

PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



AGENDA

Pender County Board of Adjustment

October 21, 2009

9:00 a.m.

Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina

NOTE: Board Members are reminded to bring their Zoning Ordinances to the Meeting.

Call to Order: Chairman Erwin Kane

Prayer

Roll Call: Chairman Erwin Kane

Pender County Board of Adjustment Members:

Kane: ___ Thompson: ___ Ferrante: ___ Loughlin: ___ Pullen: ___ James: ___ Luther: ___

Approval of Minutes: September 16, 2009

- 1. Administrative Appeal-** Glen Lewis, applicant and owner, is requesting an Appeal of Administrative Review, as prescribed under Sections 3.5 C and 6.2 C of the Pender County Zoning Ordinance. The applicant is appealing a Notice of Violation for Inoperable Motor Vehicles and Junk/Salvage issued on July 20, 2009 by the Pender County Code Enforcement Officer. The property is zoned R-20, Residential District and is located at 153 Lewis Road in Hampstead, NC. The property consists of 15.03 acres and may be identified as PIN 4214-83-8898-0000

** Public Hearing**

- 2. Variance – Side and Rear Yard, Accessory Building, Setbacks and Separation Requirements** – Claudia S. Willett, applicant and owner, is requesting a 17' rear yard and a 4' separation variance from § 9.2.B, Accessory Buildings Greater than 600 Sq. Ft. and Less than 1,200 Sq. Ft. The property is zoned R-20C, Residential Conventional Housing District, and is located at 204 Abbey Lane, Wilmington, NC (Scott's Hill). The property contains 0.49 acres and is identified as PIN # 3280-05-8505-0000.

BURGAW

PHONE: 910.259.1202
FAX: 910.259.1295

PO BOX 1519
BURGAW, NC 28425

HAMPSTEAD

PHONE: 910.270.2505
FAX: 910.270.5021

248 TRANSFER STATION RD.
HAMPSTEAD, NC 28443

3. Items for Discussion

- Adoption of Findings of Fact for case VA09-18-09-04R- Hayler

4. Adjournment

PLANNING STAFF REPORT
Appeal of Administrative Review

SUMMARY:

Hearing Date: October 21, 2009
Applicant: Glenn M. Lewis
Property Owners: Glenn M. Lewis

Property Location and Description: The property is located at 153 Lewis Road in Hampstead, NC. The property consists of 15.03 acres and may be identified as PIN 4214-83-8898-0000 (See attached vicinity map).

Zoning District of Property: The property is zoned R-20, Residential District.

Summary of Appeal Requested: 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. The applicant is appealing a Notice of Violation issued on July 20, 2009 by the Pender County Code Enforcement Officer.

BACKGROUND AND DESCRIPTION OF APPEAL:

On July 29, 2008, Pender County Code Enforcement issued a Notice of Violation for "creating and/or maintaining a Salvage Yard in a Residential District consisting of: The placement and/or storage of inoperable vehicles (non-registered boats and non-registered boat trailers) in violation of the Pender County Zoning Ordinance." This violation was issued as a result of a Code Enforcement investigation into other violations on the property resulting from complaints from adjacent property owners. Specific to this violation is the issue of certain boats and trailers being considered as inoperable vehicles. On June 19, 2009, staff made the interpretation that the boats and trailers in question do meet the definition of inoperable vehicles, and that the storage of the boats and trailers without required licensing constitutes a salvage yard as defined in the Zoning Ordinance. The interpretation made by staff is that boats requiring licensing by the NC Wildlife Commission are to be included in the definition of "vehicle" for the purposes of enforcement of the "Inoperable Vehicle" ordinance. Photographs of the subject items are attached.

Section 8.9, Table of Permitted Uses, of the Pender County Zoning Ordinance prohibits the operation of Salvage Yards, Junkyards, and Scrap Processing in the R-20, Residential District. Section 9.13, Vehicle Storage, addresses the storage of vehicles in the Residential Districts.

The applicant is appealing the Code Enforcement officer's issuance of the Notice of Violation on the basis of certain factors which are detailed in the narrative letter submitted in the application packet.

APPLICABLE ZONING ORDINANCE PROVISIONS:

2. Definitions, Inoperable Vehicle

Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsions. For the purpose of this ordinance, any motor vehicle not having both a current valid North Carolina license plate and a current annual North Carolina vehicle inspection tag affixed to the vehicle in the location and manner prescribed by law and in plain view, **shall** be considered

an inoperable vehicle. *This definition does not apply to farm exempt vehicles/machines including vehicles used exclusively for on-farm related activities.*

2. Definitions, Salvage Yard

Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packaged, disassembled, or handled, including but not limited to scrap iron and other metals; paper, rags, vehicles, rubber tires, and bottles. The term includes junkyards and auto wrecking yards, but does not include uses established entirely within enclosed buildings.

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.

8.9 Table of Permitted Uses

PERMITTED USES	PD	R-20C	R-20	R-15	R-10	B-1	B-2	FA
Salvage Yards, Junkyards, Scrap Processing								

* Blank space indicates use not permitted*

9.13 Vehicle Storage

A. Residential Districts & Uses and Rural Districts

- 1) Only operable vehicles intended for personal use shall be parked or stored on any property used for residential purposes in any Zoning District
- 2) No storage of commercial inventory or materials whatsoever shall be permitted in a parking area or on any site used for residential purposes.
- 3) No inoperative vehicle shall be permitted to be parked or stored out of doors unless it is effectively screened from view from the roadway.
- 4) Commercial vehicles may be stored or parked overnight, only on a site permitted for a business use or when driven home by employees as noted below.
- 5) Commercial trucks or vans driven home by owners or employees must be parked off the street or access right of way, in a garage, carport, driveway, or other designated areas.

Board of Adjustment

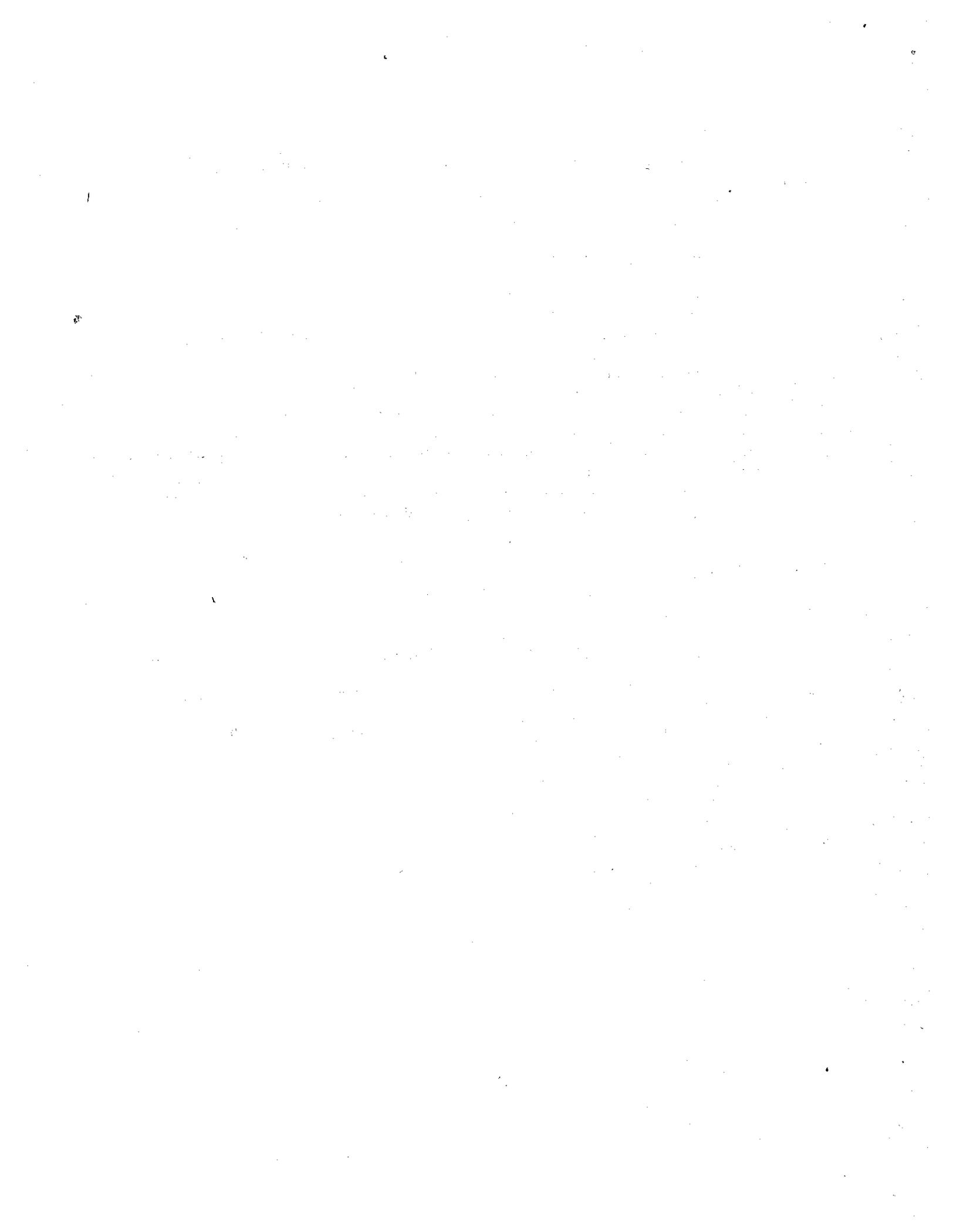
Board Action:

Motion: _____ **Seconded:** _____

Approved: _____ **Denied:** _____ **Unanimous:** _____

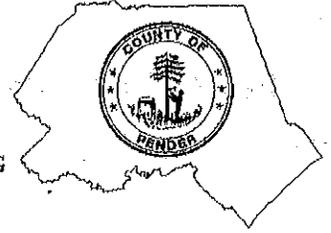
Kane _____ **Thompson** _____ **Ferrante** _____ **Loughlin** _____ **Pullen** _____

Alternates: **James** _____ **Luther** _____



PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



APPLICATIONS COVER SHEET

Date Application Filed: 8/20/09

I. REQUIRED NAMES:

Applicant Glenn M. Lewis

Owner Glenn M. Lewis

Address 668 Lewis Road
Hampstead, N.C. 28443

Address 668 Lewis Road
Hampstead, N.C. 28443

Phone 270-2542 Fax _____

Phone 270-2542 Fax _____

Email _____

Email _____

Legal Relationship of Applicant to Property Owner: Same

Consultant Name/Company None

Address _____

Phone _____ Fax _____

Email _____

II. AFFIDAVIT REGARDING OWNER - APPLICANT RELATIONSHIP:

I N/A (owner) and N/A (applicant) hereby affirm that an appropriate contractual relationship permitted by the appropriate NC State Codes exists between said Owner and Applicant. Owner and Applicant also affirm that if the owner requests that the application be terminated, staff will comply with Owner's request.

Glenn M. Lewis
(Signature of Applicant)

Glenn M. Lewis
(Signature of Owner)

III. TYPE OF APPLICATION:

(Please check one)

Board of Adjustment:

Variance
 Appeal

Zoning:

Text Amendment
 Map Amendment
 Home Occupation
 Special Use Permit
 Vested Rights Determination

Plans:

Planned Development Master Plan
 Subdivision Preliminary Plat
 Final Plat

PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



ADMINISTRATIVE REVIEW APPLICATION

Date <u>August 18, 2009</u>	Application No. <u>AAZ 09-10-21-04 LEWIS</u>
Application Fee <u>\$150.00</u>	

I. PROPERTY INFORMATION:

Record #: 4214-83-8898-0000 Lot #: _____

Parcel ID #: _____ Zoning District: Residential

Property Location: 153 Lewis Road, Hampstead, N.C. 28443

II. REQUIRED INFORMATION:

The information below must be received a minimum of thirty (30) days prior to the staff setting a Board of Adjustment public hearing date.

Application Fee (150 Submitted on 8/20 - total must be paid to process to Agency)

The applicant/owner must submit a detailed letter describing the decision being appealed and stating why the request is being made and provide other information that is pertinent to the case. Total paid on 9/11

III. SIGNATURE OF OWNER & APPLICANT:

D. Allen M. Lewis Applicant *D. Allen M. Lewis* Owner

RAY C. BLACKBURN, JR.
ATTORNEY AT LAW
712 COUNTRY CLUB RD • P.O. BOX 895
HAMPSTEAD, NORTH CAROLINA 28443
TELEPHONE: 910.270.2022 • FACSIMILE: 910.270.2002

August 18, 2009

NOTICE OF APPEAL OF ZONING VIOLATION DETERMINATION

Zoning Administrator
Pender County Planning Dept.
805 South Walker St.
Burgaw, N.C. 28425

Re: Notice of Zoning violation dated July 20, 2009

Dear Zoning Administrator:

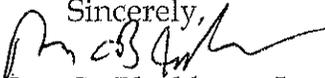
Glenn M. Lewis tenders this Notice of Appeal of the zoning violation determination made by R. E. Kays and dated July 20, 2009. In support of this Appeal, Glenn M. Lewis says as follows:

1. The conditions described in Mr. Kays notice do not adequately describe what exists at the subject site so as to allow Appellant to determine what needs to be done to alleviate this complaint. The complaint alleges that Appellant's property is used to house unregistered boats and boat trailers and Appellant is unable to determine which boats and/or trailers are considered to create a violation.

2. Appellant contends that a number of the boats and trailers on his property are in fact licensed or in the case of a sail boat on the property, does not meet the definition set out in the applicable zoning codes. Appellant will produce licensing documents at a future date.

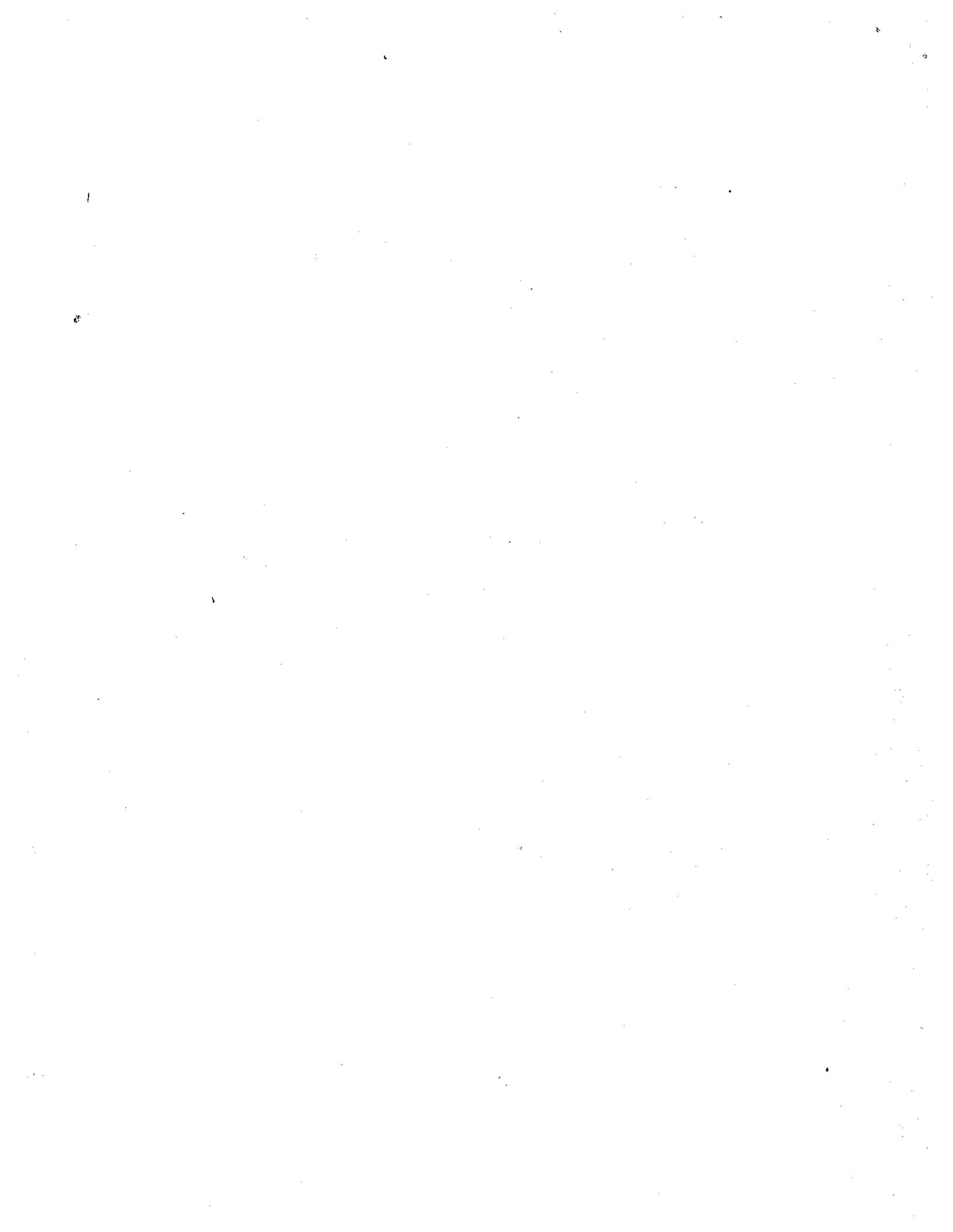
3. Appellant further contends that he is not operating a "Salvage yard" as is described in Pender County's ordinances.

