



# NEW HANOVER COUNTY

## BOARD OF ADJUSTMENT

230 GOVERNMENT CENTER DRIVE, LUCIE HARRELL CONFERENCE ROOM  
WILMINGTON, NORTH CAROLINA 28403

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### MEMBERS OF THE BOARD

Raymond Bray, Chairman    Henry "Hank" Adams, Vice-Chair  
Kristin Freeman    Cameron Moore    Mark Nabell

### BOARD ALTERNATES

Pete DeVita    Richard Kern    Michael Keenan, Sr.

Wayne Clark, Director of Planning & Land Use    Sharon Huffman, Deputy County Attorney

**December 10, 2019, 5:30 PM**

**I. Call Meeting to Order (Vice-Chairman Hank Adams)**

**II. Election of Chair & Vice-Chair**

**III. Adoption of 2020 Calendar**

**IV. Official Approval of November Minutes (*currently in draft status*)**

*October Member Attendees: Hank Adams, Kristin Freeman, Brett Keeler, Richard Kern*

**V. Regular Items of Business**

1. **Case ZBA-947** - Myron Smith, Jr., Thomas Oliver, and Marybeth Lengyel, applicants, are requesting a variance to access standards per Section 61.2-1 of the Zoning Ordinance. The properties are located at 4245 and 4285 Buck Drive.

**VI. Other Business**

**VII. Adjourn**

## **New Hanover County Zoning Board of Adjustment 2020 Meeting and Submission Deadline Schedule**

<b>Submission Deadline</b>	<b>Meeting Date</b>
January 7, 2020	January 28, 2020
February 4, 2020	February 25, 2020
March 3, 2020	March 24, 2020
April 7, 2020	April 28, 2020
May 5, 2020	May 26, 2020
June 2, 2020	June 23, 2020
July 7, 2020	July 28, 2020
August 4, 2020	August 25, 2020
September 1, 2020	September 22, 2020
October 6, 2020	October 27, 2020
October 27, 2020	November 10, 2020*
November 17, 2020	December 8, 2020*
<i>*Date changed due to holiday</i>	

Unless otherwise posted, the New Hanover County Zoning Board of Adjustment meets on the fourth Tuesday of each month at 5:30pm in the Lucie Harrell Conference Room at the New Hanover County Government Center, 230 Government Center Drive, Wilmington, NC.

Any person requesting information regarding a case should contact the New Hanover County Planning and Land Use Department at (910) 798-7116. Zoning Board of Adjustment hearings are quasi-judicial hearings, open to the public. Persons with standing may give evidence and sworn testimony.

MINUTES  
ZONING BOARD OF ADJUSTMENT

The New Hanover County Zoning Board of Adjustment held a regular and duly advertised meeting at 5:30 P.M. at the New Hanover County Government Center Complex, 230 Government Center Drive, in the Lucie Harrell Conference Room, Wilmington, NC, on Tuesday, November 12, 2019.

Members Present

Hank Adams, Vice-Chairman  
Richard Kern  
Kristin Freeman  
Brett Keeler

Members Absent

Ray Bray, Chairman  
Joe Miller  
Cameron Moore  
Mark Nabell

Ex Officio Members Present

Ken Vafier, Executive Secretary  
Sharon Huffman, Deputy County Attorney  
Denise Brown, Clerk

*The meeting was called to order at 5:30 P.M. by the Vice-Chairman, Mr. Hank Adams.*

Vice-Chairman Adams explained that the Zoning Board is a quasi-judicial board appointed by the Board of Commissioners to consider zoning ordinance variances from residents in New Hanover County where special conditions would create unnecessary hardships. He said the Zoning Board also hears appeals of the County's interpretation in enforcement of the Zoning Ordinance. The appellants have thirty days in which to appeal any decision made by the Board to Superior Court.

**FIRST ORDER OF BUSINESS**

Official approval of the minutes from the meeting held on October 22, 2019. Mr. Keeler noted an error on page eight to Mr. Kenney's name. The vote was unanimous to approve the minutes with referenced correction.

**CASE ZBA-945**

The Vice-Chairman then swore in County Staff Mr. Ken Vafier.

Susan Keelin, variance applicant, on behalf of The Nancy G. Gregg Family, LLC, property owner, is requesting a 15' side yard setback variance in the R-20S district per Section 51.4 of the Zoning Ordinance. The property is located at 332 Beach Road North on Figure Eight Island.

Mr. Vafier stated the home was originally constructed in 1978. The record plat for the property, recorded in MB 18, PG 39 of the New Hanover County Registry in October 1977, contains a note indicating that the side yard setback at the time was 15 feet. At the time of construction, Figure Eight Island was zoned R-20, Residential District, and the minimum side yard setback requirement in the Zoning Ordinance was 15 feet. County records indicate that Figure Eight Island was rezoned to the R-20S District in 1982, and the minimum district requirements would have required a 15' setback at this time. The applicant provided information stating the residence was renovated in 1984 which included the addition of a garage on the north side of the property and an expansion of the kitchen on the south side.

Recently, the property owner has decided to place the property up for sale. As part of the process, a survey of the property was performed on August 27, 2019 which indicated that the structure is 5.6' from the northern property line, which is an encroachment of 9.4' into the 15' required side yard setback.

Mr. Vafier stated the structure is 12.8' from the southern property line, which is an encroachment of 2.2' to the requirement setback.

Mr. Vafier stated researched performed by county staff into the specific reason the 1984 expansion encroached into the side yard setbacks is inconclusive at this time, nor are there any permitting records that date back to the time when the expansion was completed. Mr. Vafier stated at the time, the Gregg family did own 334 Beach Road North, which still exists as a vacant lot on the northern side of the subject property.

Mr. Vafier concluded the presentation, stating it is not known if an interpretation applied at the time of the expansion considered lots 332 and 334, which were both owned by the applicant, as being one lot, thus resulting in the consideration of the side yard to extend to the far northern property boundary of lot 334.

The Gregg family subsequently sold lot 334 in 1991, and no records exist of any further subdivision or recombination involving either of the two lots. The current owners purchased the property in 1983 and are requesting a variance to the encroachments at the subject site to bring the structure into compliance. Mr. Vafier stated this area is not a performance district which allows flexibility in structure setbacks. There currently is no information to show that the structure is a legal non conformity.

Mr. Vafier presented photos of the subject site structure from various angles.

The Vice-Chairman then swore in Ms. Susan Keelin, PLLC.

**Ms. Susan Keelin, PLLC, (Attorney for Gregg Family, LLC (property owners))** – Ms. Keelin stated that The Nancy G. Gregg Family, LLC is currently the property owner of the subject site and is seeking a variance to bring the structure into compliance prior to a pending sales offer of the subject site. Ms. Keelin stated the property has changed hands from the previous grantee. However, the property has remained within the Gregg family for 35 years.

The most recent survey was performed as a result of the current intention to sell the property.

Ms. Keelin stated that the property has been in the family for the past 35 years. The applicant is requesting a variance to bring the structure into compliance in hopes to proceed with the property being sold. Ms. Keelin stated a public records request was made for the property in which drawings from the architect were retrieved from the 1984 renovations. The two adjacent parcels lot 330 & lot 334 were conveyed after 1984 to third party owners. The boundary lines of the lots has remained the same.

Ms. Keelin concluded that the applicant meets all four findings as listed for variance approval. This case is peculiar as the current property owner cannot resell the property as is without a variance approval. All building permits must be presented for existing and proposed alteration, there is no evidence to support how the setback alteration came about. The property is now in ownership of the second generation Gregg family who did not create the setback hardship.

Ms. Keelin presented a drawing of the subject site that displayed the setback encroachment. Currently the applicant states the kitchen was added on the south side in 1984.

Mr. Vafier stated per the New Hanover County Tax record displays a legal sketch of the garage as a separate component.

**PUBLIC HEARING CLOSED**



## BOARD DISCUSSION

The Board inquired as to the initial owners of the subject property and adjacent lots. In addition, the Board asked when the garage was added to the subject site. The Board stated additions done after 2010 and transferred by deed were done by the LLC, and the new owners should not be held responsible for previous owner's activity despite the family connections. The Board stated there is no information to show when the additional renovation done on the south side was actually completed. The Board stated there has been no complaints about the setback error.

## PUBLIC HEARING REOPENED

Ms. Keelin stated the current property owners have relayed that they have not altered the current footprint. The current owners stated they were aware expansions were done in 1984 but not by them. Ms. Keelin stated she can only state that the current owner has not altered the property in anyway in pursuit of the variance approval. There have been no objections by the community in pursuing the variance.

Mr. Vafier stated the Google Earth aerial displays the second garage is visible at the subject site in 2002.

**Ms. Huffman, Deputy County Attorney** - Ms. Huffman relayed to the board to refer to the facts of findings in their decision making. The board is tasked in deciding the current owners did not create the hardship to the subject site.

## PUBLIC HEARING CLOSED

## BOARD DECISION

On a motion by Mr. Keeler and seconded by Mr. Kern the board voted unanimously to approve the variance request of 2.2' on the south side and 9.4' on the north side of subject site based on the following conclusions:

- 1) It is the Board's conclusion that, if the applicant complies with the literal terms of the ordinance, specifically the side yard setback requirement in Section 51.4-2(4) of the New Hanover County Zoning Ordinance, that an unnecessary hardship would result. This conclusion is based on the following FINDINGS OF FACT:**
  - A considerable reconstruction of the structure on both the north and south sides would have to occur in order to bring the structure into compliance.
- 2) It is the Board's conclusion that the hardship of which the applicant complains results from unique circumstances related to the subject property, such as location, size, or topography. This conclusion is based on the FOLLOWING FINDINGS OF FACT:**
  - The owner's possession of 334 Beach Road North may have been a contributing factor in the side yard setback requirement being overlooked when the renovations were done.
- 3) It is the Board's conclusion that the hardship did not result from actions taken by the applicant or the property owner. This conclusion is based on the following FINDINGS OF FACT:**
  - The property changed ownership in 2010, and the renovations to the structure on the north and south sides were done prior to the current owner purchasing the property.
- 4) It is the Board's conclusion that, if granted, the variance will be consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT:**

- There have been no zoning complaints in the years since the construction took place, including prior to the variance hearing.

**MEETING ADJOURNED.**

**Please note the minutes are not a verbatim record of the proceedings.**

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Executive Secretary

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Chairman

Date: \_\_\_\_\_

**VARIANCE REQUEST  
ZONING BOARD OF ADJUSTMENT  
DECEMBER 10, 2019**

**CASE:** ZBA-947

**PETITIONER:** Myron Smith, Jr., Thomas Oliver, and Marybeth Lengyel

**REQUEST:** Variance from the access requirements for structures per Section 61.2-1 of the New Hanover County Zoning Ordinance.

**LOCATION:** 4245, 4285 Buck Drive  
PID: R01900-001-010-023, R01900-001-010-039

**ZONING:** R-15, Residential District

**ACREAGE:** 8.4

**PETITIONER'S REQUEST:**

Myron Smith, Jr., Thomas Oliver, and Marybeth Lengyel, applicants, are requesting a variance to access standards per Section 61.2-1 of the Zoning Ordinance. The properties are located at 4245 and 4285 Buck Drive.

**BACKGROUND AND ORDINANCE CONSIDERATIONS:**

The subject parcels are two of twelve lots with access to Buck Drive, which is an unimproved, dedicated right-of-way with direct access to Sidbury Road. Mr. Smith and Mr. Oliver are the owners of 4245 Buck Drive (Parcel 1), which is a 7.32-acre parcel, while Ms. Lengyel is the owner of 4285 (Parcel 2), a 1.08-acre parcel directly to the north.

Beginning as early as the 1990s, several lots having access to Buck Drive were divided and conveyed via metes and bounds descriptions outside of the county's prescribed subdivision approval process. As such, certain infrastructure improvements required by the New Hanover County Subdivision Ordinance, specifically the improvement of Buck Drive to the minimum private road standard, did not occur. As a result of this issue, a Notice of Noncompliance was filed in the New Hanover County Register of Deeds in 1995 which stated that building permits would be withheld on certain lots accessing Buck Drive until the necessary improvements were completed.

