscounty.us>
Sent: Friday, September 25, 2020 3:56 PM
To: Connie Arstark <connie@arstark.com>
Subject: RE: BARN BU2020-03328 see attached

Connie,

*See attached
PAID*

Please fill in the "Intended use after completion" line on the form and return to me.

Thank you!

Theresa M. Wilkinson

Permit Associate
Construction Standards

Office Email: CitizenAccess@CabarrusCounty.us
Accela Website: www.citizenaccess.cabarruscounty.us

Direct: 704-920-2159

Office: 704-920-2128

Fax: 704.920.2144

Physical Address: 65 Church Street S., Concord, NC 28025

Mailing Address: PO Box 707, Concord, NC 28026



From: Connie Arstark <connie@arstark.com>
Sent: Friday, September 25, 2020 11:51 AM
To: Theresa Wilkinson <tmwilkinson@cabarruscounty.us>
Subject: RE: BARN BU2020-03328 see attached

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

From: Theresa Wilkinson <tmwilkinson@cabarruscounty.us>
Sent: Friday, September 25, 2020 7:34 AM
To: Connie Arstark <connie@arstark.com>
Subject: BARN BU2020-03328

"PAID"

Good Morning Connie,

The building permit for the barn is created and ready for payment, \$328.64. Please call my direct line, (704) 920-2159, to make the payment. I will need the licensed electrician to sign the application before I can create the no charge electric permit for the barn. I will need this form filled out as well. The other one you submitted is for the house.

Have a great day!

Theresa M. Wilkinson
Permit Associate

Construction Standards



Office Email: CitizenAccess@CabarrusCounty.us
Accela Website: www.citizenaccess.cabarruscounty.us

Direct: 704-920-2159
Office: 704-920-2128
Fax: 704.920.2144

Physical Address: 65 Church Street S., Concord, NC 28025
Mailing Address: PO Box 707, Concord, NC 28026

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.
E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.
E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

THIS CARD MUST BE DISPLAYED AT JOBSITE AND ADDRESS DISPLAYED CLEARLY AT
ENTRANCE TO JOBSITE

CABARRUS COUNTY, N.C.

BUILDING PERMIT

NUMBER BU2020-03328 DATE 09.28.2020

ISSUED TO CONNIE ARSTARK

LOCATED AT 3233 HAHN SCOTT RD

CONSTRUCTION OF ACCESSORY BUILDING
1290 SQ.FT, WITH 43 'X 30 ' DIMENSIONS (BARN)

Barn

TRADE PERMITS ASSOCIATED WITH THIS BUILDING PERMIT:

NOTICE: The building for which this permit is issued shall not be occupied until a Certificate of Occupancy has been issued as required by the terms of the City/County Zoning/Fire Ordinances and the North Carolina State Building Code.

Do not proceed with work until the appropriate inspection has been recorded. **INSPECTIONS:**
To schedule or check results, call 704-920-2128 or contractors can log on to www.cabarruscounty.us/departments/construction-standards .



Building Residential BU2020-03328

Cabarrus County, NC

(704) 920 - 2128

9/28/2020

Parcel Pin: 55892433620000

Work Location: 3233 HAHN SCOTT RD
MT PLEASANT, NC 28124

Subdivision/Lot: /

Contractor:

License:

Applicant: CONNIE ARSTARK
3233 HAHN SCOTT RD
MT PLEASANT, NC 28124

Owner: MCMATH PAUL STEPHEN
3215 WOODCHUCK DR
KANNAPOLIS, NC 28081

Description: ACCESSORY BUILDING 1290 SQ.FT, WITH 43 'X 30 '
DIMENSIONS (BARN)

Barn

PERMIT DETAILS

Heated Sq Ft:	0	Unheated Sq Ft:	1290	Total Sq Ft:	1290
Type Construction:		Type Heat:		Habitable Rooms:	
Bathrooms:		Stories:		Estimated Cost:	60000

FEES

<u>Item</u>	<u>Fee</u>
Accessory Structure / Garage - Detached Residential (No MEP) - First 500 sf	\$250.00
Accessory Structure / Garage - Detached Residential (No MEP) - Each additional 500 sf	\$37.50
Miscellaneous Electrical Work	\$41.14
Total:	\$328.64

I, THE UNDERSIGNED, CERTIFY THAT THE WORK DESIGNATED IN THIS APPLICATION WILL BE DONE ACCORDING TO THE BUILDING LAWS OF THE STATE OF NORTH CAROLINA AND CABARRUS COUNTY, AND WILL COMPLY WITH THE ZONING ORDINANCE OF CABARRUS COUNTY AND COMPLY WITH THE SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE OF CABARRUS COUNTY. IF SAID BUILDING IS TO BE ERECTED IN THE FIRE LIMITS AS ESTABLISHED BY THE CITY ORDINANCE AND CABARRUS COUNTY IN THE ONE MILE AREA, THEN SUCH BUILDING PERMIT IS ISSUED SUBJECT TO THE APPROVAL OF THE INSURANCE COMMISSIONER OF THE STATE OF NORTH CAROLINA.

For Building and Trade Permits only: Informal review of inspectors' decisions is available on the Cabarrus County website: <https://www.cabarruscounty.us/departments/construction-standards>.
For questions concerning this process, please contact Chief Codes Enforcement Officer, Todd Culp, at 704-920-2128 or construction2222@cabarruscounty.us.

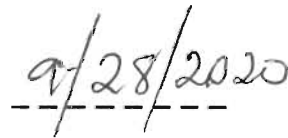
Notice for Building Permits: The Building for which this Permit is issued shall not be occupied until a Certificate of Occupancy has been issued as required by the terms of the City/County Zoning Ordinances and the North Carolina State Building Code.
Do not proceed with work until appropriate inspection has been completed. To verify an inspection has passed, or to schedule an inspection, access <https://citizenaccess.cabarruscounty.us>.
For questions, contact 704-920-2128

This permit will expire if:
-Work has not started and been inspected within six (6) months of issue date, or
-Work has been discontinued for a period of twelve (12) months.
No Refunds will be issued.

Applicant Signature:



Date:



Zoning / Compliance Certificate

Cabarrus County, NC (704) 920-2137

Date: 9/23/2020

Barn



Application #: ZN2020-01166

Parcel Number: 55892433620000

Fees:	Residential Addition / Accessory structures zoning permit (accessory)	\$150.00	9/23/2020
	TOTAL	\$150.00	

Project Name: CONNIE ARSTARK

Applicant:	ARSTARK	Work Location:	3233 HAHN SCOTT RD MT PLEASANT, NC 28124
	5625 WEDDINGTON RD CONCORD, NC 28027	Phone:	7044006366
Property Owner:	MCMATH PAUL STEPHEN	Owner Phone:	
Contractor:		Proposed use:	ACCESSORY BUILDING 1290 SQ.FT, WITH 43 'X 30 ' DIMENSIONS
		Previous use:	RESIDENCE UNDER CONSTRUCTION

Setback Information

Front Corner Lot:	—	Front Local Road:	50'	Front Minor Collector:	75'
Side Yard:	20-40'	Side Yard Accessory:	20-40'	Max Impermeable Surface:	15'
Rear Yard:	30'	Rear Yard Accessory Setback	5'	Max Structural Coverage:	10'
		15ft or less:			

Subdivision and Lot Number:

Total Lot Area:	10	Max Acc Bldg Size:	8712	Number Of Dwelling Units:	
Max Height (Principal/Acc):	40/40'	Project Description:	ACCESSORY BUILDING 1290 SQ.FT, WITH 43 'X 30 ' DIMENSIONS		

Zone: AO Conventional

Development of this property will also involve:

<input type="checkbox"/> Approve Site Plan	<input type="checkbox"/> Accessory / Building / Structure Signs	<input type="checkbox"/> Watershed Overlay District
<input type="checkbox"/> Fence / Screen / Buffer Yard	<input type="checkbox"/> Flood Damage Prevention Ordinance	

Comments: NO FLOODPLAIN OR WATERSHED WITHIN PROPERTY

ACCESSORY BUILDING - A BUILDING LOCATED ON THE SAME LOT AND CUSTOMARILY INCIDENTAL AND SUBORDINATE TO THE PRINCIPAL DWELLING

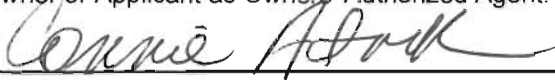
ACCESSORY BUILDINGS UP TO 15 FEET IN HEIGHT MUST MEET THE FRONT AND SIDE SETBACKS REQUIREMENTS OF THE PRIMARY STRUCTURE. THE REAR SETBACK SHALL BE NO LESS THAN 5 FEET. IF STRUCTURE IS GREATER THAN 15 FEET IN HEIGHT THEN ALL PRIMARY STRUCTURE SETBACKS MUST BE MET IN ACCORDANCE WITH CABARRUS COUNTY ORDINANCE CHAPTER 7, SECTION 3, PART 1.

Zoning Staff Signature:

Martha Hernandez

I, the undersigned, certify that all work designated on this application and on approved attached plans (if any) will be performed as indicated, and arrangement of land and / or structures will conform to all information presented herein and to all regulations of the zoning ordinance. No structures will be used or occupied other than in compliance with a valid certificate of zoning compliance / occupancy issued.

Signature of Owner or Applicant as Owners' Authorized Agent:



Important Setback Information

CABARRUS COUNTY

65 CHURCH STREET S - PO Box 707

CONCORD, NC 28025

Office - 704-920-2137 Fax - 704-920-2144

This notice is to inform you that all proposed principle and/or accessory structures shall be built or placed on the subject property in compliance with the setback standards listed on your Zoning Compliance Permit.

Example structures shall include but not be limited to:

- Residential Structures: Site Built, Modular, Mobile Homes
- Residential Accessory Structures: Pools, Storage Buildings, Garages
- Non Residential Structures: Offices, Warehouses, Fire Stations, Banks
- Non Residential Accessory Structures: Display Areas, Gas Pumps, ATM's

A structure built or placed on a property which encroaches a setback boundary shall be considered a violation of the Zoning Ordinance. Such violations are subject to all civil penalties and remedies set forth in the Zoning Ordinance.

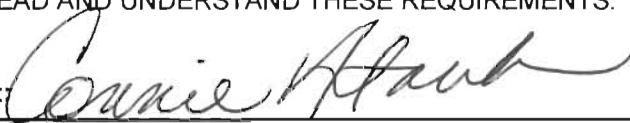
Prior to construction, verify setbacks to ensure the structure will be properly built or placed on the property.

All setbacks shall be measured from the existing or proposed right of way of record.

If you question the possibility of an encroachment consult with a land surveyor of your choice to plot out the structure placement.

