

PENDER COUNTY BOARD OF ADJUSTMENT
STAFF CASE REVIEW
JIMMY L. NEWKIRK - VARIANCE # 335

APPLICANT: Jimmy L. Newkirk

PROPERTY OWNER: Jimmy L. Newkirk

PROPERTY LOCATION: The property is located on the south side of Shiloh Road in Ivanhoe, NC.

PROPERTY DESCRIPTION: The property contains 5.5 acres and is identified as PIN #2351-71-9313. (See attached cadastral map).

ZONING ON SITE: The property is zoned RA, Rural Agriculture District, with a small portion at the back of the property zoned FA, Flood Hazard Area District.

TYPE OF VARIANCE: The applicant is requesting a variance of 8 ft from the 20 ft minimum side yard setback requirement for a structure in the RA Rural Agriculture District.

BACKGROUND AND DESCRIPTION OF VARIANCE: The applicant is requesting a variance side yard setback to finish building a house on the property. The variance is being requested because the foundation was incorrectly placed on the property. Stakes were placed on the property to reflect the proper site location of the building site. These stakes were moved during grass cutting after Pender County approved the building site location. The residential boundary stakes that reflected the proper site location were incorrectly replaced prior to the foundation being erected.

Prior to this variance application, the applicant tried to purchase the necessary eight (8) feet of land from the adjacent property owner. The applicant was not able to purchase the land.

ZONING ADMINISTRATOR’S CONCLUSIONS:

- 1) The applicant is requesting a variance of 8 ft from the 20 ft minimum side yard setback requirement for a structure in the RA Rural Agriculture District.

APPLICABLE ZONING ORDINANCE PROVISIONS:

2.59 Setback

The required distance between every structure and the lot lines of the lot on which it is located.

2.79 Variance

A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of a structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by a variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

8.10 Schedule of District Requirements

PERMITTED USES	B-2	R-20C	R-20	R-15	R-10	RT	RA	FA
Min. Side Yard-Ft	25	20	20	15	10	20	20	20

6.4 Powers and Duties of the Board of Adjustment**B. Variances**

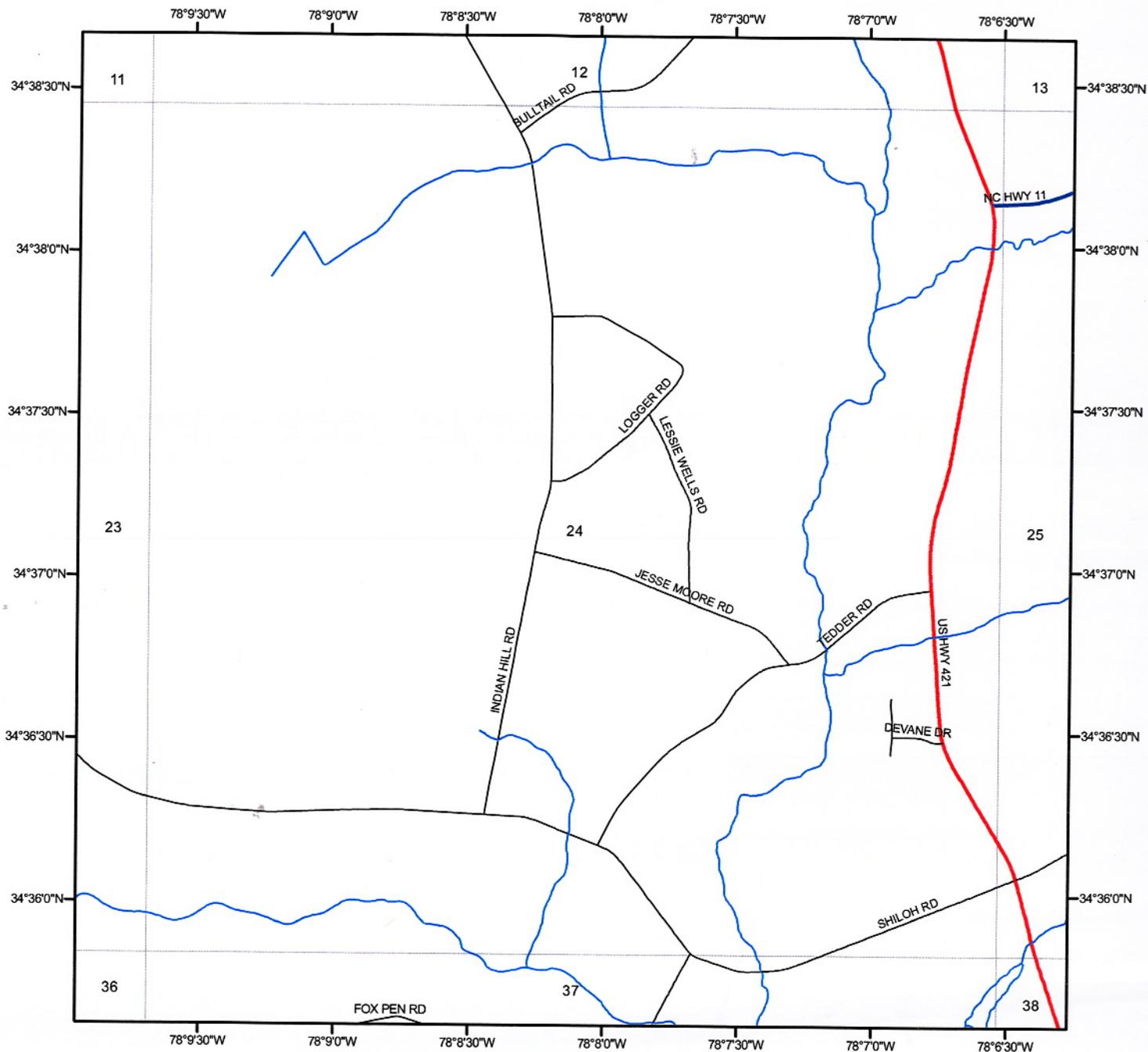
To authorize upon appeal in specific areas variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in undue hardship, so that the spirit of this ordinance shall be observed and substantial justice done.