On October 19, 2018, the applicant's agent requested information from county staff relating to the permitting of a single-family residence on 4245 Buck Drive. On November 13, 2018, county staff responded with a determination that allowing a structure to be permitted on the lot would not comply with the access requirements specified in Section 61.2 of the New Hanover County Zoning Ordinance:

***Section 61.2: Structures to Have Access***

*61.2-1: Every structure hereafter erected or moved shall be on a lot adjacent to a road as defined in Section 23-86, or to a right-of-way or easement which was platted and recorded prior to 1969. The following are exempt from the requirements of this Section: (1/5/81) (8/2/82).*

- (1) Lots of record prior to the adoption of this Ordinance that have sufficient area to meet the minimum requirements of the district in which they are located;*

- (2) Structures that are to be used in conjunction with a bona fide farming operation; and,
- (3) Building lots having access over a private driveway or easement at least thirty (30) feet in width (5/1/89) to a road as defined in Section 23-86, provided the driveway or easement is an easement appurtenant to three (3) or fewer lots and the easement is solely owned by a lot owner or in common by three (3) or fewer lot owners.

“Roads”, as referred to in subsection (3) above, is defined in Section 23-86 as follows:

*Roads - Any road, highway, way, alley, lane, court, drive, or easement, whether public or private, used as a means of access which meets the minimum requirements for subdivision roads as specified by NCDOT and New Hanover County and which has been duly platted and recorded as per the requirements set forth by New Hanover County. (8/3/87) (23-86)*

Staff determined that the subject property does not meet any of the exemptions stated in Section 61.2-1, nor is Buck Drive currently constructed to the minimum requirements for NCDOT or private subdivision roads, which are detailed in the NCDOT Subdivision Manual and the New Hanover County Subdivision Ordinance. As staff currently considers Buck Drive a *private driveway* (as referred to in Section 61.2-1(3)) that is providing access to more than three lots, staff made the interpretation that an additional building permit cannot be granted until the road is improved to NCDOT or private subdivision road standards. The county’s private street requirements and cross sections are depicted in *Exhibit A* of this summary.

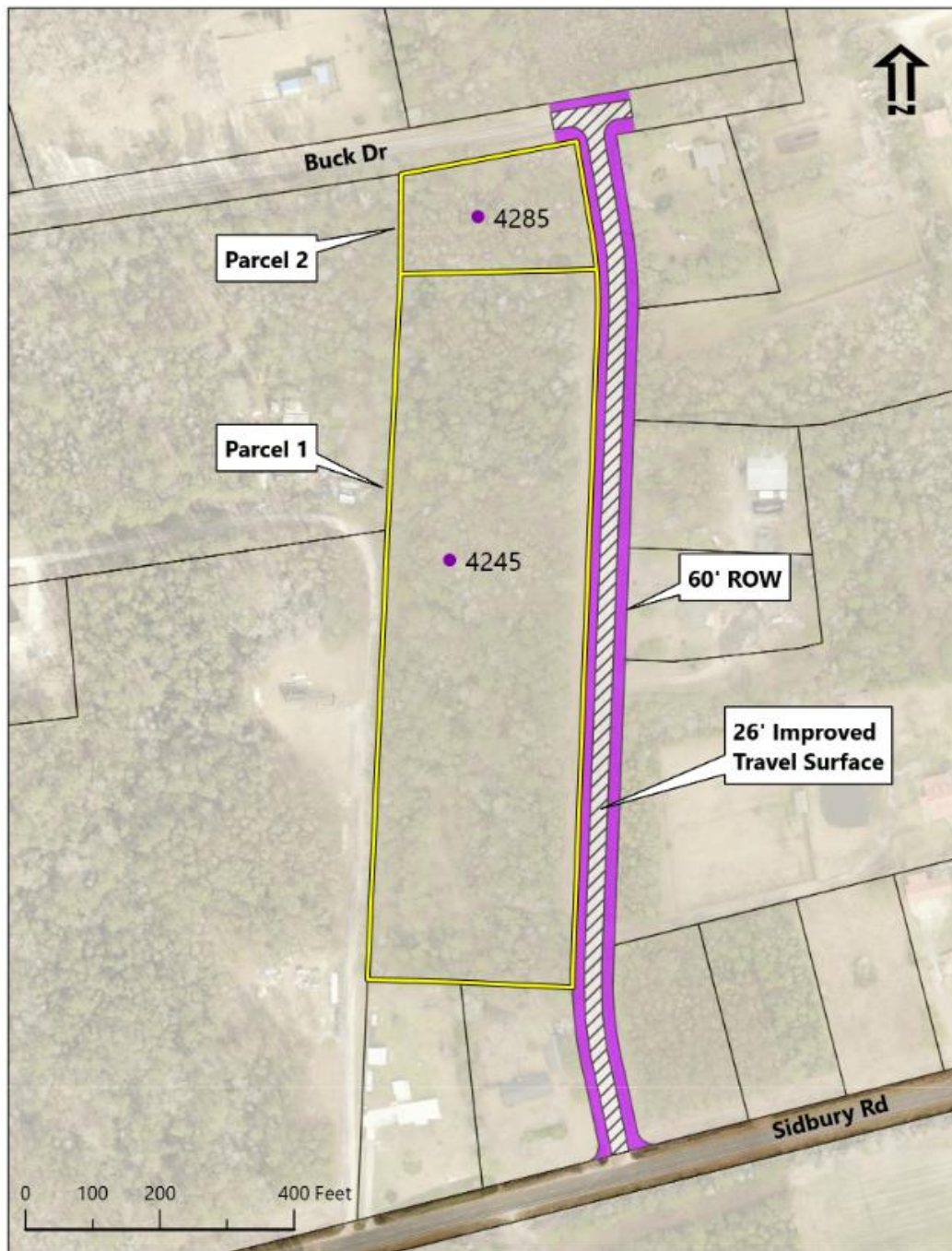


*Typical section of Buck Drive showing 26' wide travel surface within a 60' dedicated right-of-way*

Subsequent to this staff interpretation, an appeal was filed and appeared on the February 2019 agenda. The applicant received a continuance for the case at this meeting, and has since received several additional continuances from the Board in an attempt to resolve the matter outside of a Board of Adjustment hearing.

The applicant is now proposing to resurface Buck Drive in an effort to improve the roadway infrastructure to the lots. The private road standard that would be required to be met for a subdivision of more than 4 lots includes a

minimum 45' right-of-way, 24' travel surface, and a sidewalk on one side of the street. In addition, the minimum NCDOT local road construction standard is required to be met, which consists of base course and pavement surface specifications. The applicant is proposing to improve the condition of the road by resurfacing it with 4" of ABC stone or other non-compacted parking surface, as well a soil stabilizing fabric overlaying compacted subgrade. This improvement would begin at the intersection of Buck Drive and Sidbury Road and continue north for approximately 1,500 linear feet, including the resurfacing of a "T" or "hammerhead" turnaround north of the subject parcels where Buck Drive is configured with a 3-way intersection. The proposed improvements meet or exceed the minimum right-of-way and travel surface requirements, thus the variance request is specific to relief of the sidewalk construction requirement and the minimum NCDOT local road pavement specifications.



*Extent of proposed improvements to Buck Drive*

The owner of Parcel 1 does intend to further subdivide the parcel into no more than 4 total lots. With the inclusion of Parcel 2, the variance request would provide relief of the access standards specified in Section 61.2-1 to only these 5 potential lots. A potential subdivision of Parcel 1 would be required to meet all other applicable requirements of the county's Technical Review Committee at the time a further division of the property is proposed.

As the proposed improvement to Buck Drive is not anticipated to meet the minimum construction standard referenced in the Subdivision Ordinance, the applicant is requesting a variance from the requirement to build to the standards referenced in the definition of "Road" and further detailed in the Subdivision Ordinance. In addition, the applicant is requesting a variance to exceed the 3-lot limitation on lots being served by a private driveway or access easement by an amount not to exceed 5 additional lots. The applicant has proposed that the variance request be accompanied with the following conditions:

1. *Improvement of existing Buck Drive approximately 1,500 feet in length, 26-feet in width, from Sidbury Road to and including the northerly lane at the T-junction of Buck Drive as shown on the Variance Exhibit attached hereto as Exhibit A-2, including 4" ABC Stone or other non-compacted parking surface, geosynthetic soil stabilizer fabric, and compacted subgrade as shown on the Gravel Driveway Section of Exhibit A-2, or to a standard otherwise acceptable to the New Hanover County Fire Marshal.*
2. *Limiting the density of the subject property to a maximum total of five (5) lots and single-family residences, including any permitted accessory structures allowed under the County ordinances.*
3. *Maintenance Agreement for improved section of Buck Drive.*

In summary, the applicant is requesting a variance to allow no more than 5 additional lots to be served from a private driveway or easement, as well as to the requirement to serve the proposed lots by a means of access that would not meet the minimum county private road standard. In lieu of meeting the minimum private road construction standard, the applicant is proposing a resurfacing and improvement to Buck Drive in order to improve the condition of Buck Drive.

#### **BOARD OF ADJUSTMENT POWER AND DUTY:**

The Zoning Board of Adjustment has the authority to hear and decide appeals where it is alleged by the appellant that there is error in any decision made by the zoning administrator or other administrative officials in the carrying out or enforcement of any provision of the Zoning Ordinance. A majority of the members of the Board shall be necessary to reverse, wholly, or partly, any such decision. Vacant seats and disqualified members are not considered in calculating majority.

An appeal from the decision of the Zoning Board of Adjustment shall be subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the Board is filed in the Office of the Clerk to the Board, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk or Chairman of the Board at the time of the hearing of the case, whichever is later.

#### **ACTION NEEDED (Choose one):**

- 1. Motion to uphold all or some of the zoning determinations issued by staff.**
- 2. Motion to table the item in order to receive additional information or documentation (Specify).**
- 3. Motion to overturn any or all of the zoning determinations issued by staff.**



## Exhibit A

### **New Hanover County Subdivision Ordinance**

#### **52-4 Streets (12/10)**

All streets shall be constructed, inspected, and approved in accordance with the following requirements. (5/88)

##### **Private Streets:**

(a) Streets designated as private shall be constructed to minimum construction standards as adopted by New Hanover County and certified by a professional legally recognized by a State of North Carolina licensing board as being licensed to perform such activities or undertakings.

(b) Pavement design shall meet the requirements as specified and shown in the road profiles depicted in Article VIII of the County's Subdivision Regulations under Appendices & Certificates.

(c) Streets designated as private may be allowed in subdivisions once they are reviewed and approved by the County's Technical Review Committee (TRC). In their review, the TRC will consider unique physical conditions of the property including but not limited to connectivity, topography, geometric design, storm water, tree preservation, ingress and egress, reduction of speed to desirable or safe levels and other safety measures and that sufficient language is provided through a legally established property owner's association that the streets will be properly maintained.

(d) Whenever a private street intersects a U.S., NC highway, or Secondary Road, an approved NCDOT Driveway Permit signed by the District Engineer will be required prior to final plat approval.

(e) Private road stubs and dead end streets shall be constructed/paved to the property boundary and shall not contain gates or obstructions to qualify for connectivity standards as stated in Section 41-1 (7)(f).

(f) Streets designed as collector roads that accept traffic from local streets will be required to be designated as public and adhere to the standards under public streets as noted above.

