

PENDER COUNTY BOARD OF ADJUSTMENT  
STAFF CASE REVIEW  
RONNIE W. OTTAWAY – APPEAL OF ADMINISTRATIVE REVIEW (# 30)

**APPLICANT:** Ronnie W. Ottaway

**PROPERTY OWNER:** Same

**PROPERTY LOCATION:** The property is located at 201 Cedar Find Cove in Scotts Hill (See attached site map).

**PROPERTY DESCRIPTION:** The property contains .41 acres and is identified as PIN # 3280-07-4601-0000 (See attached cadastral map).

**ZONING ON SITE:** The property is zoned R-20C, Residential Conventional Housing District.

**TYPE OF APPEAL:** The applicant is requesting an Appeal of Administrative Review, as prescribed under Sections 3.5 C and 6.2 C of the Pender County Zoning Ordinance.

**BACKGROUND AND DESCRIPTION OF APPEAL:** The applicant is seeking an Appeal of Administrative Review for a Notice of Violation issued by the Pender County Code Enforcement Office on September 20, 2007. The violation was issued for a business classified as miscellaneous retail and indoor/outdoor storage of merchandise, materials, or equipment being operated in the R-20C zoning district. None of the uses are permitted within this zoning district under the regulations of section 8.9, Table of Permitted Uses in the zoning ordinance. A second Notice of Violation was issued on October 22, 2007. The applicant filed an appeal on November 14, 2007 in order to stay the enforcement process and allow adequate time in order to find a proper location to relocate the business to.

At the December 19, 2007 meeting, the Pender County Board of Adjustment voted to approve a motion to table the request until January 16, 2008 and asked staff to research the possibility of the business being a legal non-conforming situation. Staff has found the following related to the history of this case:

Prior to the 2003 countywide rezoning, this property was zoned RA, Rural Agricultural District. The table of permitted uses in the July 5, 1988 – November 3, 1994 version of the zoning ordinance does not contain the three uses of which Mr. Ottaway was given a notice of violation for. This version of the ordinance would have been the effective version in 1992 when Mr. Ottaway stated he started his business. Certain uses listed in this version may have been applicable to classify Mr. Ottaway’s business. However, there is no record that the appropriate permits or approvals were obtained, as would have been necessary under the zoning ordinance. At the December 18, 2007 meeting, reference was made to a letter previously issued to Mr. Ottaway from a Pender County official explaining land use regulations at the time. Staff is unable to locate this letter. Based upon this research, staff has concluded that Mr. Ottaway’s current business is not a legal non-conforming situation.

**APPLICABLE ZONING ORDINANCE PROVISIONS:**

**8.9 Table of Permitted Uses**

PERMITTED USES	PD	R-20C	R-20	R-15	R-10	B-1	B-2	B-3
Miscellaneous Retail (SIC Major Group 59, Excluding 593, 596, 598, 5999)							P	P

PERMITTED USES	PD	R-20C	R-20	R-15	R-10	B-1	B-2	B-3
Storage of Merchandise, Materials or Equipment Inside An Enclosed Building, Excluding Salvage						P	P	P

PERMITTED USES	PD	R-20C	R-20	R-15	R-10	B-1	B-2	B-3
Storage of Merchandise, Materials or Equipment On Site Outside An Enclosed Building, Excluding Salvage				S			S	

### **3.5 C Appeals to Board of Adjustment**

Appeals may be taken to the Board of Adjustment by any person, firm, or corporation aggrieved, or by an officer, department or board of the county affected by any decision of an administrative official charged with enforcement or interpretation of this ordinance thought to be in error. Such appeals shall be filed with the Board of Adjustment by notice specifying the grounds for appeal. Appeal shall be filed within thirty (30) days from the date of the action being appealed. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed was taken together with any additional written reports or documents as he deems pertinent. The Board of Adjustment may, after a public hearing, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or in part, or may modify any order requirement, decision, or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

## **6.2 Procedure of the Board of Adjustment**

### **C. Appeals**

An appeal from the decision of the Zoning Administrator may be taken to the Board of Adjustment by any person, firm, or corporation aggrieved, or by any officer, department, board of the county. Such appeal shall be taken within thirty (30) days after the decision by the Zoning Administrator, as agent for the Board of Adjustment, a notice of appeal specifying the grounds thereof and paying the appeal fees and mailing cost. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for hearing of the appeal, giving notice to all participants by certified mail with return receipt requested. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after notice of appeal has been filed with them, that by reason of the facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property or that because the violation charge is transitory in nature, a stay would seriously interfere with the enforcement of the ordinance, in which case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by a court of record to whom an appeal has been made.

