

# Pender County Planning and Community Development

## Planning Division

805 S. Walker Street  
PO Box 1519  
Burgaw, NC 28425



Phone: 910-259-1202  
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[www.pendercountync.gov](http://www.pendercountync.gov)

## AGENDA

**Pender County Board of Adjustment Meeting  
April 25, 2012 9:00 a.m.  
Pender County Public Meeting Room  
805 S. Walker Street, Burgaw, North Carolina**

**Call to Order:** Chairman Ferrante

**Prayer:**

**Roll Call:** Chairman Ferrante

Pender County Board of Adjustment Members:

Ferrante: \_\_\_\_\_ Pullen: \_\_\_\_\_ Kane: \_\_\_\_\_ Newton: \_\_\_\_\_ Thompson: \_\_\_\_\_

Alternates:

Luther: \_\_\_\_\_ Peters: \_\_\_\_\_

**1. Adoption of the Agenda:**

**2. Approval of Minutes: March 21, 2012**

**3. Public Comment:**

*\* Public Hearing\**

**4. Variance:** Linda Ball, applicant and owner, is requesting a three and a half (3.5') foot variance from the minimum rear yard setback requirement of ten (10') feet in the RA, Rural Agricultural District, as prescribed by the Pender County Unified Development Ordinance, Section 5.3.3.A.2, Accessory Uses and Structures. The property is located at 53 N. Chubb Road, and may be identified by Pender County PIN # 3315-00-7590-0000.

**5. Discussion Items:**

- a. BOA Members
- b. Planning Staff

**6. Adjournment:**

4A

**PLANNING STAFF REPORT**  
**Variance Request**

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**SUMMARY:**

**Hearing Date:** April 18, 2012  
**Applicant:** Linda Ball  
**Property Owner:** Same  
**Case Number:** 10695 Ball

**Property Location and Description:** The property is located at 53 N. Chubb Road and may be identified as Pender County PIN #3315-00-7590-0000.

**Zoning District of Property:** The property is zoned RA, Rural Agricultural District.

**Variance Requested:** Linda Ball, applicant and owner, is requesting a 3.5 foot variance from the minimum rear yard setback requirement of ten (10') feet, as prescribed by the Pender County Unified Development Ordinance Section 5.3.3.A .2, Accessory Uses and Structures.

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**BACKGROUND AND DESCRIPTION OF VARIANCE:**

Linda Ball, applicant and owner, applied for zoning and building permits for an existing 12' x 12' foot lean-to located adjacent to an unpermitted 12' x 12' foot accessory structure and additional 12' x 12' foot lean-to. The existing accessory structures total 432 square feet; therefore, requiring a ten (10') foot setback from the rear property line as outlined in Section 5.3.3.A.1.a, Accessory Uses and Structures, in the Pender County Unified Development Ordinance.

**5.3.3 Accessory Uses and Structures**

**A. Accessory Building Setbacks and Separation Requirements**

- 1) Accessory Buildings 50-599 Square Feet In Area:
  - a) Setback of ten (10) feet from all property lines, access easements, and any other structures located on the property.
- 2) Accessory Buildings 600-1,199 Square Feet In Area:
  - a) Setbacks shall adhere to zoning district requirements and separation must be ten (10) feet from any other structure and access easements located on the property.
- 3) Accessory Buildings 1,200 Square Feet in Area or Greater:
  - a) Same setback and separation requirements as principal buildings per zoning district regulations

As defined in Appendix A – Definitions, of the Pender County Unified Development Ordinance, the rear yard setback is defined as the required distance between a building or structure and the rear lot line of the lot containing the building or structure. In addition, structure is defined as any man-made object having an ascertainable stationary location on or in land or water, whether or not it is affixed to the ground. All buildings are "structures".

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**ZONING ADMINISTRATOR'S CONCLUSION:**

Linda Ball, applicant and owner, is requesting a 3.5 foot variance from the minimum rear yard setback requirement of ten (10') feet in the RA, Rural Agricultural district as prescribed by the Pender County Unified Development Ordinance Section 5.3.3.A.1.a, Accessory Uses and Structures.

