

Clarence G. Grier  
County Manager

Sally Shutt  
Assistant County Manager



Rawls Howard  
Director

David Moon  
Deputy Director

## Board of Adjustment

MINUTES  
July 20, 2023  
6:00 PM

### Members Present

Robert Davis-Acting Chair  
Donald Brooks- Alternative  
Vickie Mullins  
Brenee Orozco-Alternative

### Absent Members

Linda Amos, Vice-Chair  
Kenneth Turner  
Gregory Parks-Chair  
Marva Lucas-Moore  
Jovan Bowser

### Staff/Others Present

David Moon  
Alyssa Garcia  
Andy Roberts  
Robert Hasty (Asst County Attorney)

Chair Robert Davis called the meeting to order at 6:00 p.m. in Public Hearing Room #3 of the Historic Courthouse.

#### 1. INVOCATION

Vickie Mullins read the invocation.

#### PLEDGE OF ALLEGIANCE

Robert Davis led the pledge of allegiance. Recited by all.

Robert Davis- stated the procedural matters are to turn off all cell phones or to place them on silent. If any Board member wishes to speak, please ask to be recognized by the Chair.

#### 2. ROLL CALL

David Moon: Members Present: Robert Davis, Vickie Mullens, Donald Brooks and Brenee Orozco (arrived just after roll call and David Announced Ms. Orozco's arrival).

#### SWEAR IN OF STAFF

Robert Davis swore in staff Alyssa Garcia, David Moon, and Andy Roberts.

#### 3. ADJUSTMENTS TO THE AGENDA

There were none.

#### 4. APPROVAL OF THE MAY 18, 2023, MINUTES

Vickie Mullins made a motion to approve the minutes from the May 18<sup>th</sup> meeting as written, Seconded by Donald Brooks.  
All are in favor.

#### 5. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

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**Brenee Orozco**- Disclosed that she will soon be starting work with NCDOT in a legal position.

### 6. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

### 7. POLICY STATEMENT REGARDING APPEAL PROCESS:

**David Moon:** regarding appeal process any person who wishes to contest the rulings of the board may file a notice of intent to appeal with the county planning and inspections department room 103 of this building the next business day following the meeting in which the board 's decision was made final or the next business day fund received by every agreed party who has provided their complete mailing address, of the written copy of the board's decision whichever is later, any petition for review by the Superior Court shall be filed with the clerk of the Superior Court within 30 days after the decision of the board is made final. Chair we now move forward to the public hearing process.

I will switch over to the staff's presentation.

### 8. PUBLIC HEARING(S)

**Robert Davis:** Opened the public hearing.

**BOA-2023-0009** Consideration of an appeal of staff denial of application for commercial motor vehicle repair site plan and use located at 7611 Dome Road, submitted by Charles & Latarsha Howard (applicant).

**David Moon:** I am deputy director David Moon of planning and inspection for Cumberland County. To my left is Alyssa Garcia. She serves as the project manager for the sole case appearing on the agenda this evening and to my right, up at the desk, is Rob Hasty. He's with the County Attorney 's office representative for the board of adjustments. If any board members have any legal or technical questions about the procedures or the processes this evening, feel free to direct those questions to Mr. Hasty. The only item on this evening 's agenda is case BOA-2023-0009. A consideration of appeal of a staff denial of an application for a commercial motor vehicle repair site plan, a motor vehicle repair use, located at 7611 Dome Road, was submitted by Charles and Latarsha Howard. They are the appellants. Staff, as shown on the screen, the BOA authorities regarding an appeal are addressed under section 916, of the zoning ordinance here, and are charged with enforcement of the zoning ordinance, and may hear appeals arising out of any other ordinance, that regulates land use or development pursuant to all of the following. Any person who has standing under the general statutes and notice of appeal must state the grounds of the appeal. The board of adjustment may reverse. It has the authority to reverse or affirm wholly or partly or may modify the decision appealed from and shall make any order requirement decision or determination that ought to be made. The board shall have all the powers of the official who made the decision here. The official would be staff, in this case it would be myself. The terms of the meeting process for an appeal are: First there will be a staff presentation. Then the appellant, the Howards, have the opportunity to present the case. Ultimately the burden of proof, as to the reasons findings of facts supporting the denial staff decision, is placed upon the appellants. There is an opportunity for a rebuttal. So during the appellants presentation they may ask questions of staff. They may review the staff presentation. After the appellants presentation, staff may have a rebuttal. For any of the presentations, witnesses may be called by either party. In the end, this meeting is not open for public comment. I believe Mr. Hasty has a brief discussion regarding that.