Appellant requests that the Board of Adjustment find in favor of Appellant and overrule the determination of a zoning violation by R. E. Kays.

Sincerely,

Ray C. Blackburn, Jr.
Attorney at Law

Glenn M. Lewis







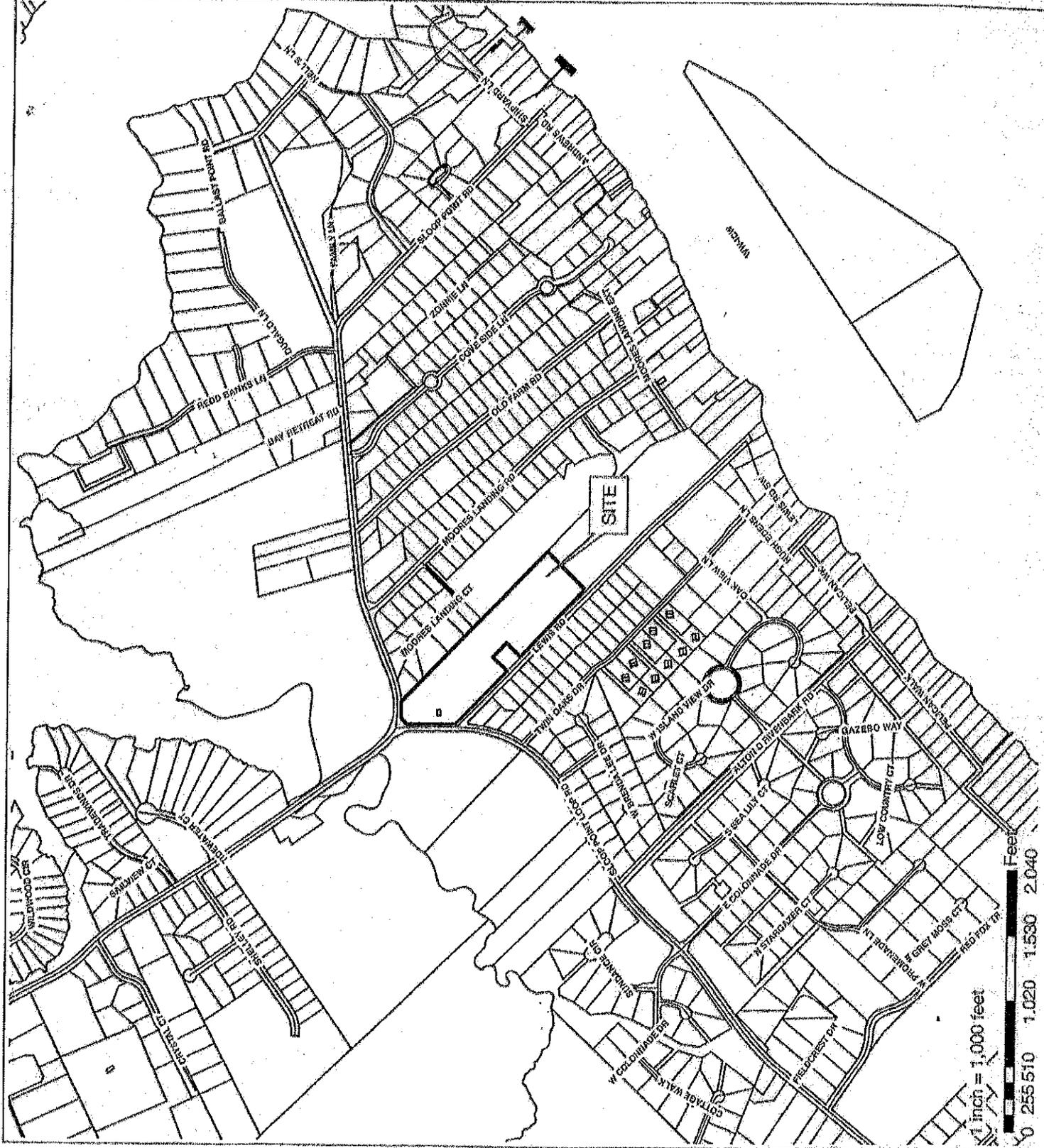
Applicant:
Glenn Lewis

Owner:
Glenn Lewis

Administrative Appeal
AAR 09-10-21-04 Lew



Virginia Man



1 inch = 1,000 feet





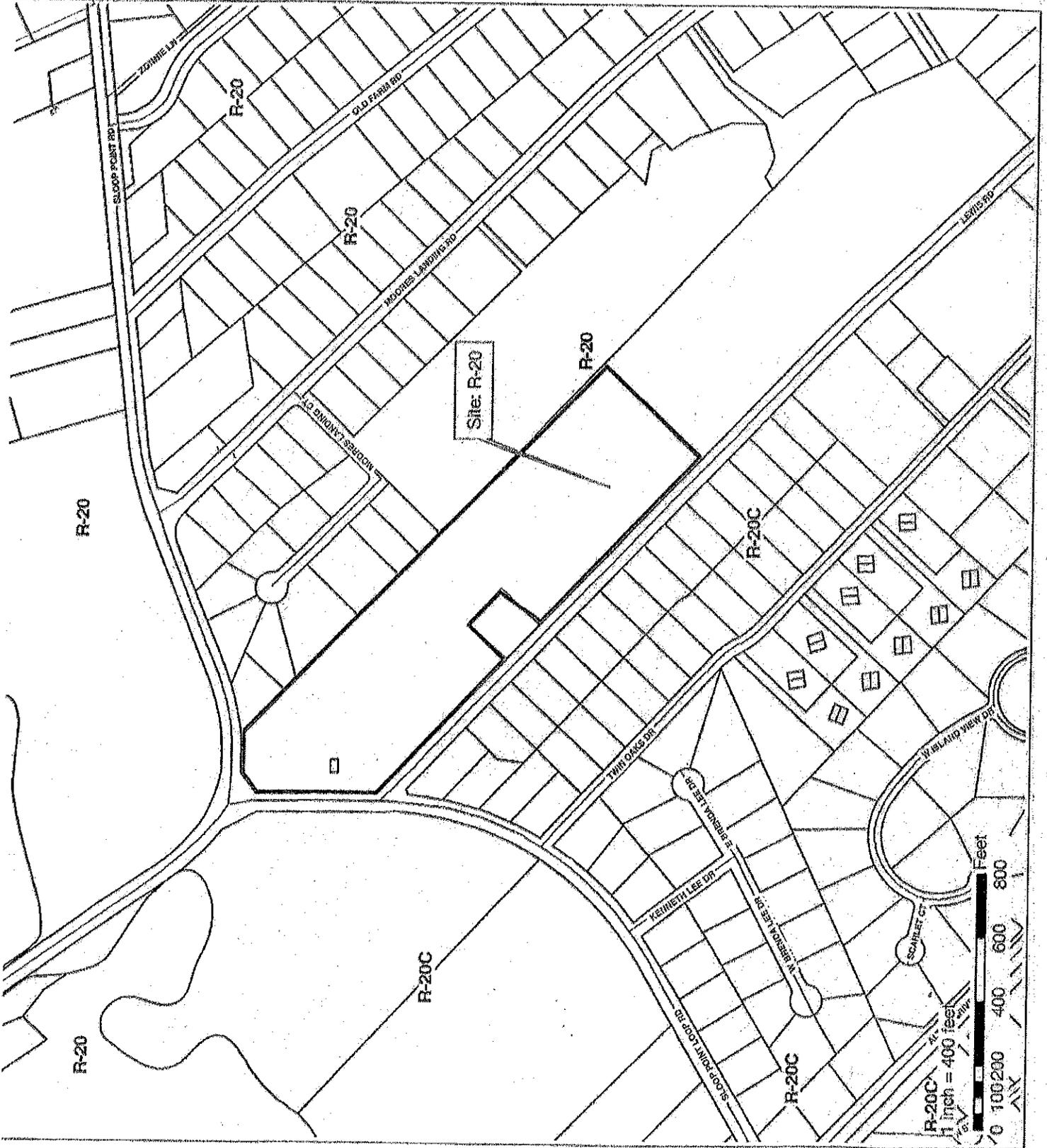
Applicant:
Glenn Lewis

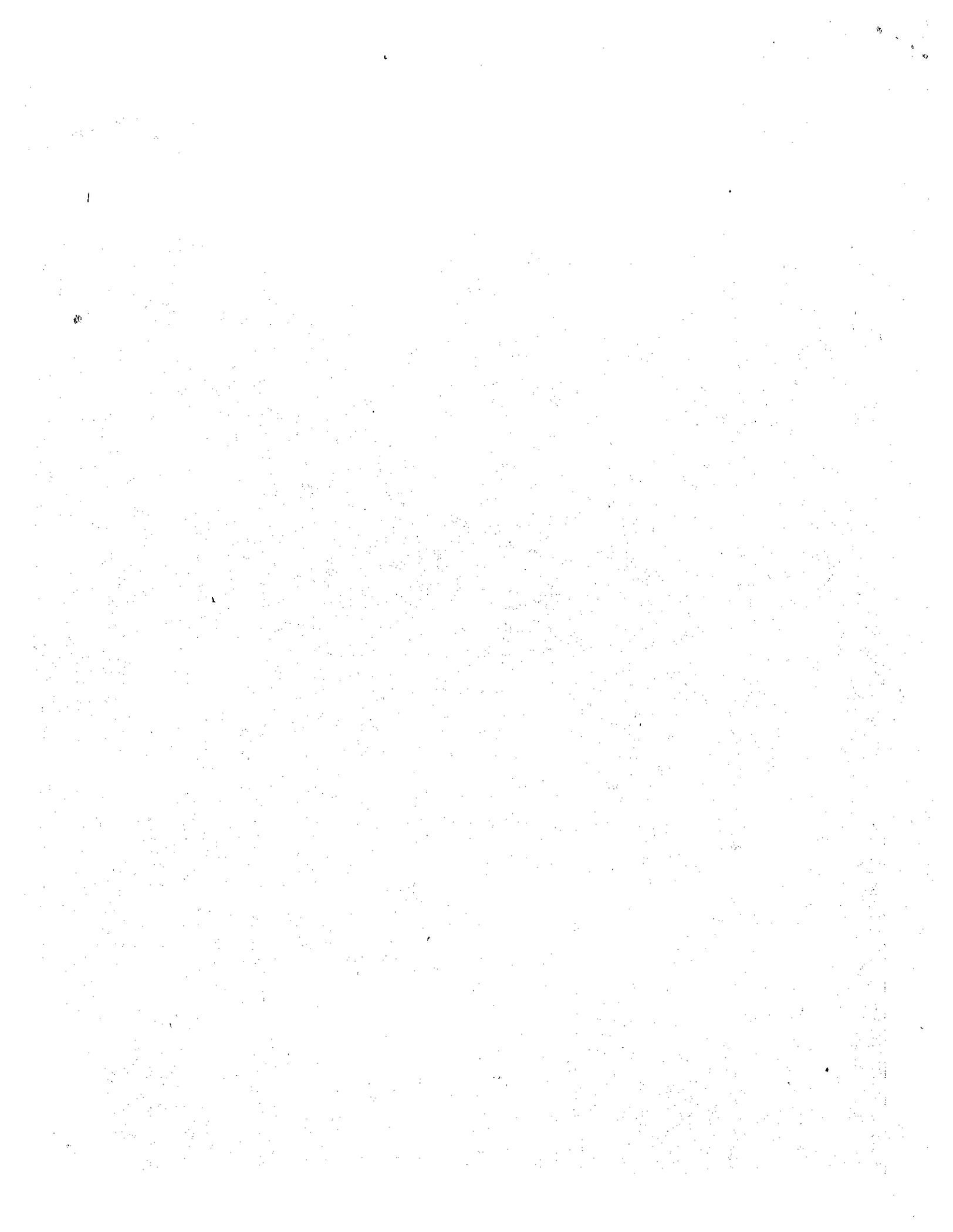
Owner:
Glenn Lewis

Administrative Appeal
AAR 09-10-21-04 Lew

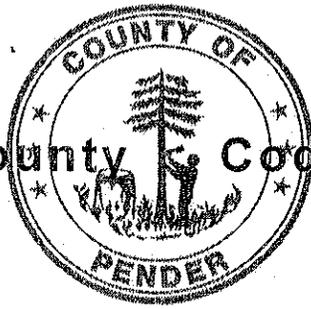


Zoning Map





Pender County Code Enforcement



805 South Walker Street
P.O. Box 1519
Burgaw, North Carolina 28425

Phone (910) 259-1202
Fax (910) 259-1295

DATE: July 20, 2009

TO: Glenn M. Lewis
117 Lewis Road
Hampstead, NC 28443

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 153 Lewis Rd. and identified by the Pender County Tax Office as Tax Record Number 4214-83-8898-0000.

CONDITIONS THAT CREATE VIOLATION:

Creating and/or maintaining a Salvage Yard in a Residential District consisting of: The placement and/or storage of inoperable vehicles (non-registered boats and non-registered boat trailers) in violation of the Pender County Zoning Ordinance.

SECTIONS OF COUNTY ORDINANCE VIOLATED:

1) Inoperative Vehicle**

Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self propulsion. For the purpose of this ordinance, any motor vehicle not having both a current valid North Carolina license plate and a current annual North Carolina vehicle inspection tag affixed to the vehicle in the location and manner prescribed by law and in plain view, **shall** be considered an inoperable vehicle. *This definition does not apply to farm exempt vehicles/machines including vehicles used exclusively for on-farm related activities.*

Note: Definition of **vehicle** according to Webster's II New Riverside University Dictionary: (1) A **device**, as a motor vehicle or a piece of equipment, **for transporting passengers, goods, or apparatus.**

81) Salvage Yards

Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged, **stored**, baled, packaged, disassembled, or handled, including but not limited to, scrap iron, and other metals, paper, rags, vehicles, rubber tires, and bottles. The term includes junkyards, and auto wrecking yards, but does not include uses established entirely within enclosed buildings.

SECTION 8 - ZONING DISTRICTS AND REGULATIONS

8.9 Table of Permitted Uses

PERMITTED USES	RD	R-20C	R-20	R-15	R-10	B-1	B-2	FA
RESIDENTIAL								
Motion Picture Production Facilities, Excluding Adult Entertainment (Permanent Structures Only Require Zoning Permits)	SP B						P	S
Salvage Yards, Junkyards, Scrap Processing								
Outdoor Advertising (See Sign Regulations)	P					P	P	P

KEY TO TABLE OF PERMITTED USES LISTED ABOVE:

SP = Special Use Permit required

B = Board approval

P = Permitted

Blank space = Activity not permitted

2) Trailer

Any vehicle or structure originally designed to transport something or intended for human occupancy for short periods of time. Trailers shall include the following:

- a) Travel Trailer - A vehicular, portable structure built on a wheeled chassis, designed to be towed by a self-propelled vehicle for use for travel, recreation, or vacation purposes, having a body width of ten (10) feet or less and a body length thirty-two (32) feet or less when equipped for road travel.
- b) Camping Trailer - A folding structure manufactured of metal, wood, canvas, plastic, or other materials, or any combination thereof, mounted on wheels and designed for travel, recreation, or vacation use.
- c) Tow Trailer - A structure designed to be hauled by another vehicle and to transport vehicles, boats, or freight.