## MATRIX TABLE FOR PRIVATE ROAD ROW SPECIFICATIONS

### ROAD DESIGN STANDARDS

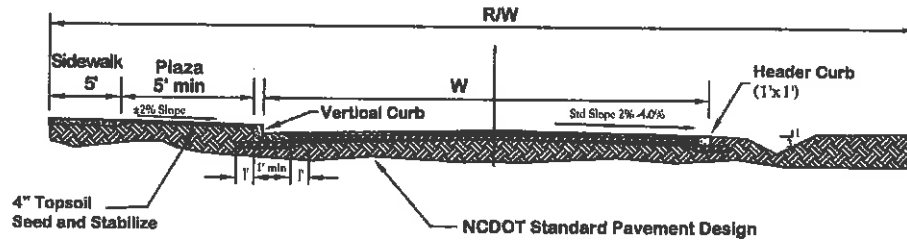
	Alley	Cul-de-sac	Local	Collector
ROW (R)	20	45	45	50
Travelway Width (W)	18	22	24	26
Minimum Horizontal Centerline Radius	55	100	100	200
Minimum Edgeline Radius at Corners	N/A	15	25	30
Pavement Design Standard (NCDOT)	Local	Local	Local	Collector

#### General Standards:

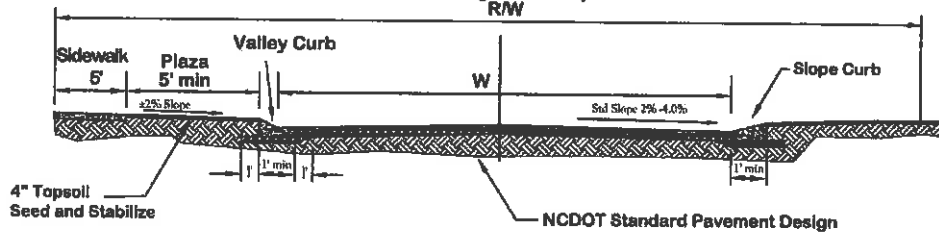
Minimum Offset Between Centerlines of Intersections	200
Tangent Length Between Horizontal Curves	100
Maximum Cul-de-sac Length	500'
Plaza Width (between back of curb and sidewalk)	5'
Sight Distance Triangle at Intersections	10'x70'



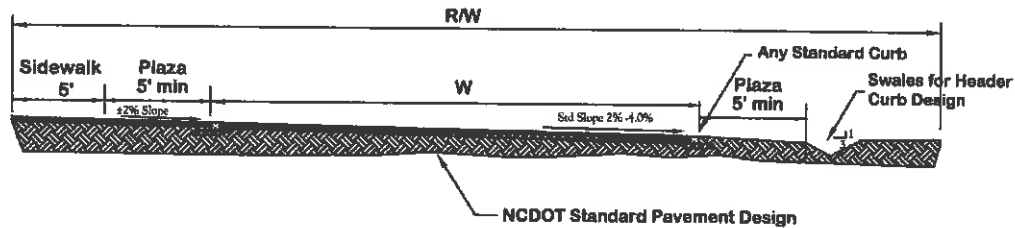
### Crown w/ Vertical or Header Curb



### Crown w/ Valley or Slope Curb



### Superelevated



#### Notes:

1. Lane width (W) and Right-of-way width (R/W) as given in the Subdivision Ordinance
2. All concrete to be 3000 psi.
3. Use NCDOT Subdivision Manual for minimum pavement design.
4. Use the standard NCDOT Curb Details.
5. Use the standard NCDOT Handicap Ramp Detail.

REVISIONS			
REV	DESCRIPTION	DATE	APPROVED

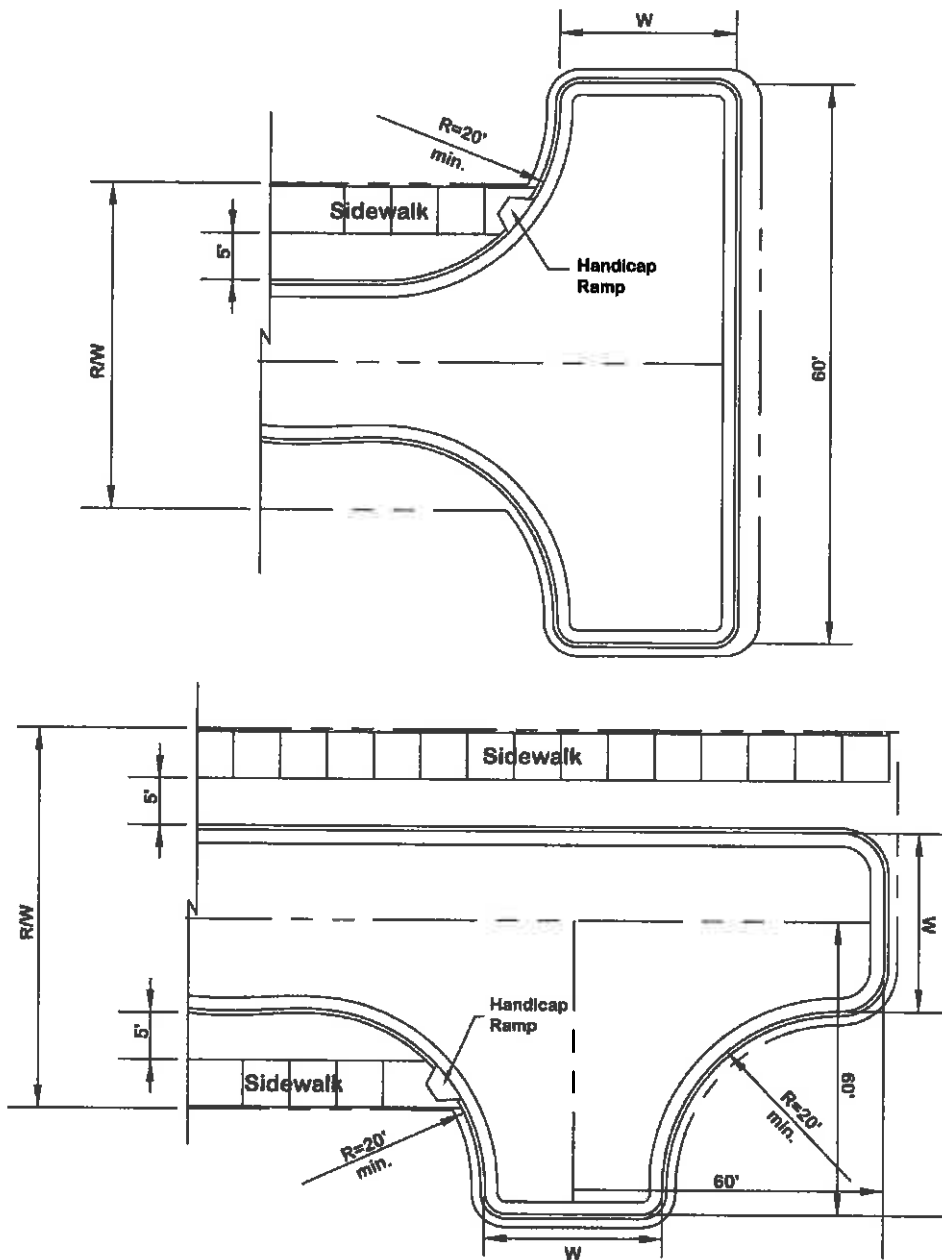


### Private Street Section Standard Detail

NEW HANOVER COUNTY, NORTH CAROLINA  
ENGINEERING DEPARTMENT  
230 GOVERNMENT CENTER DRIVE, SUITE 180  
WILMINGTON, NC 28403  
OFFICE: (910) 798-7139 FAX: (910) 798-7051

REV:  
03/04/10  
SHEET NO:  
1 / 1

DATE:  
02/05/10  
SCALE:  
NONE  
DRAWN BY:  
B. Karabin  
CHECKED BY:  
J. Iannucci  
PROJECT NO. :



# REVISIONS

REV	DESCRIPTION	DATE	APPROVED



## Private Street Turnaround Standard Detail

NEW HANOVER COUNTY, NORTH CAROLINA  
ENGINEERING DEPARTMENT  
230 GOVERNMENT CENTER DRIVE, SUITE 160  
WILMINGTON, NC 28403  
OFFICE: (910) 798-7139 FAX: (910) 798-7051

REV:  
03/04/10

SHEET NO:  
1 / 1

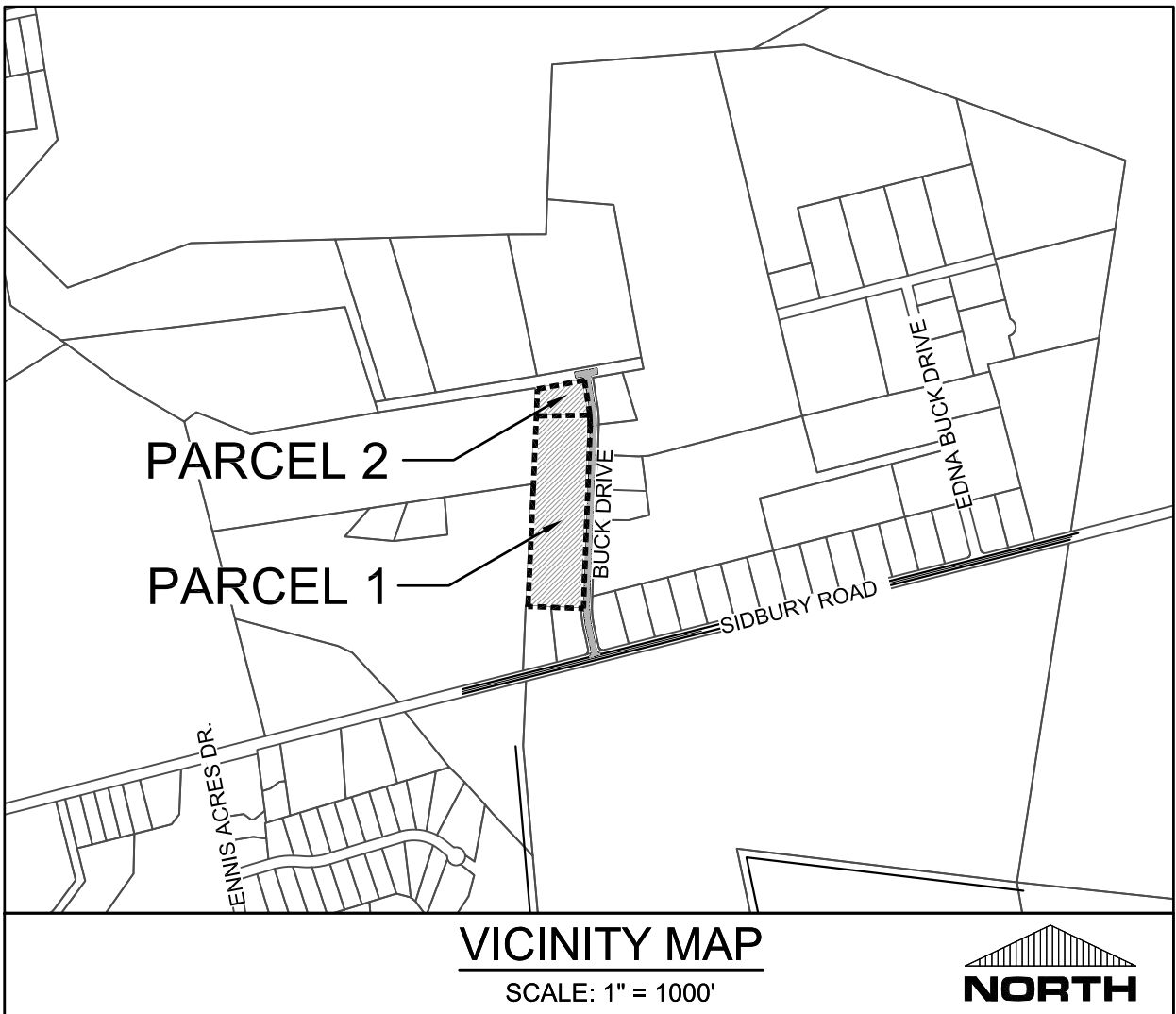
DATE:  
02/08/10

SCALE:  
NONE

DRAWN BY:  
B. Karabin

CHECKED BY:  
J. Iannucci

PROJECT NO. :



NOTES:  
1. BOUNDARY SHOWN HEREON IS PROVIDED FOR REFERENCE ONLY AND HAS NOT BEEN VERIFIED BY PROFESSIONAL LAND SURVEY AND IS REFERENCED TO NEW HANOVER COUNTY GIS AND INFORMATION AS ILLUSTRATED BY PLAN PREPARED BY SURVEY ONE, PLLC, DATED 03/17/2019, AS PROVIDED BY THE PROPERTY OWNERS.