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**Robert Hasty:** the meeting is a little different then what you typically do with a Special use permit application, variance application. This is very specific to the parties. A plan was presented to the department and the department denied. And so there's been an appeal about the right. It's really a dispute between those two parties. It's a public hearing in the sense anybody can come in here and watch but it's not open to public comment. Whether that's a good idea or bad as far as the issue is limited to. Was the denial proper under the law based on the evidence you her?

**David Moon:** Thank you. The appeal has been placed by Charles and Latarsha Howard. They had a site plan approved by the planning and inspections department in 2020 and it is staff's opinion that the site plan expired. Current staff believe that the site plan was improperly approved and that the use is not consistent with the zoning ordinance. A new site plan was submitted, and during the review of that site plan application it was determined that that staff had to deny the application because a motorized vehicle repair business is not allowed in an A1 zoning district as this use does not comply with the zoning standards. Staff will present its case here shortly. From here the project manager Alyssa Garcia, who is a senior planner in the current planning division, will present the case.

**Alyssa Garcia:** Good evening board. As David mentioned my name is Alyssa Garcia. I'm a senior planner with planning and inspections for Cumberland County. The case tonight is BOA 23-0009. It is located in the southwest corner of Cumberland County, west of I-95. The appellants are Charles and Latasha Howard. They, as David mentioned, they are appealing the denial of a site plan application due to not complying or inconsistencies with the zoning standards in A1 zoning district. The intent is to have a motor vehicle repair business on their property. The acreage of the site is approximately 2.78 acres. The subject property is a residential lot within a zero lot line residential subdivision. As you can see there are single family homes and farmland in the surrounding area with some mobile or manufactured homes close by. This is a little bit closer imagery of the zoning. It is zoned A1, which calls for agricultural and large lot single family units. However, zoning code 403 does allow for an auto repair in A1 zoning unless the property owner complies with certain zoning and development standards under the zoning ordinance, which we will get into further in the presentation. This site does have hydric soils and it is not serviced by public water or sewer. It is served by private well and septic. Here is the residential subdivision. You can see a closer imagery of the residential lots. It is known as Stonebrook 2 for the subdivision name. The residential character of the area is demonstrated through this slide, and we will show further property pictures. Here is a photo of the site in question, 7611 Dome Road. This is the west view off of Dome Road, north view, the east view. Here is the rear lot photo of the site. Here's an aerial imagery it does show that it is being used right now as a residential lot. This is also as referenced earlier showing the surrounding zoning and to the abutting properties and the farmland surrounding area. To continue that it is subject to the South Central land use or future land use plans these which I've mentioned it does call for large lot single family residences and agricultural use.

**David Moon:** both these slides just presented by miss Garcia and the staff report that you have received and here this are submitted as exhibit A the staff findings of fact staff as part of this presentation will demonstrate that the original site plan 2020 site plan has expired second that the proposed motorized vehicle repair business is not allowed in the A one zoning district that the 2023 site plan application does not comply with the zoning ordinance requirements Stonebrook to is attended for a residential use not for commercial purposes.

**Alyssa Garcia:** a brief history of the case and the surrounding neighborhood in the Stonebrook 2 was filed as a residential subdivision with a private street and with restrictive covenants formed by an HOA in late 2019. The Howards purchased their property which is lot 19 within the subdivision in February of 2020. They both applied and were approved for an auto repair site at that location within Stonebrook 2. They did come in afterwards for the case we're hearing tonight or the appeal of the case we're hearing tonight but the site plan that was approved expired in 2022, February 2022. This is the site plan that was approved you can see the use of the property they included the driveway the proposed building and parking spaces with landscaping towards the front of the parcel as I

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mentioned this site plan did expire in expiration date was included on the previous photo in section 2204 of these subdivision ordinance it does state where approval is granted the plan will be approved or conditionally approved for no more than 2 calendar should they need to continue the project or are they have they have need of an extension a formal request must be filed prior to the expiration date of approved plans in this was February this is section 1403 of the zoning ordinance for Cumberland County it stipulates that they site plan submitted when in accordance with county subdivision ordinance will facilitated in the same manner as a preliminary plan referenced in the previous section. This also includes the expiration and requirements for an extension request. This is clear in the state statutes for North Carolina State statute. one it references that should the county not or the authority in question not have an expiration date stated in state does stipulate that it would expire one year of issuance of the approval if no work has been completed on the project.