9.13 Vehicle Storage

A. Residential Districts & Uses and Rural Districts

- 1) Only operable vehicles intended for personal use shall be parked or stored on any property used for residential purposes in any Zoning District.
- 2) No storage of commercial inventory or materials whatsoever shall be permitted in a parking area or on any site used for residential purposes.
- 3) No inoperative vehicle shall be permitted to be parked or stored out of doors unless it is effectively screened from view from the roadway.
- 4) Commercial vehicles may be stored or parked overnight, only on a site permitted for a business use or when driven home by employees as noted below.
- 5) Commercial trucks or vans driven home by owners or employees must be parked off the street or access right of way, in a garage, carport, driveway, or other designated areas.

CORRECTIVE ACTIONS THAT MUST BE TAKEN BY PROPERTY OWNER/VIOLATOR:
All items considered as salvage (primarily non registered boats and boat trailers and inoperable boats and boat trailers), must be effectively screened from view or removed from the property to a location permitted for such storage.

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 20th day of July 2009 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



PLANNING STAFF REPORT
Variance Request

SUMMARY:

Hearing Date: October 21, 2009

Applicant: Claudia S. Willett

Property Owner: Claudia S. Willett, et al

Property Location and Description: The property is located at 204 Abbey Lane, Wilmington, NC 28411 (Scott's Hill). The property contains 0.49 acres and is identified as PIN # 3280-05-8505-0000 (See attached vicinity map).

Zoning District of Property: The property is zoned R-20C, Residential Conventional Housing District.

Variance Requested: The applicant is requesting a sixteen foot, four inch (16'4") rear yard variance and a three foot, six inch (3'6") separation variance from § 9.2, Accessory Building, Setbacks and Separation Requirements, of the Pender County Zoning Ordinance.

BACKGROUND AND DESCRIPTION OF VARIANCE:

On July 7, 2009, Claudia Willett, applicant, was cited through the Pender County Division of Code Enforcement for the construction of an addition to an accessory structure without obtaining necessary permits. The applicant contacted the Division of Planning to alleviate the violation by obtaining proper permitting where it was found that the addition on to the current accessory building did not meet zoning regulations set forth in the Pender County Zoning Ordinance.

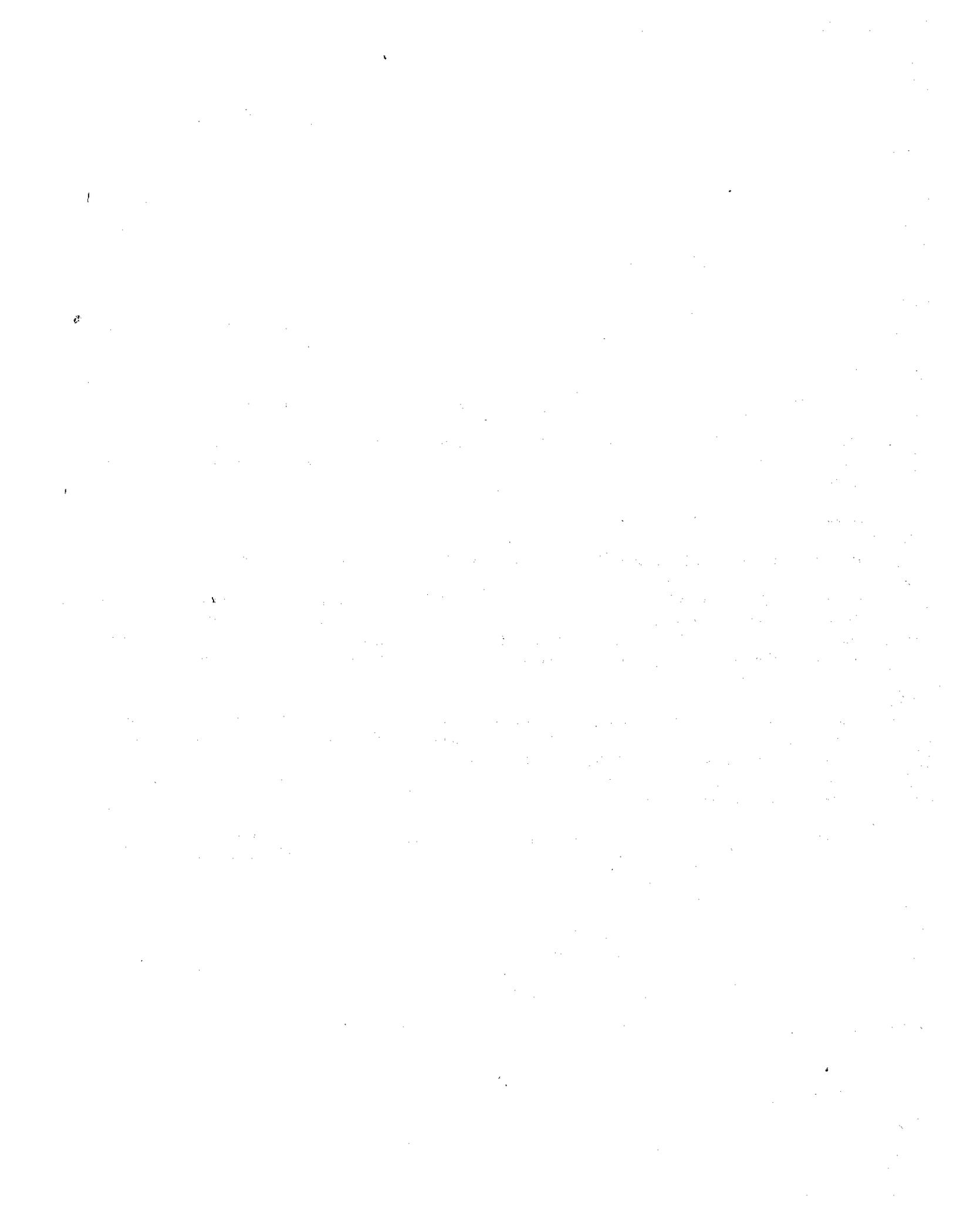
Prior to the addition of a carport, the structure was approximately 440 Sq. Ft., requiring ten foot (10') separation requirements, as well as ten foot (10') setback requirements in relation to property lines. With the addition, the accessory structure is currently ±792 Sq. Ft., which requires compliance with §9.2.B. Accessory Buildings Greater than 600 Sq. Ft. and Less than 1,200 Sq. Ft., indicating a 10' separation requirement and prescribed zoning district setbacks to be met.

As built, the structure sits approximately 8'8" off the rear property line and is separated from the house by approximately 6'6". As situated currently, the variance request is for 16'4" along the rear property line and 3'6" for building separation.

APPLICABLE ZONING ORDINANCE PROVISIONS:

8.10 Schedule of District Requirements - R-20C

PERMITTED USES	R-20C
Lot Size (Sq. Ft. or noted)	20,000
Min. Front Yd.-Ft.	30
Min. Side Yard-Ft	20
Min. Rear Yard-Ft	25



9.2 Accessory Building, Setbacks and Separation Requirements

- A. Accessory Buildings 600 Square Feet in Area or Less:
- 1) Must be set back 10 ft. from all property lines and access easements.
 - 2) Must be separated from other buildings by 10 ft.
- B. Accessory Buildings Greater than 600 Sq Ft. and Less than 1200 Sq. Ft.
- 1) Must be set back from all other buildings on the property by 10 ft.
 - 2) Must meet the same setbacks from property lines as principle buildings.
- C. Accessory Buildings 1200 Sq. Ft. in Area or Greater:
- 1) Must meet the same set back and separation requirements as principal buildings.

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.

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

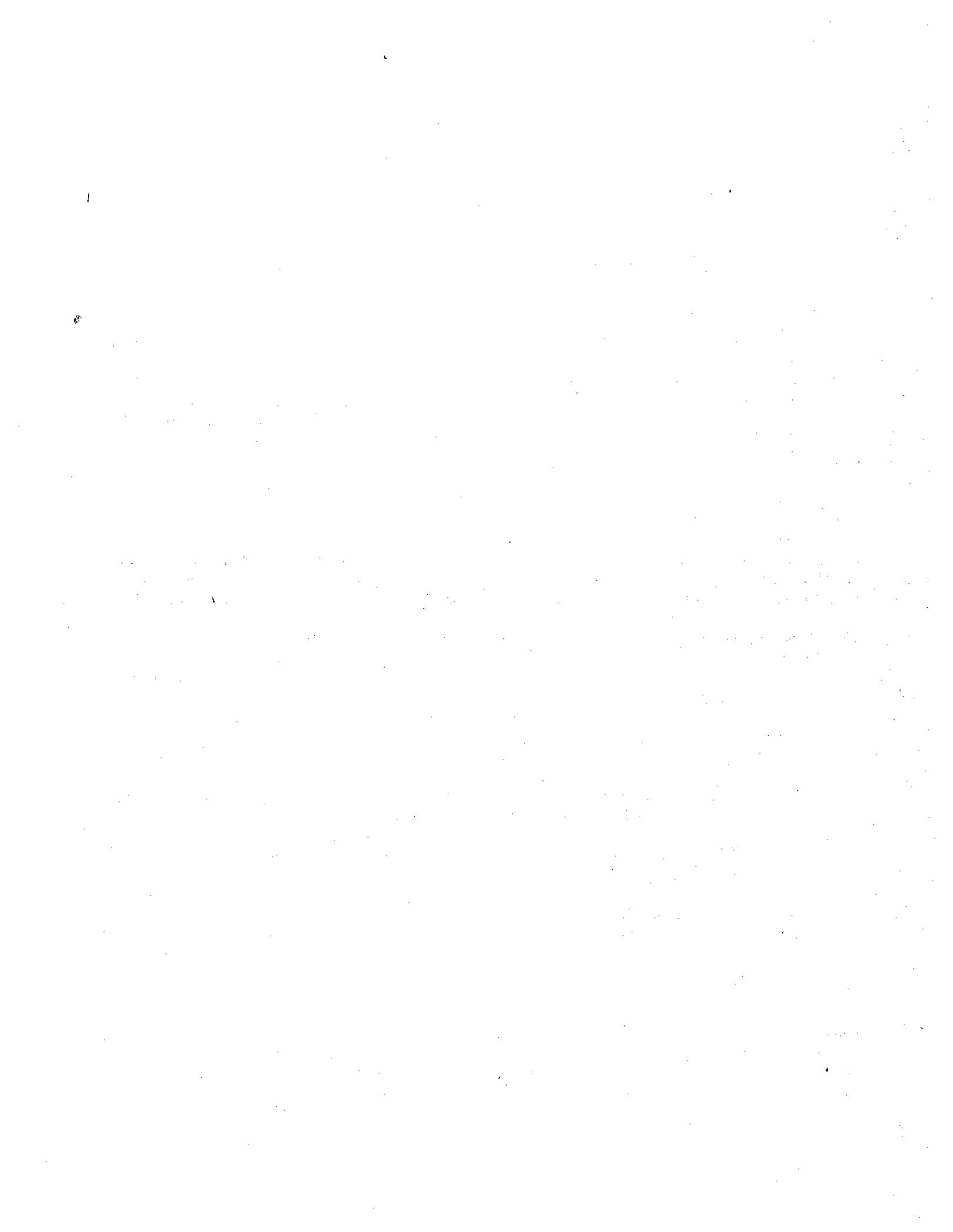
To authorize upon appeal in specific areas variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in undue hardship, so that the spirit of this ordinance shall be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



Board of Adjustment

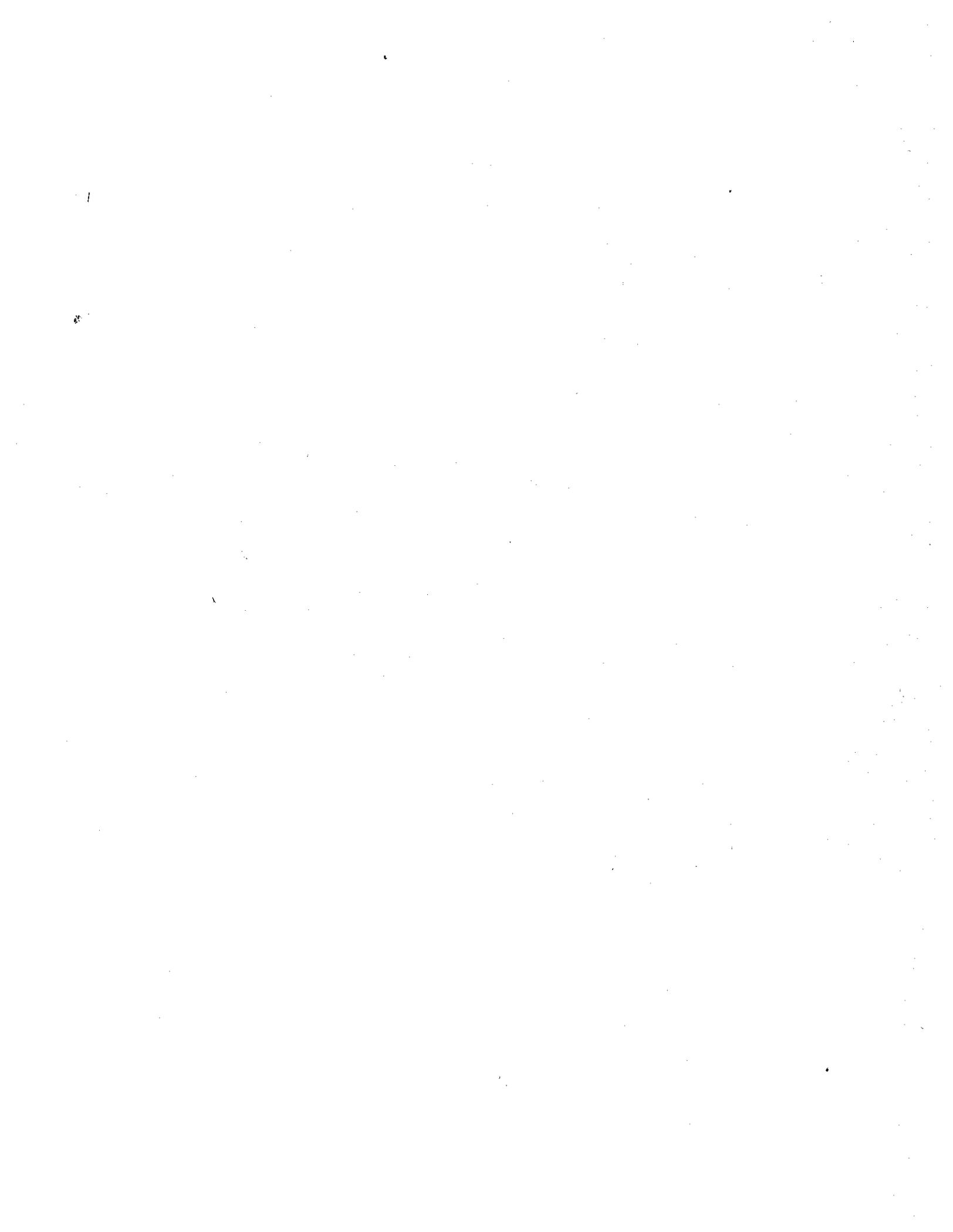
Board Action:

Motion: _____ Seconded: _____

Approved: _____ Denied: _____ Unanimous: _____

Kane _____ Thompson _____ Ferrante _____ Loughlin _____ Pullen _____

Alternates: James _____ Luther _____



PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



APPLICATIONS COVER SHEET

Date Application Filed: 9/4/2009

I. REQUIRED NAMES:

Applicant Claudia S. Willett

Owner Wayne & Claudia Willett

Address 204 Abbey Ln

Address 204 Abbey Ln

Wilmington NC 28411

Wilmington NC 28411

Phone 910-686-0400 Fax _____

Phone 910-686-0400 Fax _____

Email claudia.willett@ppdi.com

Email claudia.willett@ppdi.com

Legal Relationship of Applicant to Property Owner: self/wife

Consultant Name/Company _____

Address _____

Phone _____ Fax _____

Email _____

II. AFFIDAVIT REGARDING OWNER - APPLICANT RELATIONSHIP:

I Wayne Willett (owner) and Claudia Willett (applicant) hereby affirm that an appropriate contractual relationship permitted by the appropriate NC State Codes exists between said Owner and Applicant. Owner and Applicant also affirm that if the owner requests that the application be terminated, staff will comply with Owner's request.