A public hearing shall be heard at which the following conditions are found to exist:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district.
- (2) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located.
- (3) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located.
- (4) The requested variance will be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
- (5) The special circumstances are not the result of the actions of the applicant.
- (6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

In considering all proposed variances from this ordinance the Board shall, before making any finding in a specified case, first determine that the proposed variance will not constitute any change in the zone shown on the zoning map and will not impair an adequate supply of light and air to adjacent property, or materially increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, morals, and general welfare.

In granting a variance the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use, as it may deem advisable in furtherance of the purposes of this ordinance. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 4 of this ordinance.

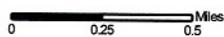


PENDER COUNTY
NORTH CAROLINA

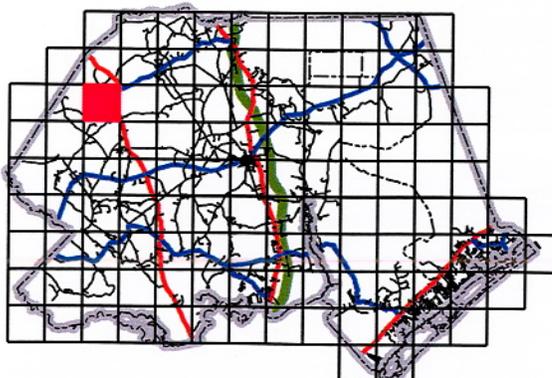
Map Prepared: Oct 10, 2007

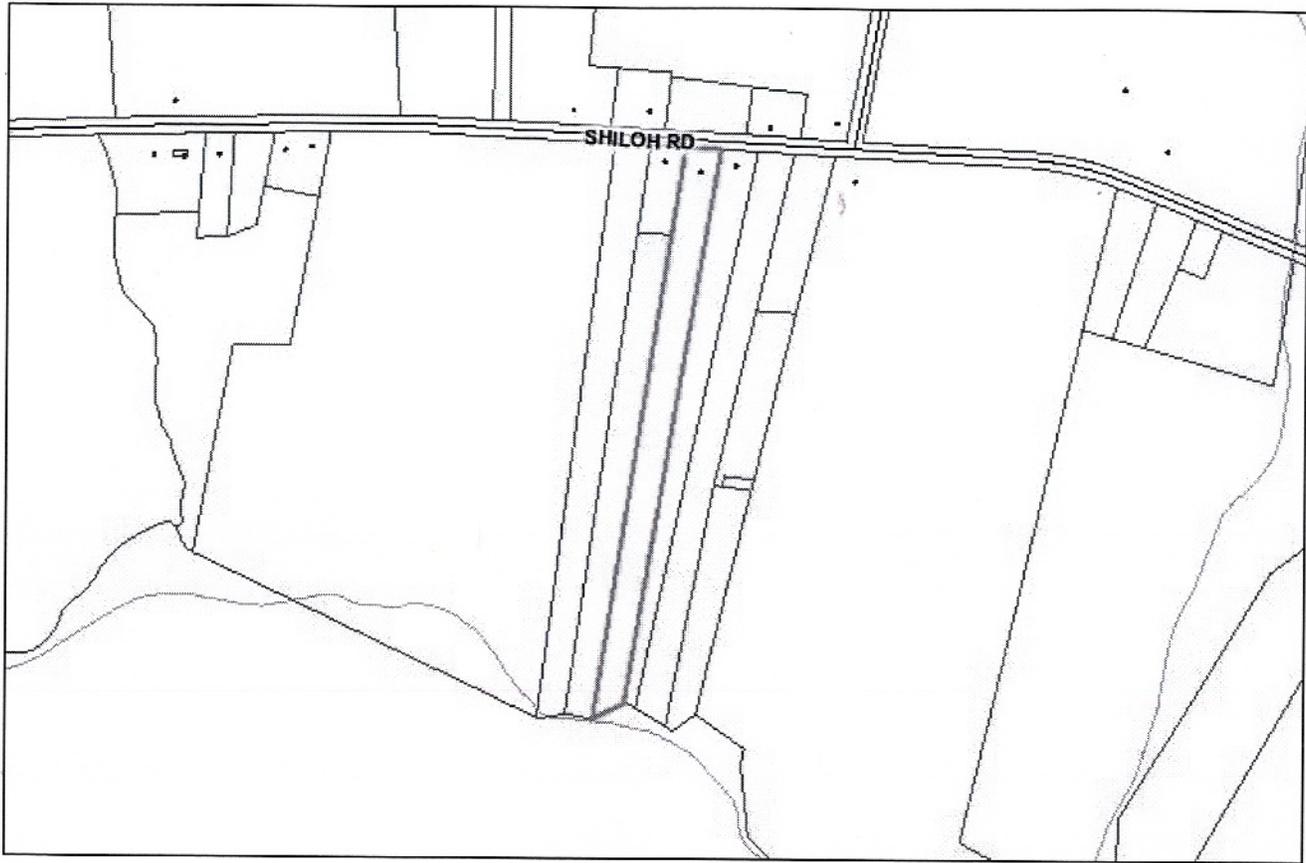


1 inch equals 1/2 miles



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





Parcels