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### 3.14 VARIANCE

#### 3.14.1 Applicability

- A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
- B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.
- C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.
- D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.
- E. The need for the variance cannot be a result of the owner's own actions and cannot be for strictly economic reasons.
- F. The Board of Adjustment may grant variances in the following special circumstances, as indicated elsewhere in this Ordinance.

#### 3.14.7 Findings

In granting any variance, the Board of Adjustment shall make the following findings:

- A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;
  - 1) That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Building Official before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;
  - 2) That the strict enforcement of this Ordinance would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Ordinance;
  - 3) That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;
  - 4) That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance;
  - 5) That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and
  - 6) That the variance will not result in the expansion of a nonconforming use.
  - 7) In the case of expansions to nonconforming structures, the variance granted shall be the smallest that is reasonably necessary.
- B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.

### 5.3.3 Accessory Uses and Structures

#### B. Accessory Building Setbacks and Separation Requirements

- 1) Accessory Buildings 50-599 Square Feet In Area:
  - a) Setback of ten (10) feet from all property lines, access easements, and any other structures located on the property.
- 2) Accessory Buildings 600-1,199 Square Feet In Area:
  - a) Setbacks shall adhere to zoning district requirements and separation must be ten (10) feet from any other structure and access easements located on the property.
- 3) Accessory Buildings 1,200 Square Feet in Area or Greater:
  - a) Same setback and separation requirements as principal buildings per zoning district regulations

### Appendix A – Definitions

**Accessory or Secondary Use:** A use of land or of a building or portion thereof customarily associated with and incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A secondary use shall be a use not already permitted by right in a zoning district but may be permitted in conjunction with a permitted use. In no instances shall an accessory or secondary use be permitted without the presence of a primary use.

**Building:** Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any persons, animals, processes, equipment, goods or materials of any kind.

**Setback:** The required distance between a building or structure and a lot line.

1. **Setback, front yard:** The required distance between a street right-of-way line and the front line of a building or structure.
2. **Setback, rear yard:** The required distance between a building or structure and the rear lot line of the lot containing the building or structure.
3. **Setback, side yard:** The required distance between a building or structure and the side lot line of the lot containing the building or structure.

#### **Structure:**

1. Any man-made object having an ascertainable stationary location on or in land or water, whether or not it is affixed to the ground. All buildings are "structures."
2. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance rating purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

### **Board of Adjustment: Finding of Facts**

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **does/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/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/ would not 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/will not 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 / 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:

**Board Action:**

**Motion:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

**Approved:** \_\_\_\_\_ **Denied:** \_\_\_\_\_ **Unanimous:** \_\_\_\_\_

**Ferrante:** \_\_\_\_ **Pullen:** \_\_\_\_ **Kane:** \_\_\_\_ **Newton:** \_\_\_\_ **Thompson:** \_\_\_\_

**Alternates:**

**Luther:** \_\_\_\_ **Peters:** \_\_\_\_

## APPLICATION FOR VARIANCE

### THIS SECTION FOR OFFICE USE

Application No.	VA 101095	Date	2/24/12
Application Fee	\$ 250.00	Receipt No.	120315

### SECTION 1: APPLICANT INFORMATION

Applicant's Name:	Linda T. Ball	Owner's Name:	Same as applicant
Applicant's Address:	53 N. Chubb Rd.	Owner's Address:	
City, State, & Zip	Willard, NC 28478	City, State, & Zip	
Phone Number:	910-231-9726	Phone Number:	

Legal relationship of applicant to land owner:

### SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	3315-00-7590-0000	Total property acreage:	0.98
Zoning Classification:	RA	Variance Size:	23.5' 3.5'
Variance Location & Address	53 N. Chubb Rd.		
Describe Variance and amount or type requested:	Rear setbacks for accessory building.		

### SECTION 3: SIGNATURES

Applicant's Signature	Date:
<i>Linda T. Ball</i>	2-24-12
Owner's Signature	Date:
<i>Linda T. Ball</i>	2-24-12

### NOTICE TO APPLICANT:

1. The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements.
2. All applicants seeking a variance shall schedule a pre-application conference with the administrator to discuss the procedures, standards, and regulations required for variance approval.
3. An application for a variance shall be submitted in accordance with application requirements.
4. Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage.
5. The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.
6. Applicant must also submit the information described in the Variance Checklist provided below.
7. Applicant or agent authorized in writing must attend the public hearing.
8. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing.