I HAVE READ AND UNDERSTAND THESE REQUIREMENTS:

Applicant:



Date:

10-2-2020

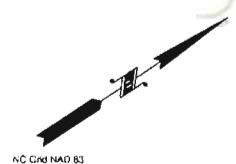
Staff:



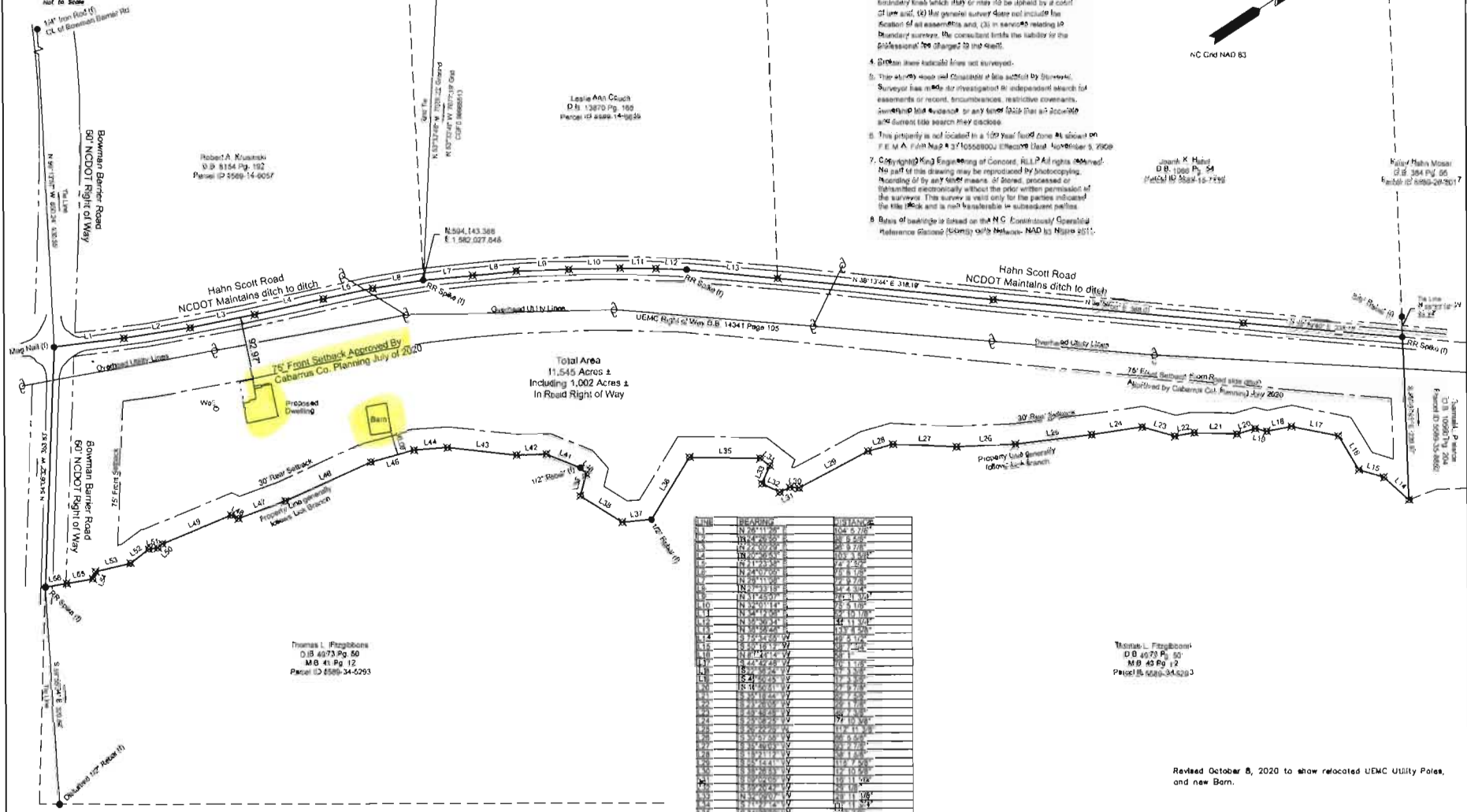
Date:

Owner Copy

Staff Copy



- All distances and bearings unless otherwise noted.
- All bearings are by coordinate method.
- The Client acknowledges (1) that boundary surveying services do not determine land ownership and that the professional land surveyor provides only an opinion of previously established boundary lines which may or may not be upheld by a court of law and, (2) that general survey data do not include the location of all easements and, (3) in services relating to boundary surveys, the consultant limits the liability for the professional fee charged to the client.
- Other than those indicated here are not surveyed.
- The client is advised that the use of this survey for purposes other than those intended is at the client's risk. The professional land surveyor has not investigated or independent search for easements or encroachments, restrictive covenants, or other interests in the land or any other interests that may affect the current title search may disclose.
- This property is not located in a 100 year flood zone as shown on F.E.M.A. Flood Map # 17105008000 Effective Date November 5, 2008.
- Copyrighted King Engineering of Concord, RLLP All rights reserved. No part of this drawing may be reproduced by photocopying, recording or by any other means, stored, processed or transmitted electronically without the prior written permission of the surveyor. This survey is valid only for the parties indicated on the title block and is not transferable in subsequent sales.
- Date of bearing is listed on the N.C. Coordinate/Geographic Reference Station (GCRS) or by NAD 83 NAD 83 NAD 83.



Total Area
11,548 Acres ±
Including 1,002 Acres ±
In Road Right of Way

Lot	Area	Area	Area
L1	0.01	0.01	0.01
L2	0.01	0.01	0.01
L3	0.01	0.01	0.01
L4	0.01	0.01	0.01
L5	0.01	0.01	0.01
L6	0.01	0.01	0.01
L7	0.01	0.01	0.01
L8	0.01	0.01	0.01
L9	0.01	0.01	0.01
L10	0.01	0.01	0.01
L11	0.01	0.01	0.01
L12	0.01	0.01	0.01
L13	0.01	0.01	0.01
L14	0.01	0.01	0.01
L15	0.01	0.01	0.01
L16	0.01	0.01	0.01
L17	0.01	0.01	0.01
L18	0.01	0.01	0.01
L19	0.01	0.01	0.01
L20	0.01	0.01	0.01
L21	0.01	0.01	0.01
L22	0.01	0.01	0.01
L23	0.01	0.01	0.01
L24	0.01	0.01	0.01
L25	0.01	0.01	0.01
L26	0.01	0.01	0.01
L27	0.01	0.01	0.01
L28	0.01	0.01	0.01
L29	0.01	0.01	0.01
L30	0.01	0.01	0.01
L31	0.01	0.01	0.01
L32	0.01	0.01	0.01
L33	0.01	0.01	0.01
L34	0.01	0.01	0.01
L35	0.01	0.01	0.01
L36	0.01	0.01	0.01
L37	0.01	0.01	0.01
L38	0.01	0.01	0.01
L39	0.01	0.01	0.01
L40	0.01	0.01	0.01
L41	0.01	0.01	0.01
L42	0.01	0.01	0.01
L43	0.01	0.01	0.01
L44	0.01	0.01	0.01
L45	0.01	0.01	0.01
L46	0.01	0.01	0.01
L47	0.01	0.01	0.01
L48	0.01	0.01	0.01
L49	0.01	0.01	0.01
L50	0.01	0.01	0.01
L51	0.01	0.01	0.01
L52	0.01	0.01	0.01

Revised October 8, 2020 to show relocated UEMC Utility Poles, and new Barn.

Boundary Survey for:
James N. Arstark & Connie G. Arstark
3233 Hahn Scott Road Mt. Pleasant, North Carolina, 28124
11,548 Acre ± Tract Parcel ID 5589-24-3362
Recorded in Deed Book 1823 Page 45
Number Eight Township Cabarrus County, North Carolina

Plot Prepared By:
King Engineering of Concord, RLLP
35 Church Street South Suite 107
Concord, NC 28025
Phone: (828) 403 - 5588
Mailing Address:
401 Potat Drive, Morganton, NC 28655

November 1, 2020
Job Number 202097
Scale: 1" = 100'
0 50' 100' 200' 300'

- Legend
- ⊗ Debris Completed Post-In-Monument Set
 - 1/2" Post (1)
 - (Double-Ending) Measurement
 - Right of Way
 - (NR) 100.00 FE Property Line
 - Setback Line
 - Adjoining Property Line
 - ⊕ Utility Pole

I certify that I am a duly licensed and registered professional land surveyor in the State of North Carolina and that I am duly qualified to perform the services herein described. I have read the above and certify that the same are true and correct to the best of my knowledge and belief. I have also read the provisions of the North Carolina Code of Ethics for Professional Land Surveyors and certify that I have complied therewith.

THOMAS L. FRIZZBORN, JLSR



Revised November 1st 2020 to show Barn and proposed dwelling

From: Connie Arstark <connie@arstark.com>
Sent: Monday, June 29, 2020 6:57 AM
To: chad@Kingengineernc.com
Subject: FW: Question on set backs? 3233 hahn scott road

From: Martha Hernandez <mhernandez@cabarruscounty.us>
Sent: Thursday, June 25, 2020 1:53 PM
To: Connie Arstark <connie@arstark.com>
Subject: RE: Question on set backs? 3233 hahn scott road

The property is zoned Agricultural/Open Residential and has the following setbacks:

Agricultural/Open Space
(AO)

<i>Principal</i> (minimum feet)	
Front yard (minor collector)	75
Front yard (local road)	50
Side yard (single)	20
Side yard (total)	40
Rear yard	30
<i>Height</i> (maximum feet)	40
<i>Lot Coverage</i> (maximum)	
Impermeable surface	15%
Structural coverage	10%

Martha Hernandez
Zoning and Septic Suitability Permit Associate
Planning and Development Department
Cabarrus County
65 Church St. SE, Concord, NC 28025
P.O. Box 707, Concord, NC 28026

O: 704-920-2147
F: 704-920-2227
www.cabarruscounty.us



From: Connie Arstark <connie@arstark.com>
Sent: Thursday, June 25, 2020 12:34 PM
To: Martha Hernandez <mhernandez@cabarruscounty.us>; connie@arstark.com
Subject: Question on set backs? 3233 hahn scott road

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Do you remember what the set back guidelines are for my property off hahn scott road?
Thanks
Connie Arstark

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Martha Hernandez <mhernandez@cabarruscounty.us>
Date: 6/24/20 8:24 AM (GMT-05:00)
To: Connie Arstark <connie@arstark.com>
Cc: Tyler W Robertson <Tyler.Robertson@CabarrusHealth.org>
Subject: FW: Tyler said to call you for getting the barn added to septic it is not a problem. He told me to flag it on the lot which I did. He said it was \$60.00


I don't complete or take payments for secondary applications.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

 Cabarrus County

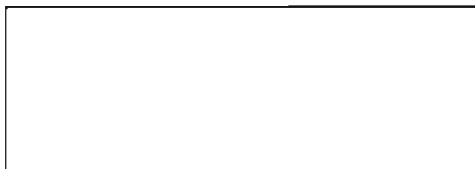
65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

T: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



From: Connie Arstark <connie@arstark.com>

Sent: Wednesday, June 24, 2020 8:13 AM

To: Martha Hernandez <mhernandez@cabarruscounty.us>; connie@arstark.com

Subject: RE: Tyler said to call you for getting the barn added to septic it is not a problem. He told me to flag it on the lot which I did. He said it was \$60.00

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Is this something you can help me with?