## **6.4 Powers and Duties of the Board of Adjustment**

### **A. Administrative Review**

To hear and decide appeals where it is alleged there is error in any order, requirements, decisions, or determination made by the Zoning Administrator in the enforcement of this ordinance. The Board may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination and to that end shall have powers of the Zoning Administrator from whom appeal is taken.



# Pender County Planning Department

805 South Walker Street  
Burgaw, North Carolina 28425

Phone (910) 259-1202  
Fax (910) 259-3735

## BOARD OF ADJUSTMENT APPLICATION APPEAL OF ADMINISTRATIVE REVIEW

Date <u>11/14/07</u>	Application No. <u>30</u>
Application Fee <u>\$150.00</u>	Receipt No. <u>077099</u>

### I. PROPERTY INFORMATION:

Record #: \_\_\_\_\_ Lot #: \_\_\_\_\_  
 Tax Map #: \_\_\_\_\_ Zoning District: \_\_\_\_\_

Property Location:

Scotts Hill - Scotts Glen Subdivision

### II. REQUIRED NAMES:

Applicant <u>Ronnie W. Ottawa Jr. (Will)</u>	Owner <u>SAME</u>
Address <u>201 Cedar Field Cove</u>	Address _____
<u>Wilmington, NC 28411</u>	_____
Phone <u>(910) 686-0459</u> Fax _____	Phone _____ Fax _____
Email <u>OttawaRW@bellsouth.net</u>	Email _____

Legal Relationship of Applicant to Property Owner:

Person Authorized to Act for Applicant:

### III. SIGNATURE OF OWNER & APPLICANT:

Ronnie W. Ottawa Jr.

(If owner is different from applicant, both signatures are required)

To: Pender County Board of Appeals

I am writing this letter to appeal to the County of Pender for more adequate time to relocate my business (Will's Golf Cars), located in Scotts Glen, a subdivision of Scott's Hill.

I started this business in 1992 and I have managed to operate without interfering with or inconveniencing my neighbors. It's obvious that I'm not creating noise, traffic problems, etc. during my years in business as noted to me by Pender County inspector Ralph Keys.

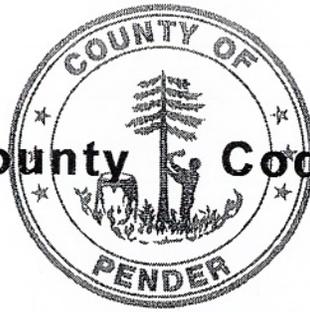
It's not my intention to operate against County Code or Covenant, however I would like to extend my time frame for relocation.

As mentioned, I've been in business for 15 yrs. Don't let me lose it in 30 days. I'm sure adequate time could be specified for buying land and building or purchasing an existing building.

Thanks For Your Consideration

Will Ottaway

11-14-07



# Pender County Code Enforcement

805 Walker Street  
 Post Office Box 1395  
 Burgaw, North Carolina 28425

Phone (910) 259-1202  
 Fax (910) 259-3735

DATE: September 20, 2007

TO: Ronnie W. Ottaway  
 201 Cedar Find Cove  
 Wilmington, NC 28411

**NOTICE OF ZONING VIOLATION:**

You are hereby given notice that a violation or violations of the Pender County Code (Zoning Ordinance) exist at the property described below and owned/occupied by you.

**LOCATION AND DESCRIPTION OF PROPERTY WHERE VIOLATION EXIST:**

Property located at 201 Cedar Find Cove and identified by the Pender County Tax Office as Tax Record Number 3280-07-4601-0000.

**CONDITIONS THAT CREATE VIOLATION:**

- (1) The operation of a commercial business (Golf Car sales and service) on property zoned R-20C Residential, where Retail Trade is prohibited by the Pender County Zoning Ordinance.
- (2) The storage of merchandise, materials or equipment both inside and outside of an enclosed building on property zoned R-20C Residential, where such activity is prohibited by the Pender County Zoning Ordinance.

**SECTIONS OF COUNTY ORDINANCE VIOLATED:**

Trade, Retail

Includes establishments involved in sales of merchandise primarily to consumers for personal or household use. The use may include some processing and/or assembly of the products and storage of the product, but not manufacture or construction of the product from raw materials. The assembly or processing is a minor portion of the activity only and is accessory to the sale to consumers for personal or household use. (Rev. 07.19.04)

SECTION 8 - ZONING DISTRICTS AND REGULATION

PERMITTED USES	PD	R-20C	R-20	R-15	R-10	B-1	B-2	B-3
Miscellaneous Retail (SIC Major Group 59. Excluding 593, 596, 598, 5999)							P	P
Storage of Merchandise, Materials or Equipment Inside An Enclosed Building, Excluding Salvage						P	P	P

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Storage of Merchandise, Materials or Equipment On Site Outside An Enclosed Building, Excluding Salvage							S	
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Note: Blank space indicates use is not permitted.