Name:	NEWKIRK JIMMY L	PIN:	2351-71-9313-0000	Deed:	2884/276
Deed Date:	2/13/2006	Plat:	00380060	Address:	3913 SHARPEL LANE
City:	KENNESAW	State:	GA	Zip:	30152
Land Value:	10041	Building Value:	0	Deferred Value:	0
Total Value:	10041	Tax Codes:	G01 F26 R40	Zone:	SEEMAP
Subdivision:		Neighborhood:	00	Property Address:	SHILOH RD
Account:	884565	Acres:	5.5	Township:	COLUMBIA
Property Description:	TR 3.PB 38/60 D R & DORA NEWKIRK ESTATE	Sales Price:	6000		

1:491 feet

Pender County GIS



This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for the verification of the information contained on this map. Pender County assumes no legal responsibility for the information contained on this map.

RECEIVED

JAN 16 2008

PENDER COUNTY PLANNING

Pender County Planning Department



805 South Walker Street
Burgaw, North Carolina 28425

Phone (910) 259-1202
Fax (910) 259-1295
Email: planning1@pender-county.com

BOARD OF ADJUSTMENT APPLICATION FOR VARIANCE

Date 1/15/08 Application No. 335
 Application Fee 127⁶⁰/100 Receipt No. 077135

I. PROPERTY INFORMATION:
 Record #: 2351-71-9313-0000 Lot #: TR3
 Tax Map #: _____ Zoning District: RA
 Property Location: D.R. & Dora Newkirk Estate, Shiloh Road, Ivanhoe, N.C. 28447
 Describe Variance & Reason for Request: Request 8ft variance to 20ft required side yard setback. Property owner made error placing building site cornerstones in proper location after county "permitting" inspections were accomplished.