PARCEL #1 INFORMATION  
OWNER INFORMATION:

PROJECT ADDRESS:

TAX PARCEL IDENTIFICATION #:  
RECORDED DEED BOOK:  
CURRENT ZONING:  
EXISTING USE:  
PROPOSED USE:  
TOTAL SITE AREA:

FLOOD INFORMATION:

OLIVER THOMAS ETAL  
4446 JAMEY CT.  
WILMINGTON, NC 28405

4245 BUCK DRIVE  
CASTLE HAYNE, NC 28429

R01900-001-010-023  
BK 6118, PG 944  
R-15 (RESIDENTIAL)  
VACANT LAND  
RESIDENTIAL  
7.32 +/- ACRES

THIS PARCEL IS NOT LOCATED IN A SPECIAL FLOOD  
HAZARD AREA AS DETERMINED BY FEMA FLOOD  
PANEL 3241 AND MAP NUMBER 3720324100K,  
DATED AUGUST 28, 2018

PARCEL #2 INFORMATION  
OWNER INFORMATION:

PROJECT ADDRESS:

TAX PARCEL IDENTIFICATION #:  
RECORDED DEED BOOK:  
CURRENT ZONING:  
EXISTING USE:  
PROPOSED USE:  
TOTAL SITE AREA:

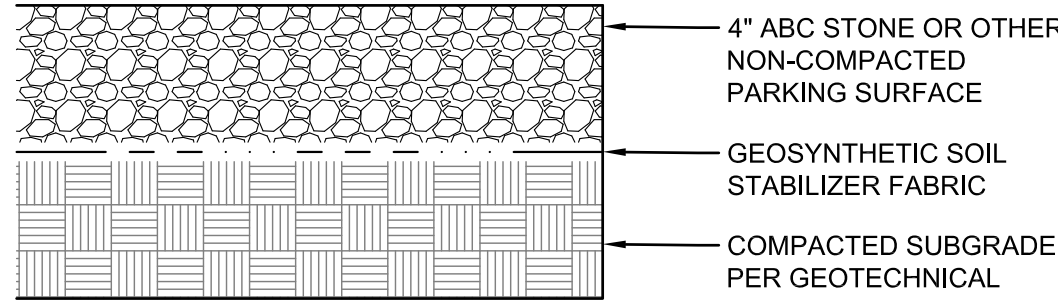
FLOOD INFORMATION:

LENGYEL MARYBETH E  
172 LOUGHLIN RD.  
OXFORD, CT 06478

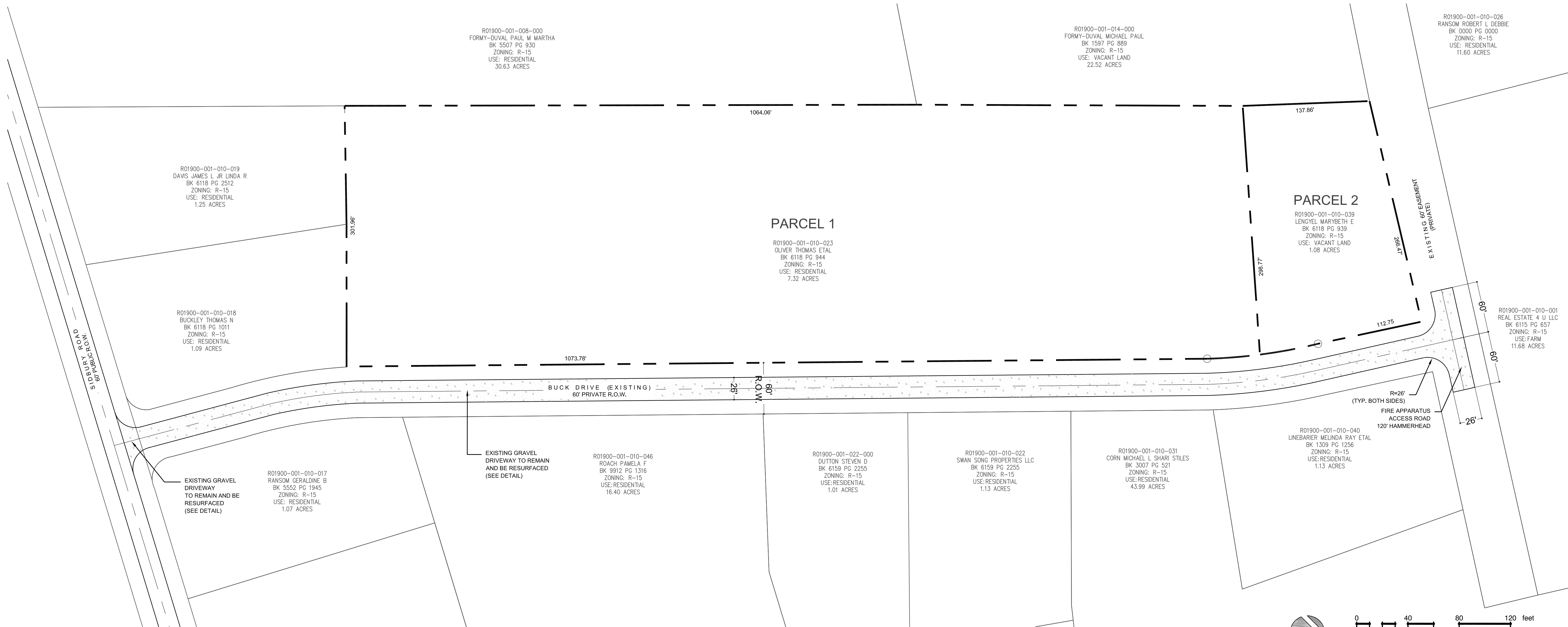
4285 BUCK DRIVE  
CASTLE HAYNE, NC 28429

R01900-001-010-039  
BK 6118, PG 939  
R-15 (RESIDENTIAL)  
VACANT LAND  
RESIDENTIAL  
1.08 +/- ACRES

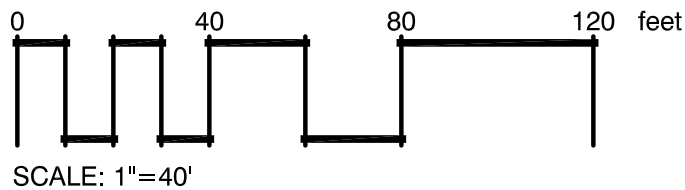
THIS PARCEL IS NOT LOCATED IN A SPECIAL FLOOD  
HAZARD AREA AS DETERMINED BY FEMA FLOOD  
PANEL 3117 AND MAP NUMBER 37203241K,  
DATED AUGUST 28, 2018



GRAVEL DRIVEWAY SECTION  
NOT TO SCALE



PRELIMINARY / NOT FOR CONSTRUCTION - THIS SITE PLAN IS A GRAPHIC REPRESENTATION AND SHOULD BE UTILIZED FOR DISCUSSION PURPOSES ONLY. THIS SITE PLAN APPROXIMATES EXISTING CONDITIONS RELATING TO STRUCTURES WETLANDS, ROADS, PARKING, VEGETATION AND PROPERTY BOUNDARIES. PLAN COMPONENTS MAY CHANGE BASED UPON REGULATORY AND MUNICIPAL REGULATION AND REQUIREMENTS AT THE TIME OF APPROVALS AND OR DEVELOPMENT ACTIVITY.



PRELIMINARY DESIGN - NOT RELEASED FOR CONSTRUCTION

REVISIONS:

CLIENT INFORMATION:

MYRON SMITH, JR.  
THOMAS OLIVER

PARAMOUNTE  
ENGINEERING, INC.  
122 Cinema Drive  
Wilmington, North Carolina 28403  
(910) 791-6707 (O) (910) 791-6760 (F)  
NC License #: C-2846

PROPERTY EXHIBIT

4245 & 4285 BUCK DRIVE  
CASTLE HAYNE  
NORTH CAROLINA 28429

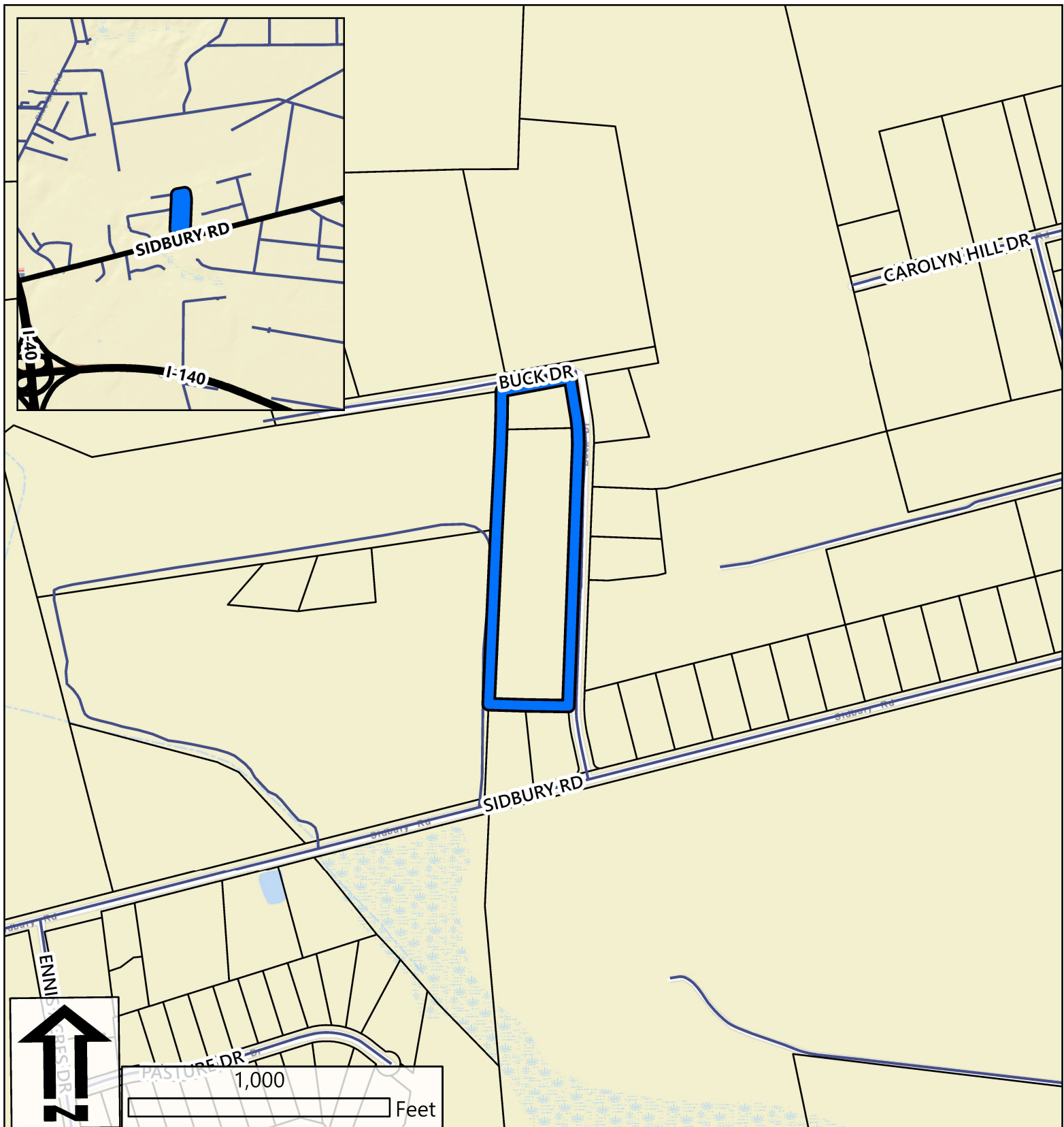
PROJECT STATUS:  
CONCEPT LAYOUT:  
PRELIMINARY LAYOUT:  
FINAL DESIGN:  
RELEASED FOR CONSTRUCTION:

DRAWING INFORMATION  
DATE: 11/11/2019  
SCALE: 1"=40'  
DRAWN: JIN  
CHECKED: TC

SEAL

C-2.0

PEI JOB#:



## Case: ZBA-947

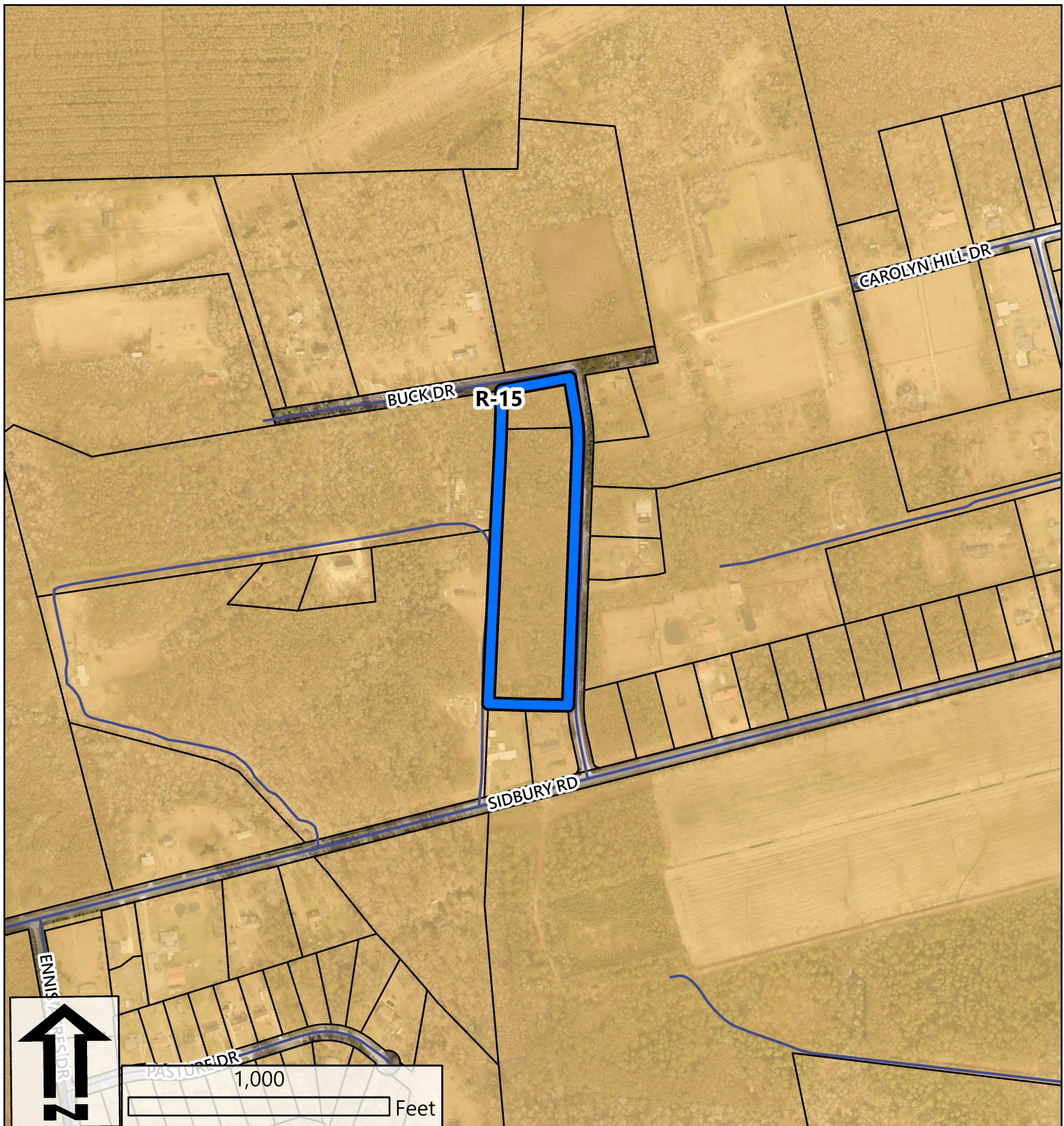
## Vicinity Map

Address: 4245 & 4285 Buck Dr

Variance Request: Variance from Access Requirements

Applicant and Owner: Myron Smith, Jr., Thomas Oliver and Marybeth Lengyel





## Case: ZBA-947

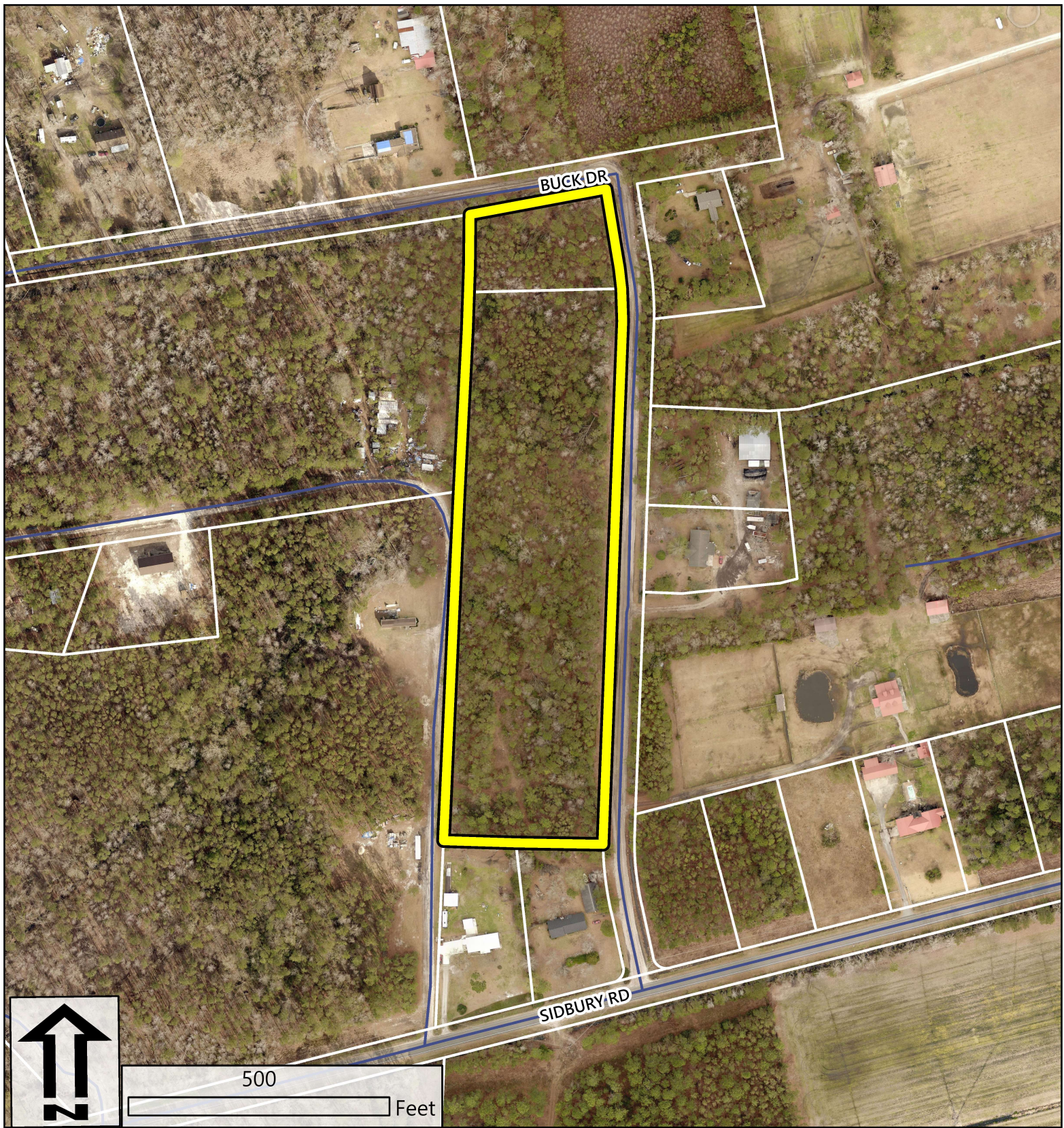
## Zoning Map

Address: 4245 & 4285 Buck Dr

Variance Request: Variance from Access Requirements

Applicant and Owner: Myron Smith, Jr., Thomas Oliver and Marybeth Lengyel





## Case: ZBA-947

## Aerial Map

Address: 4245 & 4285 Buck Dr

Variance Request: Variance from Access Requirements

Applicant and Owner: Myron Smith, Jr., Thomas Oliver and Marybeth Lengyel





# NEW HANOVER COUNTY

## BOARD OF ADJUSTMENT

230 GOVERNMENT CENTER DRIVE, LUCIE HARRELL CONFERENCE ROOM  
WILMINGTON, NORTH CAROLINA 28403

---

### MEMBERS OF THE BOARD

Raymond Bray, Chairman    Henry "Hank" Adams, Vice-Chair  
Kristin Freeman    Cameron Moore    Mark Nabell

### BOARD ALTERNATES

Pete DeVita    Richard Kern    Michael Keenan, Sr.

Wayne Clark, Director of Planning & Land Use    Sharon Huffman, Deputy County Attorney

### ORDER TO GRANT/DENY A VARIANCE – Case ZBA-947

The Zoning Board of Adjustment for New Hanover County, having held a public hearing on December 10, 2019 to consider application number ZBA-947, submitted by Myron Smith, Jr., Thomas Oliver, and Marybeth Lengyel, applicants and property owners, a request for a variance to use the properties located at 4245 and 4285 Buck Drive in a manner not permissible under the literal terms of the ordinance and having heard all 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, if the applicant complies with the literal terms of the ordinance, specifically the structures to have access requirements in Section 61.2-1 of the New Hanover County Zoning Ordinance, that an unnecessary hardship would result/would not result. *(It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.)* This conclusion is based on the following FINDINGS OF FACT:

- \_\_\_\_\_.
- \_\_\_\_\_.
- \_\_\_\_\_.
- \_\_\_\_\_.

2. It is the Board's conclusion that the hardship of which the applicant complains results/does not result from unique circumstances related to the subject 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.)* This conclusion is based on the following FINDINGS OF FACT:

- \_\_\_\_\_.
- \_\_\_\_\_.
- \_\_\_\_\_.
- \_\_\_\_\_.

3. It is the Board's conclusion that the hardship did/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.)* This conclusion is based on the following FINDINGS OF FACT:

- \_\_\_\_\_.
- \_\_\_\_\_.
- \_\_\_\_\_.
- \_\_\_\_\_.

4. It is the Board's conclusion that, if granted, the variance will/will not be consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT:

- \_\_\_\_\_.
- \_\_\_\_\_.
- \_\_\_\_\_.
- \_\_\_\_\_.