**CORRECTIVE ACTIONS THAT MUST BE TAKEN BY PROPERTY OWNER/VIOLATOR:**

- (1) The use of residential property for retail trade and services must be discontinued and moved to a location where such activities are permitted.
- (2) The retail merchandise, materials and equipment must be removed from the premises to a location where such storage is permitted.

**DATE BY WHICH CORRECTIVE ACTION MUST BE COMPLETE:**

This violation must be corrected within thirty (30) calendar days of receipt of this notice. If the violations are not corrected within this period, you will immediately there after be subject to the penalties noted herein.

**PROPERTY OWNER/VIOLATOR'S RIGHT TO APPEAL:**

You are hereby given notice that you have the right to appeal the determination made by the Code Enforcement Officer to the Pender County Board of Adjustment. If you elect to appeal this determination, you must file a written request for appeal, specifying the reason for the appeal and paying the associated fees for appeal within thirty (30) days of receipt of this notice. The appeal shall be filed with the Pender County Planning Department, Zoning Administrator, 805 South Walker Street Burgaw, NC 28425. An appeal will stay all required proceedings under this notice until the Board of Adjustment acts upon the appeal.

**PENALTIES FOR VIOLATIONS NOTED:**

When corrective action is not taken as prescribed in the notice, the property owner/violator shall upon conviction be guilty of a misdemeanor punishable by fine of up to \$50.00, or imprisoned for not more than thirty (30) days, for each offense. In addition, the property owner/violator will be subject to a civil penalty of \$100.00 for each offense. Each day the violation continues after the time specified for it to be corrected shall constitute a separate and distinct offense.

**REMEDIES IF CORRECTIVE ACTION NOT TAKEN:**

The County shall through its County Manager and County Attorney initiate legal action to insure compliance through court action and the violator may be subject to paying the cost of this action, pursuant to G.S. 153A-123, in addition to any penalties noted above.

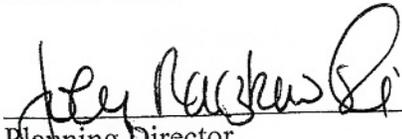
**DATE OF NOTIFICATION:**

This determination of violation made on the 20<sup>th</sup> day of September 2007 by the Pender County Code Enforcement Officer, after inspection of the property and the conditions. Please feel free to contact this office at any time. We will be happy to discuss this issue with you.

  
 \_\_\_\_\_  
 Code Enforcement Officer

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APPROVED:

  
\_\_\_\_\_  
Planning Director

9/20/07  
Date

\\planning\Violations\Forms\Notice



# Pender County Code Enforcement

Phone (910) 259-1202  
Fax (910) 259-3735

805 Walker Street  
Post Office Box 1395  
Burgaw, North Carolina 28425

## SECOND NOTICE OF VIOLATION

DATE: October 22, 2007

TO: Ronnie W. Ottaway  
201 Cedar Find Cove  
Wilmington, NC 28411

### NOTICE OF ZONING VIOLATION:

You are hereby given notice that a violation or violations of the Pender County Code (Zoning Ordinance) exist at the property described below and owned/occupied by you.