Thanks

Connie

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Martha Hernandez <mhernandez@cabarruscounty.us>

Date: 6/23/20 4:52 PM (GMT-05:00)

To: Connie Arstark <connie@arstark.com>

Subject: RE: do I need a permit for Barn?

Yes.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

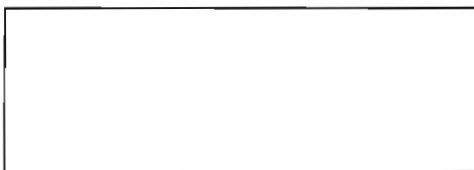
65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



From: Connie Arstark <connie@arstark.com>

Sent: Tuesday, June 23, 2020 4:51 PM

To: Martha Hernandez <mhernandez@cabarruscounty.us>

Subject: RE: do I need a permit for Barn?

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Do we need it if I intend to be a farm once the home is built?

Ca

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Martha Hernandez <mhernandez@cabarruscounty.us>

Date: 6/23/20 4:42 PM (GMT-05:00)

To: Connie Arstark <connie@arstark.com>

Subject: RE: do I need a permit for Barn?

The septic permit doesn't reflect the barn on the lay-out. We would need approval from the Health Alliance.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

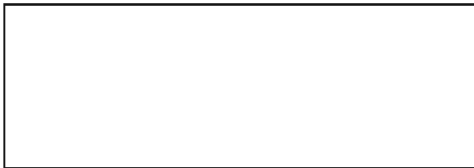
65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



From: Connie Arstark <connie@arstark.com>
Sent: Tuesday, June 23, 2020 4:35 PM
To: Martha Hernandez <mhernandez@cabarruscounty.us>
Subject: RE: do I need a permit for Barn?

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Ok can you email me what I need for that permit? Lol

You guys are taking all my money! Lol

Connie

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Martha Hernandez <mhernandez@cabarruscounty.us>

Date: 6/23/20 4:33 PM (GMT-05:00)

To: Connie Arstark <connie@arstark.com>

Subject: RE: do I need a permit for Barn?

yes

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

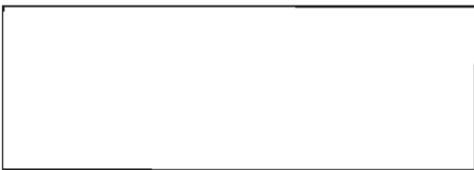
65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



From: Connie Arstark <connie@arstark.com>

Sent: Tuesday, June 23, 2020 4:32 PM

To: Martha Hernandez <mhernandez@cabarruscounty.us>

Subject: RE: do I need a permit for Barn?

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

I have a 43x30 metal barn installed on the property. Do I need permit for that as well?

Connie

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Martha Hernandez <mhernandez@cabarruscounty.us>

Date: 6/23/20 4:03 PM (GMT-05:00)

To: Connie Arstark <connie@arstark.com>

Cc: Boyd Stanley <bvstanley@cabarruscounty.us>

Subject: RE: Zoning Permit Requirements-POOL Permit?

Your zoning permit (**ZN2020-00653**) request has been approved. It is ready for payment (**\$75.00**). Someone from our department will be calling you to take your payment over the phone.

Please sign on the **2 places** marked and return attached permit. The permit will not be valid until payment is made **AND** signed permit is returned.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

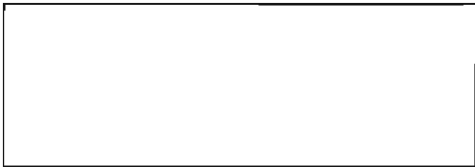
65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



From: Connie Arstark <connie@arstark.com>
Sent: Monday, June 22, 2020 2:53 PM
To: Martha Hernandez <mhernandez@cabarruscounty.us>
Subject: RE: Zoning Permit Requirements-POOL Permit?

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Here you go.

thanks so much

Connie

From: Martha Hernandez <mhernandez@cabarruscounty.us>
Sent: Monday, June 22, 2020 2:37 PM

To: Connie Arstark <connie@arstark.com>

Subject: RE: Zoning Permit Requirements-POOL Permit?

Complete the application attached and submit a plot plan that shows measurements on pool and concrete surrounding it.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

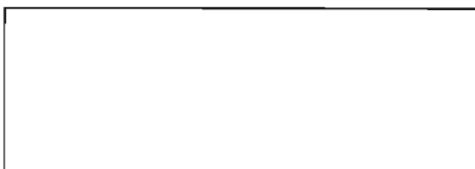
65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



From: Connie Arstark <connie@arstark.com>

Sent: Monday, June 22, 2020 2:22 PM

To: Martha Hernandez <mhernandez@cabarruscounty.us>

Subject: RE: Zoning Permit Requirements-POOL Permit?

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Pool Permit? What info is needed to get this processed.

connie

From: Martha Hernandez <mhernandez@cabarruscounty.us>
Sent: Monday, June 15, 2020 9:31 AM
To: Connie Arstark <connie@arstark.com>
Subject: RE: Zoning Permit Requirements

Yes. The \$725.00 fee includes the well permit.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us

From: Connie Arstark <connie@arstark.com>
Sent: Friday, June 12, 2020 4:46 PM
To: Martha Hernandez <mhernandez@cabarruscounty.us>
Subject: RE: Zoning Permit Requirements

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Does this include my well permit as well?

I need it too.

Thanks

Ca

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Martha Hernandez <mhernandez@cabarruscounty.us>
Date: 6/12/20 4:30 PM (GMT-05:00)
To: connie@arstark.com
Cc: Boyd Stanley <bvstanley@cabarruscounty.us>
Subject: RE: Zoning Permit Requirements

Our zoning permit (**ZN2020-00614**) request has been approved. It is ready for payment (**\$100.00**). In addition to the zoning permit, you also need to pay **\$725.00** for the septic permit (**SE2020-00062**) Someone from our department will be calling you to take your payment over the phone.

Please sign on the **2 places** marked and return attached permit. The permit will not be valid until payment is made **AND** signed permit is returned.

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

Cabarrus County

65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



From: connie@arstark.com <connie@arstark.com>
Sent: Friday, June 12, 2020 1:39 PM
To: Martha Hernandez <mhernandez@cabarruscounty.us>
Cc: Connie Arstark <connie@arstark.com>
Subject: RE: Zoning Permit Requirements

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

From: Martha Hernandez <mhernandez@cabarruscounty.us>
Sent: Friday, June 12, 2020 12:45 PM
To: connie@ARSTARK.com
Subject: Zoning Permit Requirements

You can email me application, plot plan and supporting documentation. We will then process and notify when its ready for payment over phone with credit card. Please feel free to call at 704-920-2147 should you have any questions.

I have attached zoning permit application and plot/site plan example. Dimensions of all structures and the applicable setbacks must be included in the plot/site plan submitted. You may use GIS to print out the subject parcel and create a plot plan if a survey of the property is not available. The link for accessing the County's GIS system is below.

GENERAL REQUIREMENTS:

CABARRUS HEALTH ALLIANCE:

- If the property has an **existing** septic system, call the Cabarrus Health Alliance at 704-920-1207 or visit them at 300 Mooresville Road, Kannapolis, for an inspection. CHA will provide a letter for you to turn in with your application.
- If the property requires a **new** septic system, a site evaluation application will need to be completed at the Cabarrus County Governmental Center at 65 Church Street, SE, Concord.

SITE/PLOT PLAN (to scale) that shows:

- size and configuration of the property, including lot dimensions and acreage
- location and dimensions of all existing structures
- location and dimensions of all existing parking and driveway areas
- location and dimensions of any bodies of water or water channels (ponds, streams, swales, etc.)
- location of identified flood hazard areas, including floodway, 100-year and 500-year
- location and dimensions of proposed work (new structure, pool, addition to existing building, deck, etc.)
- setbacks for the applicable zoning district (proposed work must meet established setbacks for district)

- All requests for zoning permits must comply with the standards of the Cabarrus County Development Ordinance.
- Additional information may be needed, or may be required on the plot plan, if the property lies within an Overlay District as defined in Chapter 4 of the Cabarrus County Development Ordinance.

<https://location.cabarruscounty.us/mapcabarrus/>

Many thanks,

Martha Hernandez

Zoning and Septic Suitability Permit Associate

Planning and Development Department

abarrus County

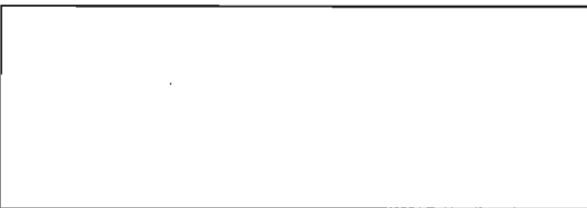
65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2147

F: 704-920-2227

www.cabarruscounty.us



E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

Petition: APPL2021-00002
Appeal of Interpretation of Cabarrus County Zoning and Subdivision Ordinances

Appellant Information: Dwight Radford
3109 Olde Creek Trail
Matthews NC 28105

Zoning: Countryside Residential

Property Location: 8667 Flowes Store Road
Concord NC 28025

PIN#: 5536-56-0806

Request: Appeal of NOV issued for operation of sawmill without proper permits

Noticing Letters sent: February 21, 2022
Newspaper Ad: February 23, 2022
March 2, 2022
Sign Posted: February 21, 2022

History

3/22/2021 Complaint received related to operation of illegal business located at 8667 Flowes Store Road. Complainant stated that site is being used for commercial firewood business.

3/23/2021 Zoning Officer Hicks made site visit, took photos, and confirmed a business was being operated from the site after speaking with employees (2) on site. Officer Hicks left a business card and requested the owner contact him.

Dwight Radford, the property owner, contacted Officer Hicks by phone to discuss the complaint and violation. Mr. Radford confirmed he was running a commercial firewood business. He stated he brought wood to the site to cut and distribute to commercial clients.

3/26/21 Mr. Radford called Officer Hicks to discuss the Countryside Residential (CR) zoning standards and what uses were allowed in this zone. Mr. Radford was informed that Staff had determined that the business met the definition of a sawmill which was not allowed in this zoning district, nor could the parcel meet the standards by which a sawmill could be operated. Mr. Radford informed Officer Hicks he had retained an attorney to represent him in this matter. Mr. Radford also emailed the contact information of his attorney to Officer Hicks.

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

Staff Use Only:
Approved: _____
Denied: _____
Tabled _____

4/19/2021 David Goldberg, Deputy County Attorney, and Susie Morris, Planning and Zoning Manager, met with Mr. Radford's attorney to discuss permitted use of the property and options for compliance.

5/7/21 Officer Hicks performed a site visit to document site conditions and confirmed the illegal business was still operating.