II. REQUIRED NAMES:

Applicant <u>Jimmy L. Newkirk</u>	Owner <u>Jimmy L. Newkirk</u>
Address <u>3913 Sharpel Lane</u> <u>Kennesaw, Georgia 30152</u>	Address <u>3913 Sharpel Lane</u> <u>Kennesaw, Georgia 30152</u>
Phone <u>770-974-4516</u> Fax _____	Phone <u>770-974-4516</u> Fax _____
Email <u>Newklaw1 @ aol.com</u>	Email <u>Newklaw1 @ aol.com</u>

Legal Relationship of Applicant to Property Owner: self/same
 Person Authorized to Act for Applicant: _____

III. SIGNATURE OF OWNER & APPLICANT:
Jimmy L. Newkirk

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

3913 Sharpel Lane
Kennesaw, Georgia 30152

January 10, 2008

Board of Adjustment
Pender County Planning Department
805 South Walker Street
Burgaw, North Carolina 28425

Dear Honorable Board Members:

I, Jimmy L. Newkirk, am the property owner for the property location and residential building site referenced in the Board of Adjustment application for variance. I request an eight (8) foot variance to the required 20 foot side setback on the easterly side of the aforementioned property.

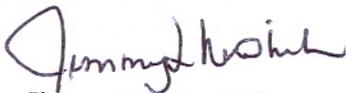
This variance is sought not because of any error(s) on the part of the County. The error was made by me, the property owner. I failed to erect permanent cornerstones to mark the location of the building site. The stakes that I used to mark the proposed building site got moved during grass cutting activities after County "permitting" inspectors surveyed and approved the building site. The residential boundary stakes that reflected the proper site location were incorrectly replaced prior to the foundation being erected.

Prior to my petitioning the Board of Adjustment for this variance, I tried to purchase the necessary eight (8) feet of land from the adjacent property owner, Mr. Raeford Newkirk. I was not able to procure the land from him.

I have contacted each property owner adjacent to my lot to make them aware that I am petitioning the Board of Adjustment for this variance. Attached are notarized letters from both property owners with both being in support of the variance request.

Thank you for your consideration.

Respectfully yours,



Jimmy L. Newkirk

SR 1209 - VANHOE N.C.

129.65'

SITE ADDRESS:

SHILOH ROAD

IVANHOE N.C. 28447



SCALE 1" = 20'

SUBDIVISION: DR & DORA NE/KIRK ESTATE

LOT: TR 3

LOT SIZE: 5.5 ACRES

HOUSE SITE: 1 ACRE

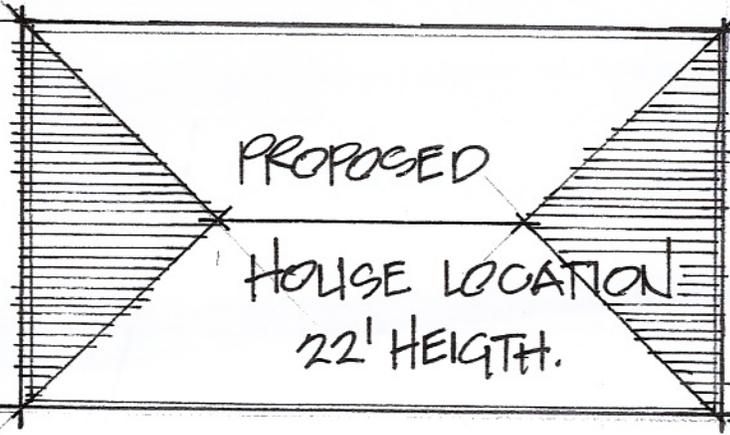
±1842'

44.65'

73'

12'

100'



4'

15'

PROPOSED SEPTIC TANK

PROPOSED WELL

25'

604'

129.65'

15856 Santa Roga
Detroit, Michigan 48238

1/2/2008
(Date))

Board of Adjustment
Pender County
Burgaw, North Carolina 28425

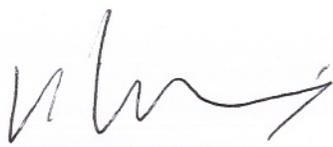
Dear Sir/Ms.

My property is adjacent to the property owned by my nephew, Jimmy L. Newkirk, on the east side. I am aware that he is petitioning the Board of Adjustment for an 8 foot side yard set back variance for the east side of his property to meet the 20 foot required setback for the side yard.