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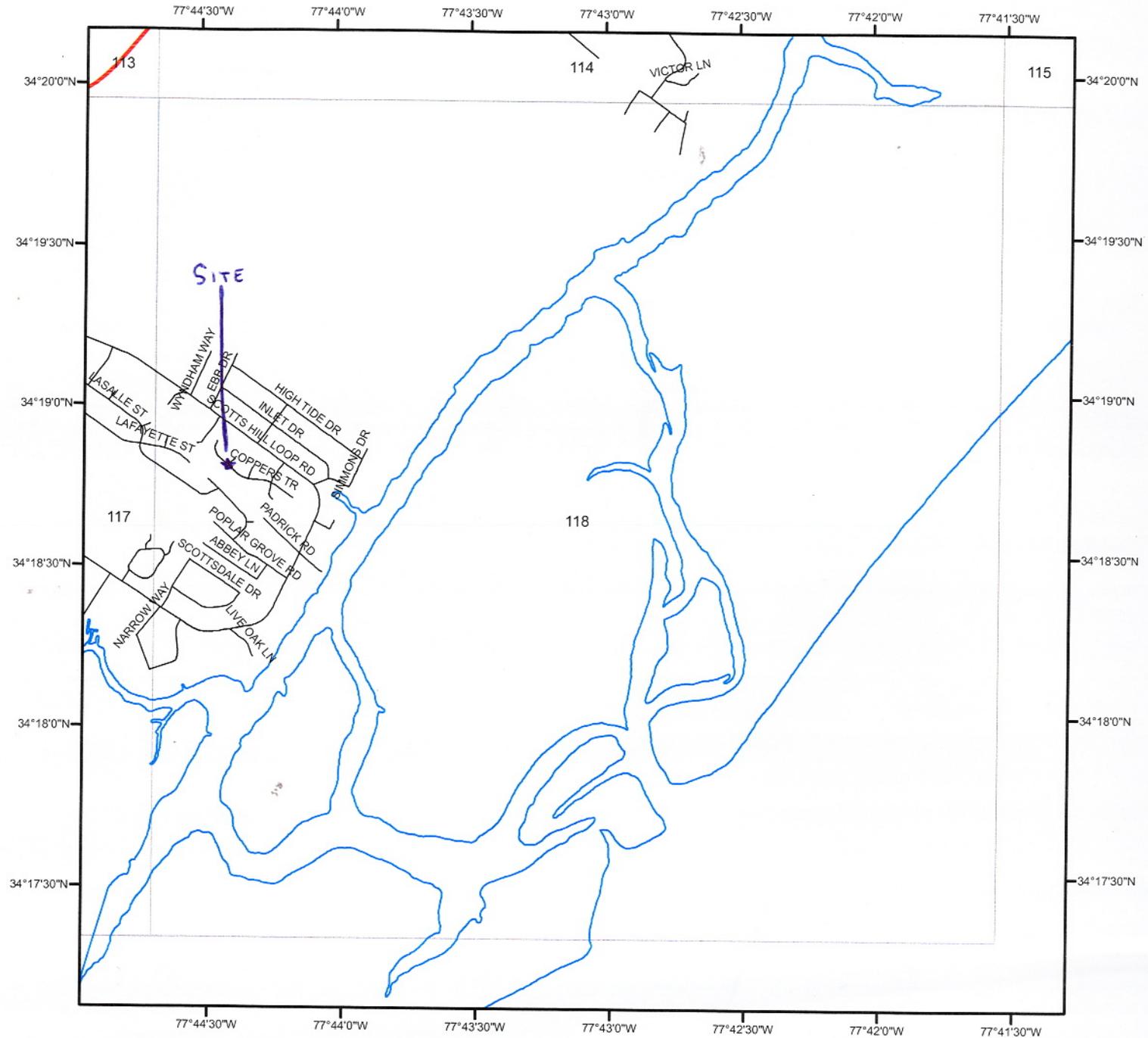
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Storage of Merchandise, Materials or Equipment Inside An Enclosed Building, Excluding Salvage						P	P	P
Storage of Merchandise, Materials or Equipment On Site Outside An Enclosed Building, Excluding Salvage							S	