### OFFICE USE ONLY

<input checked="" type="checkbox"/> VA Fees \$250 received by Jaki Pace 2/24 Total Fee Calculation \$			
Payment Method:	Cash <input checked="" type="checkbox"/> \$250.00 2/24/12 by JP	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input type="checkbox"/> Check # _____
Application received by:	Ashley Monardo		Date: 2/28/2012
Application completeness approved by:	Ashley Monardo		Date: 2/28/2012
Date scheduled for public hearing:	April 19, 2012		

### Variance Checklist

<input checked="" type="checkbox"/>	Signed application form
<input checked="" type="checkbox"/>	Application fee <i>received by JP on 2/24/2012</i>
<input checked="" type="checkbox"/>	Legible list of all property owners adjacent to the property upon which the use is to be located. The list shall include the mailing address & physical address of these property owners (The application will not be advertised for public hearing until the list is accurate & complete--the list maybe compiled from the public PC terminal in the Pender County Tax Office).
<input checked="" type="checkbox"/>	One business size envelope legibly addressed with <b>first class</b> postage for each of the adjacent property owners on the above list.
<input type="checkbox"/>	<u>Variance Description</u> : Written description of the Variance requested meeting the approval criteria described on pages 1 & 2.
<input type="checkbox"/>	Project Map(s)—Applicant shall supply 15 (11"x17") project maps at a readable scale, clearly showing the following (as applicable):
<input type="checkbox"/>	<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Property Location</li> <li><input type="checkbox"/> Building Separation Distances</li> <li><input checked="" type="checkbox"/> Dimensions of Property</li> <li><input type="checkbox"/> Proposed Building Height <i>N/A</i></li> <li><input checked="" type="checkbox"/> Building Distances From Property Lines (Front, Sides, Rear)</li> <li><input checked="" type="checkbox"/> Location of All Existing Utilities On-Site</li> <li><input checked="" type="checkbox"/> Existing Structures</li> <li><input checked="" type="checkbox"/> Acreage of Property</li> <li><input checked="" type="checkbox"/> Any Proposed Structures</li> <li><input type="checkbox"/> Additional Information Pertinent to the Variance Request (Pictures, Other Permits, etc.)</li> </ul>
<p><b>RETURN COMPLETED APPLICATION TO:</b>  Pender County  Planning &amp; Community Development  P.O. Box 1519  Burgaw, NC 28425</p>	

[Print Form](#)

February 23, 2012

Pender County Planning  
805 S. Walker Street  
Burgaw, NC 28425

Reference: Variance for Mrs. Linda T. Ball

Dear Sir or Madam:

I would like to request a variance for the placement of a storage building that has two lean-tos attached. When I relocated my home to this property, there was a storage that came with the home. Unknowingly, I established the storage building on the property and constructed lean-tos to the building without permits. In trying to keep the cohesiveness of this building with the present storage building on the property, the building and attachments don't meet the requirements for the setbacks in the rear of the storage building. Because there's limited space that I can place this building, I am requesting a variance in order to keep the building at its present location.

I understand that if this is approved, I will have to apply for the proper zoning and building permits. All which I am willing to do.

Thank you for your consideration in this matter.

Respectfully,

*Linda T. Ball*

Linda T. Ball

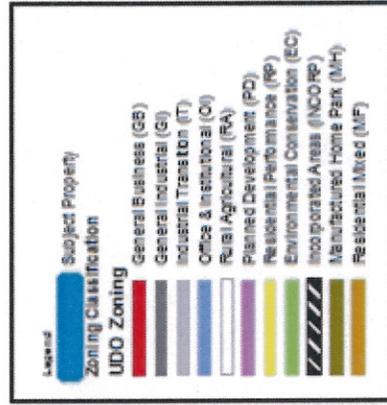
*I am requesting variance 3.5 ft for the construction of  
~~A separate~~ 432 sq ft structure.*



