



PLANNING STAFF REPORT  
**BOA CASE # BOA-2023-0003**  
 Board of Adjustment Meeting: August 17, 2023

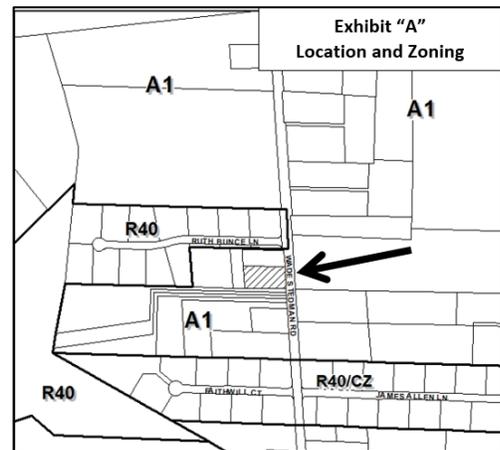
**Location:** 2753 Wade Stedman Road  
**Jurisdiction:** County-Unincorporated

**REQUEST** **Variance from Side Yard Setback Standard**

The applicant requests a variance from Section 1104, County Zoning Ordinance, to allow a 900 +/- square foot accessory structure – a storage building -- to encroach the minimum side yard setback line by 2.7 feet at a lot assigned to the A1 Agricultural Zoning District. Located at 2753 Wade Stedman Road as shown in Exhibit “A” and containing 0.96 acres, a site plan prepared by a licensed surveyor appears in Exhibit “B” (attached) and shows the proposed location for the accessory structure. As explained below, the RR zoning district setback standards apply to this situation, placing the proposed storage building at 12.3 feet from the side yard property line while the minimum side yard setback requirement is 15 feet.

- Exhibits**
- A. Site Location/Zoning
  - B. Site Plan (attached)
  - C. Existing Use
  - D. Surrounding Area
  - E. Soil Conditions
  - F. Section 1104, Zoning Ordinance
  - G. Section 1002.E.4, Zoning Ordinance
  - H. Section 1101.D, Zoning Ordinance
  - I. Applicant’s Response
- Attachment: mailing list.

Lots created after August 22, 1984, must comply with the zoning dimensional provision set forth in the County Zoning Ordinance. Lots located within the A1 zoning district requires a minimum of 2 acres to be a legal, conforming lot. This lot was created May 27, 1977, from DB 2598 PG 309, making it a lot recorded less than the minimum requirements, following Section 1101. Lot Regulation, subsection D. Recorded Lots Less Than Minimum Requirements. Per section 1101. D, “...such lot may be used as a building site for a single-family residence, provided that the lot area and yard dimensions are not reduced below the minimums specified in this ordinance by more than 17 percent in the RR, R15, R7.5, R6, R6A and R5 residential districts; or below the dimensional requirements of the RR Rural Residential District in the A1 Agricultural District”. The minimum side yard setback for the RR zoning district is 15 feet.



Further, per Section 1002.E.4 of the Zoning Ordinance, any accessory structure greater than 700 square feet in floor area must be located inside the building envelope. This means the accessory structure must meet the setbacks for the primary structure. Staff interprets this code to mean that the accessory structure must be at or inside the side yard setback.

**PROPERTY INFORMATION**

**OWNER/APPLICANT:** Mr. James McVeigh (Owner/Applicant).

**ADDRESS/LOCATION:** Refer to Exhibit “A”, Location and Zoning Map. REID number: 0488933015000.

**SIZE:** 0.96 +/- acres. The road frontage along Wade Stedman Road is 150 +/- feet with a depth of 280 +/- feet.

**EXISTING ZONING:** A1 Agricultural (As shown in Exhibit “A”)

**EXISTING SITE CONDITONS:**

Exhibit "C" (attached) shows the existing use of the subject property. The subject lot is currently occupied by Seegars Fence Company.