**PENDER COUNTY**  
**NORTH CAROLINA**

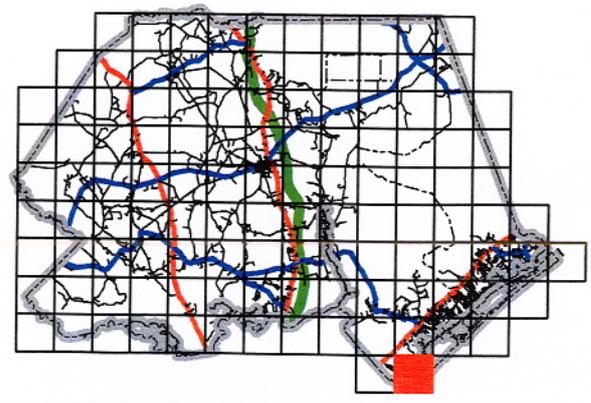
Map Prepared: Oct 10, 2007



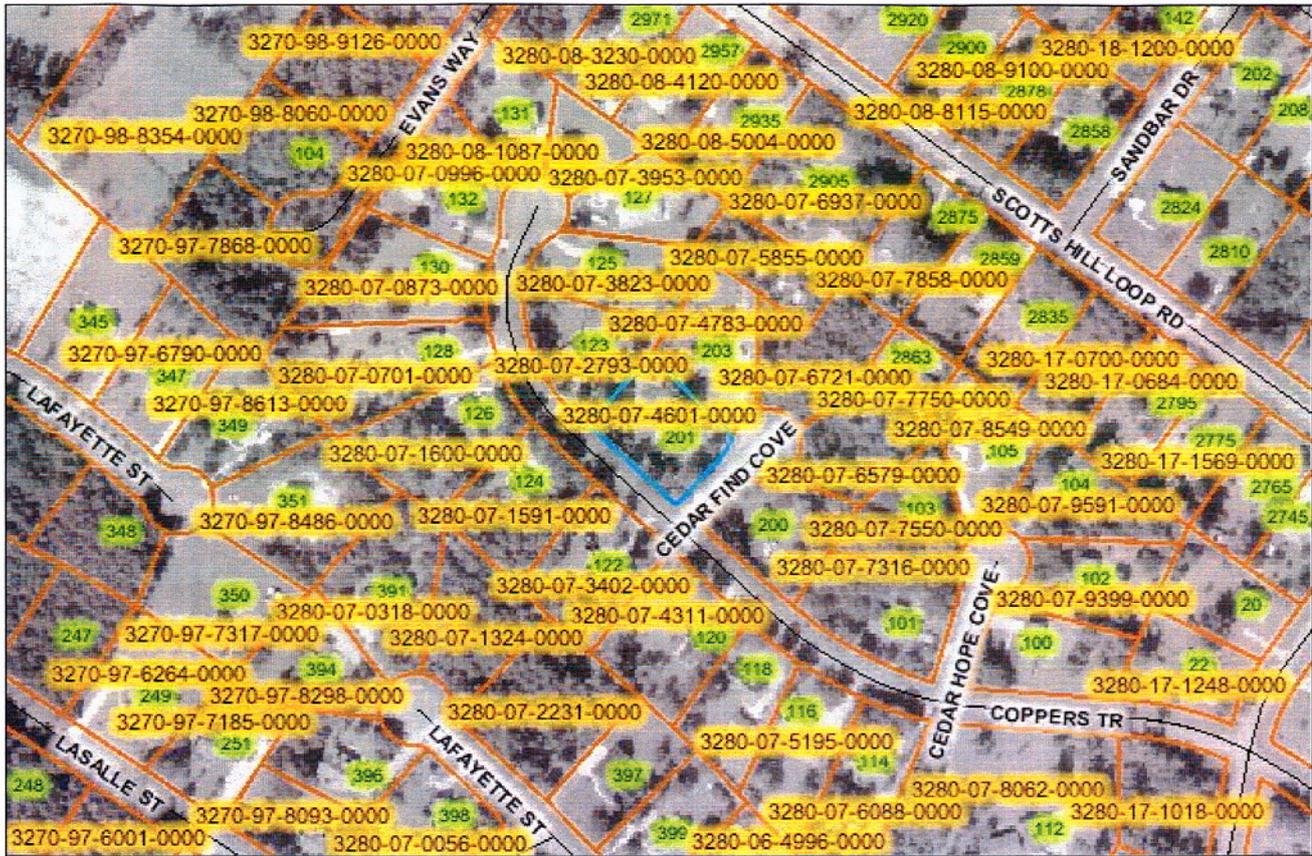
1 inch equals 1/2 miles



- Private Roads
- US Highways
- Interstate
- Secondary Roads
- NC Highways



**PAGE NUMBER 118**



**Parcels**

PIN:	<b>3280-07-4601-0000</b>	Name:	<b>OTTAWAY RONNIE W JR</b>	Subdivision :	<b>SCOTTS GLENN</b>
Address:	<b>201 CEDAR FIND COVE</b>	City:	<b>WILMINGTON</b>	State:	<b>NC</b>
Zip:	<b>28411</b>	Deed Date:	<b>2/25/2004</b>	Acres:	<b>0.41</b>
Land Value:	<b>16092</b>	Deferred Value:	<b>0</b>	Building Value:	<b>99310</b>
Total Value:	<b>115402</b>	Property Location:	<b>201 CEDAR FIND COVE</b>	Property Description:	<b>PL23 PG 52 LT 40 SCOTTS GLENN SECT</b>
Sale Price:	<b>0</b>	Deed Book:	<b>2325/250</b>	Township:	<b>102</b>
Zoning:	<b>R20C</b>	Siding:	<b>FACEBRIK</b>	Square Feet:	<b>1319</b>
Building Type:	<b>SINGLE FAMILY</b>	Year Built:	<b>1987</b>	Roof:	<b>GABLE</b>
Construction Style:	<b>RANCH</b>	Grade:	<b>C5</b>	Plat BK/PG:	<b>00230052</b>
Tax Codes:	<b>G01 F31 R40 S64</b>				

**1:128 feet**