**THEREFORE**, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE from New Hanover County Zoning Ordinance to allow a variance from the structures to have access requirements in Section 61.2-1 of the New Hanover County Zoning Ordinance be GRANTED/DENIED, subject to the following conditions, if any:

**ORDERED** this 10<sup>th</sup> day of December, 2019.

---

Henry Adams, Vice-Chairman

Attest:

---

Kenneth Vafier, Executive Secretary to the Board



# NEW HANOVER COUNT

## DEPARTMENT OF PLANNING & LAND USE

230 Government Center Drive, Suite 110

Wilmington, North Carolina

Telephone (910) 798-7165

FAX (910) 798-7053

planningdevelopment.nhcgov.com

RECEIVED

NOV 19 2019

NEW HANOVER COUNTY  
PLANNING & ZONING



## VARIANCE Application

<b>Applicant/Agent Information</b>	<b>Property Owner(s)</b> <i>If different than Applicant/Agent</i>
<b>Name</b> Myron Smith, Jr., Thomas Oliver and Marybeth E. Lengyel	<b>Owner Name</b>
<b>Company</b>	<b>Owner Name 2</b>
<b>Address</b> Myron Smith, Jr. and Thomas Oliver 30 Stagg St., Stratford, CT 06615  Marybeth E. Lengyel 172 Loughlin Road, Oxford, CT 06478	<b>Address</b>
<b>City, State, Zip</b> See above	<b>City, State, Zip</b>
<b>Phone</b> (910) 508-7476 (c/o Applicants'/Owners' Attorney, Matt Nichols)	<b>Phone</b>
<b>Email</b> matt@mattnicholslaw.com (c/o Applicants'/Owners' Attorney, Matt Nichols)	<b>Email</b>
<b>Subject Property Information</b>	
<b>Address/Location</b> 4245 and 4285 Buck Dr.	
<b>Parcel Identification Number(s)</b> R01900-001-010-023 and R01900-001-010-039	
<b>Total Parcel(s) Acreage</b> 4245 Buck Dr. = $\pm$ 7.33; 4285 Buck Dr. = $\pm$ 1.09 acres	
<b>Existing Zoning and Use(s)</b> R-15; vacant	
<b>Application Tracking Information (Staff Only)</b>	

Case Number ZBA-947	Date/Time received: 11/19/19 8:00 AM	Received by: KV
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RECEIVED

NOV 19 2019

NEW HANOVER COUNTY  
PLANNING & ZONING

## PROPOSED VARIANCE NARRATIVE

Subject Zoning Regulation, Chapter and Section: Zoning Ord. Sec. 61.2-1

In the below space, please provide a narrative of the application. (Additional pages may be attached to the application if necessary)

Please see attached Exhibit "A".

## CRITERIA REQUIRED FOR APPROVAL OF A VARIANCE

The Zoning Board of Adjustment may grant a variance if it finds that strict application of the ordinance results in an unnecessary hardship for the applicant, and if the variance is consistent with the spirit, purpose, and intent of the ordinance. The applicant must explain, with reference to attached plans (where applicable), how the proposed use meets these required findings (please use additional pages if necessary).

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

Please see attached Exhibit "A".

2. **The hardship results from conditions that are peculiar to the property, such as location, size or topography.** *Hardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or general public, may not be the basis for granting a variance.*

Please see attached Exhibit "A".

3. **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.*

Please see attached Exhibit "A".

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

Please see attached Exhibit "A".

## APPLICATION REQUIREMENTS

Staff will use the following checklist to determine the completeness of your application. Please verify all of the listed items are included and confirm by initialing under "Applicant Initial". Staff will not process an application for further review until it is determined to be complete.

Required Information		Applicant Initial	Staff Initial
1	Complete Variance application		KV
2	Application fee - \$400		KV
3	Site plan or sketch illustrating requested variance		KV
4	1 hard copy of ALL documents		KV

## ACKNOWLEDGEMENT AND SIGNATURES

By my signature below, I understand and accept all of the conditions, limitations and obligations of the variance application for which I am applying. I understand that I have the burden of proving why this application meets the require findings necessary for granting a variance. I certify that this application is complete and that all information presented in this application is accurate to the best of my knowledge, information, and belief.

I also appoint the applicant/agent as listed on this application to represent me and make decisions on my behalf regarding this application during the review process. The applicant/agent is hereby authorized on my behalf to:

4. Submit an application including all required supplemental information and materials;
5. Appear at public hearings to give representation and commitments; and
6. Act on my behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of this application.

  
Signature of Property Owner(s)

Thomas Oliver

Print Name(s)

  
Signature of Applicant/Agent

Thomas Oliver

Print Name(s)

**NOTE:** Form must be signed by the owner(s) of record. If there are multiple property owners a signature is required for each owner of record.

**\*The land owner or their attorney must be present for the case at the public hearing.**

**For Staff Only**

**Application Comments**

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## APPLICATION REQUIREMENTS

Staff will use the following checklist to determine the completeness of your application. Please verify all of the listed items are included and confirm by initialing under "Applicant Initial". Staff will not process an application for further review until it is determined to be complete.

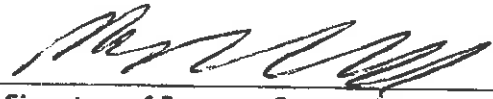
Required Information		Applicant Initial	Staff Initial
1	Complete Variance application		KV
2	Application fee - \$400		KV
3	Site plan or sketch illustrating requested variance		KV
4	1 hard copy of ALL documents		KV

## ACKNOWLEDGEMENT AND SIGNATURES

By my signature below, I understand and accept all of the conditions, limitations and obligations of the variance application for which I am applying. I understand that I have the burden of proving why this application meets the require findings necessary for granting a variance. I certify that this application is complete and that all information presented in this application is accurate to the best of my knowledge, information, and belief.

I also appoint the applicant/agent as listed on this application to represent me and make decisions on my behalf regarding this application during the review process. The applicant/agent is hereby authorized on my behalf to:

1. Submit an application including all required supplemental information and materials;
2. Appear at public hearings to give representation and commitments; and
3. Act on my behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of this application.



Signature of Property Owner(s)

Myron Smith, Jr.

Print Name(s)



Signature of Applicant/Agent

Myron Smith, Jr.

Print Name(s)

**NOTE:** Form must be signed by the owner(s) of record. If there are multiple property owners a signature is required for each owner of record.

**\*The land owner or their attorney must be present for the case at the public hearing.**

**For Staff Only**

**Application Comments**

---



---



## APPLICATION REQUIREMENTS

Staff will use the following checklist to determine the completeness of your application. Please verify all of the listed items are included and confirm by initialing under "Applicant Initial". Staff will not process an application for further review until it is determined to be complete.

Required Information		Applicant Initial	Staff Initial
1	Complete Variance application		KV
2	Application fee - \$400		WV
3	Site plan or sketch illustrating requested variance		KV
4	I have copy of ALL documents		KV

## ACKNOWLEDGEMENT AND SIGNATURES

By my signature below, I understand and accept all of the conditions, limitations and obligations of the variance application for which I am applying. I understand that I have the burden of proving why the application meets the requisite findings necessary for granting a variance. I certify that this application is complete and that all information provided in this application is accurate to the best of my knowledge, information, and belief.

I also appoint the applicant/agent as listed on this application to represent me and make decisions on my behalf regarding this application during the review process. The applicant/agent is hereby authorized on my behalf to:

7. Submit an application including all required supplemental information and materials;
8. Appear at public hearings to give representation and commitments; and
9. Act on my behalf without limitation with regard to any and all things directly or indirectly connected with or arising out of this application.

M.B. Langan  
Signature of Property Owner

Margaret E. Langan  
Print Name

M.B. Langan  
Signature of Applicant/Agent

Margaret E. Langan  
Print Name

NOTES: Form must be signed by the owner(s) of record. If there are multiple owners, a consent is required for each owner of record.

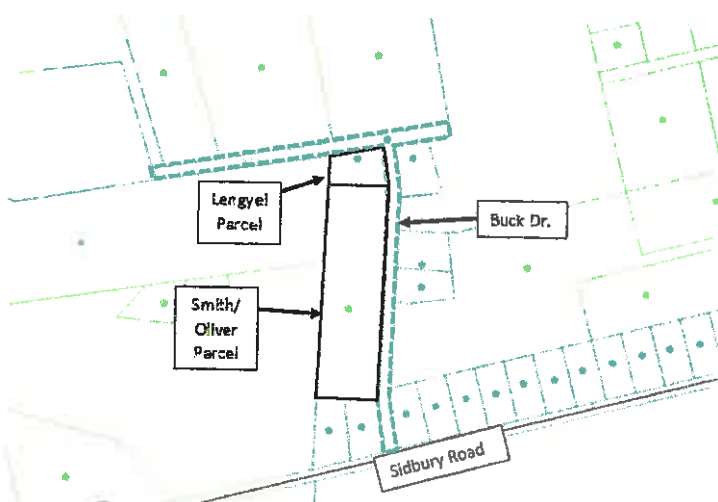
**THE LAND SURVEY OF THIS PROPERTY MUST BE PRESENT FOR THE CASE OF THIS VARIANCE.**

**Exhibit A to  
Application for Variance  
4245 Buck Dr. and 4285 Buck Dr.**

**Overview**

The Applicants/Owners are requesting a variance with respect to the access standards in New Hanover County Zoning Ordinance §§ 61.2-1 (Structures to Have Access) in order to allow construction of their proposed single-family residences, which are a permitted by-right use in the R-15 Zoning District. Applicants Myron Smith, Jr. and Thomas Oliver own property located at 4245 Buck Drive, which consists of approximately 7.33 acres. Applicant Marybeth Lengyel owns the adjacent parcel at 4285 Buck Drive, which consists of approximately 1.09 acres. With this variance request, the Applicants are proposing to limit development to a maximum of 5 lots, each with a single-family detached residence and any permitted accessory structures, on a combined total of approximately 8.42 acres, which equates to an overall density of approximately 0.6 units per acre—far less dense than the 2.5 units per acre generally permitted in the underlying R-15 Zoning District.

Buck Drive is a 60-foot private access that has been in existence for approximately 38 years. On December 10, 1981, a Declaration was recorded in Book 1195 at Page 1413 of the New Hanover County Registry, (copy attached hereto as Exhibit A-1), by W. A. Buck and other property owners establishing and dedicating Buck Drive as a 60-foot easement and access right-of-way, as shown on a Map of Survey of Right of Way for Buck Drive prepared by Robert H. Goslee & Associates, Registered Land Surveyors, in November 1981. Below is an illustration of the approximately relation of the parcels and Buck Drive, as well as a photograph of Buck Drive.





As illustrated by the picture above, Buck Drive is a very wide, unpaved road. Several residences already exist along Buck Drive and access their homes via Buck Drive. The history of Buck Drive is a lengthy and complicated one which includes an apparent disagreement between Mr. Buck and the County during the 1980s and 1990s regarding an alleged failure on Mr. Buck's part to adhere to the County's subdivision requirements. The end result of that disagreement has created a history of confusion and inconsistencies with regard to the treatment of different parcels along Buck Drive.

The Applicant/Owners, however, were not party to any of these disagreement or issues and purchased their properties nearly 20 years after any of these events occurred. The Applicants purchased their respective properties in 2018, and none of the Applicants purchased their property from Mr. Buck or the Buck family. As illustrated above, in appearance Buck Drive is a very wide, unpaved road, not very different from other unimproved roads in New Hanover County. In comparison, Sidbury Road, which is considered a main road the northern part of the County, is an approximately 60' foot wide NCDOT maintained right-of-way with approximately 24 feet of pavement.

Although Buck Drive is the only access to their property, Applicants Myron Smith, Jr. and Thomas Oliver have been informed by the County that they cannot build residences on their parcels in compliance with the R-15 Zoning District because Buck Drive does not currently meet the access standard in the Zoning Ordinances for a private road or easement according to the County. Mr. Smith and Mr. Oliver have appealed that determination to the Board of Adjustment, and that appeal remains pending (New Hanover County File No. ZBA-933). This variance request is submitted without prejudice to Mr. Smith and Mr. Oliver's pending appeal (ZBA-933). The Applicants are seeking to resolve the issues presented in this matter via this variance request, which will allow them to use Buck Drive to access their parcels, just as other residences on Buck Drive (some of which are further down Buck Drive) are currently allowed to do.

In sum, the requested variance will allow the Applicants to make a reasonable use of their land in a residential manner, which is in harmony with the surrounding area and residences, and will also result in a much higher quality of access for a large portion of Buck Drive. This will provide better and safer access for fire and other emergency vehicles in comparison to the current condition of the road. Allowing the variance will provide a significant benefit to all of those who currently live on Buck Drive. There are already more than three (3) residences on Buck Drive which are accessed via Buck Drive.