Claudia S. Willett
(Signature of Applicant)

Wayne Willett
(Signature of Owner)

III. TYPE OF APPLICATION:

(Please check one)

Board of Adjustment:

- Variance
 Appeal

Zoning:

- Text Amendment
 Map Amendment
 Home Occupation
 Special Use Permit
 Vested Rights Determination

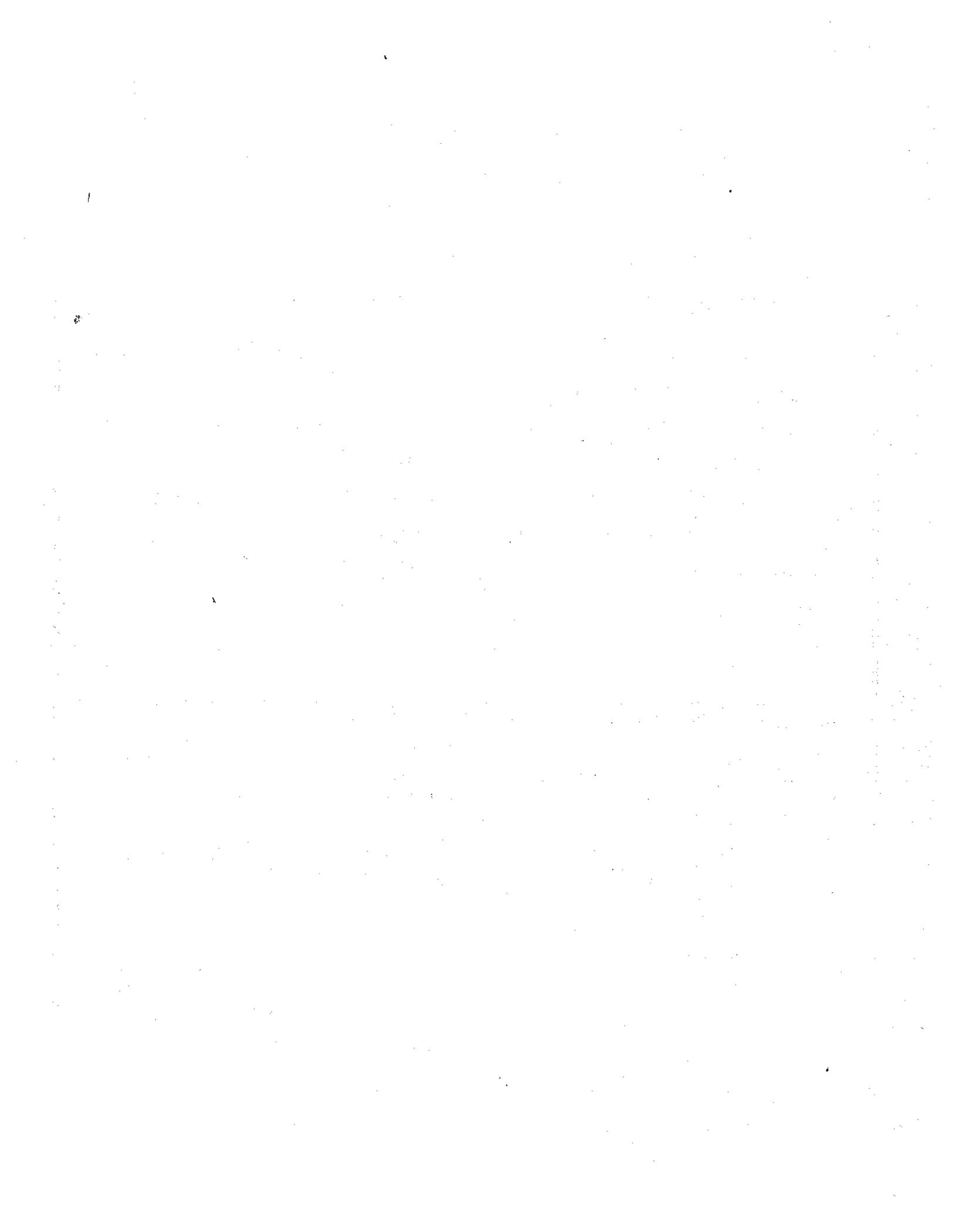
Plans:

- Planned Development Master Plan
 Subdivision Preliminary Plat
 Final Plat

RECEIVED

SEP - 9 2009

PENDER COUNTY PLANNING



PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



FEE SCHEDULE

Board of Adjustment:	Applicable Fees:	Fee Calculation:
Variance	\$250.00	250
Appeal	\$250.00	
Zoning:		
Zoning Determination Letter	\$15.00	
Text Amendment	\$250.00	
Map Amendment	\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter	
Vested Rights Determination	\$250.00	
Home Occupation	\$25.00	
Special Use Permit	\$300.00 & \$10.00 per acre over 5 acres; max of \$5,000.00	
SUP, Part of AEC	\$300.00 & \$10.00 per acre over 5 acres	
SUP, Tower over 75 ft.	\$500.00	
SUP, Mining Borrow Pit	\$750.00 & \$10.00 per acre over 5 acres	
SUP, Mining other	\$1,000.00 plus \$5.00 per acre	
Plans:		
Planned Development Master Plan	\$500.00 plus \$10/acre for the first 100 acres; \$5/acre thereafter	
Preliminary Plat	\$500.00 & \$10/lot/residential unit for the first 100 lots/units; \$5 per lot/unit thereafter	
Final Plat	\$250.00 & \$10/lot/residential unit for the first 100 lots/units; \$5/lot/unit thereafter	
Total Fees Due:		250

Attachments Included with Application:
(Please include # of copies)

___ CD ___ Plan Sets ___ Other Documents/Reports

Method of Payment: ___ Cash
 ___ Credit Card, We accept VISA ___ and MasterCard ___ only.
 Check, Ck. # (4900)

For Office Use Only:

Receipt # _____

Received By: _____

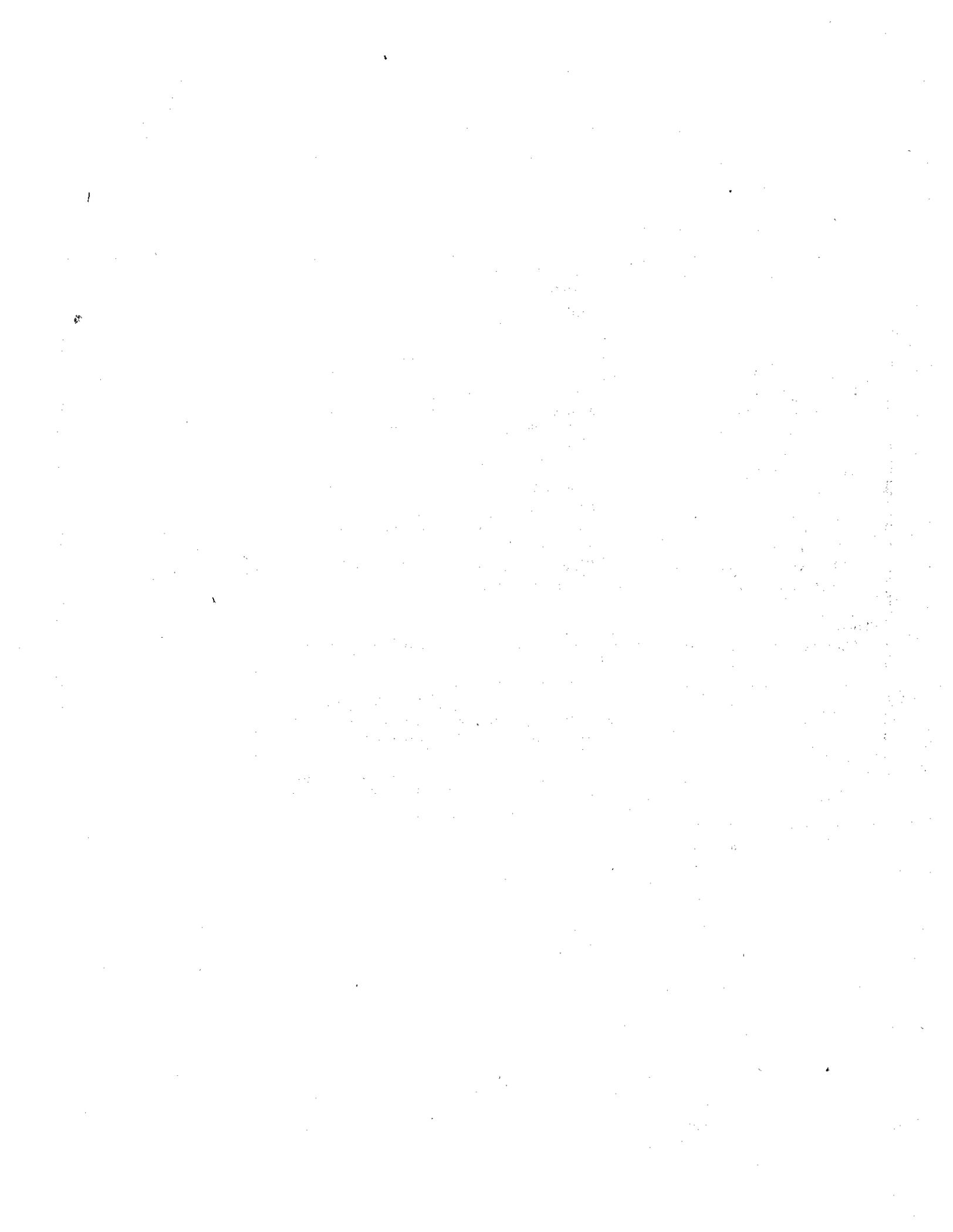
Date: _____

COMMUNITYDEVELOPMENT@PENDER-COUNTY.COM • 805 S. WALKER STREET, BURGAW, NC
 PHONE: 910.259.1202 FAX: 910.259.1295

RECEIVED

SEP - 9 2009

PENDER COUNTY PLANNING



PLANNING AND COMMUNITY DEVELOPMENT



PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING

VARIANCE APPLICATION

Date 8/31/2009 Application No. VA 09-10-21-065
Application Fee \$250.00

I. PROPERTY INFORMATION:

Record #: Lot #: 13K
Parcel ID #: 32-80-05-8505 Zoning District: R-20C
Property Location/Address: 204 Abbey Ln. Wilmington NC 28411

Describe Variance & Reason for Request:

Request variance of 10 foot minimum from house to garage structure for addition of carport to existing garage.

II. A complete submission must be in the Planning and Community Development Department office 45 days prior to the scheduled Board of Adjustment public hearing date. All of the information listed below must be included for the submission to be considered complete:

- Application Fee
A self addressed business envelope for each adjacent property owner(s) and an additional envelope for the applicant/owner and their agent
Fifteen scaled maps, no smaller than 8 1/2" x 11" at a readable scale, clearly showing the following:
Property Location Existing Buildings
Building Separation Distances Acreage
Dimensions of Property Proposed Buildings
Proposed Building Height*
Building Distances from Property Lines (front, side, rear)
Location of well and septic system
Additional Info Pertinent to the variance request (Pictures, Septic Tank Permits, etc)

*All Building Height Variance requests must supply elevation of property at curb and at an established building grade and must be provided by a Licensed Surveyor or Engineer.

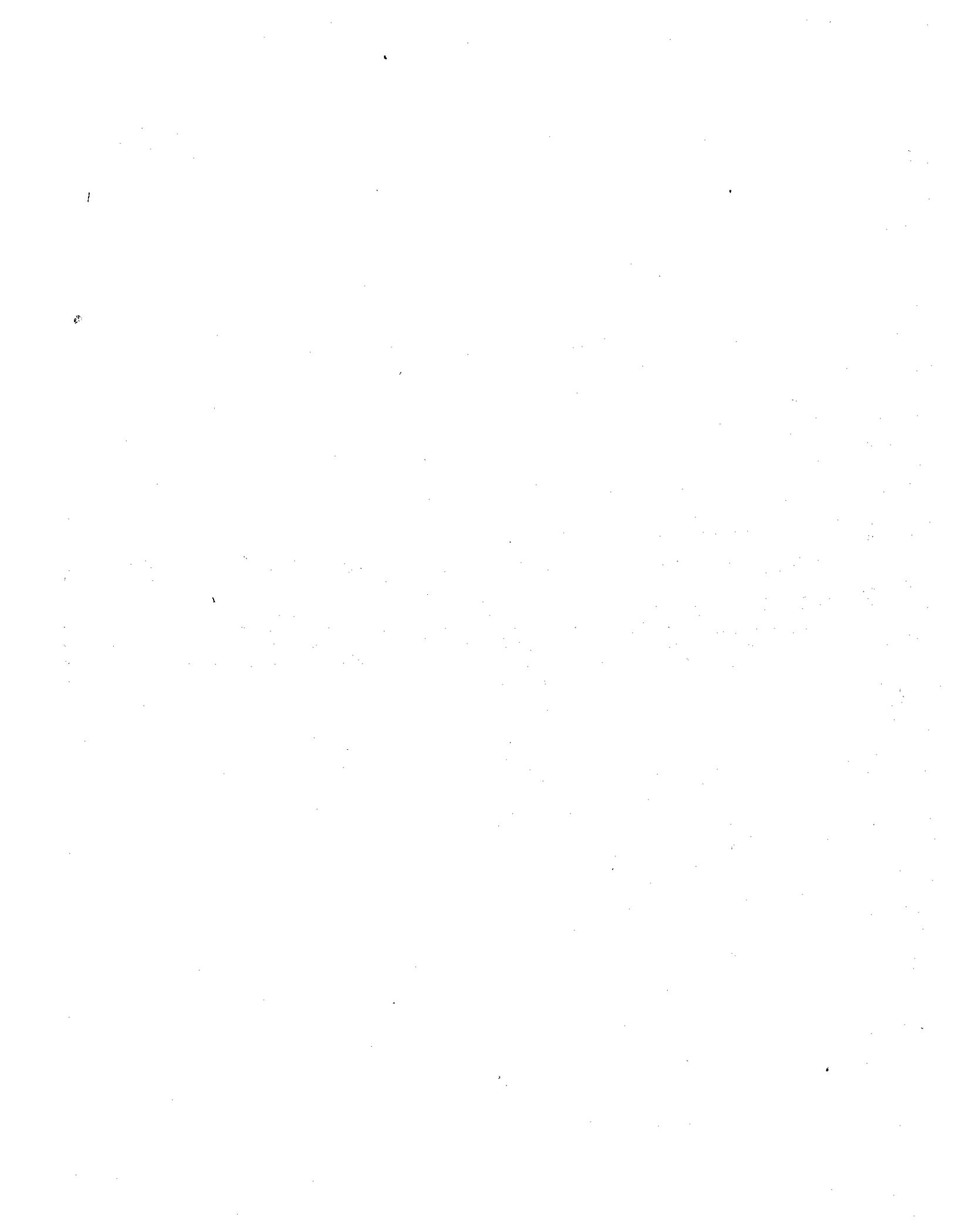
- The applicant/owner must submit a detailed letter describing the request and stating why the request is being made and provide other information that is pertinent to the case.

III. SIGNATURE OF OWNER & APPLICANT:

Claudia S Willett Applicant Claudia S Willett Owner

RECEIVED

SEP - 9 2009



September 1, 2009

Planning And Community Development
P. O. Box 1519
805 S. Walker Street
Burgaw, NC 28425

Dear Planning And Community Development,

We are requesting a variance from your board in order to add a carport on an existing double garage detached from our home.