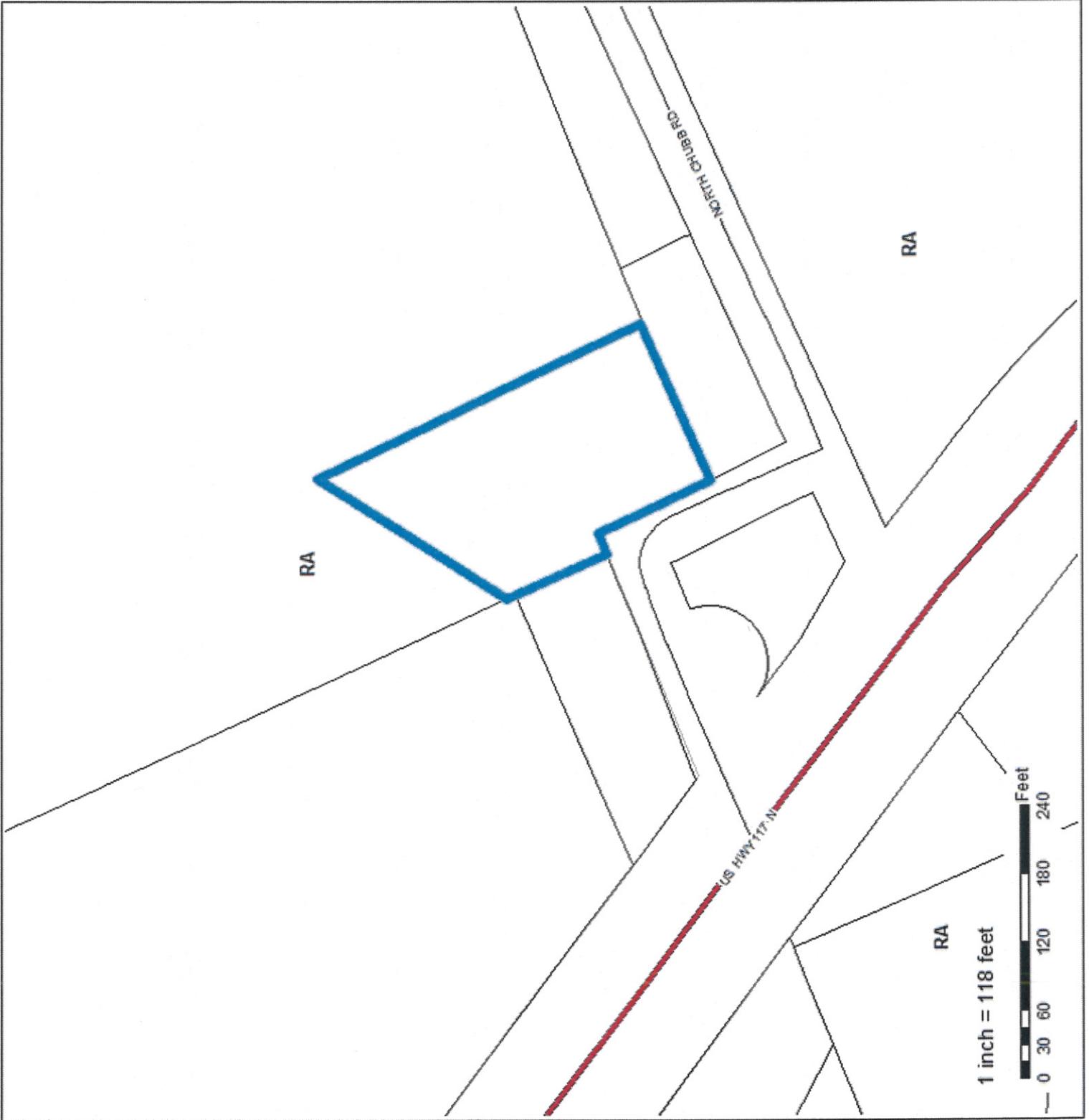
**Applicant & Owner:**  
**Linda Ball**

**Variance**  
**Case # 10695**

4B



**ZONING MAP**





**Applicant & Owner:**  
Linda Ball