Accordingly, the Applicants/Owners are requesting a variance to Section 61.2-1 to allow five (5) additional single-family residences to be constructed on the two parcels (to be subdivided into a maximum total of five lots), subject to the following conditions:

1. Improvement of existing Buck Drive approximately 1,500 feet in length, 26-feet in width, from Sidbury Road to and including the northerly lane at the T-

junction of Buck Drive as shown on the Variance Exhibit attached hereto as Exhibit A-2, including 4" ABC Stone or other non-compacted parking surface, geosynthetic soil stabilizer fabric, and compacted subgrade as shown on the Gravel Driveway Section of Exhibit A-2, or to a standard otherwise acceptable to the New Hanover County Fire Marshal.

2. Limiting the density of the subject property to a maximum total of five (5) lots and single-family residences, including any permitted accessory structures allowed under the County ordinances.

3. Maintenance Agreement for improved section of Buck Drive.

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

According to the County, the Applicants/Owners cannot currently build their homes on the subject parcels due to the status of Buck Drive. Buck Drive, however, is already being used to access more than three (3) existing residences, some of which are further down the road from Sidbury Road than the Applicants' properties.

Improving Buck Drive to all County standards would be a very extensive and expensive undertaking, which would place a huge financial burden on the Applicants. This perhaps may explain why Buck Drive has not been improved in the past 40 years. There is no homeowners association in place to assess or organize members, or borrow money to facilitate and complete construction of the road improvements. It is economically unfeasible for the Applicants to construct the road to County standards, and there is no mechanism in place for the Applicants to do so and then assess others to share in the costs. The Applicants/Owners have no authority to control access to/from the road or block other property owners from using Buck Drive. It is not necessary to improve the road to all applicable County standards for a private road, as the Applicants are proposing a very low density and low intensity use of their properties, and Buck Drive is already usable and accessible for other residences along the road. Despite this, the Applicant/Owners are willing to improve Buck Drive in as much as they are capable within financial reason by installing a 26-foot wide layer of crushed stone/gravel—to a standard acceptable to the New Hanover County Fire Department—approximately 1,500 feet down Buck Drive from Sidbury Road to the northerly lane at the T-junction, as shown on Exhibit A-2 attached hereto. This will be a significant benefit to all current residents along Buck Drive. The Applicants are willing to install and maintain this improved portion of Buck Drive and propose that a road maintenance agreement be in place as a condition to this variance request.

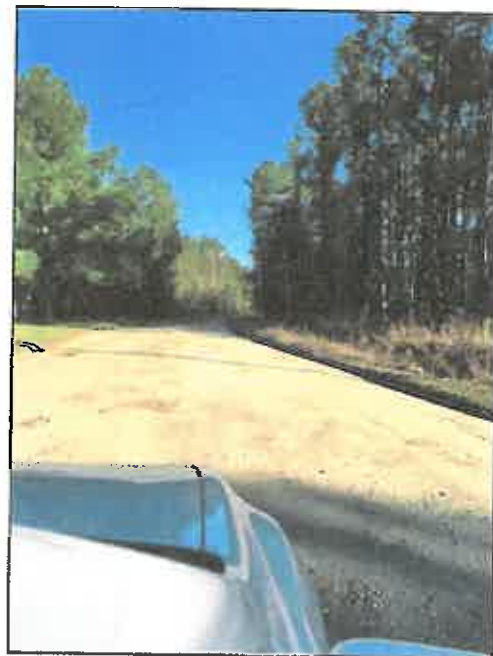
**2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardship resulting from personal circumstances, as well as hardships**

**resulting from conditions that are common to the neighborhood or general public, may not be the basis for granting a variance.**

The status of Buck Drive is a very unique situation which results from an apparent disagreement between Mr. Buck and New Hanover County dating back at least 30 years ago—one that may not have ever been fully resolved and has been dealt with inconsistently over the years with respect to different properties along the road. The background circumstances and facts are unique to Buck Drive and the subject parcels located along Buck Drive. The hardship results from conditions that are peculiar to the property and does not result from personal circumstances. The hardship does not result from actions taken by the Applicants/Owners.

**3. 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.**

The hardship does not result from actions taken by the Applicants/Owners. The Applicants/Owners had nothing to do with the background issues and circumstances surrounding Buck Drive, which arose during the 1980s and 1990s and continue to create a hardship today. The Applicants/Owners did not even purchase their property from the Buck family. Also, from appearances as illustrated below there is nothing that would indicate that Buck Drive is not a usable road. There is a street sign installed at the intersection of Buck Dr. and Sidbury Rd. that would lead one to reasonably believe that it is a typical road; however, it has since been learned that the street sign is not official, which the Applicants/Owners did not know when they purchased their properties.



Additionally, the situation is unique in that there are inconsistencies in the treatment of different parcels along Buck Drive with respect to what construction and use has been allowed on some and prohibited on others. There are already more than three (3) residences on Buck Drive which are accessed via Buck Drive.

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

Without a variance these Applicant/Owners cannot build their residences on their lots, according to the County. It is not consistent with the intent of the ordinance to make conforming R-15 property unbuildable because of a 30-year old disagreement involving other persons, and when the existing access to those parcels is a very wide, usable and accessible road that other residents are currently using on a daily basis. It is also not substantial justice for these three property owners (the Applicants) alone to be forced to assume the cost of improving Buck Drive to all County standards in order to build residences of their own when Buck Drive is already being used by other neighboring residents. Nevertheless, the Applicant/Owners are prepared to make substantial, reasonable improvements to Buck Drive to ensure that emergency vehicles have better access, which helps secure the public safety and benefits all residents on Buck Drive and facilitates Fire Department and other emergency access across Buck Drive. There are already more than three (3) residences on Buck Drive which are accessed via Buck Drive. Allowing this variance will also achieve substantial justice in this instance because it will provide for the improvement and future maintenance of a significant portion of Buck Drive from its current condition, which will remedy many of the concerns and issues raised in previous Buck Drive proceedings and matters from the 1980s and 1990s.

DEC 10 10 37 AM '81

EXHIBIT

A-1

DRAWN BY: ROBERT CALDER, ATTORNEY AT LAW

STATE OF NORTH CAROLINA :

DECLARATION

COUNTY OF NEW HANOVER :

W. A. Buck (also known as William Arnold Buck, Sr.) and wife, Edna H. Buck (also known as Edna Mae Buck) are the owners of a tract of land containing 250 acres, more or less, in Cape Fear Township in New Hanover County, North Carolina, portions of which are now owned by Norman P. Rochelle, whose wife is Thelma R. Rochelle, Louis F. Hufham, III and wife, Debra M. Hufham and Isaac L. Kornegay and wife, Nancy A. Kornegay, all of whom were granted access to their property over a 20 foot private access road running along the West line of the W. A. Buck property, but it is now the desire of all parties to provide access to said lands over Buck Drive which is a 60 foot road right of way as shown on the attached Map of Survey of Right of Way For Buck Drive prepared by Robert H. Goslee & Associates, Registered Land Surveyors, in November, 1981, copy of which Map of Survey being attached hereto and made a part of this Declaration as though fully set out herein, said Buck Drive running North from Sidbury Road (S. R. #1336) for a distance of approximately 1500 feet, and it is also the desire for all of the parties to release any rights they have in the use of the above mentioned 20 foot private access roadway and to close the same;

NOW, THEREFORE, the parties to this agreement for themselves, their heirs, successors in title and assigns, do hereby establish, for the private use of the parties to this agreement, and their successors in title, for the purpose of providing ingress and egress to the lands owned by them, an access easement over that 60 foot right of way known as Buck Drive running East from Sidbury Road (S. R. #1336) in Cape Fear Township in New Hanover County, North Carolina, as the same is more particularly shown on Map of Survey of Right of Way For Buck Drive prepared by Robert H. Goslee & Associates, Registered Land Surveyors, in November, 1981, which said Map is attached to this Declaration and made a part thereof as though fully set out herein, and the parties do further dedicate as a 60 foot easement and access right of way that 60 foot strip of land shown as "60' Easement" on the attached map which adjoins Buck Drive on the North.

Norman P. Rochelle and wife, Thelma R. Rochelle; Louis F. Hufham, III and wife, Debra M. Hufham and Isaac L. Kornegay and wife, Nancy A. Kornegay do further, for themselves, their heirs, successors in title and assigns, release any rights or claims they would otherwise have to the use of a 20 foot private access road the Western line of which is a line which begins at the Southwest corner of Lot 18 of White Oak Plantation as the same is shown on map recorded in Map Book 17 at Page 48 in the New Hanover County Registry and runs thence North 7° 43' 30" East 1,558.89 feet, more or less, said line being a Western line of the W. A. Buck and wife, property and an Eastern line of Tisinger, said line being shown on the attached Map of Survey. The parties agree that this 20 foot roadway shall be closed.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals, this the 23rd day of November, 1981.

10

Norman P. Rochelle (SEAL)  
Norman P. Rochelle

Thelma R. Rochelle (SEAL)  
Thelma R. Rochelle

Louis F. Hufham, III (SEAL)  
Louis F. Hufham, III

Debra M. Hufham (SEAL)  
Debra M. Hufham

RETURNED TO B. CHESHIRE

1195 1414

Isaac L. Kornegay (SEAL)  
Isaac L. Kornegay

Nancy A. Kornegay (SEAL)  
Nancy A. Kornegay

William Arnold Buck, Sr. (SEAL)  
William Arnold Buck, Sr.

EDNA H. BUCK

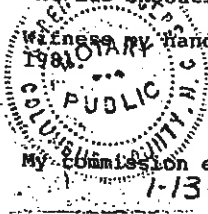
BY: William Arnold Buck, Sr. (SEAL)  
William Arnold Buck, Sr.,  
Attorney in Fact for Edna H. Buck

STATE OF NORTH CAROLINA

Columbus  
COUNTY OF NEW HANOVER

I, Karen Budgar, a Notary Public in and for the State and County aforesaid, do hereby certify that NORMAN P. ROCHELLE and wife, THELMA R. ROCHELLE, personally appeared before me this date, and acknowledged the due execution of the foregoing instrument.

Witness my hand and Notarial Seal or Stamp, this the 30<sup>th</sup> day of November, 1984.



Karen Budgar  
Notary Public

My commission expires:  
1-13-85

STATE OF NORTH CAROLINA

Columbus  
COUNTY OF NEW HANOVER

I, Karen Budgar, a Notary Public in and for the State and County aforesaid, do hereby certify that LOUIS F. HUFHAM, III and wife, DEBRA M. HUFHAM, personally appeared before me this date, and acknowledged the due execution of the foregoing instrument.

Witness my hand and Notarial Seal or Stamp, this the 30<sup>th</sup> day of November, 1984.



Karen Budgar  
Notary Public

My commission expires:  
1-13-85

STATE OF NORTH CAROLINA

Columbus  
COUNTY OF NEW HANOVER

I, Karen Budgar, a Notary Public in and for the State and County aforesaid, do hereby certify that ISAAC L. KORNEGAY and wife, NANCY A. KORNEGAY, personally appeared before me this date, and acknowledged the due execution of the foregoing instrument.

Witness my hand and Notarial Seal or Stamp, this the 1<sup>st</sup> day of December, 1984.



Karen Budgar  
Notary Public

My commission expires:  
1-13-85

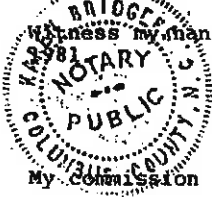
1195 1415

STATE OF NORTH CAROLINA

Columbus  
COUNTY OF NEW HANOVER

I, Karen Bridgers, a Notary Public in and for the State of North Carolina, and the County of New Hanover, do hereby certify that WILLIAM ARNOLD BUCK, SR., personally appeared before me this date, and acknowledged the due execution of the foregoing instrument; I do further certify that WILLIAM ARNOLD BUCK, SR., Attorney in Fact for EDNA H. BUCK, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of EDNA H. BUCK and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds of New Hanover County, North Carolina, on the 14th day of May, 1973, in Book 970 at Page 809, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said WILLIAM ARNOLD BUCK, SR., acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said EDNA H. BUCK.