The existing garage is 22 feet by 20 feet and has existed on the left side of your property in the back corner for 19 years. We want to add a 16 foot roof addition to the garage in the front in order to park under.

My husband and I started the structure according to the rules of our subdivision. We were not under the impression that a building permit was required since this was an open roof structure. It is 90 percent finished.

We proceeded on until we received a letter from the Zoning Department stating that we were in violation. Our existing garage along with the added carport roof is over the 600 square foot threshold for separation from our house. The separation from the 6X6 post of the carport to the corner of the house is 6 ½ feet; instead of the 10 foot requirement.

We have been working with the planning department trying to come up with a solution for our problem. With the existing garage square footage and the current zoning regulations, we have no other choice but to cut the roof basically in half and remove it. The 10 feet that will be left will give us no room to park our vehicles in the shade.

We have taken great pains in constructing this carport to look like an original part of the structure and not an addition. Please take our request into consideration and grant us a variance to keep it like it is currently. Thank you in advance.

Sincerely,

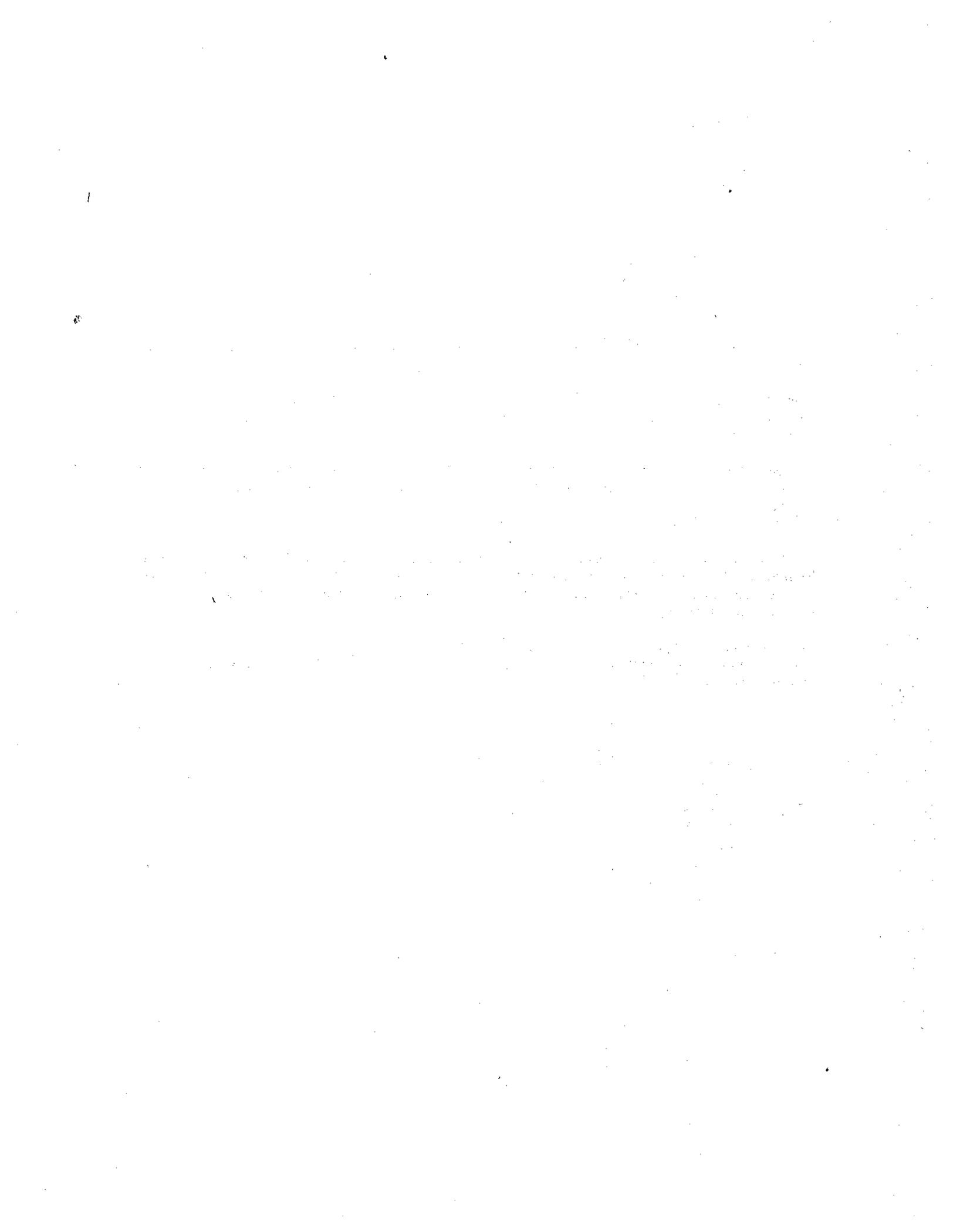
Claudia Willett

204 Abbey Lane
Foy Subdivision, Scotts Hill
Wilmington, NC 28411

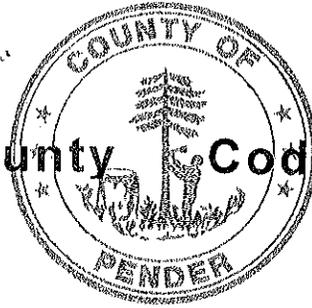
RECEIVED

SEP - 9 2009

PENDER COUNTY PLANNING



Pender County Code Enforcement



805 South Walker Street
P.O. Box 1519
Burgaw, North Carolina 28425

Phone (910) 259-1202
Fax (910) 259-1295

SECOND NOTICE OF VIOLATION

DATE: September 8, 2009

TO: Claudia S. Willett
204 Abby Lane
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 304 Abby Lane and identified by the Pender County Tax Office as Tax Record Number 3280-05-8505-0000.

CONDITIONS THAT CREATE VIOLATION:

The construction and/or placement of an accessory structure to an existing accessory building (Garage?) without first obtaining Zoning Permits required by the Pender County Zoning Ordinance.

SECTIONS OF COUNTY ORDINANCE VIOLATED:

3.2 Zoning Permits

A. Activities For Which A Zoning Permit Is Required

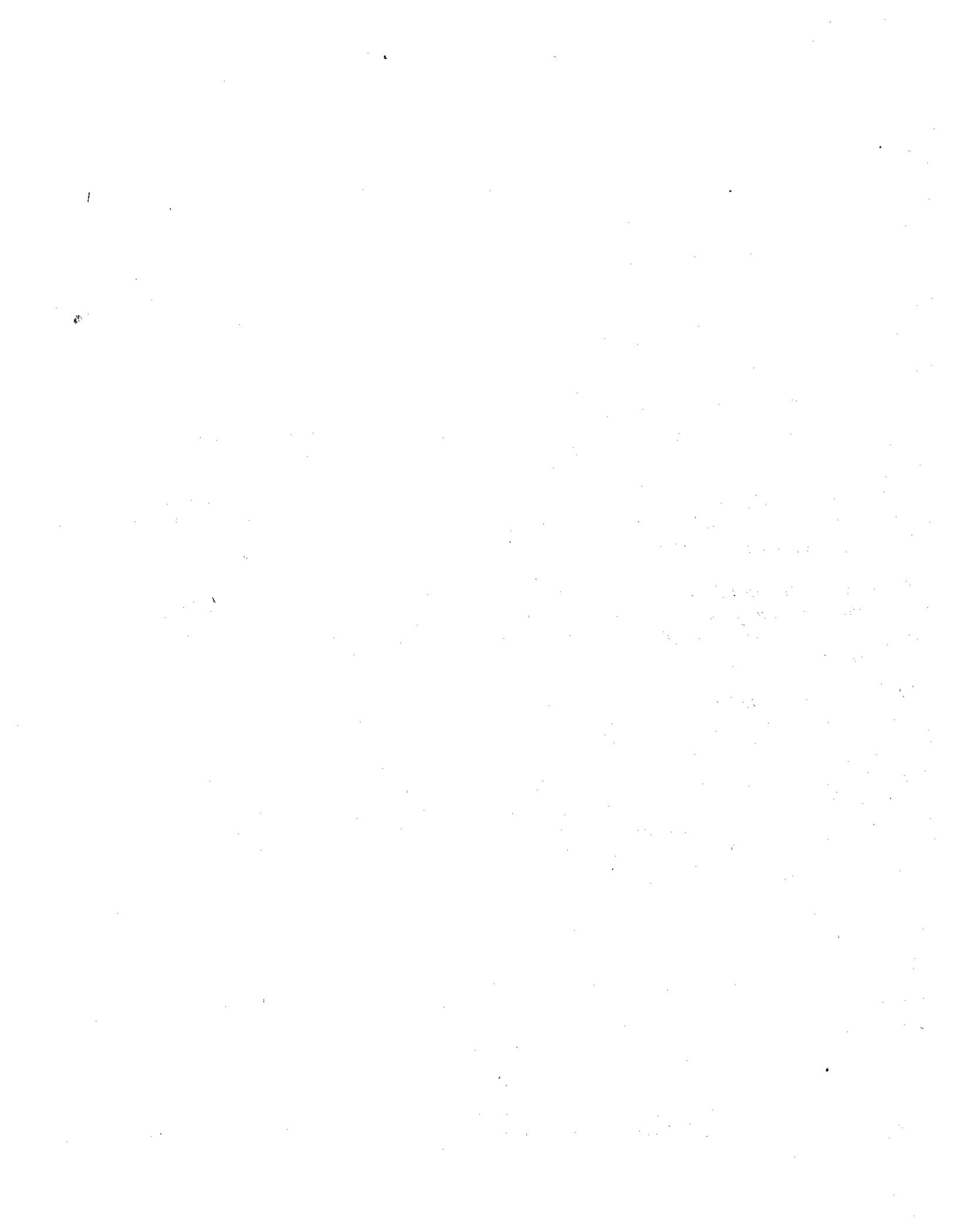
A valid Zoning Permit shall be presented with any application for a Building or Electrical Permit. No Building or Electrical Permit shall be issued for any activity in a zoned area until such Zoning Permit or a written determination by the Zoning Administrator that no permit is required, has been issued. In all circumstances a Zoning permit shall be required for the following activities:

1) To commence the excavation for or the construction of any building or other structures including accessory structures,

2) To commence the moving, exterior alteration, expansion or substantial repair (see definition of substantial repair) of any structure including accessory structures,

3) To initiate a new use or change the use on any land, lot, parcel or property,

4) To initiate a new use or change the use for any building including accessory structures. The Zoning Administrator shall not issue the Zoning Permit for such activities until he has determined that such activities, work or use and the plans and specifications required herein



are in compliance with the provisions of this ordinance. *A Zoning Permit shall be required for these activities whether or not a building or related permit is required.*

CORRECTIVE ACTIONS THAT MUST BE TAKEN BY PROPERTY OWNER/VIOLATOR:
Seek the proper permits for the construction and/or placement of an accessory structure on the property or remove the structure from the premises.

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 thereafter be subject to the penalties noted herein.

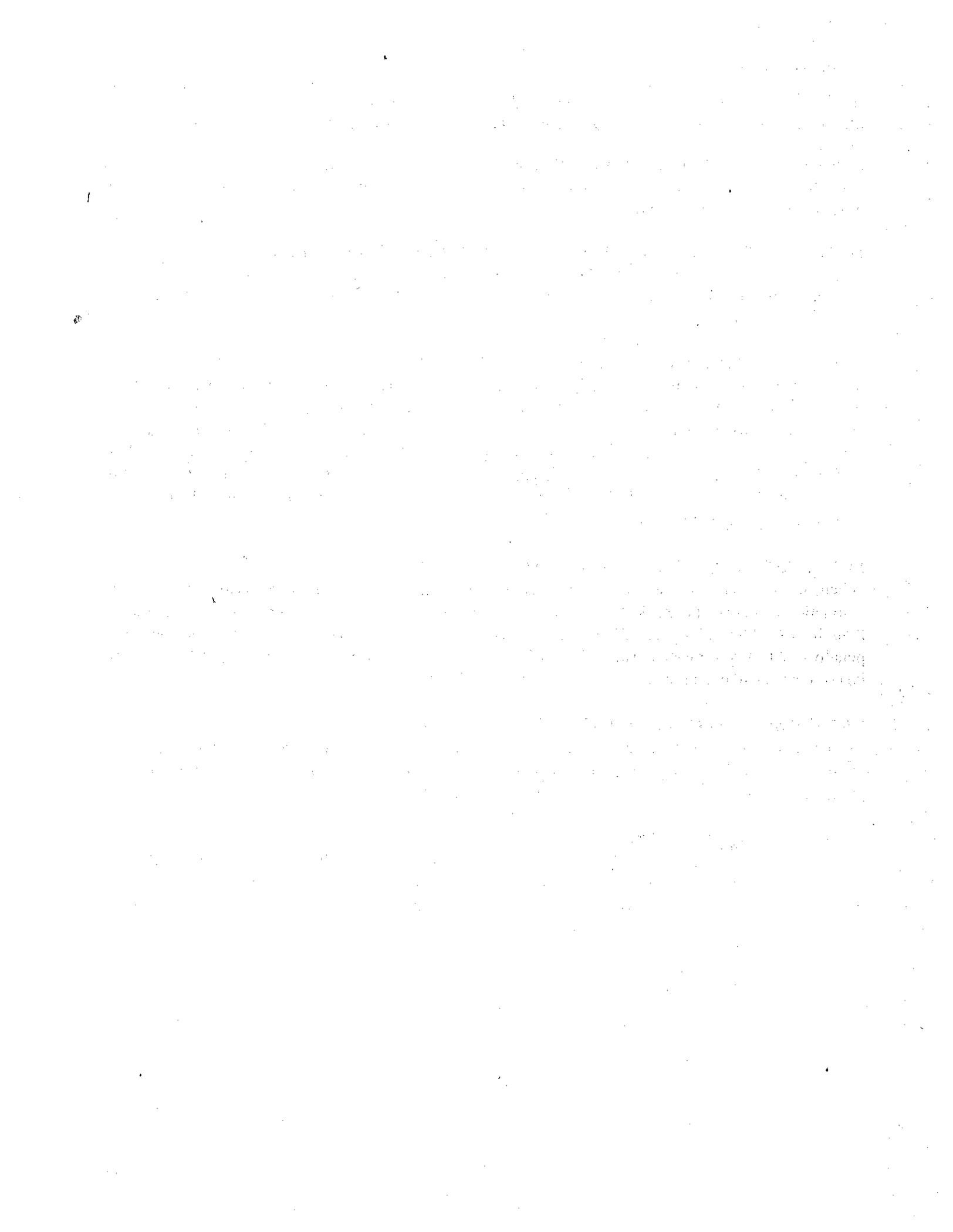
PROPERTY OWNER/VIOLATOR'S RIGHT TO APPEAL:
You are hereby given notice that you have the right to appeal the determination made by the Code Enforcement Officer to the Pender County Board of Adjustment. If you elect to appeal this determination, you must file a written request for appeal, specifying the 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 8th day of September 2009 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



PENDER COUNTY PLANNING DEPARTMENT
805 Walker St.
Burgaw, North Carolina 28425

COMPLAINT INVESTIGATION REPORT

Date Received: 06-18-09

Time: 2:05P.M.

Taken By: Ralph Kays

Complainant: Mike Harrison (Building Inspections)

Telephone: 270-5009

Address:

City:

State:

Zip:

E- mail:

Location of Complaint: 204 Abby Lane Wilmington, NC 28411 (Scotts Hill)

P.I.N. : 3280-05-8505-0000

Type of complaint: (X) Residential () Commercial () Industrial () Flood Area

() Other (Describe) _____

Describe Complaint: Construction of addition to accessory structure violation of building setbacks.

Accused Property Owner: Claudia Willett

Telephone: Not Listed

Complaint Referred to:

Date:

INVESTIGATION REPORT

Date of Inspection: 07-06-09

Time: 10:00 A.M.