5/17/21 Officer Hicks issued a Warning Notice of Violation (NOV) for the subject property regarding the illegal operation of a sawmill on the property. The NOV provided (30) days for the owner to cease operations of the illegal business and bring the property into compliance with Cabarrus County's Development Ordinance (CCDO). (See Warning Violation)

6/18/21 Officer Hicks, the Cabarrus County Zoning Administrator and the Cabarrus County Attorney started working with Mr. Radford's Attorney on a path for compliance and a formal Compliance Plan.

5/17/21 – 7/15/21 During this timeframe, Officer Hicks monitored the site and took photos documenting conditions. He observed no significant changes to the operation of the illegal business or the overall site conditions. (See Field Observation Photos)

7/15/21 A Compliance Plan, submitted by Mr. Radford's Legal Counsel, was executed for the site. (See Executed Compliance Plan document dated 7/15/21).

7/21/21 - 10/8/21 During this timeframe, Officer Hicks made regular site visits to the subject property to check on progress and compliance with the executed Compliance Plan.

10/19/21

- Pursuant to the executed Compliance Plan, operation of the illegal business was to cease over a 90-day period from the date of the execution of the agreement, which was July 15, 2021. The final date for compliance was October 15, 2021.
- Officer Hicks observed no indications that the illegal sawmill operation was scaling back or in the process of vacating the site.
- Due to the ongoing nature of the violation and non-compliance with the executed Compliance Plan, a Notice of Violation was issued that included a \$450.00 civil penalty. The NOV stated that the property owner had (15) days to cease the illegal operations on the property. (See Notice of Violation)

11/5/21 Mr. Radford left a voice mail with Officer Hicks stating that he would be requesting an Appeal of the Notice of Violation.

11/23/21 Mr. Radford submitted an Appeal application. All enforcement actions related to the enforcement of the Notice of Violation were stayed pending the outcome of the Appeal.

Findings

1. The subject property is zoned Countryside Residential (CR).
2. The subject property is approximately 1.27 acres per the tax card.
3. The use occurring on the site is primarily industrial in nature and includes loud disturbing noises related to the operation of chainsaws and other machinery, as well as unpleasant odors from the open burning of vegetation.
4. The current use is not an authorized use in the CR zone.
5. The use occurring on the site may be classified as a sawmill for purposes of zoning classification on the permitted use table located in Chapter 3.

Chapter 2 defines a sawmill as establishments primarily engaged in sawing dimension lumber, boards, beams, timbers, poles, ties, shingles, shakes, siding, and wood chips from logs or bolts. Sawmills may plane the rough lumber that they make with a planing machine to achieve smoothness and uniformity of size.

6. The use of sawmill is permitted in the Agriculture Open Space and Countryside Residential districts if additional performance standards can be met. The subject property is approximately 1.27 acres and is roughly 270 feet at its widest point. The permitted based on standards development standards for this type of use are:

Sawmill

Agriculture/Open and Countryside Residential districts

- a. A minimum of 30 acres is required.

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

Staff Use Only:
Approved: _____
Denied: _____
Tabled _____

- b. Any and all mechanized sawing equipment must be located a minimum of 500 feet from tract boundary lines.
7. No permits have been obtained for the use that is occurring on the subject property.

Per Chapter 12, section 12-3, Zoning Compliance Permit

A Zoning Compliance Permit must be obtained from the Zoning Administrator prior to the use or occupancy of any building or premises, or both, hereinafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure.

Additionally, no nonconforming structure or use can similarly be changed or extended without a Zoning Compliance Permit or Certificate of Non-Conformity Adjustment being issued.

Exhibits

1. Staff Report and Exhibits
2. Noticing Information
3. Application Materials Provided by Appellant



Brett Hicks
Zoning Enforcement Officer

5/17/2021

Radford Dwight David
3109 Olde Creek Trl
Matthews, NC 28105

File # : ZNC2021-00108
Inspection Date: 05/17/2021

NOTICE OF VIOLATION

RE: 8667 FLOWES STORE RD Zoning: CR

Parcel(s): 55365608060000

Nature of Violation: OPERATION OF A SAWMILL WITHOUT A ZONING COMPLIANCE PERMIT OR BEING ABLE TO MEET THE REQUIRED PERFORMANCE BASED STANDARDS AS LISTED IN THE CABARRUS COUNTY DEVELOPMENT ORDINANCE

The following provision(s) of the CABARRUS COUNTY Zoning Ordinance has been violated:

- 06-02 ZONING AFFECTS EVERY STRUCTURE AND USE
- 07-03 OPERATION OF A USE BASED ON STANDARDS WITHOUT A ZONING COMPLIANCE PERMIT
- 12-03 ZONING COMPLIANCE PERMIT REQUIRED

Dear Dwight David Radford,

An on-site inspection of your property has found you to be in violation of the Cabarrus County Zoning Ordinance as follows:

1. Failure to obtain a Zoning Compliance Permit, as required by Cabarrus County Development Ordinance (CCD) § 12-3.
2. Operation of a sawmill in a Countryside Residential District without complying with Permitted Based on Standards for Sawmill, in violation of CDDO § 7-3.
3. Operation of a commercial and/or industrial use in a Countryside Residential District, which does not allow for such uses, in violation of CDDO § 6-2.

This notice is to serve as a Warning Citation

In order to correct this violation you must:

Cease all commercial and industrial activities in the property, including the selling, storing, processing, sawing, packaging, and shipping of logs, lumber, and other wood products.

You have 30 days from the receipt of this letter to comply with this ordinance.

You may appeal this decision to the Board of Adjustment within thirty (30) days. This department reserves the right to exercise the following remedies per NC G.S. 153A-123:

- Issue a civil starting at \$450.00 and if unpaid a judgment could become a lien on the property.
- File lawsuit against a property owner in North Carolina Superior Court for violation of the Zoning Ordinance.

In order to avoid any monetary citations please correct this matter within the aforementioned time frame.

If you have any questions concerning this matter or if you are in the process of clearing this matter, please call our office at (704) 920-2148 so we can make appropriate arrangements.

Thank you in advance for your cooperation.

Sincerely,

Brett Hicks, Senior Zoning Inspector

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Dwight David Radford
3109 Olde Creek Trl
Matthews, NC 28105



9590 9402 2195 6193 5386 71

2. Article Number (Transfer from service label)

7004 1160 0002 6994 9099

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

Hicks - 21-00108 - zoning

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Certified Mail Provide:

- A mailing receipt
- A unique identifier for you
- A record of delivery kept by us

Important Reminders:

- Certified Mail may ONLY be used for delivery of mailpieces.
- Certified Mail is not available for delivery of mailpieces containing valuables, please consider insurance.
- NO INSURANCE COVERAGE for delivery of mailpieces containing valuables, please consider insurance.
- For an additional fee, a Return Receipt (PS Form 3811) may be obtained. A duplicate return receipt is required.

- For an additional fee, delivery to an addressee's authorized agent is available. Endorsement "Restricted Delivery" is required.
- If a postmark on the Certified Mail piece at the post office for which a receipt is not needed, data is not required.

IMPORTANT: Save this receipt for your records. It is required for internet access to delivery information addressed to APOs and FPOs.

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL™



7004 1160 0002 6994 9099
 7004 1160 0002 6994 9099

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Hiels - 21-00108 - 2 min

Sent To

Street, Apt. No., or PO Box No. Dwight David Radford
 3109 Olde Creek Trl
 City, State, ZIP+4 Matthews. NC 28105

PS Form 3800, June 2002 See Reverse for Instructions

Cabarrus County
 Planning & Development
 Post Office Box 707
 Concord, NC 28026-0707
www.cabarruscounty.us



7004 1160 0002 6994 9099

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Hicks - 21-00108 - 2 min

Sent To

Street, Apt. No.,
or PO Box No. Dwight David Radford
3109 Olde Creek Trl
City, State, ZIP+4 Matthews. NC 28105

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Dwight David Radford
 3109 Olde Creek Trl
 Matthews, NC 28105



9590 9402 2195 6193 5386 71

2. Article Number (Transfer from service label)

7004 1160 0002 6994 9099

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

Hicks - 21-00108 - Zoning

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

COMPLIANCE PLAN

RE: 8667 FLOWES STORE ROAD; PARCEL 55365608060000; DWIGHT RADFORD

I. General Notes:

- a. Mr. Radford has met with numerous realtors and lenders as he attempts to secure both a new business location outside of Cabarrus County, as well as financing to purchase said property.
- b. Mr. Radford has found several suitable locations, but requires a reasonable time to negotiate price and secure financing.
- c. Mr. Radford will be simultaneously attempting to sell the Flowes Store Road property at issue in this matter (the "Existing Property"). He plans to either sell the Existing Property and use the proceeds to purchase new property out of county, or obtain financing and purchase the new property outright.
- d. Mr. Radford is scheduled to meet with several people interested in purchasing the Existing Property during the next few weeks.
- e. Once the new location is purchased, Mr. Radford will need time to clear trees and brush, grade the property, install fencing, and gravel both the lot and entrance road before beginning operations full time.
- f. During the time required to complete a. – e. above, Mr. Radford must keep his existing business in operation at the Existing Property location. Otherwise, he will lose his contracts, be forced out of business, and he and his employees will be out of work. Should this occur, it will be difficult or impossible for Mr. Radford to come into compliance, as he will simply not have the funds to do so.

II. Compliance Plan:

- a. Mr. Radford will effect a gradual shutdown of his business at the Existing Property over the next 90 days.
- b. The gradual shutdown of operations at the Existing Property will take place over the next 90 days as follows:
 - i. Neither my client nor his employees will operate any machinery (splitters, skidsteer, backhoe, chainsaws, etc.) before 10 AM or after 6 PM Monday through Saturday, and use of the machinery other than chainsaws will occur inside buildings when possible. On Saturdays, they will not operate machinery, except splitters, bobcats, and trucks. They will not operate the business on Sundays.

1. Please note, however, that ingress and egress of trucks or trailers for deliveries would continue outside of 10 AM to 6 PM time period above, but only from sunrise to sunset.
 - ii. As it appears that the noise complaints are primarily related to chainsaws, my client and his employees will further limit their use to the hours between 10 AM and 3 PM Monday through Friday.
 - iii. While continuing but reducing over time the operations at the Existing Property, Mr. Radford will limit orders and deliveries to commercial accounts only in an attempt to further limit work time and noise.
 - iv. Neither Mr. Radford nor his employees will engage in further burning on the Existing Property.
 - v. After the first 30 days from the date of this Agreement, no new wood will be delivered to the Existing Property.
 - vi. On or before 60 days after the date of this Agreement, substantial progress will have been made on removing (through cutting and sales) the existing wood from the premises and decreasing operations. Further, Mr. Radford will have purchased an alternative site or otherwise made arrangements to move his business from the Existing Property.
 - vii. All conditions listed in II.b. will become effective immediately, except where a different time period is specified in II.b..
 - viii. On or before 90 days after the date of this Agreement, Mr. Radford will no longer be operating his business on the Existing Property.
 - ix. Mr. Radford will provide the county with an update on his progress towards compliance every two weeks, including a brief narrative description of current operations and supporting pictures of the property.
- c. Mr. Radford understands that Cabarrus County's suspension of enforcement efforts is based on his compliance with this plan.