**SURROUNDING LAND USE:** Exhibits "C" and "D" illustrates the following neighborhood character and surrounding area, and is further outlined below:

- **North:** Single family homes
- **East:** Single family homes
- **West:** Single family homes
- **South:** Single family homes

**SPECIAL DISTRICTS:** The property is not located within the Fayetteville Regional Airport Overlay District. This property is not within five miles of Fort Liberty Military Base.

**TRAFFIC:** The storage building will not generate any additional motor vehicle traffic that will affect Wade Stedman Road.

**UTILITIES:** Eastover water utilities are available, as shown in Exhibit "E". Customer would need to come to Environmental Health during customer service hours to obtain Environmental Health stamped approval, or see if an expansion permit is necessary. Accessory structure would need to meet setbacks to septic, repair area, and (old) well (if applicable). Customer must obtain either Environmental Health Stamped Approval or apply for Expansion Permit (if necessary). It is the applicant's responsibility to determine if these utilities will adequately serve their development.

**EMERGENCY SERVICES:** Cumberland County Fire Marshal's office has reviewed the request and has no comment at this time.

**OTHER SITE CHARACTERISTICS:** The site is not located in a Watershed or within a Flood Zone Hazard Area. The subject property, as delineated in Exhibit "E", illustrates no presence of hydric or hydric inclusion soils on the property.

**DIMENSIONAL PROVISIONS FOR REQUESTED DISTRICT:**

Minimum Standard	A1 Zoning	RR Zoning
Front Yard Setback	50 feet	30 feet
Side Yard Setback	20 feet	15 feet
Rear Yard Setback	50 feet	35 feet

**APPLICABLE CODES:**

Zoning Code	Standard	Exhibit #
Sec. 1104	Minimum side yard setback of 15 feet.	F
Sec. 1002.E.4.	"Accessory structures shall not be erected in any required front or side yard or within 20 feet of any side street line, or within five feet of any lot line not a street line, or within five feet of any accessory building or other building. In no case, however, shall an accessory building be placed closer to a street than the minimum setback requirements for a principal structure. Any accessory structure greater than 700 square feet in floor area must be located inside the building envelope."	G
Sec. 1101.D	"Where any lot of record on the effective date of this ordinance or amendment thereto for the zoning area in a district which allows residential uses does not contain sufficient land to permit conformance to the dimensional requirements of this ordinance, such lot may be used	

	as a building site for a single-family residence, provided that the lot area and yard dimensions are not reduced below the minimums specified in this ordinance by more than 17 percent in the RR, R15, R7.5, R6, R6A and R5 residential districts; or below the dimensional requirements of the RR Rural Residential District in the A1 Agricultural District” .	H
Sec. 203, Definition	“ <b>Buildable Area (Buildable Envelope)</b> : The space remaining on a lot after the minimum open space requirements (yards, setbacks, etc.) have been met.”	
Sec. 1605	Variance criteria to demonstrate hardship	Below

**VARIANCE HARDSHIP CRITERIA:**

Criteria that must be addressed for evaluation of a variance application originate from Section 1605 of the Zoning Code and are listed below.

- A. Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- D. The requested variance is consistent with the spirit, purpose and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

**APPLICANT HARDSHIP DECLARATION:**

Applicant’s response to the above four variance hardship criteria is provided in Exhibit “I”.