Inspector: Ralph Kays

Observations: Structure added to the front of garage approximately 12' x 20'. No permits. Appears to violate setback rules of building separation.

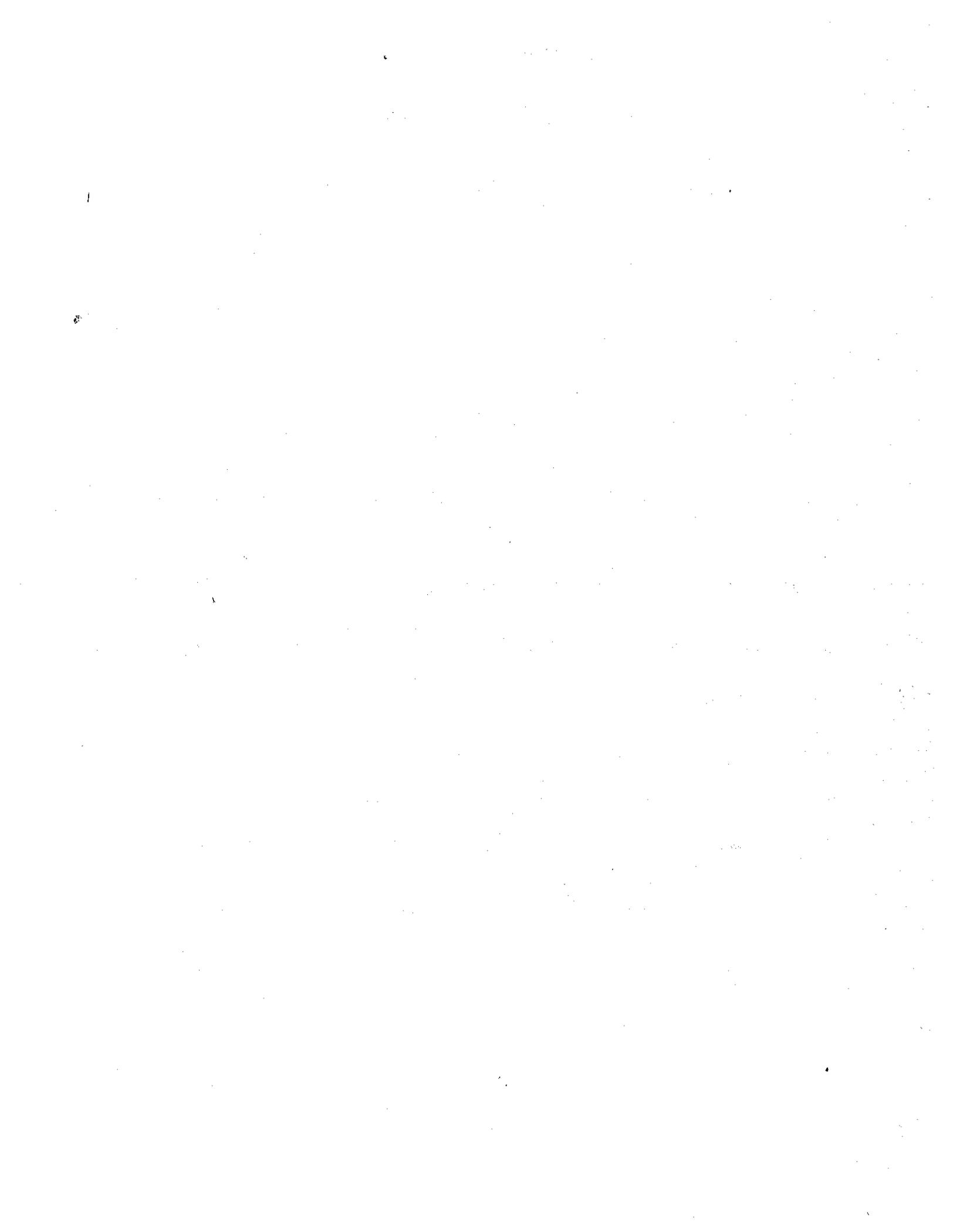
Actions taken by Inspector / Planning Dept: Photos.

Ralph Kays

07-06-09

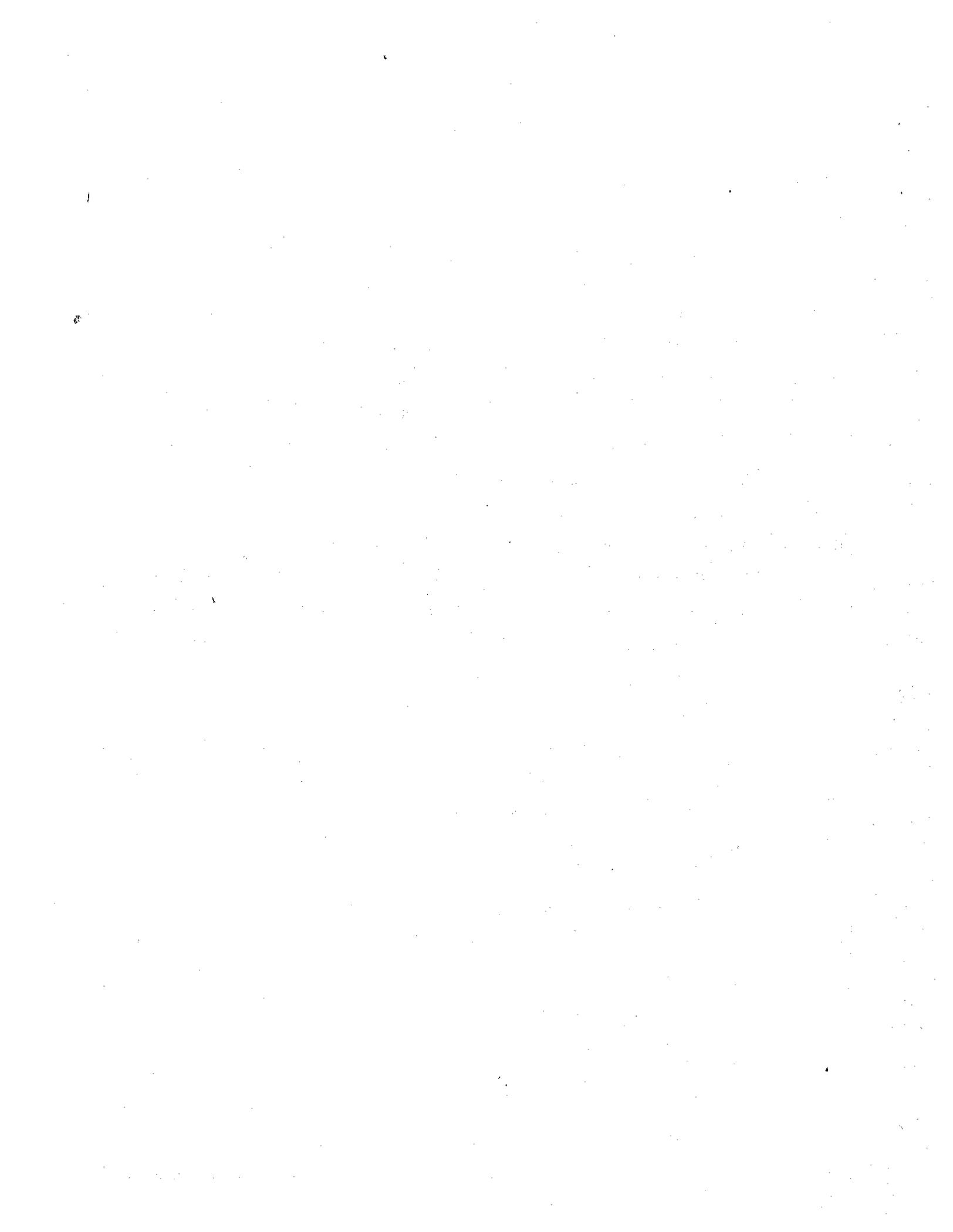
Inspector

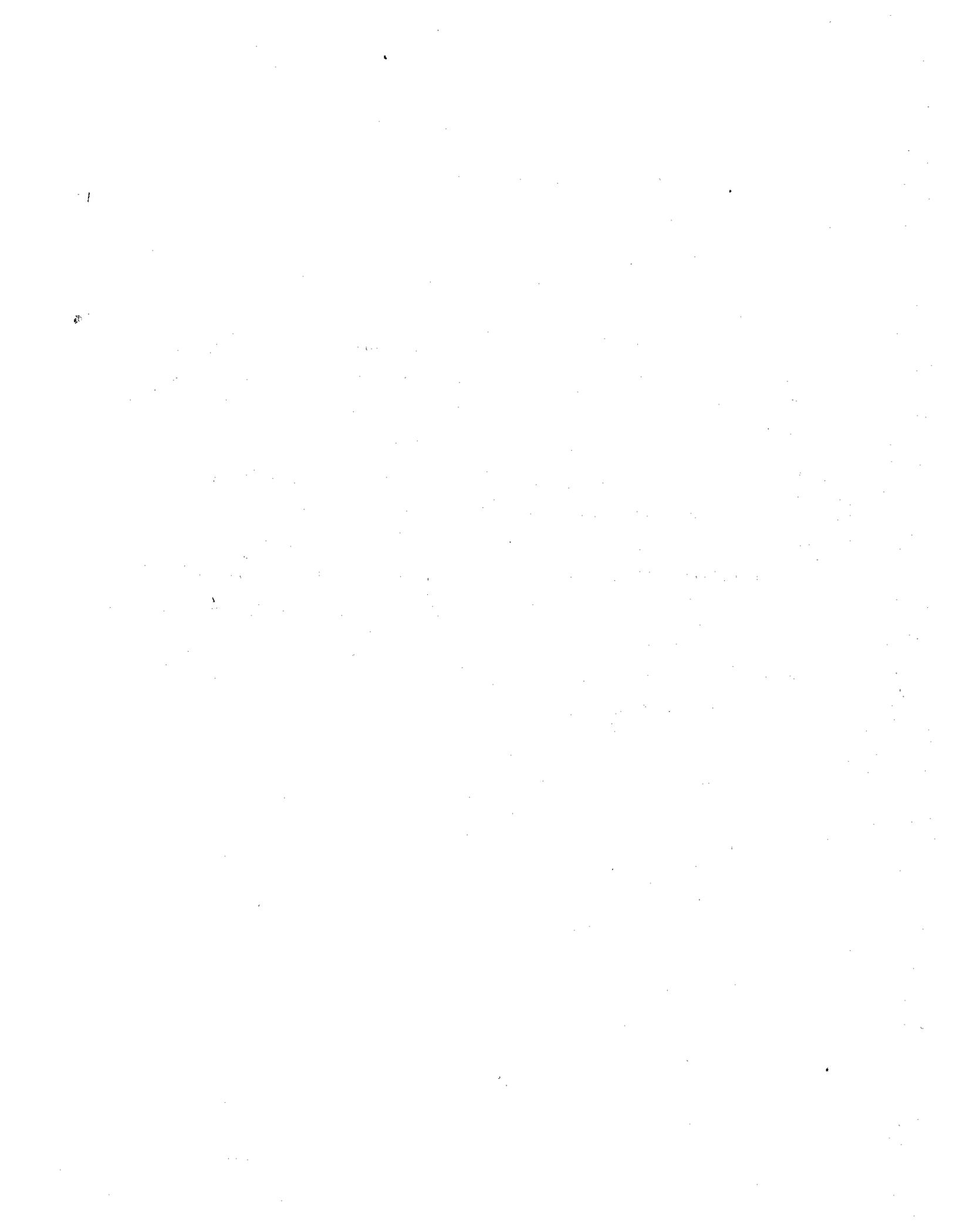
Date



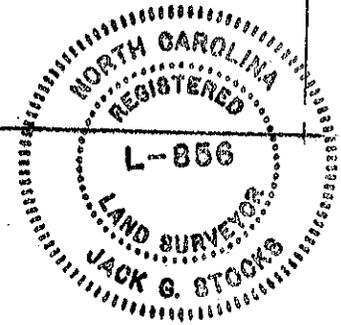
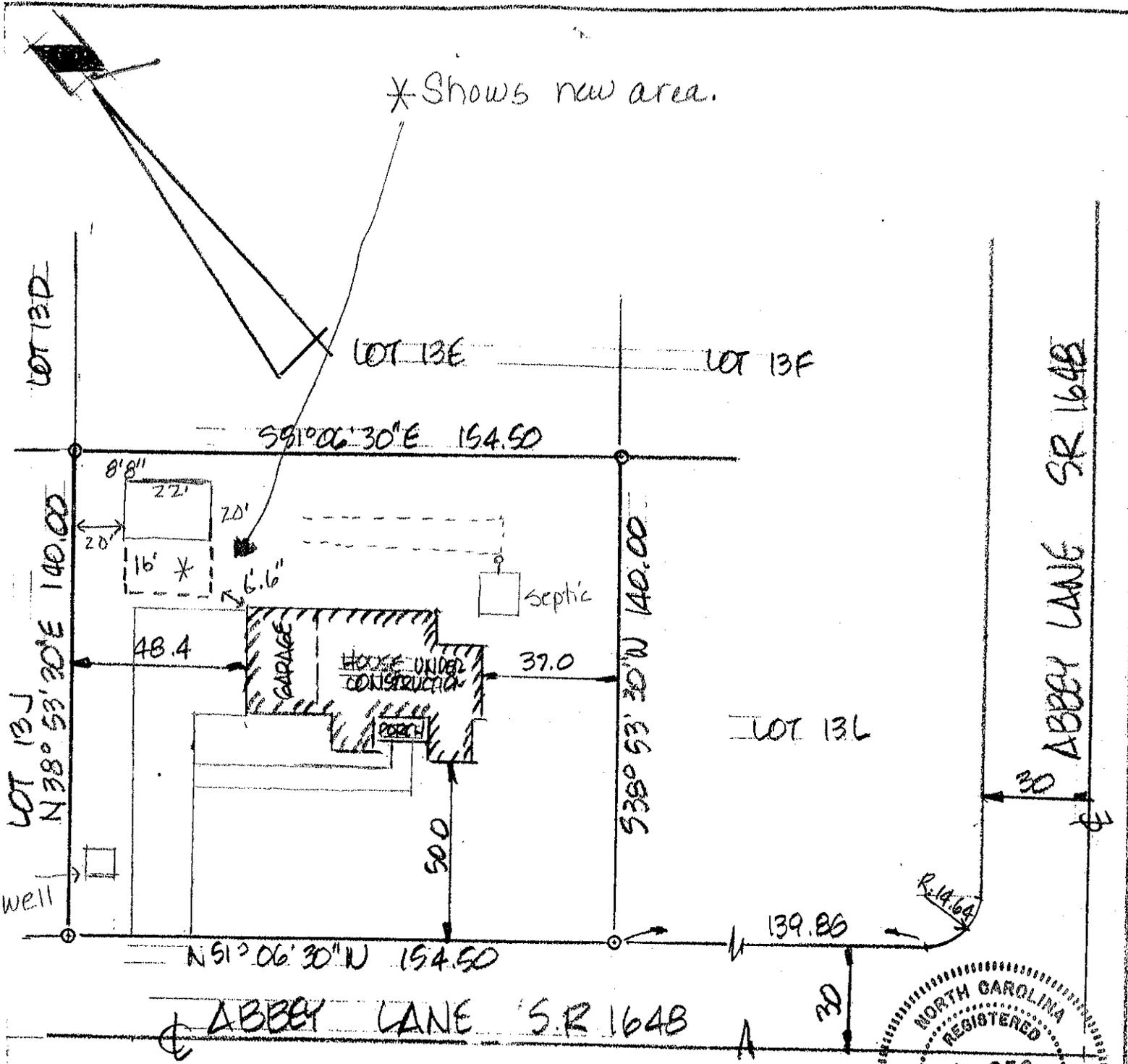
CASE FOLLOWUP

DATE	REF. CASE NAME: Claudia Willett	Pg 1
06-18-09	I received an E-mail from Mike Harrison (Building Inspections). The E-mail indicated that an addition (Carport) was being added to an existing building and is less than 10' from the main house.	
07-06-09	Upon return from vacation I visited the site. The structure is being added to the accessory building (Garage?). It appears to be approximately 12' x 20' in size. The addition extends from the front of the building towards the street and appears to be about 50% complete. The addition appears to be about 6' to 8' from the main house. Upon returning to the office I performed a check of the permit files. Permits have not been issued for the addition of the accessory structure.	
07-07-09	First ' Notice of Violation ' mailed regular mail.	
07-14-09	Mr. Willett came to the Hampstead Annex and spoke with Kyle Breuer (Planner). Mr. Willett inquired about receiving permits. At this time he did not mention to Mr. Mr. Breuer that the structure has already been constructed. Mr. Breuer advised Mr. Willett that as proposed the structure does not meet the required setbacks from the rear property line and separation from the house. Mr. Breuer advised Mr. Willett to study the situation and reconfigure the addition. A short time later Mr. Willett returned to the annex building and spoke with Mr. Breuer. He admitted that the structure was in fact constructed without permits and almost complete. Mr. Breuer again advised him to reconfigure the structure and return with a site plan. Mr. Willett was given an application form in order to apply for a variance before the Board of Adjustment. The size of the structure addition is approximately 16' x 22'. The structure is about six and one-half (6-1/2) feet from the house.	
07-23-09	Kyle Breuer responded to an E-mail from Mrs. Willett regarding the structure. He advised her that the structure would meet the property line setbacks however it will not meet building separation requirements. Mrs. Willett said they are probably going to remove the structure. She wanted to know if an inspection was needed prior to removing the structure. She also posed the question as to whether the structure could be connected to the house. She was informed that if connected to the house the entire structure would have to meet the property boundary setbacks.	
08-10-09	Inspection of property and files shows no compliance. ' Second Notice of Violation '	





* Shows new area.