I do not object to The Board of Adjustment granting this requested variance.

Sincerely yours,


Raeford Newkirk


VALVERTE MORRIS
Notary Public, Wayne County, Michigan
Acting in Wayne County
My Commission Expires March 16, 2013

1/2/2008

9673 Shiloh Road
Ivanhoe, North Carolina 28447

December 22, 2007

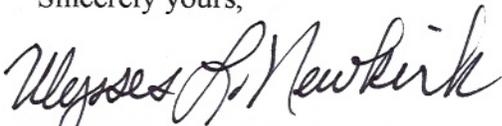
Board of Adjustment
Pender County
Burgaw, North Carolina 28425

Dear Sir/Ms.

My property is adjacent to the property owned by my cousin, Jimmy L. Newkirk, on the west side. I am aware that he is petitioning the Board of Adjustment for an 8 foot side yard set back variance for the east side of his property to meet the 20 foot required setback for the side yard.

The Board of Adjustment has my approval to grant the requested variance.

Sincerely yours,



Ulysses L. Newkirk

I Lila S. West a notary of Sampson Co. N.C.
witness the signature of Ulysses L. Newkirk on this
the 22, day of December 2007
My Commission Expires May 26, 2008.

Environmental Health
PENDER COUNTY, North Carolina

P. O. Box 1209
Burgaw, NC 28425

Environmental Health
910-259-1233



SEPTIC SYSTEM / IMPROVEMENT PERMIT
CONSTRUCTION AUTHORIZATION / OPERATION PERMIT

Page # 1

<u>Zoning Determination</u>	<u>Improvement Authorization</u>	Permit# : 064241	
JP 11/06/06	0/00/00	Issued Date : 11092006	Fee : 400.00
<u>Construction Authorization</u>	<u>Operation Authorization</u>	Issued By : NM12	Code Violation:
LEWIS 12/12/06	0/00/00	EH - File # : 520841	GEO PIN # : 23517193130000
		EHS ASSIGNED LEWIS	

Permitted Use

Single family dwelling

Description of Work

Site evaluation for a 41 x 73 SFR (Not to exceed 35' in height)

Applicant: NEWKIRK JIMMY L
SHARPEL LANE 3913
KENNESAW GA 30152
Relationship of Applicant to Owner :

Work Phone: 7709744516
Home Phone:
Fax :

Owner : NEWKIRK JIMMY L
SHARPEL LANE 3913
KENNESAW GA

Work Phone:
Home Phone:
Fax :

SITE ADDRESS : 3913 SHILOH RD
Subdivision : D.R. & DORA NEWKIRK ESTATE
Section/Block : Lot: TR 3
Township : COLUMBIA

Deed Book/Page: 2884
Plat Bk. & Page #: 38/60 276

WATER SUPPLY : Private Well SEWER SERVICE Private Septic

Directions to Site:

Hwy 53 to Hwy 421, turn right on Hwy 421, travel to Shiloh Rd (approx. 5.2 miles), turn left onto Shiloh Rd, travel approx. 2.3 miles, proposed construction site is on left.

Requirements

LOT SIZE - 1 ACRE
EXISTING WELLS, SPRINGS, OR EXISTING WATER LINES ON PROPERTY - NO
ANY JURISDICTIONAL WETLANDS - NO
IS THE SITE SUBJECT TO APPROVAL BY ANY OTHER PUBLIC AGENCY - NO
STRUCTURE/CONSTRUCTION TYPE - HOUSE
NUMBER OF BEDROOMS - 3
NUMBER OF OCCUPANTS - ?
BASEMENT - NO
GRINDER PUMP FOR LOWER LEVEL PLUMBING - NO
SYSTEM TYPE - 2A
LTAR (GPD/FT) - .3
DAILY DESIGN FLOW (GPD) - 360
WASTEWATER TYPE - DOMESTIC
SEPTIC TANK SIZE (GALLONS) - 1000
NITRIFICATION FIELD (SQ. FT) - 1200
NUMBER OF LINES - 5
LENGTH OF LINES (FT) - 80
TRENCH WIDTH (INCHES) - 36
TRENCH DEPTH (INCHES) - 18-22
LOWER LEVEL PLUMBING - NO
TYPE OF WATER SUPPLY - PRIVATE