**VARIANCE SITE INFORMATION.**

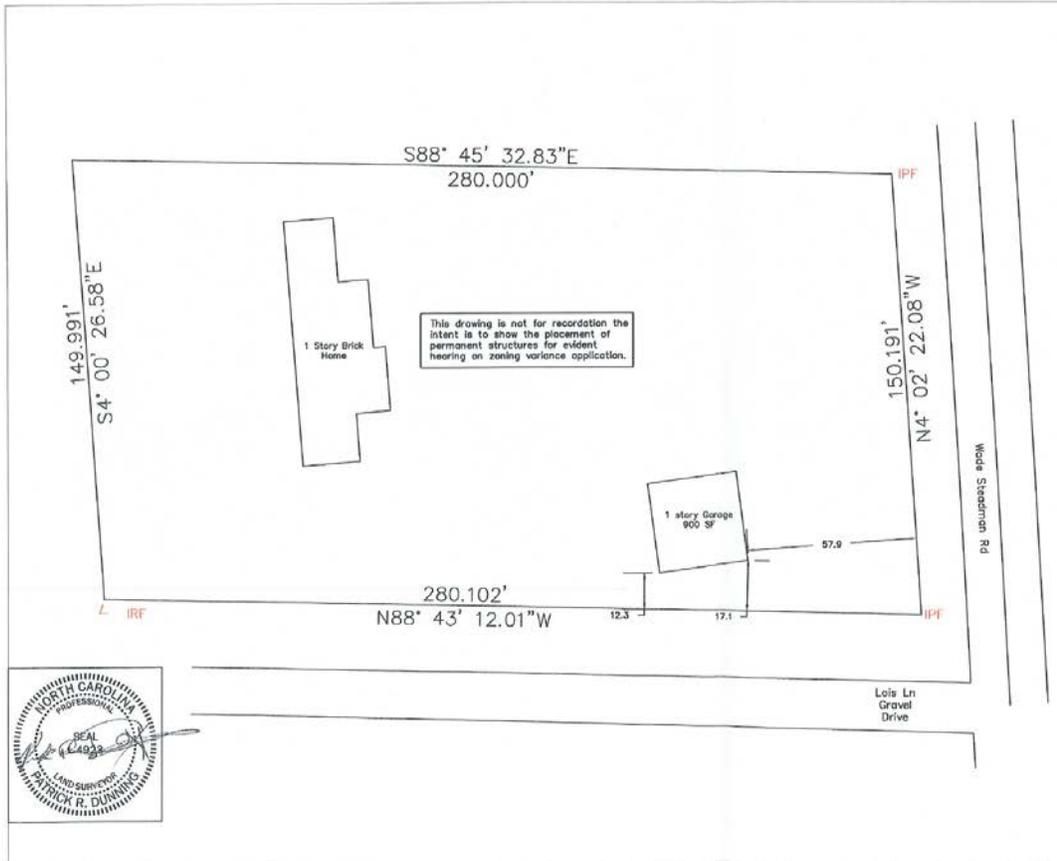
- A. A Site Plan provided in Exhibit “B” illustrates the location of existing buildings and structures on the lot as well as the location of the proposed accessory structure. Because the accessory structure is over 700 square feet, per Sec. 1002.E.4, the structure must be inside the building envelope. This means that the proposed structure must comply with the setbacks in the RR zoning classification. The site plan shows the applicant’s request to place the proposed accessory structure 12.7 feet from the side property line instead of complying with the minimum 15-foot side yard setback standard.

**MOTION / BOA ACTION**

The BOA has the authority to take final action on variance applications, making a decision to approve, deny, or approve with conditions. The motion must be based on the four variance hardship criteria and based on the findings of fact presented at the hearing.

## Exhibit "B"

### Site Plan with Proposed Accessory Structure Location



Source: Applicant

Organization Name	
P.R.DUNNING PLS	
LEGEND	
KEY MAP	
SCALE	SHEET NUMBER
1:30	1
PLOT DATE	
6/6/23	
FILE NAME	
Mc Veigh James	