**David Moon:** Exhibit E on this screen is an aerial image of the property. The criteria used by staff to determine if a approved permit has expired in addition to the expiration date is whether any construction activity to implement that site plan had occurred prior to the expiration date, or if the applicant had requested an extension of that application prior to that expiration date. So as Miss Garcia stated, the current planning division received a letter from the applicant requesting extension prior to the expiration date.

**Alyssa Garcia:** no Sir, not in the records.

**David Moon:** The aerial photo before you indicate that no construction activity is present on the site there's the aerial was taken in early January February 2023. This is the same aerial boat with the site plan behind the house that you see on the aerial based on the site plan is where automobile repair facility was to be constructed. You do not see that on the area you do see cars parked there, and we do have some testimony that would be presented regarding why those cars are parked within the within the fence. This is a broader site picture of the property that is owned by the house picture before you indicate that the general area where the repair shop was to be constructed. No construction activity has commenced. This is another air photo that shows that no construction activity has occurred at this time. I would like to call a witness from the code enforcement division. Andy Roberts has some testimony and evidence.

**Robert Davis:** was he sworn in?

**David Moon:** Yes. Mr. Roberts, please provide your title and responsibility with the code enforcement.

**Andy Roberts:** for the common county department of planning inspections are investigate different violations of several vehicle ordinance for the county zoning ordinance and the minimum housing ordinance to both ensure compliance and in to investigate specific complaints and that sort of thing.

**David Moon:** have you had an opportunity to visit the property at 7611 Dome Rd.? By Mr. and Mrs Charles and Latasha Howard during the past 2 years.

**Andy Roberts:** Yes.

**David Moon:** please just describe what use you observed at the property and discuss whether is allowed by the counties zoning code.

**Andy Roberts:** alright, originally the first visit there was no residential house there. That that came later and then most recently, their residential property had quite a few vehicles around. Mr. Howard 's personal owned vehicles as

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well as some commercial vehicles and that sort of thing. He has some construction materials for future construction there. It is currently a residential use there. There is no shop signage of a business or legal operation of a business and the 2020 site plan, is not proper as it currently is.

**David Moon:** specifically what use did you see occurring on the site?

**Andy Roberts:** storage of motor vehicles in my opinion or at least handling of motor vehicles whether they're just passing through, coming in being stored temporarily, and then remove. I did not notice any repair going on. It seems to be more storage and handling than it is repair, and this is all on the exterior of the property. Nothing going on inside of a building or anything like that, but no auto repair that I've been able to establish.

**David Moon:** during your site visits, did you observe any construction activity related to a motor vehicle repair business?

**Andy Roberts:** No, no other activities, only construction activity that I've witnessed on that property. This entire time has been the construction of the primary dwelling.

**David Moon:** to the best of your knowledge has a building permit been received by the code enforcement division for a motor vehicle repair business at 7611 Dome Rd.?

**Andy Roberts:** No building permits that I'm aware of, shy of the single-family dwelling that was built and inspected on the property.

**Moon:** Last question Mr. Roberts, this is the permissible use table from the counties zoning code, blue arrow points to motorized vehicle repair and the Red at the towing and motor vehicle storage. Can you tell me, for each use, whether they're considered permitted or not permitted?

**Andy Roberts:** Yes, motor vehicle repair and or body work would be approved and one would be permitted as long as it met the provisions of the zoning ordinance. Motor vehicle wrecking yards and junk yards are not a permitted use by right or by special use permit. They're not allowed in the A1 district.