REMINDER OF PAGE PURPOSEFULLY LEFT BLANK.

This the 15th day of July, 2021.

I CONSENT:



Dwight Radford



Brett Hicks
Senior Zoning Inspector

10/19/2021

Radford Dwight David
3109 Olde Creek Trl
Matthews, NC 28105

File # : ZNC2021-00108

Inspection Date: 10/19/2021

NOTICE OF VIOLATION

RE: 8667 FLOWES STORE RD Zoning: CR
Parcel(s): 55365608060000

Nature of Violation: OPERATION OF A SAWMILL WITHOUT A ZONING COMPLIANCE PERMIT OR BEING ABLE TO MEET THE REQUIRED PERFORMANCE BASED STANDARDS AS LISTED IN THE CABARRUS COUNTY DEVELOPMENT ORDINANCE

The following provision(s) of the CABARRUS COUNTY Zoning Ordinance has been violated:

- 06-02 ZONING AFFECTS EVERY STRUCTURE AND USE
- 07-03 OPERATION OF A USE BASED ON STANDARDS WITHOUT A ZONING COMPLIANCE PERMIT
- 12-03 ZONING COMPLIANCE PERMIT REQUIRED

Dear Radford Dwight David,

An on-site inspection of your property has found you to be in violation of the Cabarrus County Zoning Ordinance.

An on-site inspection of your property has found you to be in violation of the Cabarrus County Zoning Ordinance as follows:

1. Failure to obtain a Zoning Compliance Permit, as required by Cabarrus County Development Ordinance CCDO Section 12-3.
2. Operation of a sawmill in a Countryside Residential District without complying with Permitted Based on Standards for Sawmill, in violation of CCDO Section 7-3.
3. Operation of a commercial and/or industrial use in a Countryside Residential District, which does not allow for such uses, in violation of CCDO Section 6.2.

This notice is to serve as a \$450 Citation

In order to correct this violation you must:

Cease all commercial and industrial activities on the property, including the selling, storing, processing, sawing, packaging, and shipping of logs, lumber, and other wood products.

You have 15 days from the receipt of this letter to comply with this ordinance.

You may appeal this decision to the Board of Adjustment within thirty (30) days. This department reserves the right to exercise the following remedies per NC G.S.153A-123:

- Issue a civil starting at \$450.00 and if unpaid a judgment could become a lien on the property.
- File lawsuit against a property owner in North Carolina Superior Court for violation of the Zoning Ordinance.

In order to avoid any monetary citations please correct this matter within the aforementioned time frame.

If you have any questions concerning this matter or if you are in the process of clearing this matter, please call our office at (704) 920-2148 so we can make appropriate arrangements.

Thank you in advance for your cooperation.

Sincerely,

Brett Hicks, Senior Zoning Inspector

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Radford Dwight David
3109 Olde Creek Trl
Matthews, NC 28105



9590 9402 2195 6193 5385 10

2. Article Number (Transfer from service label)

7004 1160 0002 6994 9259

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

21-00108 - Hicks - Zumaig

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

Certified Mail Provides

- A mailing receipt
- A unique identifier for your mailpiece
- A record of delivery kept by the post office

Important Reminders:

- Certified Mail may ONLY be used for mailpieces that contain valuables. NO INSURANCE COVER is provided for these mailpieces. For an additional fee, a Return Receipt (PS Form 3811) is required. Endorse mailpieces with a duplicate return receipt, a return receipt, or a return receipt with a fee.

- For an additional fee, the addressee's authorized agent may be designated on the endorsement "Restricted Delivery".

- If a postmark on the Certified Mail piece at the post office for postage payment is not needed, detail the postage paid on the return receipt.

IMPORTANT: Save this receipt for your records. It provides internet access to delivery status and tracking information addressed to APOs and FPOs.

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE
CERTIFIED MAIL™



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 7004 1160 0002 6994 9259

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Postmark Here 21-00108 Hicks Zoning	
Sent To Street, Apt. No.; or PO Box No. Radford Dwight David City, State, ZIP+4 3109 Olde Creek Trl Matthews, NC 28105	
PS Form 3800, June 2002 See Reverse for Instructions	

Cabarrus County
 Planning & Development
 Post Office Box 707
 Concord, NC 28026-0707
www.cabarruscounty.us



SENDER: COMPLETE THIS SECTION

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1. Article Addressed to:

Radford Dwight David
 3109 Olde Creek Trl
 Matthews, NC 28105



9590 9402 2195 6193 5385 10

2. Article Number (Transfer from service label)

7004 1160 0002 6994 9259

COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent
 Addressee

B. Received by (Printed Name) Dwight Radford C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

21-00108 - Hicks - Zoning

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Insured Mail Restricted Delivery (over \$500)
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

7004 1160 0002 6994 9327

U.S. Postal Service *First Mail*
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here
Hicks
Zonig
21.00108

Sent To
 Radford Dwight David
 3109 Olde Creek Trl
 Matthews, NC 28105

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**Radford Dwight David
3109 Olde Creek Trl
Matthews, NC 28105**



9590 9402 2195 6193 5384 42

2. Article Number (Transfer from service label)

7004 1160 0002 6994 9327

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

Hicks, Zaring, 21-00108

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

ZNC2021-00108
8667 FLOWES STORE RD

FIELD
OBSERVATION
PHOTOS

MARCH 23, 2021
TO
NOVEMBER 4, 2021

MARCH 23, 2021



Mar 23, 2021 at 12:02:25 PM
8635 Flowes Store Rd
Concord NC 28025
United States



Mar 23, 2021 at 12:02:59 PM
8679 Flowes Store Rd
Concord NC 28025
United States

MAY 7, 2021



JULY 9, 2021



JULY 21, 2021



JULY 29, 2021



AUGUST 11, 2021



AUGUST 30, 2021



SEPTEMBER 8, 2021



SEPTEMBER 29, 2021



OCTOBER 8, 2021



OCTOBER 25, 2021



NOVEMBER 4, 2021





**Midland Planning Area
Existing Zoning**

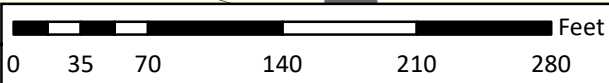
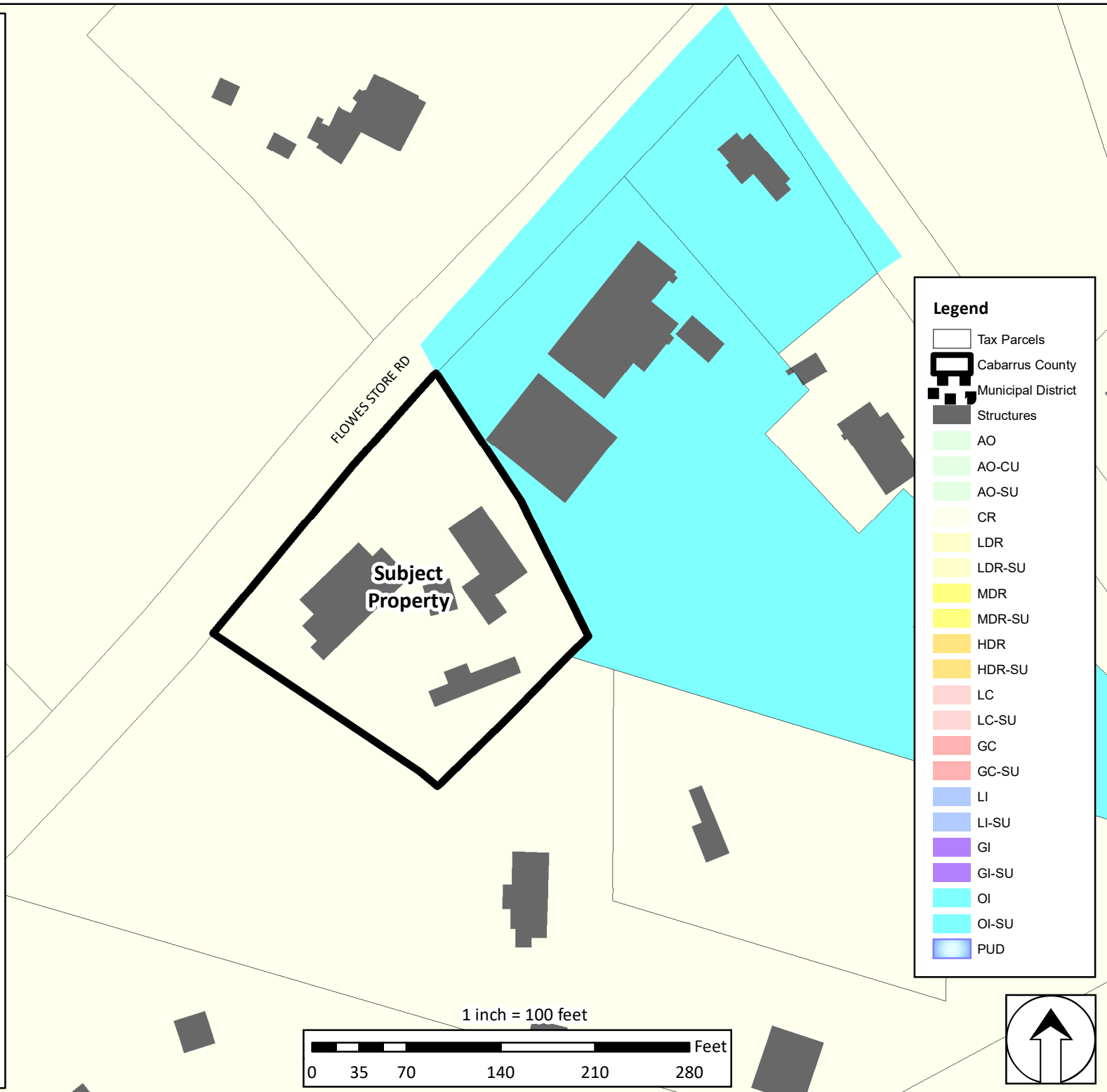


Applicant: Dwight Radford
 Owner: Dwight Radford
 Case: APPL2021-00002
 Address: 8667 Flowes Store Road
 Purpose: Appeal of a Notice of Violation
 PINs: 5536-56-0806