**Variance**  
Case # 10695

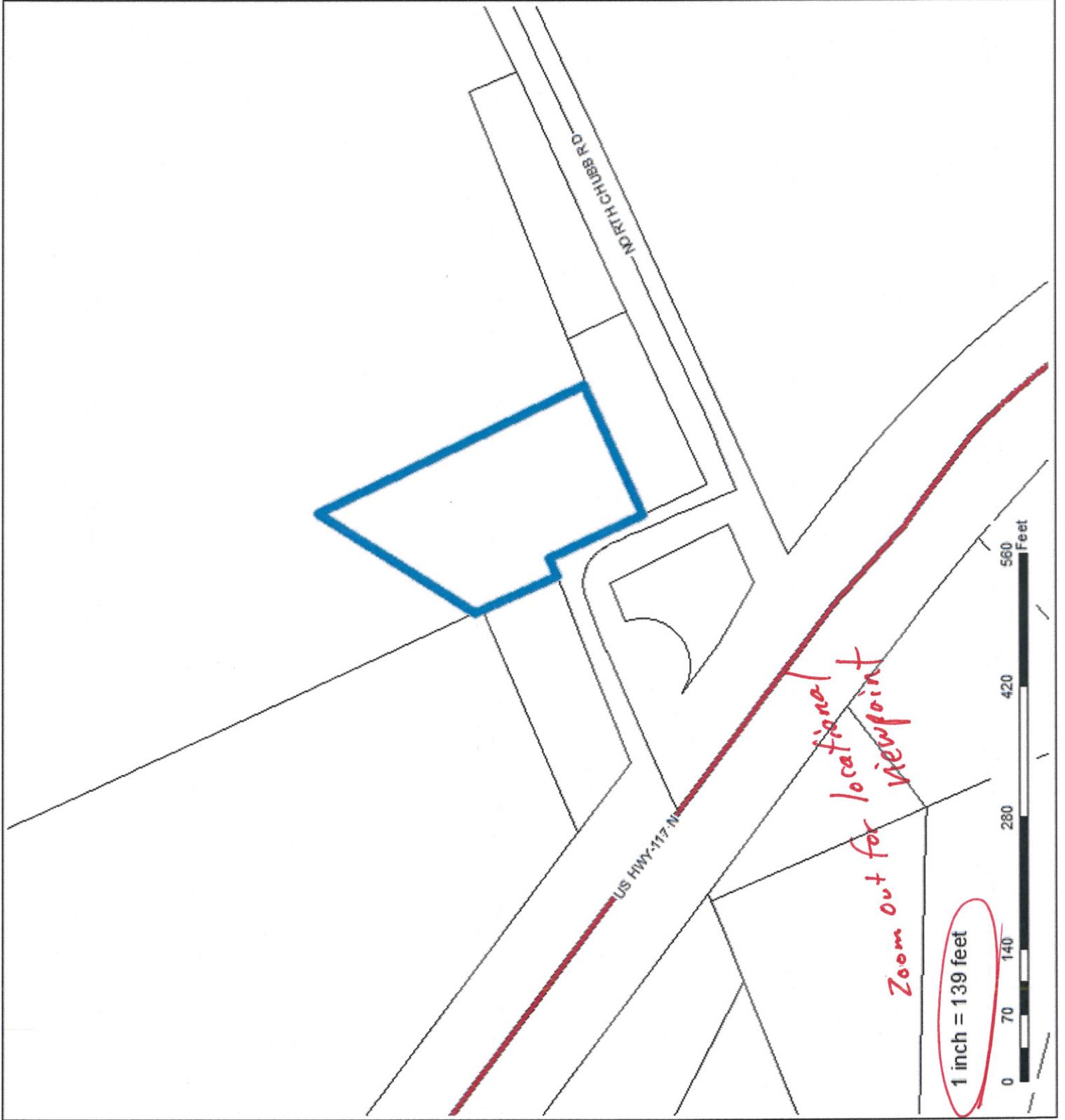
**Legend**



Subject Property



**VICINITY MAP**





**Applicant & Owner:**  
**Linda Ball**

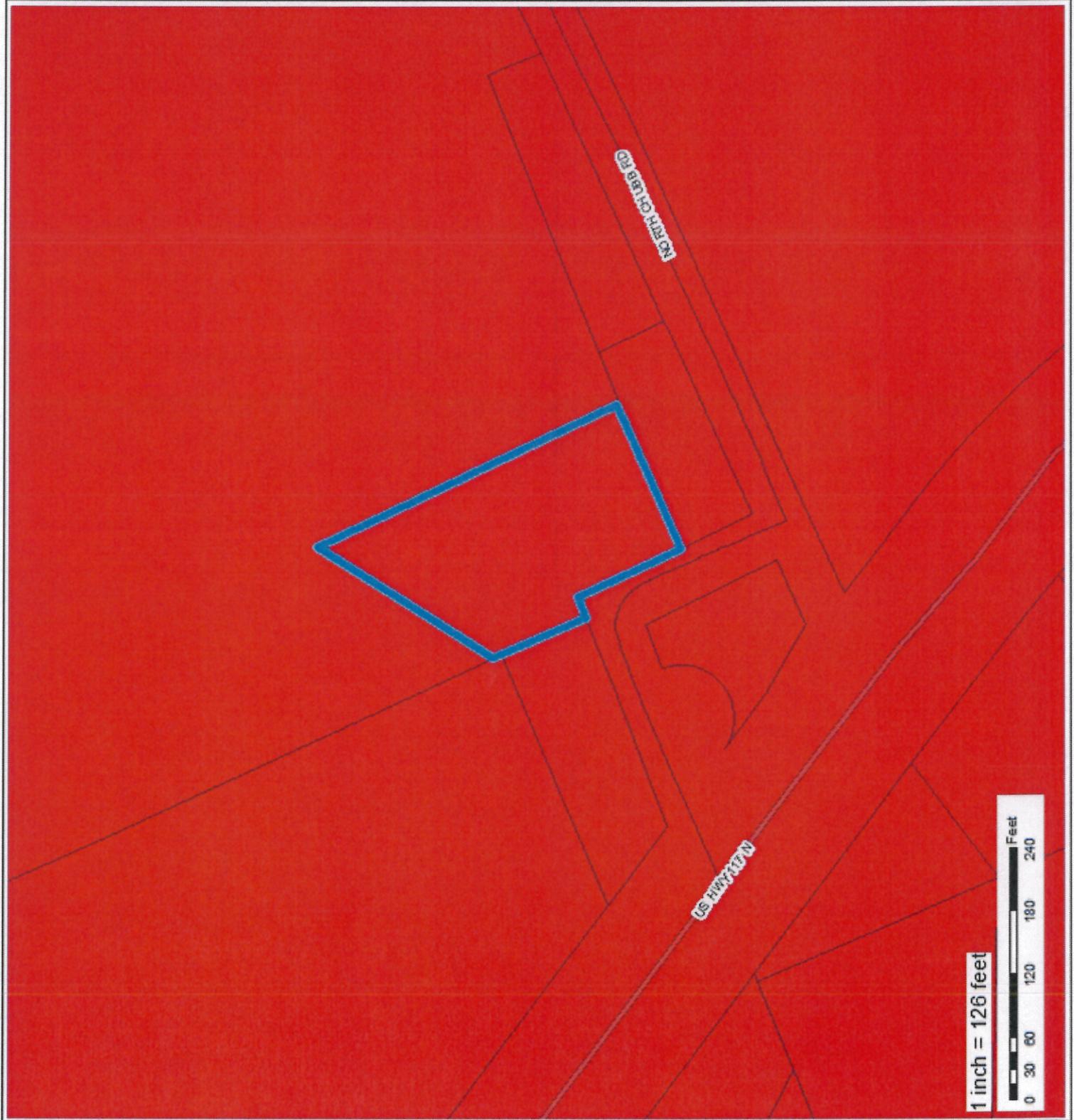
**Variance**  
**Case # 10695**

**Legend**

-  Subject Property
-  Conservation Area II
-  Transition Areas
-  Urban Growth Areas
-  Rural Clusters
-  Rural Areas