326

Environmental Health
PENDER COUNTY, North Carolina

P. O. Box 1209
Burgaw, NC 28425

Environmental Health
910-259-1233



SEPTIC SYSTEM / IMPROVEMENT PERMIT

Page # 2

CONSTRUCTION AUTHORIZATION / OPERATION PERMIT

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LEWIS 12/12/06	0/00/00	EH - File # : 520841	
		EHS ASSIGNED LEWIS	

TYPE OF FACILITY THE PROPOSED SITE IS TO SERVE - DWELLING
DISTANCE FROM ALL WELLS (FT) *NO CASE LESS THAN 50 FT. - 100

See layout or attached plot plan.
No change in septic system or its location without prior approval from the Pender County Health Department.
This Permit is subject to revocation if the site plan, plat or intended use of their site change (G.S. 130A-335 (f)).

MINIMUM HORIZONTAL SEPARATION OF SEPTIC SYSTEM (see Section 1950 NCAC).

5 Year Improvement Permit : <u>Henry A. Lewis</u>	Issue Date : <u>12/02/08</u>
Improvement Permit, No Expiration Date : <u>N/A</u>	Issue Date : _____

Conditions

Notes

-Building inspector may verify these setbacks, the front is 10' above minimum required and the sides and rear are 5' above minimum required (ZO 3.3.d.4).
 CA issued 8-4-04 valid for 5 yrs.
 FINAL ZONING DONE IN ERROR - SHOULD HAVE PERMIT # 64264- WILL NEED TO COLLECT FINAL FEE
 Construction Authorization : Henry A. Lewis Issue Date : 12/12/06
VALID FOR 5 YEARS FROM THE DATE OF ISSUANCE OF IMPROVEMENT PERMIT.

Operation Permit : _____ Issue Date : 0/00/00
 Installer :

OPERATION PERMIT IS VALID FOR 12 MONTHS ONLY FROM DATE OF ISSUANCE AND ONLY ONE GENERAL CONSTRUCTION BUILDING PERMIT MAY BE ISSUED UNDER THIS PERMIT.

THIS PERMIT DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE AND SATISFACTORY PERFORMANCE IS NOT ASSURED BY THE PENDER COUNTY HELATH DEPARTMENT.

THE SITE IS SUBJECT TO APPROVAL BY OTHER PUBLIC AGENCIES. .1973 (b) (1) (c)
PCHD/EH-3 Rev. 2-98

426

Site Plan

#38
I S S

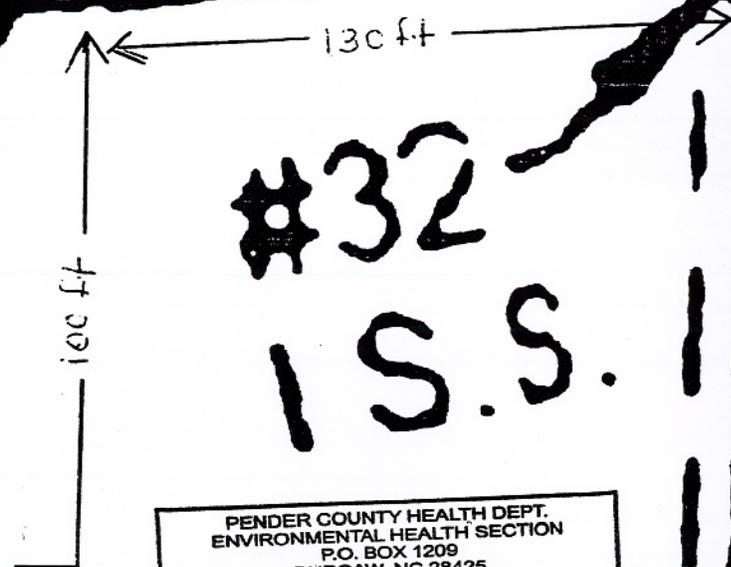
#32
I S S

1" = 32'

Total Area of lot = 5.5 acres
House site = 1 acre
Proposed Height of Bldg = 22'