**David Moon:** Thank you Mr. Roberts. I now turn the microphone over to Alyssa Garcia.

**Alyssa Garcia:** as mentioned previously the stipulations within the zoning ordinance state that Motor vehicle auto or the service site would be permissible in A1 subject to section 916. This does have different requirements to operate any sort of permitted commercial use within the A1 zoning. The following slides will demonstrate the application received by current planning staff. This is the site plan that was received on October 3rd 2022 as the application. This is the site plan that has since been denied by planning staff. Again, this is a permitted use table referencing section 916, subsection E of section 96 within the zone code. It does stipulate a number of requirements including partitions. Should the location located off of a private street in this case this would be done road. Specifically, it states in the event that the private street is used as the means of access for the activity, that they would have to obtain consent by all of the parties responsible for maintaining the private road, and as this is plotted for Stony Brook 2 it would be those residents along the private street. The existing access would also be required to handle the influx of traffic resulting from the use, and if it was not in such condition to do so the cost of upgrading the road. So that it would stand that would be upon the developer's responsibility. At this time, I would like to call a few witnesses to the same as far as the character of the area and the first I will call is Mr. Billy Goggio. Please come forward

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**Robert Davis:** Please state your name and address.

**Billy Goggio:** Billy Goggio 7606 Dome Rd.

**Robert Davis:** Could you please, do you swear to tell the truth... do you want to swear or affirm?  
**Billy Goggio:** I have no problems.

**Robert Davis:** OK raise your right hand, do you swear to tell the truth the whole truth and nothing but the truth so help you God?

**Billy Goggio:** yes Sir.

**Alyssa Garcia:** thank you are you a property owner of a residential home on Dome Road?

**Billy Goggio:** yes ma'am

**Alyssa Garcia:** how many years have you resided at the property?

**Billy Goggio:** Since 2001

**Alyssa Garcia:** Can you please use the laser pointer to identify your property on the slide?

**Billy Goggio:** there.

**Alyssa Garcia:** Can you please describe the character of development along Dome Road?

**Billy Goggio:** its houses, mobile homes, doublewide and just families.

(3100) **Alyssa Garcia:** Has the appellant Mr. and Mrs. Howard ever contacted you to obtain your consent to use Dome Road for a motorized vehicle repair business at 7611 Dome Road?

**Billy Goggio:** first came in and said he was given us and it's a junk yard, not a garage he is running.

**Alyssa Garcia:** and just to clarify for the record, has the appellant contacted you at all regarding specifically motorized vehicle repair.

**Billy Goggio:** no ma'am

**Alyssa Garcia:** and if approached in the near future regarding this use would you consent to the use of Dome Road for a motorized vehicle repair?

**Billy Goggio:** No

(3150) **Alyssa Garcia:** in your opinion will a motorized vehicle repair business negatively impact the residential character along Dome Road?

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**Billy Goggio:** yes

**Alyssa Garcia:** in addition to that, do you have any other beliefs as to how it will impact your neighbors?

**Billy Goggio:** yes, ma'am we've got Gen-x and now you have fuel and oil leaking into the soil, you got worse. It's not a garage it's a junk yard.

**Alyssa Garcia:** (3138): and if approached in the near future regarding this, would you consent to the use of Dome Road for a motorized vehicle repair business:

**Billy Goggio:** No.

**Alyssa Garcia:** That concludes my questions. I'd now like to request William Hodges.

**Robert Davis:** please state your name and address.

**William Hodges:** William Eric Hodges 7616 Dome Road.

**Robert Davis:** Raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you god?

**William Hodges:** I do.

**Alyssa Garcia:** Alright Mr. Hodges, are you a property owner of a residential home on dome road?

**William Hodges:** yes

**Alyssa Garcia:** how many years have you resided at this property?

**William Hodges:** November 2007

**Alyssa Garcia:** Can you use the laser pointer to identify your property?

**William Hodges:** right there.

**Alyssa Garcia:** Can you please describe the character of development along Dome Rd?

**William Hodges:** it's a residential area family area.

**Alyssa Garcia:** Has the appellant Mr. and Mrs. Howard ever contacted you to obtain your consent to use Dome Road for a motorized vehicle repair business at 7611 Dome Road?

**William Hodges:** no

**Alyssa Garcia:** if approached, in the near future, would you consent to the use of dome rd. as a motorized vehicle repair shop?