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

Map Prepared by Cabarrus County Planning & Development - March 2022

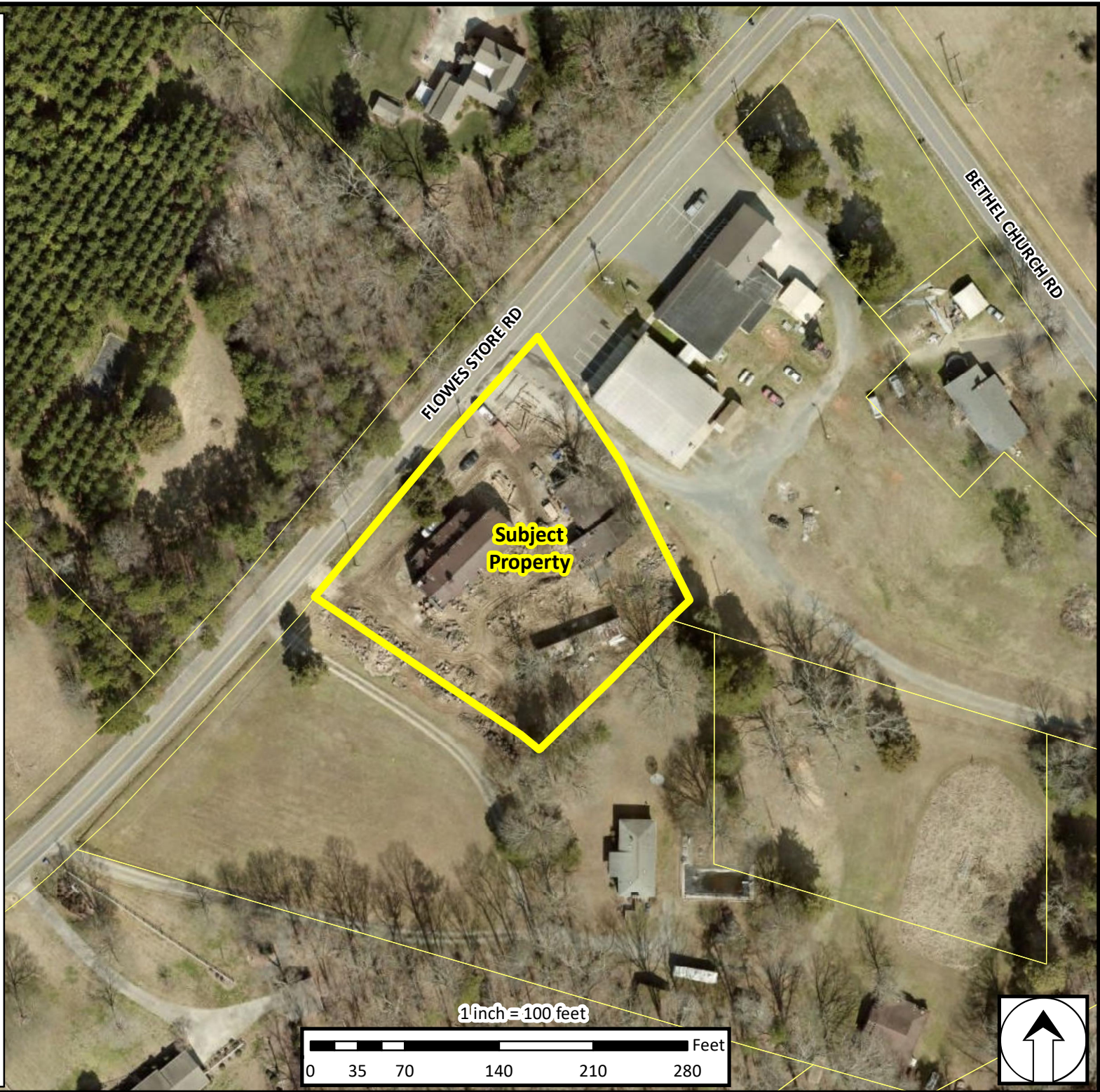
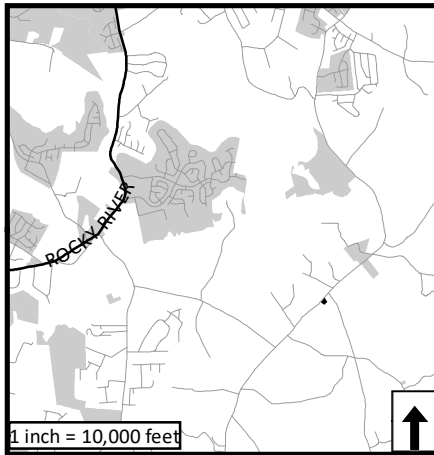


Midland Planning Area Aerial Map



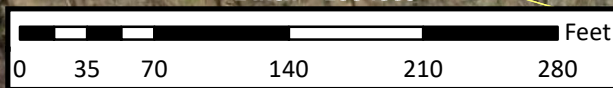
Applicant: Dwight Radford
Owner: Dwight Radford
Case: APPL2021-00002
Address: 8667 Flowes Store Road
Purpose: Appeal of a Notice of Violation
PINs: 5536-56-0806

- Cabarrus County
- Municipal District
- Tax Parcels



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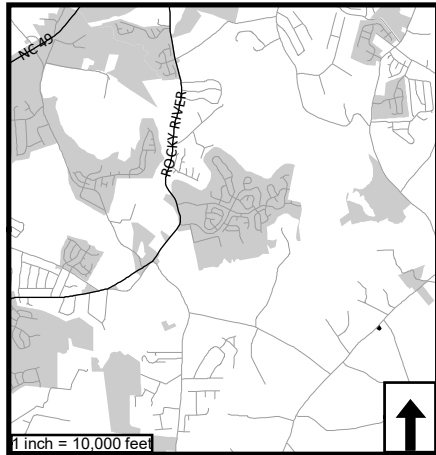
Map Prepared by Cabarrus County Planning & Development - March 2022



**Midland Planning Area
Future Land Use**

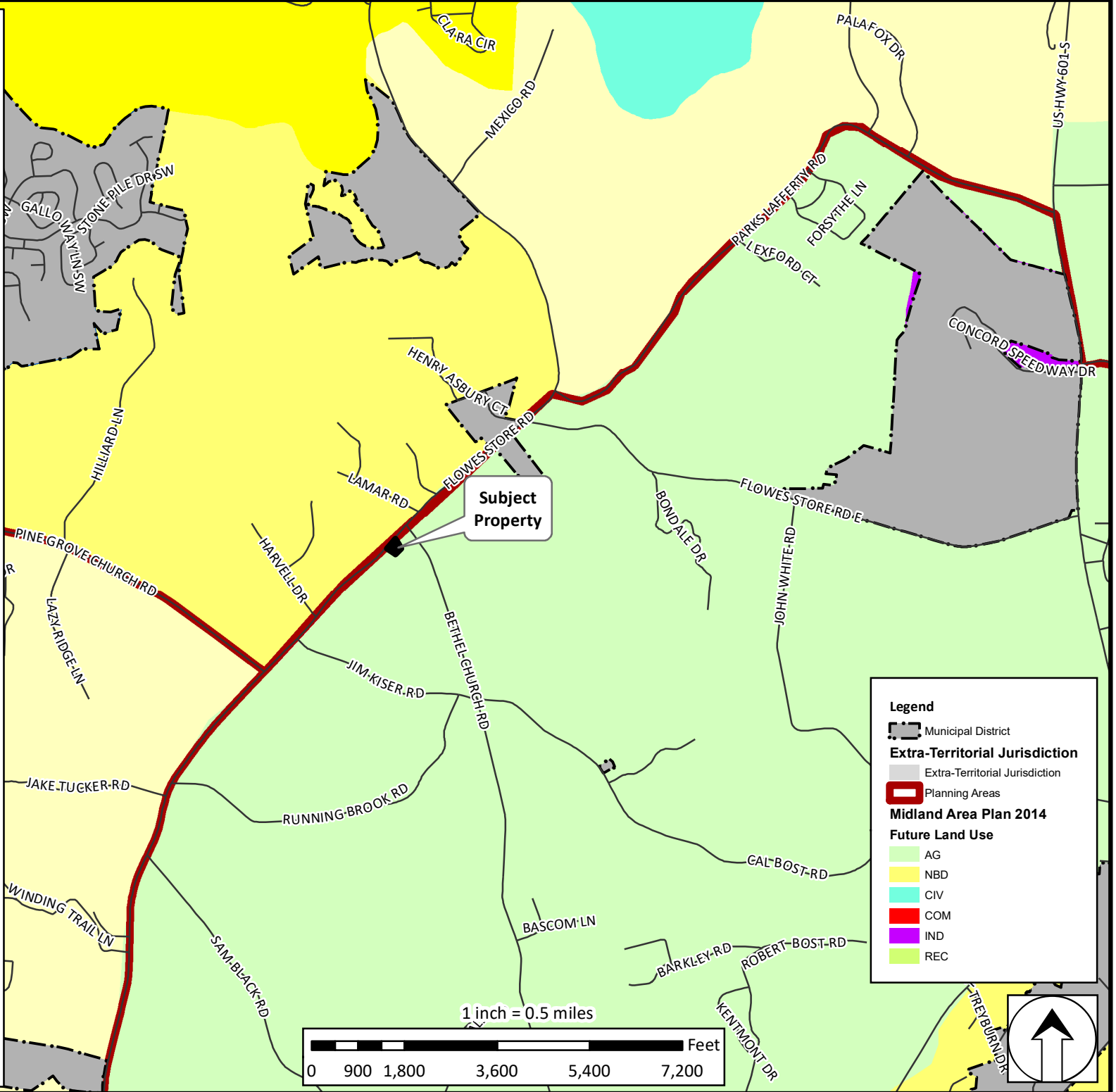


Applicant: Dwight Radford
 Owner: Dwight Radford
 Case: APPL2021-00002
 Address: 8667 Flowes Store Road
 Purpose: Appeal of a Notice of Violation
 PINs: 5536-56-0806



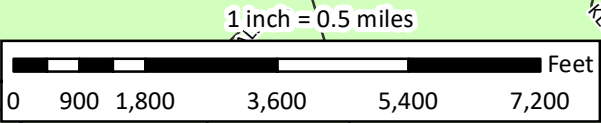
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Map Prepared by Cabarrus County Planning & Development - March 2022



Legend

- Municipal District
- Extra-Territorial Jurisdiction
 - Extra-Territorial Jurisdiction
 - Planning Areas
- Midland Area Plan 2014
 - Future Land Use
 - AG
 - NBD
 - CIV
 - COM
 - IND
 - REC







Cabarrus County Government – Planning and Development Department

February 21, 2021

Dear Property Owner:

An appeal of a Notice of Violation has been filed in our office for property **adjacent** to yours. The specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday March 8, 2022 at 6:30 PM in the 2nd floor Commissioner’s Chambers of the Cabarrus County Governmental Center, located at 65 Church Street S Concord, NC 28025. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about this request, I encourage you to attend this meeting.

Petitioner	Dwight Radford
Petition Number	APPL2021-00002
Property Location	8667 Flowes Store Road
Parcel ID Number	5536-56-0806
Existing Zoning	Countryside Residential (CR)
Appeal of Notice of Violation	NOV Issued for illegal operation of sawmill without proper permits

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2181.

Sincerely,

A handwritten signature in cursive script that reads "Phillip Collins".