Exhibit "C"  
Existing Use



Exhibit "D"  
Neighborhood Character and Surrounding Area

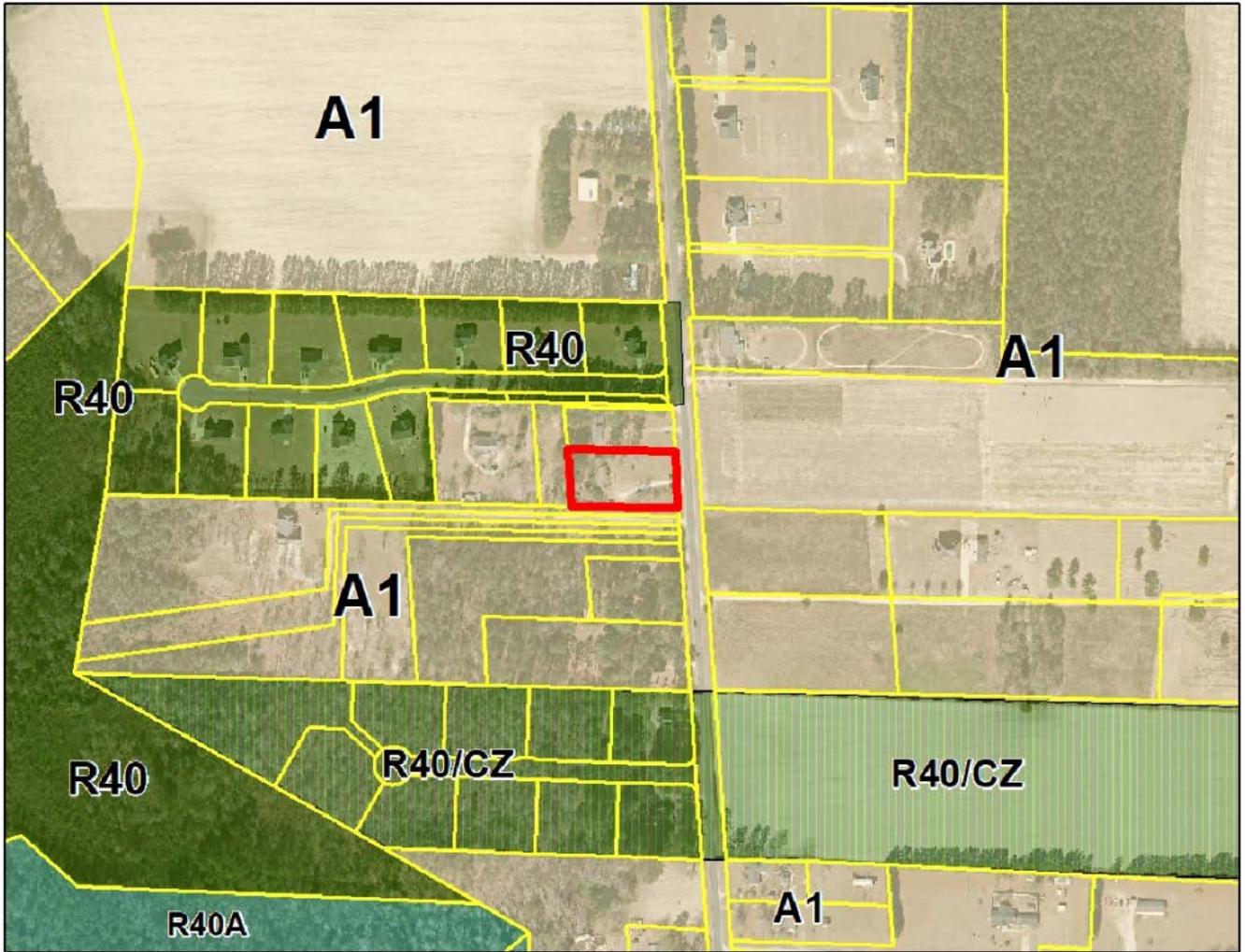
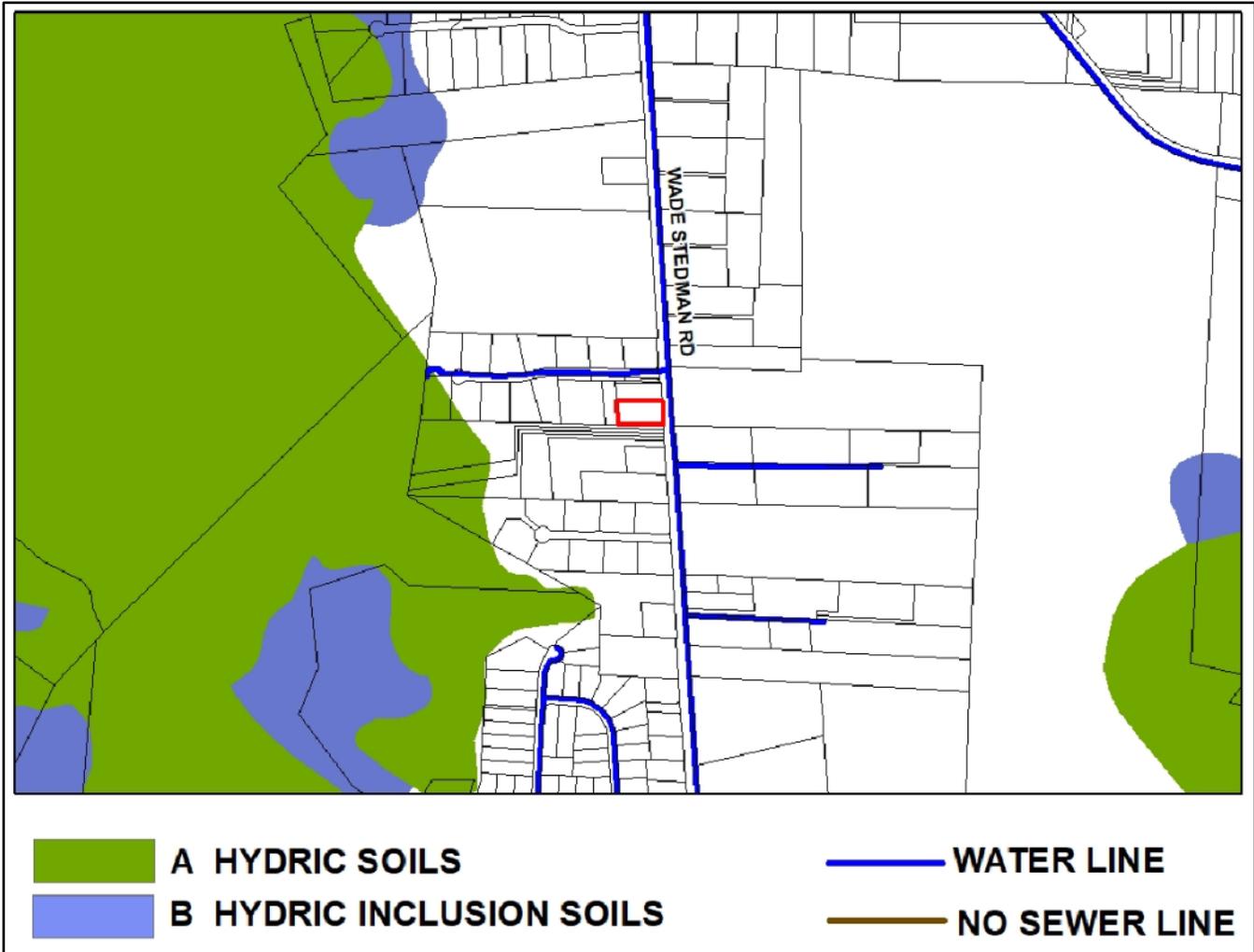