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**William Hodges:** no

**Alyssa Garcia:** in your opinion will a motorized vehicle repair business negatively impact the residential character along Dome Road?

**William Hodges:** Well again, it's not a repair business. It's a junk yard.

**Alyssa Garcia:** how do you feel such use would impact your neighborhood as a motorized vehicle repair?

**William Hodges:** Well, it's not only the condition of the road, it's a safety issue. With the size of the vehicles coming in and out, are unable to yield half the road. And there is a blind corner right there. Those trees you can't see around. If one of those trucks hit somebody, it would be a bad day.

**William Hodges:** yes ma'am we've got Genx and now you have fuel and oil leaking into the soil, you got worse. Its not a garage it's a junk yard. right there in the corner. Not OK for the kids playing outside in the front. I do have a fenced yard but for kids they might want to ride a bicycle or something, they wouldn't be able to. I worked on Fort Bragg as a mechanic for several years following the federal laws. For example, if you replace an engine and if you're going to crate it for repair and delivery or what not. Not only do you have to drain it, it needs a period of 72 hours before you can box up and send it off. I can't see that there and it was clear further damaging to the road. If battery acid isn't leaking the through the vehicle the rain will definitely make it.

**Alyssa Garcia:** and Sir could you clarify, are you on well and septic at your location.

**William Hodges:** Yes

**Alyssa Garcia:** and this concludes the questions for this witness. Before you is the approved preliminary plan for Stonebrook to that was approved in the left this specifically is a revision to these flaps in 1997 demonstrates that this is a residential neighborhood on a private street. Here is the plat that is recorded for this location. It is lot 19:00 in the section 6 of Stonebrook, a zero lot line subdivision and zero lot line allows for smaller lot sizes within a density So you are able to get more units within a certain zoning district and while no longer in the subdivision ordinance, at this time it was approved and so the lots in A1 typically would have a 2 acre minimum and in this subdivision the average lot size is about 1.4 acres. This is the front section of the Stonebrook 2 residential neighborhood, also another demonstration of the zero lot line provisions. As a private street, it is you know in a private residential neighborhood. It did establish a homeowner's association which reported declarations of covenants with the Secretary of State. This is the front, or the first page of those declarations reported in the late 90s where it's really clear and to read the first section it says no lot shall except for residential purposes and cannot be subdivided.

**David Moon:** thank you. Following up on this slide the county staff does not have the authority to enforce Declarations of covenants however this slide demonstrates that Dome Rd was to serve as a residential neighborhood not for commercial activities. In summary, the findings of fact presented to you on the exhibits within the PowerPoint presentation demonstrate that the original site plan expired. That the subsequent site plan submitted later does not comply with the permitted use table within the zoning code. The motorized vehicle repair is only allowed on A1 zoning district, with a private street, if all the property owners along that road consent to the use of the road, for the motorized vehicle repair. So the information and findings of fact presented to you and the testimony is submitted for your record and review. That completes the staff presentation and I turn it back to the chair to call the appellant for their presentation.

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**Robert Davis:** Raise your right hand for me please. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

**Latarsha Howard:** yes

**Robert Davis:** state name and address.

**Latarsha Howard:** Latarsha Howard 7611 Dome rd.

**Latarsha Howard:** I have some documentations to pass out. Like she said in 2020 we were approved and then the world stopped. Covid happened. And then a Hold and things. Eventually had so I think that we were approved for what we're actually trying for in February 2020 and then the world stopped. COVID during that time in the beginning we were told that it would be best for us to build our home before we build our business. A primary structure, a secondary structure is what we're doing so this is what we did as soon as we were able to get our house built. we started going out and yeah our permit for our home in August the 21. there was no other site plan so we were under pressure and with our builder. And size on our home and they just added our home to our fight. We learned that my home was complete in May of 2020. the plan expired February of 2020. the office again, we had no clue that the plan was expired because we were building our home while the plan is still approved. I even have documentation. just think that I told this person that we are trying to build our home and our business in the same location. We're just trying to do whatever we can to get it approved. I did not find out until April 14 of this year that I couldn't have my building here. that I couldn't have my business. I did not find out until July 13th that the planning department, they Denied approving my plan. It isn't correct. I don't feel my Family should have to suffer from mistake that was made by him. Our home would never be built here, and we would never even try to do this if we can't have our business and our home at the same location according to our approval.