Phillip Collins, AICP
Senior Planner
Cabarrus County Planning and Development
704.920.2181



Cabarrus County Government – Planning and Development Department

February 21, 2022

Dear Property Owner:

An appeal of a Notice of Violation has been filed in our office for your property. The specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday March 8, 2022 at 6:30 PM in the 2nd floor Commissioner’s Chambers of the Cabarrus County Governmental Center, located at 65 Church Street S Concord, NC 28025. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about this request, I encourage you to attend this meeting.

Petitioner	Dwight Radford
Petition Number	APPL2021-00002
Property Location	8667 Flowes Store Road
Parcel ID Number	5536-56-0806
Existing Zoning	Countryside Residential (CR)
Appeal of Notice of Violation	NOV Issued for illegal operation of sawmill without proper permits

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2181.

Sincerely,

A handwritten signature in cursive script that reads "Phillip Collins".

Phillip Collins, AICP
Senior Planner
Cabarrus County Planning and Development
704.920.2181

Property Owner
5536-56-0806
DWIGHT DAVID & ANNA RADFORD
3109 OLDE CREEK TRL
MATTHEWS, NC 28105

Surrounding Property Owners
5536-56-0617
ARCHIE BOYCE HELMS
8062 NC 742 HWY
OAKBORO, NC 28129

5536-56-2931
FLOWES STORE VOL FIRE DEPT
8623 FLOWES STORE ROAD
CONCORD, NC 28025

5536-47-9365 & 5536-47-4513
GAILLARD A & ELAINE S MERVIN
8598 FLOWES STORE ROAD
CONCORD, NC 28025

5536-47-0010
JAMIE & KRYSTAL COFFEY TRUSTEE
8750 FLOWES STORE RD
CONCORD, NC 28025

Legal Notices

NORTH CAROLINA, CABARRUS COUNTY NOTICE TO CREDITORS File No: 22 E 115

Having qualified as Co-Administrators for the Estate of Bennett Frank Overcash, AKA, Ben Overcash, deceased, this is to notify all persons, firms and corporations having claims against the said decedent to exhibit them, duly verified, to the undersigned on or before the 4th day of May, 2022, or this notice will be pleaded in bar of their recovery. All persons, firms and corporations indebted to said estate are notified to make immediate payment.

This the 2nd day of February, 2022. Bennett Keith Overcash, Co-Administrator 10200 Clairbourne Place Raleigh, NC 27615 Marsfall Dale Overcash, Co-Administrator 1732 Chestnut Hill Road Wake Forest, NC 27587 Publish: February 2, 9, 16, 23, 2022.

NORTH CAROLINA, CABARRUS COUNTY NOTICE TO CREDITORS File No: 22 E 133

Having qualified as Executor for the Estate of James Frank Furr, deceased, this is to notify all persons, firms and corporations having claims against the said decedent to exhibit them, duly verified, to the undersigned on or before the 25th day of May, 2022, or this notice will be pleaded in bar of their recovery. All persons, firms and corporations indebted to said estate are notified to make immediate payment.

This the 23rd day of February, 2022. Barbara Slough, Executor 565 Harrison Drive NW Concord, NC 28027 Publish: February 23, March 2, 9, 16, 2022.

NORTH CAROLINA, CABARRUS COUNTY NOTICE TO CREDITORS File No: 22 E 141

Having qualified as (Executor, Administrator, etc) the Estate of PEGGY KENNEDY MARSHALL, deceased, this is to notify all persons, firms and corporations having claims against the said decedent to exhibit them, duly verified, to the undersigned on or before the 18th day of May, 2022, or this notice will be pleaded in bar of their recovery. All persons, firms and corporations indebted to said estate are notified to make immediate payment.

This the 16th day of February, 2022. Sheila M. Stancel, Administrator 6313 Cress RD Concord, NC 28025 Publish: Feb 16, 23, March 2 & 9, 2022

NORTH CAROLINA, CABARRUS COUNTY NOTICE TO CREDITORS File No: 22 E 142

Having qualified as Administrator for the Estate of M. Pleasant, NC 28124 Publish: February 9, 16, 23, March 2, 2022.

NORTH CAROLINA, CABARRUS COUNTY NOTICE TO CREDITORS File No: 22 E 169

Having qualified as (Executor, Administrator, etc) the Estate of FAYE MILSON YOW A/K/A FRANCES YOW, deceased, this is to notify all persons, firms and corporations having claims against the said decedent to exhibit them, duly verified, to the undersigned on or before the 18th day of May, 2022, or this notice will be pleaded in bar of their recovery. All persons, firms and corporations indebted to said estate are notified to make immediate payment.

This the 16th day of February, 2022. Renee Altman Phillips, Executor 1395 Lenz Road Chesa Grove, NC 28023 Publish: Feb 16, 23 March 2 & 9, 2022

NORTH CAROLINA, CABARRUS COUNTY NOTICE TO CREDITORS File No: 22 E 26

Having qualified as Administrator for the Estate of Judy A. Deese a/k/a Judy Dixon Deese, deceased, this is to notify all persons, firms and corporations having claims against the said decedent to exhibit them, duly verified, to the undersigned on or before the 11th day of May, 2022, or this

Legal Notices

NORTH CAROLINA, CABARRUS COUNTY NOTICE TO CREDITORS File No: 22 E 57

Having qualified as (Executor, Administrator, etc) the Estate of HAL EUGENE BLACKWELDER, deceased, this is to notify all persons, firms and corporations having claims against the said decedent to exhibit them, duly verified, to the undersigned on or before the 2nd day of May, 2022, or this notice will be pleaded in bar of their recovery. All persons, firms and corporations indebted to said estate are notified to make immediate payment.

This the 2nd day of February, 2022. Tammy Blackweider Morgan, Executor 5337 Parkside Ct SW Concord, NC 28027 Publish: Feb 2, 9, 16 & 23, 2022

NORTH CAROLINA, CABARRUS COUNTY NOTICE TO CREDITORS File No: 22 E 79

Having qualified as Executor for the Estate of Alice Bost McRorie, deceased, this is to notify all persons, firms and corporations having claims against the said decedent to exhibit them, duly verified, to the undersigned on or before the 4th day of May, 2022, or this notice will be pleaded in bar of their recovery. All persons, firms and corporations indebted to said estate are notified to make immediate payment.

This the 2nd day of February, 2022. Eric Cook, Executor 2340 Woodside Street Kannapolis, NC 28081 Publish: February 2, 9, 16, 23, 2022.

NORTH CAROLINA, CABARRUS COUNTY NOTICE TO CREDITORS File No: 22 E 87

Having qualified as (Executor, Administrator, etc) the Estate of IDA MARIE GRAY DEAL A/K/A MARIE GRAY DEAL, deceased, this is to notify all persons, firms and corporations having claims against the said decedent to exhibit them, duly verified, to the undersigned on or before the 3rd day of May, 2022, or this notice will be pleaded in bar of their recovery. All persons, firms and corporations indebted to said estate are notified to make immediate payment.

This the 2nd day of February, 2022. Timothy Gray, Administrator 405 Geneva Drive Rockwell, NC 28138 Publish: Feb 2, 9, 16 & 23, 2022

NORTH CAROLINA, CABARRUS COUNTY NOTICE TO CREDITORS File No: 22 E 89

Having qualified as Administrator for the Estate of M. Pleasant, NC 28124 Publish: February 9, 16, 23, March 2, 2022.

NORTH CAROLINA, CABARRUS COUNTY NOTICE TO CREDITORS File No: 22 E 92

Having qualified as (Executor, Administrator, etc) the Estate of MILDRED MOORE GRIFFIN, deceased, this is to notify all persons, firms and corporations having claims against the said decedent to exhibit them, duly verified, to the undersigned on or before the 3rd day of May, 2022, or this notice will be pleaded in bar of their recovery. All persons, firms and corporations indebted to said estate are notified to make immediate payment.

This the 2nd day of February, 2022. Roger Lee Griffin, Administrator 1720 Walnut Ter Kannapolis, NC 28083 Publish: Feb 2, 9, 16 & 23, 2022

NOTICE OF ADMINISTRATION Having qualified as Executor of the Estate of PEGGY CAR-OLYN BLANTON (AKA PEGGY CLARK), deceased, late of Mount Pleasant, North Carolina, the undersigned hereby notifies all persons, firms and corporations having claims against said Estate to present them, duly verified, to the undersigned at, on or before May 25, 2022, or this Notice of Administration will be pleaded in bar of their recovery. All persons indebted to said Estate will please make immediate settlement with the undersigned. This 23rd day of Febru-

Legal Notices



AVISO DE PERÍODO DE COMENTARIOS PARA EL PLAN DE ACCIÓN ANUAL

La Ciudad de Concord llevará a cabo una audiencia pública virtual para revisar las actividades y proyectos de desarrollo comunitario. La audiencia nos brinda la oportunidad de recibir comentarios y preguntas de los ciudadanos sobre el Plan de acción anual para el año fiscal 2022 y el año fiscal 2023 con respecto al uso de Community Development Block Grant (CDBG) y Home Investment Partnerships Program (HOME) los fondos de subvención. La Ciudad espera que las asignaciones de fondos sean similares a las cantidades que se recibieron durante el año fiscal anterior. El año pasado, la Ciudad recibió \$675,769 de fondos CDBG y \$209,335 de fondos HOME para el año fiscal 2021-2022. El Plan describirá las metas y actividades propuestas durante el próximo año fiscal (del 1 de Julio de 2022 al 30 de Junio de 2023).

Para desarrollar nuestro Plan, estamos solicitando la opinión pública de nuestros ciudadanos a través de una encuesta. Para acceder a la encuesta, visite el siguiente enlace a continuación:

https://4x5rqlk4kvz.typeform.com/to/ZWW6Q1YO

La encuesta estará abierta hasta el 28 de marzo de 2022. Los resultados de la encuesta ayudarán a determinar el mejor uso de estos fondos para abordar las mayores necesidades dentro de nuestra ciudad. Se invita a todas las personas interesadas a proporcionar comentarios y aportes para el Plan de acción anual.

Para obtener más información o proporcionar comentarios por escrito, comuníquese con Pepper Bego, Coordinadora de Programas Federales en (704) 920-5133. Se pueden obtener copias físicas de la encuesta visitando el Departamento de Planificación y Desarrollo de Vecindarios de la Ciudad en 35 Cabarrus Avenue West, Concord, NC 28025.

Publish Feb 20, 2022/Feb 23, 2022/Feb 27, 2022

Legal Notices

NOTICE OF COMMENT PERIOD FOR THE ANNUAL ACTION PLAN

The City of Concord will hold a virtual public hearing to review community development activities and projects. The hearing provides us with an opportunity to receive citizen comments and questions about the FY 2022-23 Annual Action Plan regarding the use of Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) grant funds. The City expects the funding allocations to be similar to the amounts that were received during the previous fiscal year. Last year, the City received \$675,769 of CDBG funds and \$209,335 of HOME funds for FY 2021- FY 2022. The Plan will outline proposed goals and activities during the upcoming fiscal year (July 1, 2022-June 30, 2023).