SURVEY REF:
MAP BOOK 13 PAGE 11

PLOT PLAN
for

WILBOR WAYNE WILLETT & WIFE CLAUDIA S. WILLETT

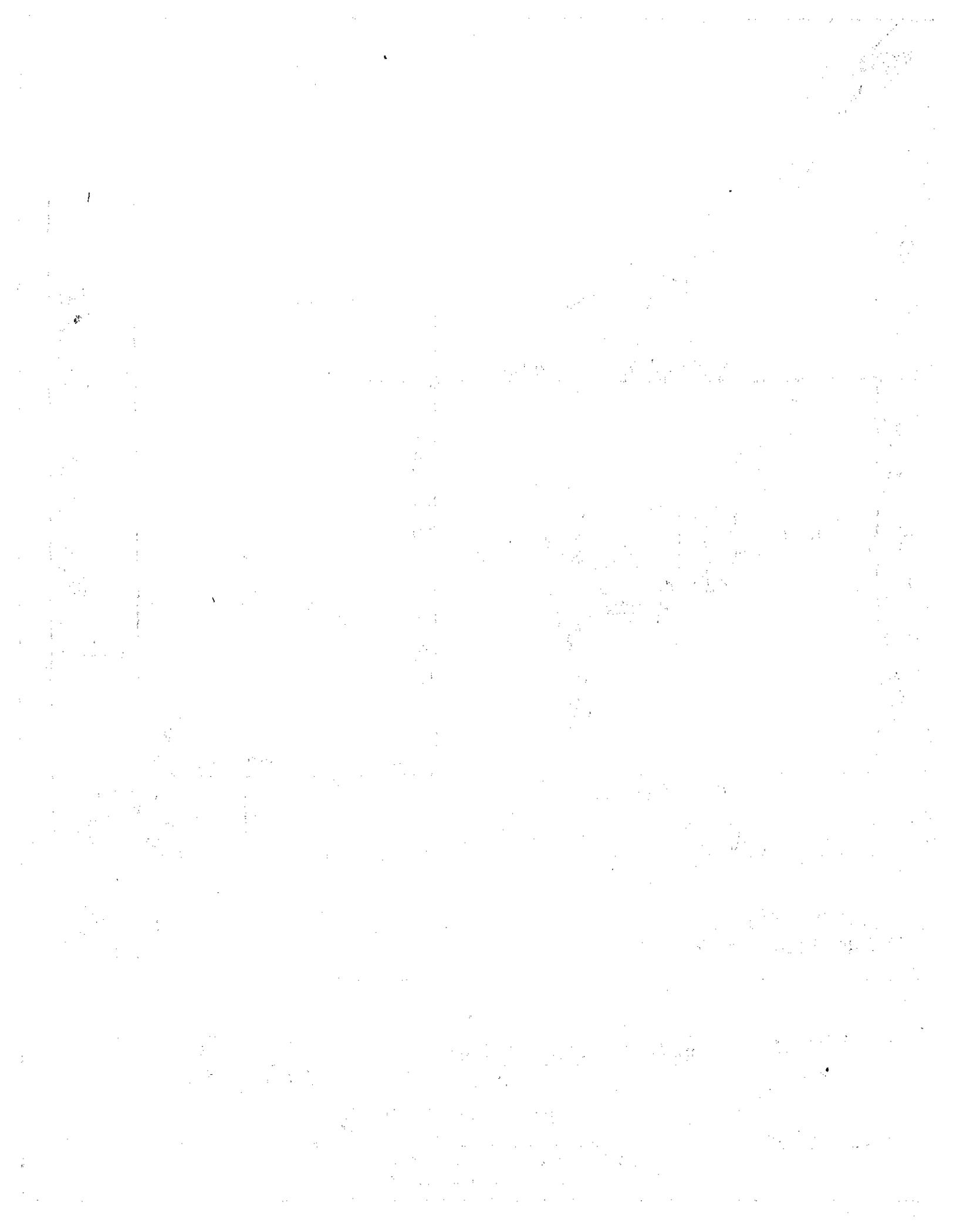
LOT 13K SECTION TOPSAIL SUBDIVISION ROBERT L. FOY JR & WIFE MADELINE G. FOY

SCALE 1" = 40'

TOWNSHIP PENDER COUNTY, N.C.

Jack G. Stocks
JACK G. STOCKS
N.C. Registration No. L-856

DATE 1-16-92



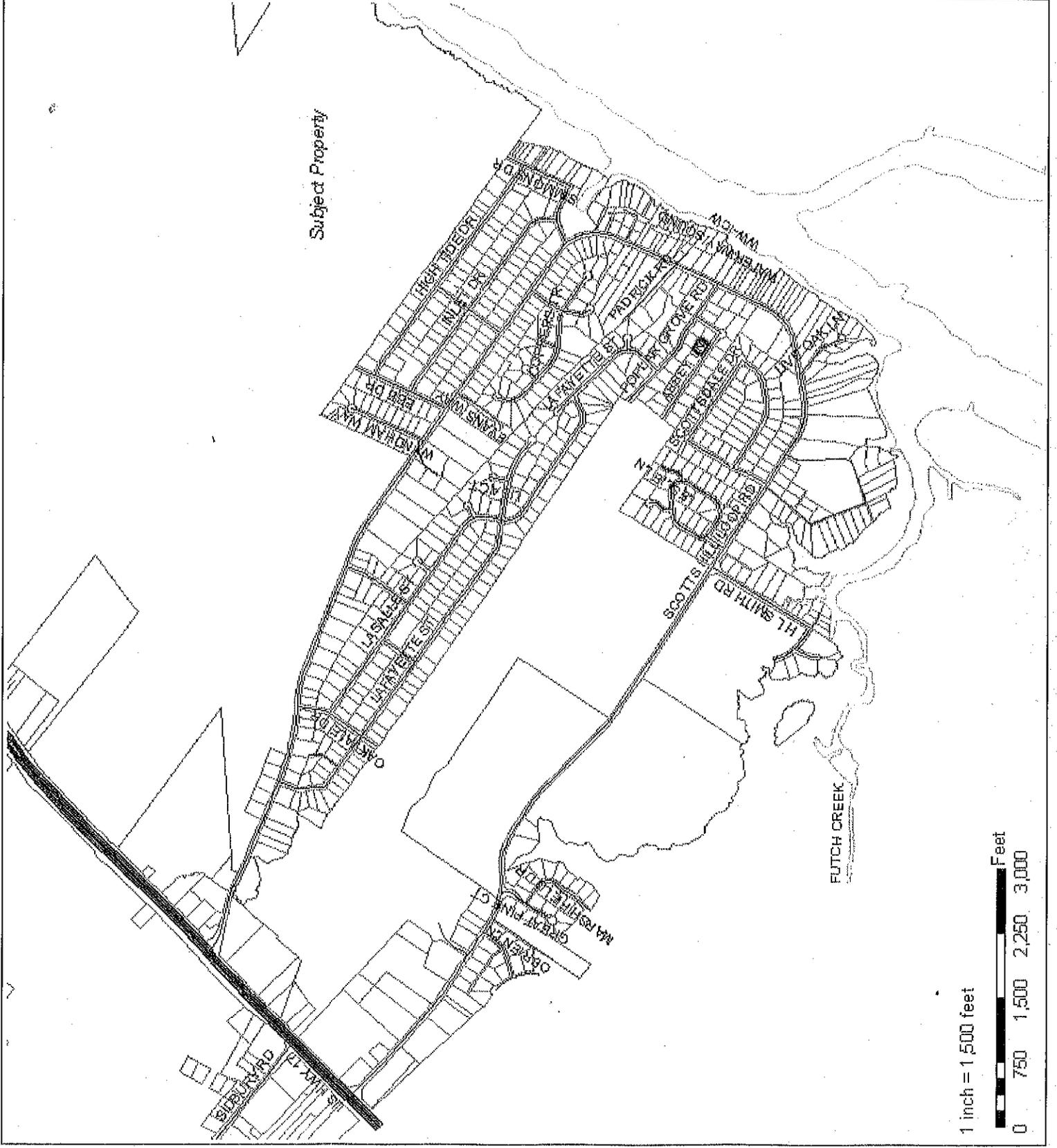


Applicant -
Claudia S. Willett

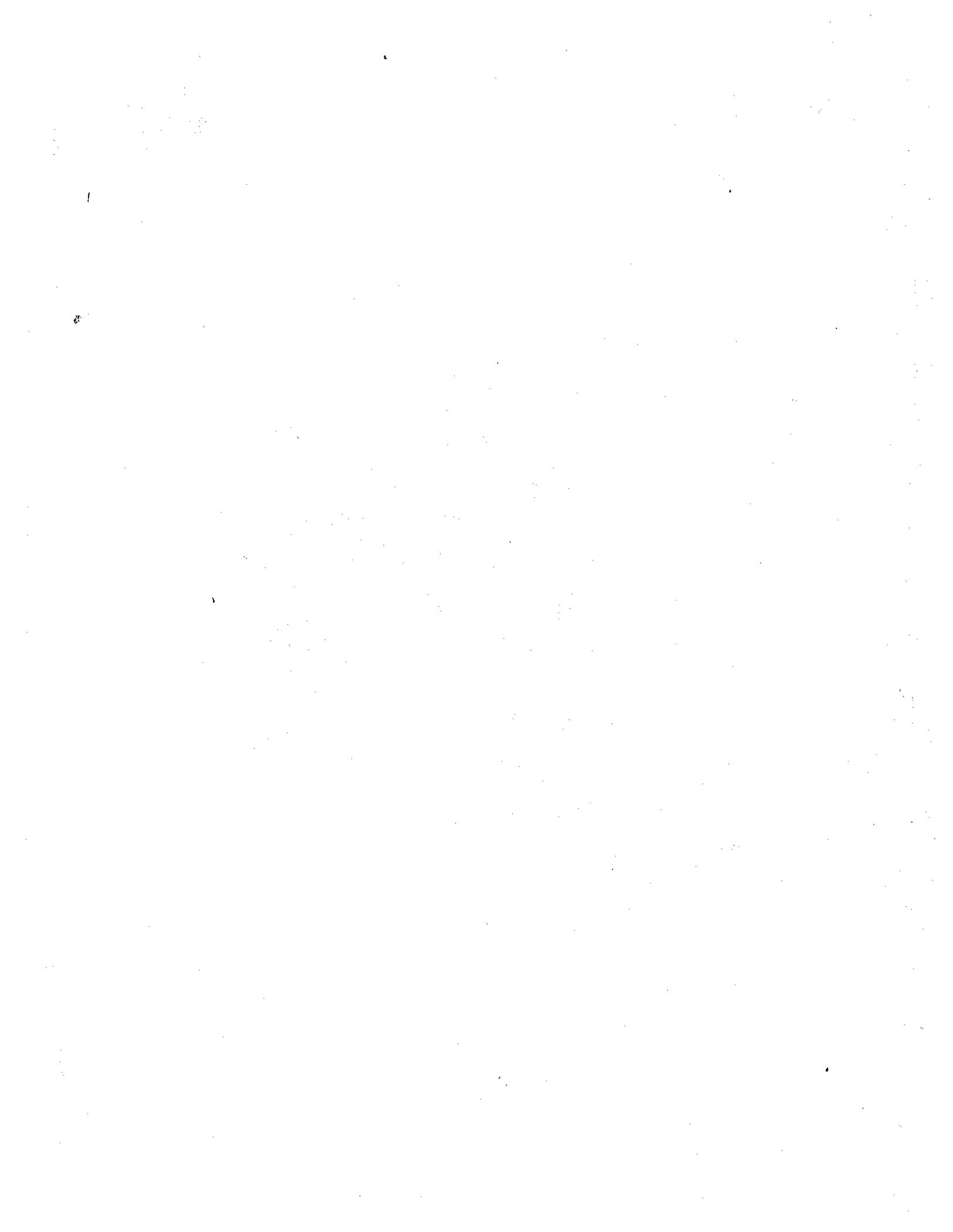
Variance
VA 09-10-21-05 Willett



Vicinity Map



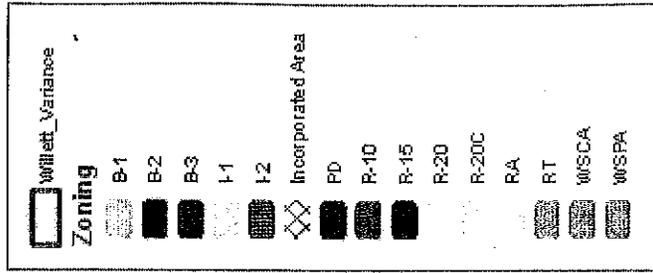
1 inch = 1,500 feet
0 750 1,500 2,250 3,000 Feet