-----voice recording cut out-----44:16

Time stamp paraphrasing:

**Latarsha Howard** stated that July 13<sup>th</sup> was the first time she had heard that she was going to be denied for the change of use. Latarsha Howard called Andy Roberts as a witness to how she alleviated the complaints against her with the vehicles stored in her yard.

**Andy Roberts** testified that the violations had ended but the business had not been built as the site plan indicated. Instead, there was a house built which created another violation.4801- Andy Roberts stated October of 2022 a revision to the site plan was required, and the Howards were in violation of approved site plan and dual use for the property. He explained what he saw on the property and what he did not see, like the business not being built.

49:29- **Latarsha Howard** stated that the cars were removed when notified of them being in violation. She also said they weren't running a business and didn't have insurance. Latarsha Howard denied knowing that putting a house would be a change of use.

**Robert Davis** questioned why she put the house up first.

**Latarsha Howard** stated that she couldn't afford to put up an NCDOT standard road and was informed that she would be able to put up a house as a primary use but to have the business she would need to follow NCDOT standards for a roadway. She stated that the cost to put up a road was \$25,000 bond and they couldn't afford that.

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52:14 – **Donald Brooks** asked about their property size and requirements for a zero-lot-line and what that meant.

**Alyssa Garcia** explained zero-lot-line and how the other properties around are able to be at a higher density than the traditional A1 zoning requirements.

**David Moon** also explained how open space and common areas in larger lots occur in zero-lot-line developments.

**Donald Brooks** asked if approving the first site plan was an error.

**David Moon** stated yes. That a change of use would have been needed to build the house. The original site plan followed the ordinance. David Moon also stated for the change of use from residential to commercial required a consent from all property owners that use the private driveway.

**Latarsha Howard** stated that she did not know their road was considered a private driveway.

**Donald Brooks** questioned the meaning of local road versus private road versus public road.

**Ron Hasty** could not explain without research.

**David Moon** explained a private road using NCDOT maintenance determination process.

**Alyssa Garcia** explained the business would require a NCDOT public road to be in place.

**Latarsha Howard** stated she did not realize her road was a private road.

**Robert Davis:** asked why the house was not on the site plan. Latarsha Howard explained that it was supposed to be a business, not the house as a primary use in the beginning.

**Robert Davis** asked if A1 zoning allows for business allowed per the ordinance.

**Latarsha Howard** said it was zoned for a business.

**David Moon** explained how she had two years to implement the approved site plan per standard. This site plan expired in February of 2022 and no work was done on the business building.

**Latarsha Howard** stated again that they couldn't afford the improvements, so they put the house as a primary use but never updated the site plan.

1:01:35- **Brenee Orozco** realized that she might need to declare some abstentions when a lot of talk was about NCDOT. She declared abstentions that she would soon be working for NCDOT Department of Justice in a legal capacity, soon.

103.32- **Miss Howard and Robert Davis** had discussion about #22 on her hand out and she repeated the third page of number 22 stating that their road was called "local Rd".

**Brenee Orozco** read paragraph 24 of Latarsha Howard's handout.

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**Latarsha Howards** said yes.

**Brenee Orozco** – question Latarsha Howard about the dwelling and the change of use. She asked if Latarsha Howard was aware she needed to change the site plan.

**Latarsha Howard** said no

**Brenee Orozco** questioned why the site plan was not adjusted.

**Latarsha Howards** said she didn't know that the site plan had expired.

**Brenee Orozco** - pointed out the approval had a two-year expiration from the approval.

**Brenee Orozco** - asked David Moon the expiration of the site plan was a standard time period.

**David Moon** response was yes with an explanation.

**Brenee Orozco** – asked David Moon if it was standard to let applicants know their time was expiring.

**David Moon** response was it is not standard, nor a requirement and we have too much work to let all applications know their time is expiring.

**Latarsha Howard** explained how COVID affected everything. she was an emergency worker, She explained how wood prices increased dramatically. She explains that she didn't realize there was an expiration date to the permitted plan.