To develop our Plan, we are requesting public input from our citizens through a survey. To access the survey, please visit the following link below: https://4x5rqlk4kvz.typeform.com/to/ZWW6Q1YO

The survey will be open through March 28, 2022. The survey results will help to determine the best use of these funds to address the greatest needs within our City. All interested persons are invited to provide comments and input for the Annual Action Plan.

For more information or to provide written comments, please contact Pepper Bego, Federal Programs Coordinator at (704) 920-5133. Physical copies of the survey can be obtained by visiting the City's Planning & Neighborhood Development Department at 35 Cabarrus Avenue West, Concord, NC 28025.

Publish Feb 20, 2022/Feb 23, 2022/Feb 27, 2022

Public Hearing Notice Cabarrus County Planning and Zoning Commission Tuesday, March 8, 2022 @ 6:30 P.M. Commissioner's Meeting Room, 2nd Floor 65 Church St. S Concord, NC 28026

NOTICE TO CREDITORS Having qualified as Executor of the Estate of Mary Louise Linker a/k/a Louise P. Linker, deceased, who previously resided in Cabarrus County, North Carolina at 408 Reynolds Place NE, Concord, North Carolina 28025, the below-named Executor hereby notifies all persons having claims against the said estate to submit an itemized statement thereof to the Executor at the address set forth below on or before the 10th day of May, 2022, or this notice will be pleaded in bar of any recovery thereon. All persons indebted to the said estate are requested to make prompt settlement. This 9th day of February, 2022. Emily P. Ballard, Executor of the Estate of Mary Louise Linker, a/k/a Louise P. Linker Cabarrus County File No. 22 E-133 Mailing Address: 133 Audubon Avenue Mooresville, NC 28117

Legal Notices

NOTICE OF DISSOLUTION OF G&R REAL ESTATE HOLDINGS, LLC

NOTICE IS HEREBY GIVEN that G&R REAL ESTATE HOLDINGS, LLC, a North Carolina limited liability company ("Company"), was dissolved effective January 19, 2022. All creditors of and claimants against the Company are required to present their respective claims and demands immediately to the Company so that it can proceed to collect its assets, convey and dispose of its properties, pay, satisfy, and discharge its liabilities and obligations, and do all other acts required to liquidate its business and affairs. With respect to all claims, please take notice of the following:

1. Claims must be in writing and include the name of the claimant, the amount of the claim, and a short summary of the basis for the claim.

2. Claims should be mailed to:

G&R REAL ESTATE HOLDINGS, LLC 446 West 23rd Street, Apt. 5 New York, NY 10011 Attn: Glenn Jacobson, Manager

3. A claim against the Company will be barred unless a proceeding to enforce the claim is commenced within five years after the publication date of this notice.

This the 19th day of January, 2022.

G&R Real Estate Holdings, LLC

NOTICE TO CREDITORS Having qualified as Executor of the Estate of Barbara McZain Beck All Heirs Known and Unknown of Barbara McZain Beck All Heirs Known and Unknown of Donna Beck Gaslin County of Cabarrus, North Carolina Pete Richard Gasas Jerry Kimler Billie Marie Jones Robert Warren Hunsacker Sharon Hunsacker Overcash Terry Hunsacker Tanya Whitley Fay Jean Harrgraves Elizabeth Mauldin Hovland Michael Mauldin Linda W. Beelan Mauldin Amy Lou Mauldin Ryan Sue Kippenick Beck Cook Harlan Brace Mauldin Belinda Beck Thomas Deborah Beck Carpenter Charles Kenneth Beck, Jr. Kathy Beck Biggers Greg Beck

Feb 21, 2022 at 1:20:50 PM
8667 Flowes Store Rd
Cabarrus County

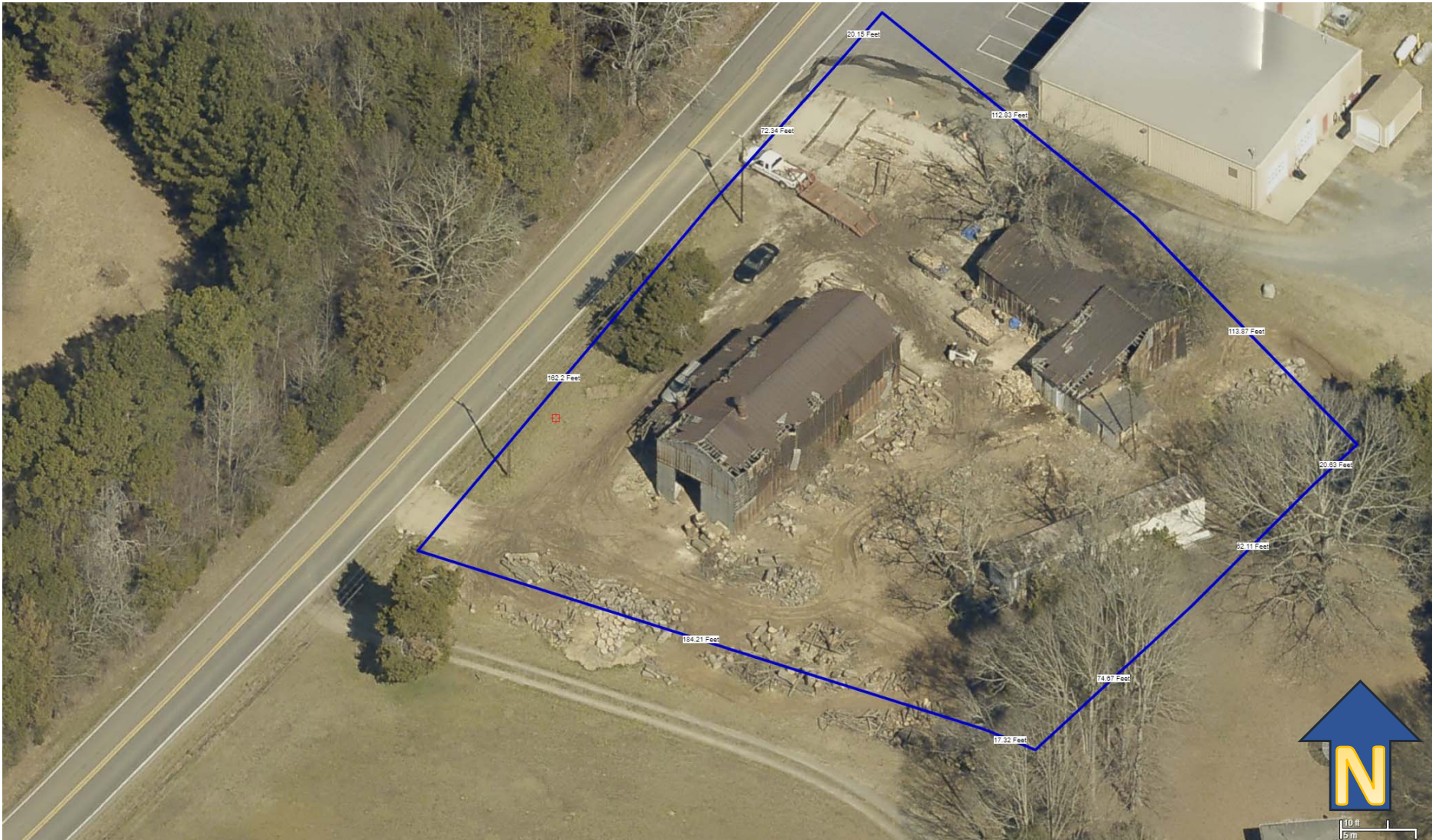


CABARRUS COUNTY
ZONING
NOTICE
APPL2021-00002
FOR DETAILS CALL
704-920-2141

PICTOMETRY IMAGES

February 2021

2-25-21



2-25-21



2-25-21



2-8-21





**APPEAL OF ADMINISTRATIVE
DECISION, INTERPRETATION
OR NOTICE OF VIOLATION**

STAFF USE ONLY:

Application/Accela#: _____

Reviewed by: _____

Date: _____

Amount Paid: _____

In order to request an appeal from an interpretation or administrative decision made by the Zoning Administrator, the applicant must submit the following:

1. Complete application
2. Fee of \$450.00 plus cost of advertising and noticing
3. Copies of any documentation to be submitted to the Board of Adjustment as evidence. (If large format copies are included in the documentation, applicant must submit 18 copies.)

If there are additional questions concerning this process, please call the Planning and Development Department at (704) 920-2141, Monday through Friday, 8:00 am to 5:00 pm.

Incomplete applications will be returned to the applicant and will not be processed.

To the Cabarrus County Board of Adjustment:

I Dwight David Radford, hereby appeal the following decision of the Zoning Administrator to the Board of Adjustment: _____
Notice of Violation dated 10/19/2021 for the property located at 8667 Flowes Store Rd.

You may attach additional sheet(s) if needed.

I request an interpretation of:

The Zoning Atlas (Zoning classification of subject property)

The following section(s) of the Zoning Ordinance:

Section 2-2. "Sawmill"

You may attach additional sheet(s) if needed.

As it relates to the use of the property located at:

ADDRESS: 8667 Flowes Store Rd

PARCEL IDENTIFICATION NUMBER (PIN): 55365608060000

PROPERTY OWNER: Dwight David Radford

In the space provided below, present your interpretation of the Zoning Atlas or Zoning Ordinance provision(s) in question and state what reasons you have for believing that your interpretation is the correct one. In addition, state the facts you are prepared to present to the Board of Adjustment to show that the decision was erroneous.

Appellant property owner does not operate a sawmill as defined in the County's Development Ordinance. Where terms are not defined by the Ordinance, terms should be interpreted using their common meanings. The Board should apply the common meanings of the terms contained in the Ordinance's definition of "sawmill" and conclude that Appellant's use of the property does not meet this definition. Appellant provides firewood for residential and commercial customers. His products are not used in construction or manufacturing. Furthermore, the express inclusion of the products listed in the "sawmill" definition implies the exclusion of others. "Sawmill" as defined by the Ordinance does not encompass Appellant's use and cannot be broadened to do so.

You may attach additional sheet(s) if needed.

Required Vote: The vote requirement for an appeal of the Administrator's decision or interpretation to be upheld or overturned is a simple majority.

APPLICATION CERTIFICATION:

I certify that all of the information presented by me in this application is, to the best of my knowledge, true and correct.


SIGNATURE OF APPLICANT

Richard D. Yeoman
REPRESENTED BY

3109 Olde Creek Trail
ADDRESS

PO Box 4232
ADDRESS

Matthews, NC 28105
CITY, STATE, ZIP CODE

Mooresville, NC 28117
CITY, STATE, ZIP CODE

(704) 562-8141
PHONE NUMBER

(704) 321-4878
PHONE NUMBER

FAX NUMBER

(980) 206-9128
FAX NUMBER

drad542@gmail.com
E-MAIL ADDRESS

rick@grimesyeoman.com
E-MAIL ADDRESS