Exhibit "E"  
Soil Conditions



## Exhibit "F" Section 1104, Zoning Ordinance

### **SECTION 1104. DISTRICT DIMENSIONAL PROVISIONS.<sup>1</sup>**

Except for the special provisions as previously noted in this article and any special provisions provided for elsewhere within this ordinance, the following district dimensional requirements shall be complied with:

DISTRICT	DENSITY <sup>2</sup> (SQ FT PER DWELLING)				WIDTH (in feet)	MINIMUM YARD SETBACK REGULATIONS <sup>2</sup>				
	MINIMUM LOT SIZE (square feet unless otherwise stated)	UNIT (DU) FOR CONDOS & GROUP DEVELOPMENTS				FRONT <sup>5</sup> YARD (measured from R/W line)	SIDE YARD (1 story) (2 story)		REAR YARD (each add greater than 2 stories)	REAR YARD (in feet)
		1 <sup>st</sup> DU	2 <sup>nd</sup> , 3 <sup>rd</sup> , & 4 <sup>th</sup> DUs	5 + DUs			(1 story)	(2 story)		
A1 <sup>3</sup>	2 acres	2 acres	2 acres	2 acres	100	50	20	25	25ft/story	50
A1A <sup>4</sup>	1 acre	1 acre	1 acre	1 acre	100	50	20	25	25ft/story	50
R40	40,000	40,000	40,000	40,000	100	30	15	15	10ft/story	35
R40A	40,000	40,000	40,000	40,000	100	30	15	15	10ft/story	35
R30	30,000	30,000	30,000	30,000	100	30	15	15	10ft/story	35
R30A	30,000	30,000	30,000	30,000	100	30	15	15	10ft/story	35
R20	20,000	20,000	20,000	20,000	100	30	15	15	10ft/story	35
R20A	20,000	20,000	20,000	20,000	100	30	15	15	10ft/story	35
RR	20,000	20,000	20,000	20,000	100	30	15	15	10ft/story	35
R15	15,000	15,000	15,000	15,000	75	30	10	15	10ft/story	35
R7.5	7,500	7,500	7,500	7,500	75	30	10	15	8ft/story	35
R6	6,000	6,000	5,000	4,000	60	25	10	12	6ft/story	30
R6A <sup>2</sup>	6,000	6,000	5,000	4,000	60	25	10	12	6ft/story	15 <sup>6</sup>
R5A	5,000	3,000	3,000	3,000	60	25	10	12	4ft/story	30
R5	5,000	5,000	3,000	1,500	60	25	10	10	4ft/story	30

<sup>1</sup> All signs are regulated by Article XIII.

<sup>2</sup> Exceptions: See Section 1103 for special exceptions to this chart.

<sup>3</sup> Minimum lot size for non-residential uses is one acre.

<sup>4</sup> Maximum district size for rezoning request is 10 acres.

<sup>5</sup> Exception: Avasboro Battlefield Viewshed Frontage (Section 1102 L)

<sup>6</sup> See Section 1102 K for Rear Yard Exception for Manufactured Homes in the R6A District.  
(Amd. 3-21-16; Amd. 11-20-06)

**Exhibit "G"**  
**Section 1002.E.4., Zoning Ordinance**

4. Accessory structures shall not be erected in any required front or side yard or within 20 feet of any side street line, or within five feet of any lot line not a street line, or within five feet of any accessory building or other building. In no case, however, shall an accessory building be placed closer to a street than the minimum setback requirements for a principal structure. Any accessory structure greater than 700 square feet in floor area must be located inside the building envelope.

*(Amd. 11-20-06; Amd. 02-19-08; Amd. 01-19-10)*

## Exhibit "H"

### Section 1101.D Recorded Lots Less Than Minimum Requirements, Zoning Ordinance

D. Recorded Lots Less Than Minimum Requirement. Where any lot of record on the effective date of this ordinance or amendment thereto for the zoning area in a district which allows residential uses does not contain sufficient land to permit conformance to the dimensional requirements of this ordinance, such lot may be used as a building site for a single-family residence, provided that the lot area and yard dimensions are not reduced below the minimums specified in this ordinance by more than 17 percent in the RR, R15, R7.5, R6, R6A and R5 residential districts; or below the dimensional requirements of the RR Rural Residential District in the A1 Agricultural District.

## Exhibit "I": Applicant's Response

### APPLICANT'S RESPONSE TO THE FOUR VARIANCE HARDSHIP CRITERIA Section 1605, County Zoning Ordinance

(Instructions: applicant will respond to each of the four hardship criteria listed below and submit the report with the Variance Application.)

#### SECTION 1605. VARIANCE.

When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

A. Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

*Applicant's Response:* Foundation was constructed under the guidelines of the engineered blueprints provided by the licensed building contractor. Any adjustment set forth would cause a financial hardship to the property owner.