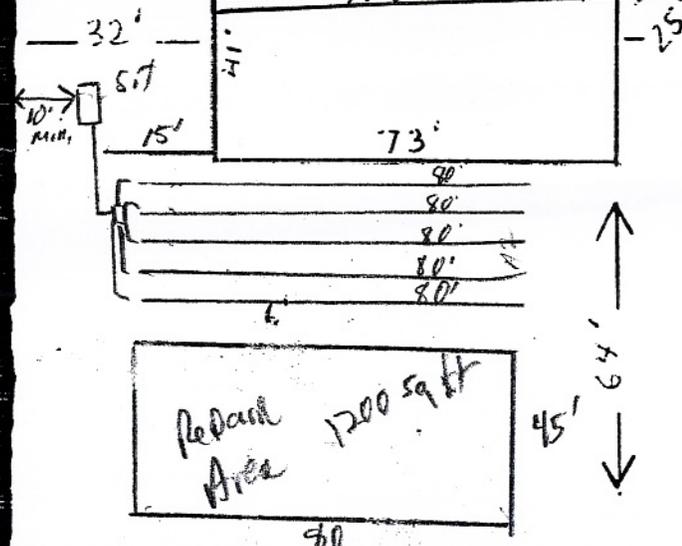
Drawing prepared by
Jimmy L. Newkirk
Signature Jimmy L. Newkirk
October 17, 2006

11' 0" color
0' 0" 20' 50"
30' 40" 50' 50"
50' 44" 46"
13' 47"
Should Side Wall 5'



PENDER COUNTY HEALTH DEPT.
ENVIRONMENTAL HEALTH SECTION
P.O. BOX 1209
BURGAW, NC 28425

PERMIT # 52084
PAGE 3 OF 4
SIGNATURE H. J. [unclear] DATE 12/12/06



526

929
Site Plan

Shiloh Rd. SR1209

#W4241

Site Plan
Prepared by: *Jimmy L. Newkirk*
Approved by: *John Pace*

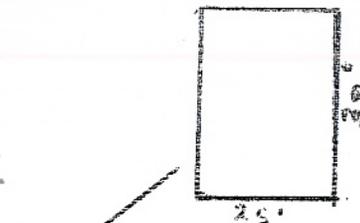
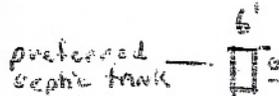
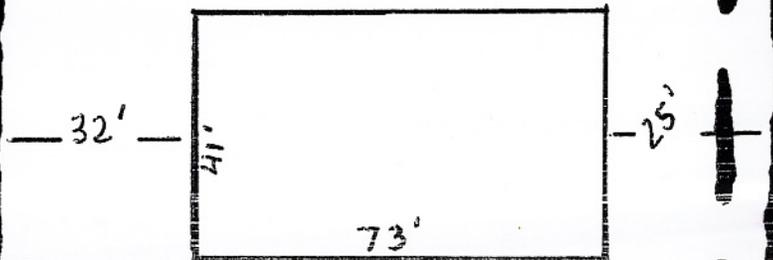
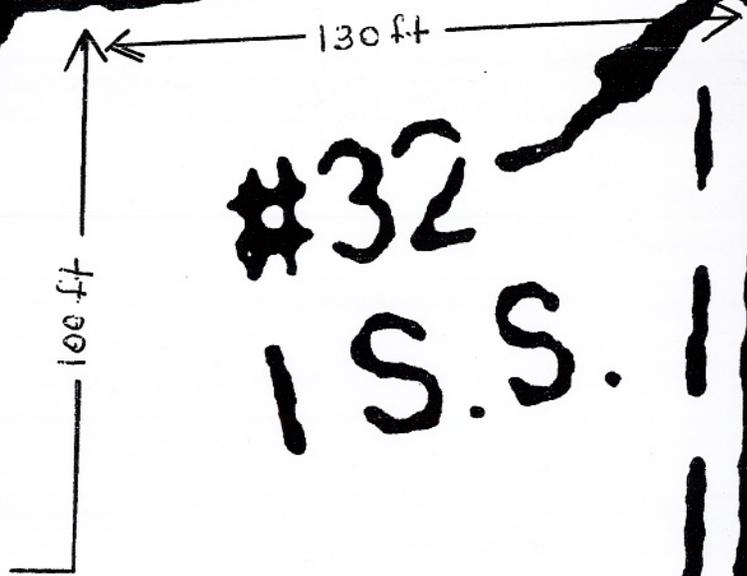
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I S S

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I S S

1" = 32'

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House site = 1 acre
Proposed height of Bldg = 22'

Drawing prepared by
Jimmy L. Newkirk
Signature *Jimmy L. Newkirk*
October 17, 2006



Preferred
Drain field



RECEIVED

OCT 20 2006

PENDER COUNTY PLANNING