**CAMA (2005)**  
**LAND USE MAP**





**Applicant & Owner:**  
**Linda Ball**

**Variance**  
**Case # 10695**

**Legend**

- Subject Property
- Future Land Use
- Conservation
- Industrial
- Mixed Use
- Rural Growth
- Suburban Growth



**2010**  
**Comprehensive**  
**Future Land Use**





**Applicant & Owner:**  
**Linda Ball**

**Variance**  
**Case # 10695**

**Legend**

Subject Property



**Aerial Map**

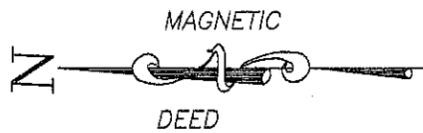
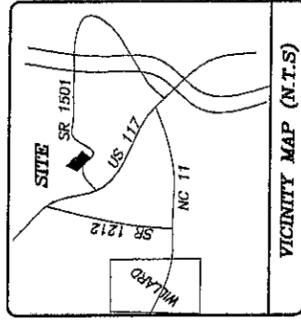


**NOTES:**

1. CORNERS ARE MARKED AS NOTED ON MAP.
2. ALL DISTANCES ARE HORIZONTAL FIELD MEASUREMENTS.
3. AREA COMPUTED BY THE COORDINATE METHOD.
4. THIS PROPERTY IS ZONED RA.
5. THIS PROPERTY DOES NOT LIE WITHIN A FLOOD HAZARDOUS AREA.
6. NO KNOWN HORIZONTAL CONTROL WITHIN 2,000'.
7. BUILDING SETBACKS REQUIRED TO BE IN ACCORD WITH THE PENDER COUNTY ZONING ORDINANCE. (FRONT 30' // SIDE 15' // REAR 30')

**LEGEND:**

- EIP (EXISTING IRON PIPE)
- PROPERTY LINE
- - - NON-SURVEYED LINE
- - - DITCH LINE
- C (CENTER LINE)
- - - R/W (RIGHT OF WAY)
- - - FENCE



AREA:  
1.007 AC±

RHONE THOMAS ADERSON  
DB 1306, PG 307

1 STORY  
FRAME BLDG.

1 STORY  
FRAME  
DWELLING  
PORCH

1 STORY  
FRAME BLDG.

ELECTRIC  
METER

SEPTIC  
LINE

DWELLING  
1 STORY  
FRAME  
PORCH

12' 12' 12' 12'  
SHED

SWALE

SOIL DRIVE

SOIL DRIVE

REBEKAH KING  
DB 2929, PG 346

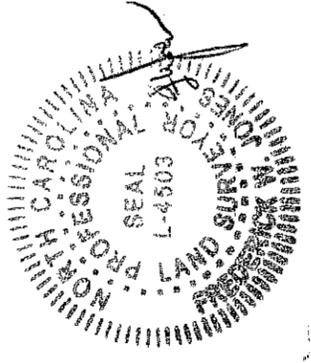
NORTH CHUBB ROAD

60' WIDE PUBLIC R/W

MARK CARAWAY  
DB 2705, PG 253

ROY HORNE  
DB 3802, PG 166

N.C.S.R. No 1501



S 72°33'40"W  
27.01'

DITCH 140.65'  
S 70°41'00"W

S 21°07'00"E 319.25'

N 36°19'00"E 198.15'

N 20°58'00"W 206.44'

N.C.S.R. No 1501

FOUNDATION PLOT PLAN  
FOR  
**LINDA BALL**

49 NORTH CHUBB ROAD  
WILLARD NC 28478

UNION TOWNSHIP - PENDER COUNTY - NORTH CAROLINA  
SCALE: 1" = 60' FEBRUARY 23, 2012



**SURVEY REFERENCE:**  
DEED BOOK 1361 AT PAGE 59  
PENDER COUNTY REGISTRY

**F.W. JONES**  
Surveying Company  
N.C. LICENSE No. F-1036  
P.O. Box 1471  
111 East Fremont Street  
Burgaw, NC 28425  
Ph: (910) 259-2954  
F: (910) 259-9040  
Em: jonesurveying@bellsouth.net  
File: WOOD STEVEN M.  
Dwg. No.: PA 10 BALL LINDA 1501