B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

*Applicant's Response:* Plot plan was submitted with the structure parallel to the southern property line. A decision was made to rotate the structure when it would be parallel with the house for aesthetic reasons. A miscalculation was made & the southeast corner is 2'6" across the setback line. (less than 1% of the structure.)

C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

*Applicant's Response:* Contractor adjusted layout to better aesthetically match existing home on property. During process of rotating the structure, the small corner that crossed the setback was missed by the contractor, and was also unnoticed during footer inspection (permit # BDRES-22-001540). Oversight was noticed by property owner after concrete was poured.

D. The requested variance is consistent with the spirit, purpose and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

*Applicant's Response:* Structure is approximately 65 ft from the nearest public road, and over 650 ft from adjacent landowner's residence. There is no public or private safety concern with said structure.<sup>1</sup>



**ATTACHMENT:  
APPLICATION**



**County of Cumberland**  
◆  
**BOARD OF ADJUSTMENT**

CASE #: \_\_\_\_\_

CUMBERLAND COUNTY BOA  
MEETING DATE: \_\_\_\_\_

DATE APPLICATION  
SUBMITTED: \_\_\_\_\_

RECEIPT #: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

**APPLICATION FOR  
VARIANCE REQUEST**

The Cumberland County Board of Adjustment meetings are held on the third Thursday of each month in the Historic Courthouse, 130 Gillespie Street – Hearing Room 3. The Planning and Inspections Department will advertise the public hearing and a notice will be mailed or delivered to surrounding residents or property owners that may be affected by the proposed Variance request.

The Board of Adjustment is a quasi-judicial review board and all persons wishing to appear before this Board should be prepared to give sworn testimony on relevant facts. Applicants for Variances are encouraged to read Section 1605 “Variance” of the Zoning Ordinance to establish whether or not their case merits further consideration by the board (see next page).

**The following items are to be submitted with the complete application:**

1. A copy of the recorded deed and/or plat, or an accurate written legal description of only the area to be considered;
2. A copy of a detailed site plan drawn to an engineer scale; and
3. Cash or check payable to “Cumberland County” in the amount of \$ \_\_\_\_\_ (see attached Fee Schedule)

**NOTE:** Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available Board of Adjustment meeting according to the board’s meeting schedule. Also, the application fee is *nonrefundable*.

The Planning and Inspections Staff is available for advice on completing this application; however, they are not available for completion of the application or preparation of the site plan.

**EXCERPT FROM  
THE CUMBERLAND COUNTY ZONING ORDINANCE**

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**(PENDING ADOPTION)**

**Section 1605 VARIANCE**

The Board of Adjustment may authorize in specific cases such variances from the terms of this Ordinance upon request of a property owner or his authorized agent and may require any evidence necessary to make determination of the case. Before the board may grant any Variance, the board must find that all of the following conditions exist for an individual case:

- A. Unnecessary hardship would result from the strict application of the ordinance.
- B. There are conditions peculiar to the property, such as location, size, or topography.
- C. The special circumstances are not the result of the actions of the applicant.
- D. The requested variance will be consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

**In granting a variance, the board may attach and the record shall reflect such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable. The record shall also state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the Board finds to exist.**

**Any variance granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one calendar year from the date of such approval. The Board of Adjustment is not authorized to grant variances to a Special Use Permit or to a Conditional Zoning Permit allowed in Conditional Zoning Districts or to the specific conditions or other performance criteria imposed upon such uses.**

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 2753 Wade-Stedman Rd, Stedman NC

OWNER: James E. McVeigh

ADDRESS: 2753 Wade-Stedman Rd ZIP CODE: 28391

TELEPHONE: HOME 910-391-6506 WORK 910-426-2101

AGENT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_

E-MAIL: \_\_\_\_\_

APPLICATION FOR A VARIANCE  
As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 0488-93-3015  
(also known as Tax ID Number or Property Tax ID)