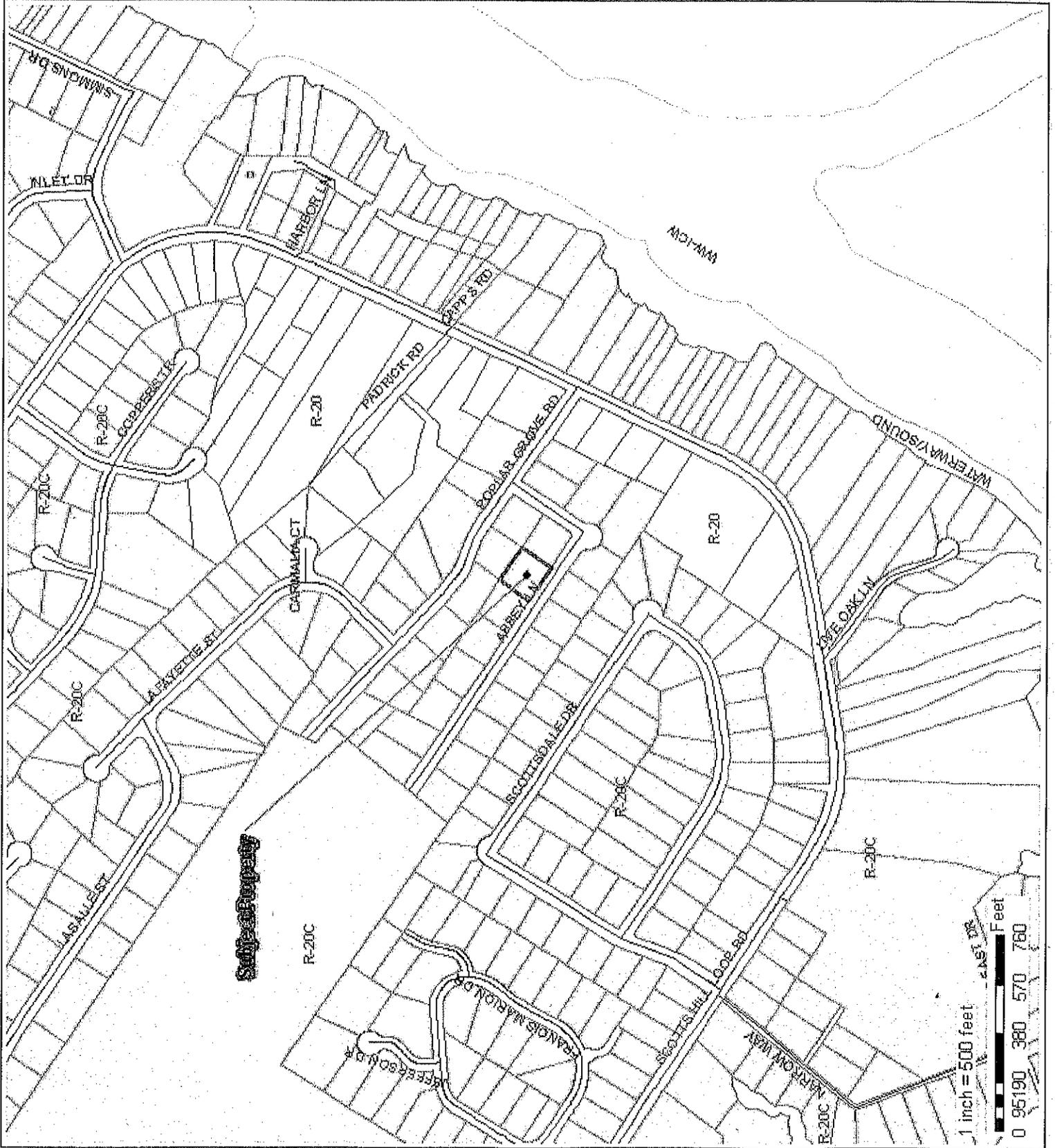


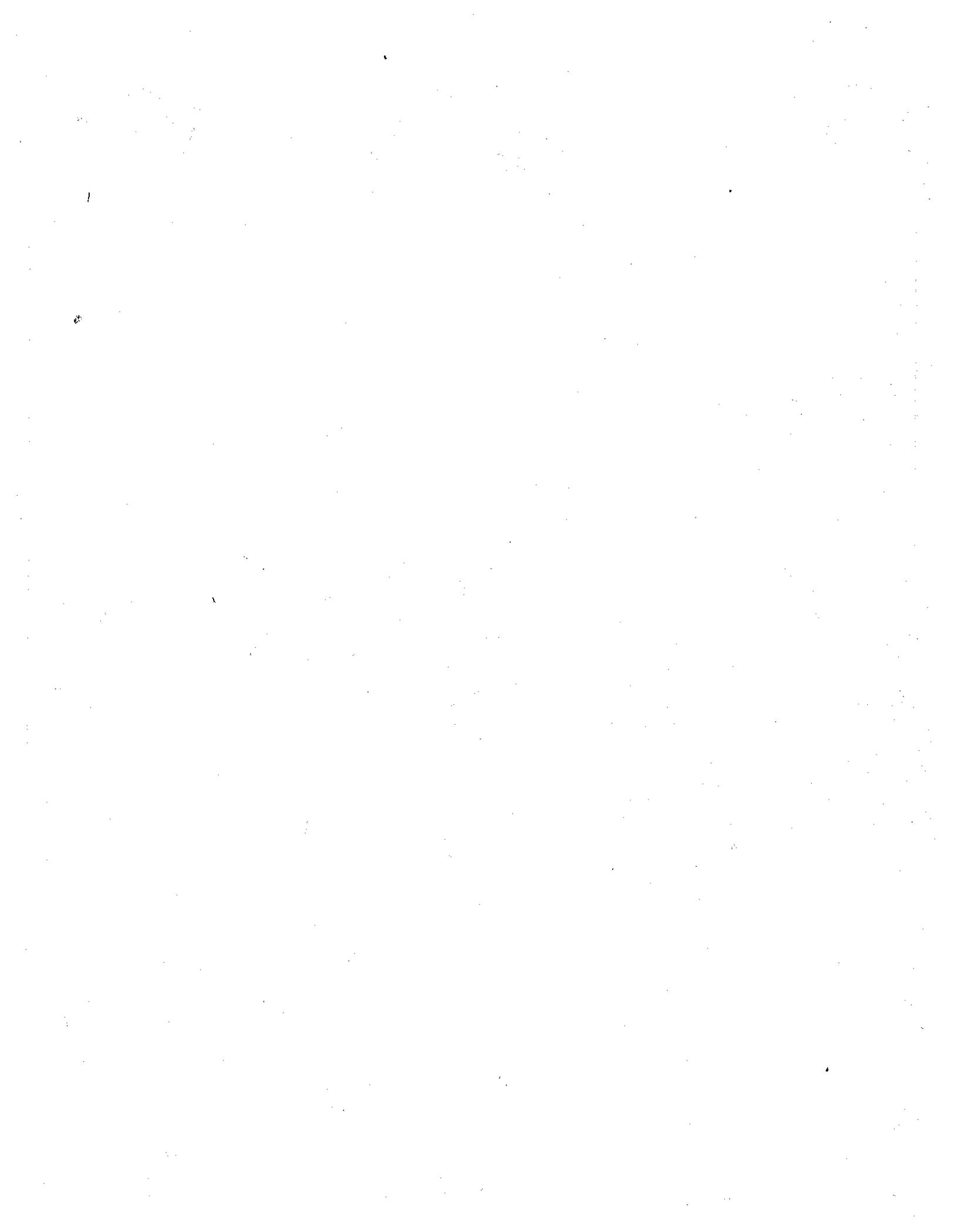
Applicant -
Claudia S. Willett

Variance
VA 09-10-21-05 Willett



Zoning Map







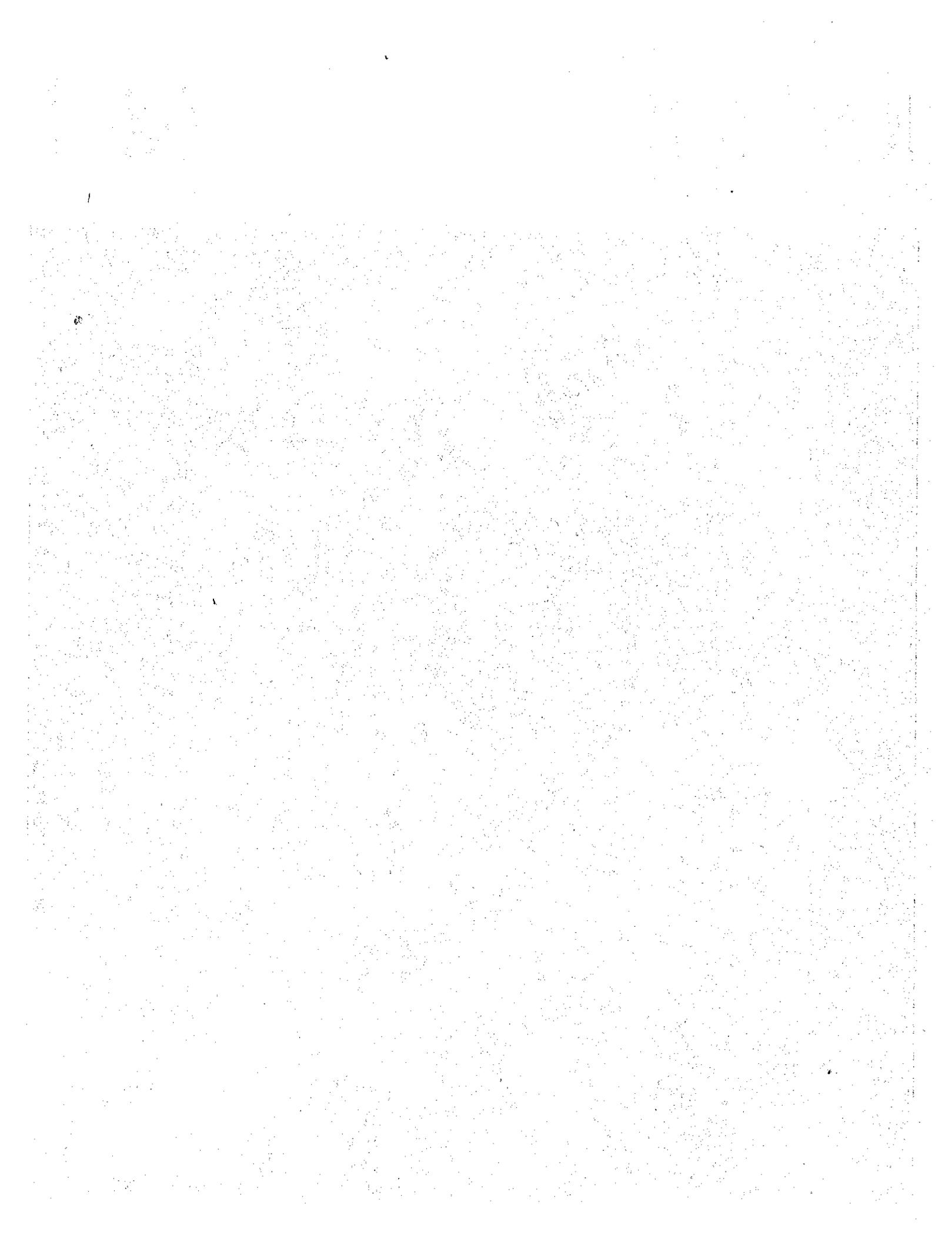
Applicant -
Claudia S. Willett

Variance
VA 09-10-21-05 Willett



Aerial Map





**COUNTY OF PENDER
ORDER GRANTING/DENYING A VARIANCE**

The Board of Adjustment for the County of Pender, having held a public hearing on October 21, 2009 to consider VA 09-10-21-05, submitted by Claudia S. Willett, a request for a variance to use the property located at 204 Abbey Lane, Wilmington, NC 28411, in a manner not permissible under the literal terms of the ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. It is the Board's CONCLUSION that the hardship of which the applicant complains (results/does not result) from 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. This conclusion is based on the following FINDINGS OF FACT:
2. It is the Board's CONCLUSION that, 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. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board's CONCLUSION that 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. This conclusion is based on the following FINDINGS OF FACT:
4. It is the Board's CONCLUSION that 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. This conclusion is based on the following FINDINGS OF FACT:
5. It is the Board's CONCLUSION that, the special circumstances are not the result of the actions of the applicant. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:
6. It is the Board's CONCLUSION that, if granted, the variance (will/will not) be the minimum variance that will make possible legal use of the land, building, or structure. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:

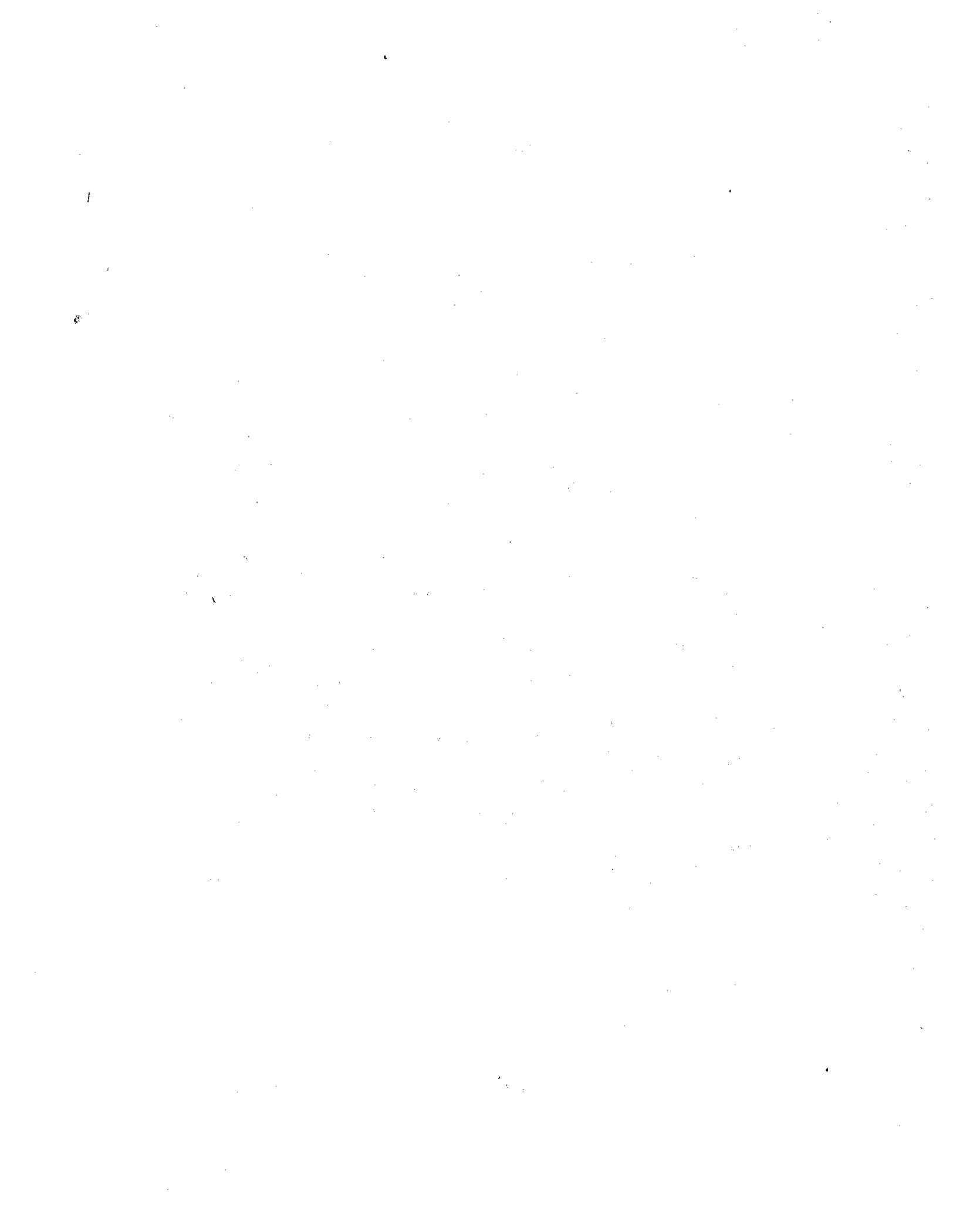
THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be (GRANTED/DENIED), subject to the following conditions:

Ordered this 21st day of October 21, 2009

Secretary

Chairman

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Pender County within thirty (30) days after the date this order is served on you. See Section 6.5 of the Pender County Zoning Ordinance.



**COUNTY OF PENDER
ORDER GRANTING/DENYING A VARIANCE**

The Board of Adjustment for the County of Pender, having held a public hearing on September 16, 2009 to consider VA 09-08-19-04R, submitted by Anne Hayler, a request for a variance to use the property located at 861 Corcus Ferry Road in a manner not permissible under the literal terms of the ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. It is the Board's CONCLUSION that the hardship of which the applicant complains does not result from 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. This conclusion is based on the following FINDINGS OF FACT:

There were no conditions presented which require the structure to have been placed where it currently is. The generator could be relocated to another area; financial expense is not a hardship by which a variance should be granted.

2. It is the Board's CONCLUSION that, 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. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board's CONCLUSION that 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. This conclusion is based on the following FINDINGS OF FACT:
4. It is the Board's CONCLUSION that 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. This conclusion is based on the following FINDINGS OF FACT:
5. It is the Board's CONCLUSION that, the special circumstances are not the result of the actions of the applicant. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:
6. It is the Board's CONCLUSION that, if granted, the variance will be the minimum variance that will make possible legal use of the land, building, or structure. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be DENIED.

Ordered this Sixteenth day of September, 2009

Secretary

Chairman

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Pender County within thirty (30) days after the date this order is served on you. See Section 6.5 of the Pender County Zoning Ordinance.