**Andy Roberts** Was questioned about how permit applications and inspections we're implemented. Andy Roberts replied that an inspection is supposed to be requested after six months of work.

**Robert Davis** asked Latarsha Howard if she had done so.

**Latarsha Howard**, she said no.

**Robert Davis** asked if this was to build the house.

**David Moon** repeated the rules did not change. Consent for business use is required by all homeowners attached to the private road.

**Robert Davis** asked about the violations.

**Brenee Orozco** asked if a change of use occurs are they still required for consent to use the private road for business purposes. David moon discussed how the change of use required consent from the neighboring residents.

**Charles Howard** was sworn in by Robert Davis. Charles Howard commented about honesty with one of the witnesses. Stating that the witnesses runs a vehicle repair services on his property. There was discussion that the

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neighbors didn't like them moving in to begin with. Howard's Stated they believed it was because of the color of their skin.

**Brenee Orozco**- Reference paragraph 4 in Latarsha Howard emails Latarsha Howard replied because a 25K bond required by NCDOT for the road improvements.

**Charles Howard** - stated posts were started.

**Robert Davis** questioned what posts.

**Charles Howard**- stated the posts for the business structure.

**Brenee Orozco** asked when? (No answer).

**Donald Brooks** asked when they knew about 25k.

**Latarsha Howard**- pointed out 2 pages before the approval.

**Donald Brooks** asked for clarification if staff gave notice of expiration.

**David Moon** said no with explanation.

**Brenee Orozco**- Pointed to a 2020 e-mail and the change of use and asked why a new approval was not sought out.

**Latarsha Howard** stated it was different because of the driveway 25K cost.

**Latarsha Howard** said she was told to build a house for a primary use and the business as a secondary use.

**Robert Davis** asked if there were any more questions for the Howards.

**David Moon** stated it is time for the Staff Rebuttal.

**David Moon** pointed out that the road was not to NCDOT standard, and it is a private road.

**David Moon** wanted to clarify some misunderstanding and stated that all violations on 7611 Dome Rd. property will continue until the violations are fixed, no matter the outcome of this Hearing. He stated he thought there was some confusion to that.

**David Moon** stated that he cannot speak to the cost of a road, but he can state that the planning and inspections was open throughout COVID. They were not closed at any time.

**David Moon** pointed out that the two uses on the property might create an issue with NC DEQ and compatibility with their requirements.

**Alyssa Garcia inquiry**- Billy Goggio was asked to the stand again he pointed out the Mail (us postal) lady had made complaints about the narrow Rd. And the conditions of the road being poor.

**Clarence G. Grier**  
County Manager

**Sally Shutt**  
Assistant County Manager



**Rawls Howard**  
Director

**David Moon**  
Deputy Director

## Board of Adjustment

**Brenee Orozco** asked Billy Goggio if he received consent from the appellant about using the private road for business.

**Billy Goggio** said no.

**William Hodges** was asked to the stand.

**Brenee Orozco** asked William Hodges if he was asked for consent to use the road for the business.

**William Hodges** said no

**Robert Davis** asked the Howards why they did not follow the process.

**Latarsha Howard** said she didn't know the process and she didn't know that a local road meant private road.

**Brenee Orozco** asked Latarsha Howard about her restrictive covenant or HOA and its stipulation of a road maintenance agreement.

**Latarsha Howard** stated she didn't know she had one.

**Robert Davis** closed the hearing portion and opened it up to board member discussion.

**Vicki Mullins** pointed out that the appellants may have or may not know about the change of use rules but the local neighbors also had no knowledge of the Howards plans. The ordinance has specific rules and she thought the staff had followed them.

**Brenee Orozco** had discussed the timeline.

**Robert Davis and Alyssa Garcia** also pointed to the timeline photos. The photo was brought back up on the monitors and pointed out the site plan had not changed, and consent was not sought out.

**Donald Brooks** stated the rules in this instance seemed to be followed and he could not overturn staff decision.

**Vicki Mullins** motioned to affirm staff decision on the application denial for the site plan.

**Donald Brooks** second the motion

**Robert Davis** requested a vote. All board members are in favor to affirm Staff decision.

**Donald brooks** motion to adjourn.

**Vicky Mullins** second the motion. All are in favor to adjourn.