B. Acreage: .96 Frontage: 150' Depth: 280'

C. Water Provider: Eastover Sanitary District

D. Septage Provider: septic tank

E. Deed Book 1116, Page(s) 391, Cumberland County

F. Existing and/or proposed use of property: storage building

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: \_\_\_\_\_

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: when the foundation was poured, a small amount of one corner went 2.5 feet past the setback line

The undersigned hereby acknowledge that the County Planning Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

James E. McVeigh  
NAME OF OWNER(S) (PRINT OR TYPE)

2753 Wade-Stedman Rd. Stedman NC 28391  
ADDRESS OF OWNER(S)

jsmeveigh@roadrunner.com  
E-MAIL

910-391-6506  
HOME TELEPHONE #

910-426-2101  
WORK TELEPHONE #

James E. McVeigh  
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

2753 Wade-Stedman Rd Stedman NC 28391  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

910-391-6506  
HOME TELEPHONE #

910-~~391~~-426-2101  
WORK TELEPHONE #

James E. McVeigh  
SIGNATURE OF OWNER(S)

\_\_\_\_\_  
SIGNATURE OF AGENT, ATTORNEY OR APPLICANT

\_\_\_\_\_  
SIGNATURE OF OWNER(S)

The contents of this application, upon submission, become "public record."

**STATEMENT OF ACKNOWLEDGMENT**

Regarding appearance before the Board of Adjustment, the undersigned owner(s), agents, or their assigns, by virtue of their signature(s) to this application, hereby acknowledge the following:

- That although appearance before the board is not required, it is strongly encouraged;
- The board will hear any and all argument for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the board has the authority to issue a final approval or denial decision on this request, or defer the request for additional information to be provided;
- If the petitioner or the representative of this application does not appear personally before the board, whether there is opposition or not, the board has full authority to consider the case and defer, approve, or deny the case;
- If the board's action is to deny the matter before them, the course of appeal to their decision will be that of Cumberland County Superior Court. (Affected parties of the board's decision have 30 days from proper notification which to serve notice of appeal).

Signed acknowledgment that the County Planning Staff has explained the application process and procedures regarding this request and the public hearing procedure stated above.

SIGNATURE OF OWNER(S) James E. McVeigh

PRINTED NAME OF OWNER(S) James E. McVeigh

DATE 7-16-2023

**ATTACHMENT:  
NOTIFICATION MAILING LIST**

MARTIN, CHADWICK B  
5700 PHYLLIS CIR  
STEDMAN, NC 28391

WILBOURNE, R EARL;WILBOURNE, LOIS A  
346 S DENISE AVE  
COATS, NC 27521

SMITH, JANET R  
2767 WADE STEDMAN RD  
STEDMAN, NC 28391

MCVEIGH, JAMES  
2753 WADE-STEDMAN ROAD  
STEDMAN, NC 28391

COLLIER, GARY B;COLLIER, BARBARA D  
10562 S NC 306 HWY  
ARAPAHOE, NC 28510

STEWART, CAROLYN JOYCE  
2804 WADE STEDMAN RD  
STEDMAN, NC 28391

ATTACHMENT: LEGAL NOTICE

August 1, 2023 9:16:43 AM EDT

**Amount:**  
110.67

ADDITIONAL OPTIONS

1 Affidavit

SCHEDULE FOR AD NUMBER LWLM00154370

August 4, 2023  
Fayetteville Observer  
August 11, 2023  
Fayetteville Observer

The Cumberland County Board of Adjustment will meet at 6:00 p.m. on August 17th, 2023, at the Old Court House Building, 130 Gillespie Street, Fayetteville, NC to hear the following:

BOA-2023-0003: Variance from Section 1002, Incidental Uses, Paragraph E., Accessory Structures, requesting accessory structure setback at 12.7 feet instead of required minimum of 15 feet, Cumberland County Zoning Ordinance, for 0.96 +/- acres located at 2753 Wade-Stedman Road; submitted by James McVeigh (applicant/owner).

Publication Dates L00000000

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