Witness my hand and Notarial Seal or Stamp, this the 10<sup>th</sup> day of December, 1981.



Karen Bridgers  
Notary Public

My commission expires: 1-13-85

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

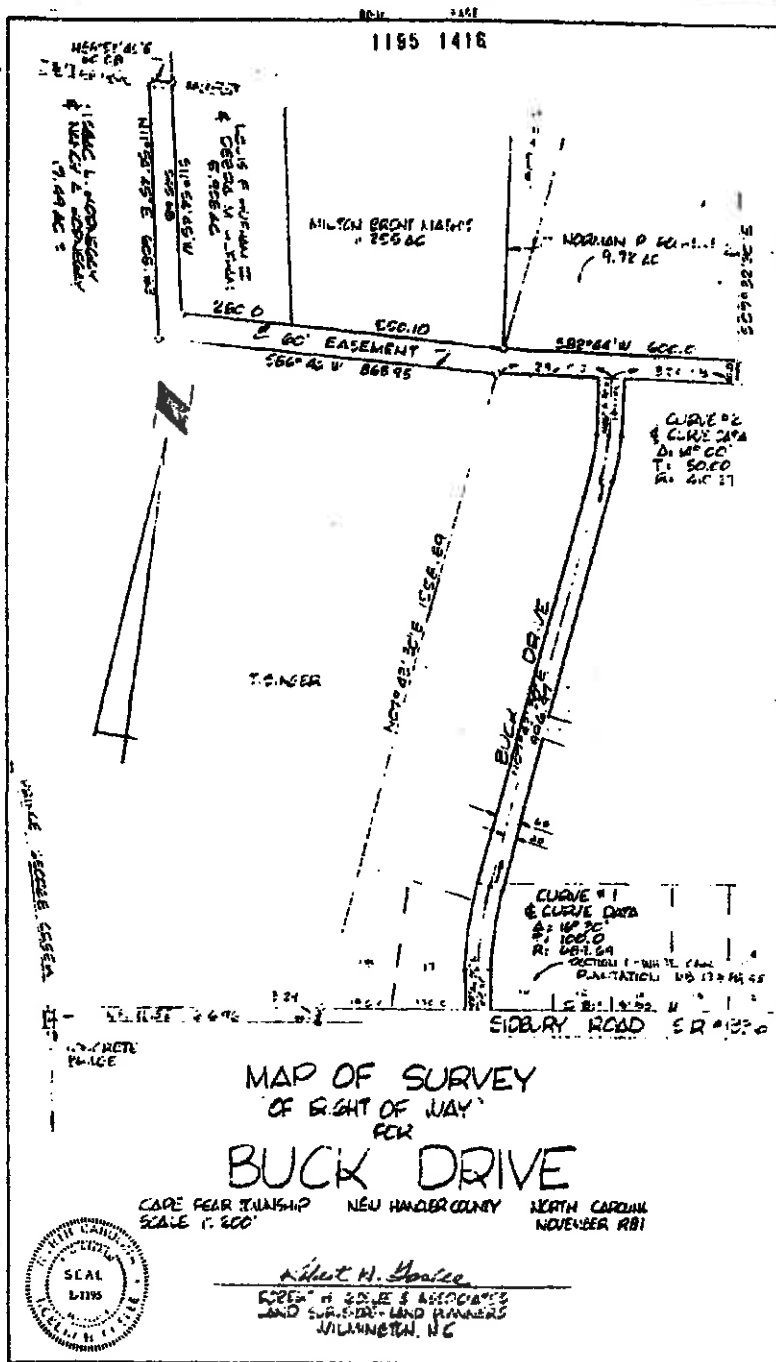
The foregoing certificates of Karen Bridgers;  
and \_\_\_\_\_;  
Notaries Public of New Hanover  
County, are certified to be correct.

This the 10 day of December, 1981.

REBECCA P. TUCKER, REGISTER OF DEEDS

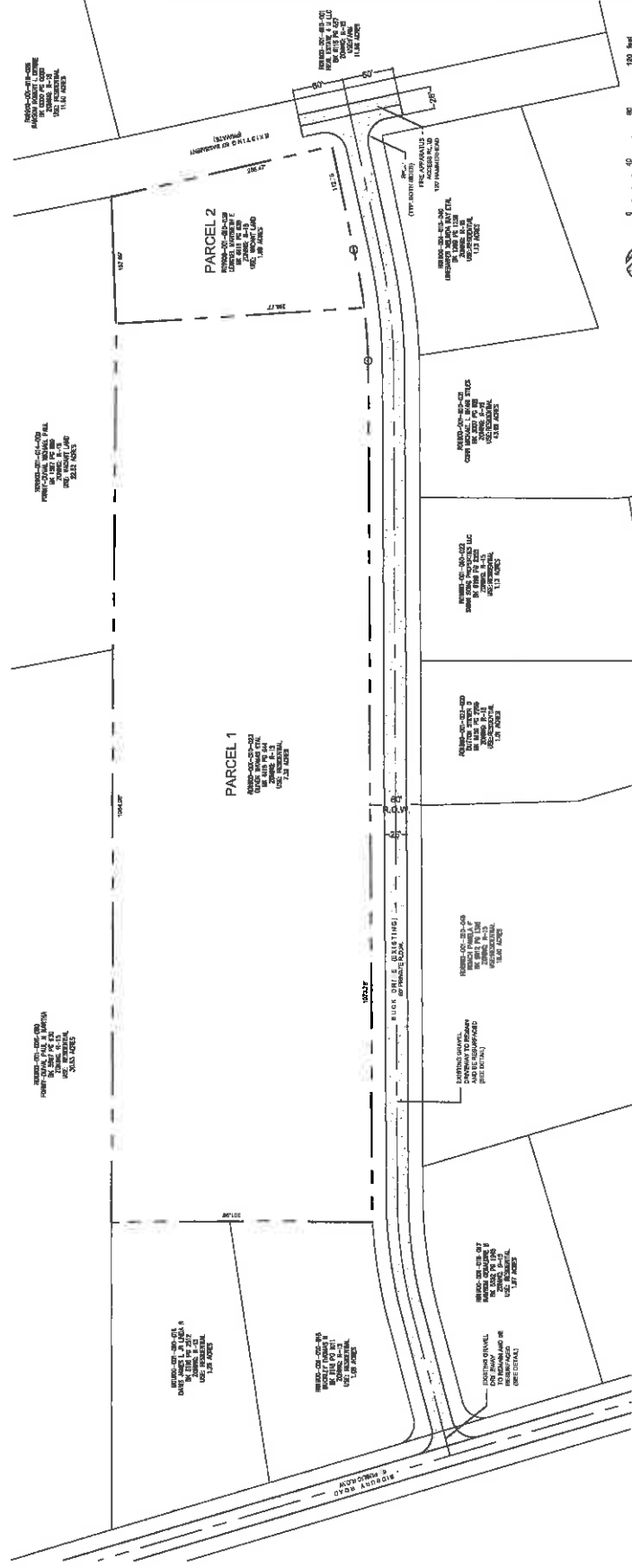
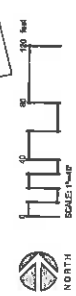
BY: [Signature]~~Deputy~~

Assistant





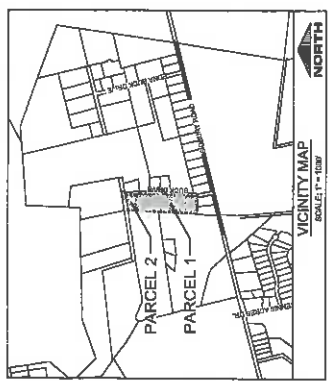
PRELIMINARY DESIGN - NOT RELEASED FOR CONSTRUCTION



**EXHIBIT**

A-2

PRELIMINARY / NOT FOR CONSTRUCTION - THIS SITE PLAN IS A GRAPHIC REPRESENTATION AND SHOULD BE UTILIZED FOR DISCUSSION PURPOSES ONLY. THIS SITE PLAN APPROXIMATES EXISTING CONDITIONS RELATING TO STRUCTURES, WETLANDS, ROADS, PARKING, VEGETATION, AND PROPERTY BOUNDARIES. PLAN COMPONENTS MAY CHANGE BASED UPON REGULATORY AND MUNICIPAL REGULATION AND REQUIREMENTS AT THE TIME OF APPROVALS AND/OR DEVELOPMENT ACTIVITY.



NOTES:  
1. INDUSTRY QUANTITY HEDGON IS PROVIDED FOR REFERENCE ONLY AND HAS NOT BEEN VERIFIED BY PROFESSIONAL LAND SURVEY AND IS SUBSCRIBED TO NEW HAMPSHIRE COUNTY USE AND INFORMATION AS ILLUSTRATED BY PLAN PREPARED BY SURVEY ONE, B.L.G. GATRO CITY/08/11, AS PROVIDED BY THE PRIORITY COMMENTS.

**PARCEL #1 INFORMATION**  
OWNER INFORMATION

PROJECT ADDRESS:

TAX PARCEL IDENTIFICATION #:  
RECORDED DEED BOOK:  
CURRENT ZONING:  
EXISTING USE:  
PLANNED USE:  
TOTAL SITE AREA:

FLOOD INFORMATION:

**PARCEL #2 INFORMATION**  
**OWNER INFORMATION:**

**PROJECT ADDRESS:**

**TAX PARCEL IDENTIFICATION #:**  
RECORDED DEED BOOK:  
CURRENT ZONING:  
MARKETING USE:  
WORK '82 USE:  
TOTAL SITE AREA:

**LOOD INFORMATION:**

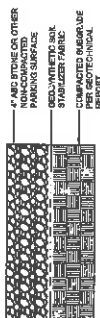
LENGYEL, MARVLETH E  
172 LOUGHRAN RD.  
DOUGLASS, CT 06478

4285 BUCK DRIVE  
CASTLE HAYNE, NC 28428

911-800-001-110-028  
BX #1118, PG 11C  
R-15 (PRESIDENTIAL)  
VACANT LAND  
PRESIDENTIAL  
1.38 +/- ACRES

THIS PARCEL IS NOT LOCATED  
HAZARD AREA AS DETERMINED  
PANEL 3117 AND MAP NAME  
DATED AUGUST 28, 2018

**GRAVEL DRIVEWAY SECTION**  
NOT TO SCALE





**NEW HANOVER COUNTY  
PLANNING & LAND USE  
AUTHORITY FOR  
APPOINTMENT OF AGENT**

230 Government Center Drive  
Suite 110  
Wilmington, NC 28403  
910-798-7165 phone  
910-798-7053 fax  
www.nhcgov.com

Please note that for quasi-judicial proceedings, either the land owner or an attorney must be present for the case at the public hearing.

The undersigned owner does hereby appoint an authorized the agent described herein as their exclusive agent for the purpose of petitioning New Hanover County for a variance, special use permit, rezoning request, and/or an appeal of Staff decisions applicable to the property described in the attached petition. The Agent is hereby authorized to, on behalf of the property owner:

1. Submit a proper petition and the required supplemental information and materials
2. Appeal at public meetings to give representation and commitments on behalf of the property owner
3. Act on the property owner's behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of any petition applicable to the New Hanover County Zoning Ordinance.

Agent Information	Property Owner(s)	Subject Property
Name Matthew A. Nichols	Owner Name Myron Smith, Jr.	Address 4245 Buck Drive
Company Law Office of Matthew A. Nichols	Owner Name 2 Thomas Oliver	City, State, Zip Wilmington, NC
Address 3205 Randall Parkway, Ste. 104	Address 30 Stagg St.	Parcel ID R01900-001-010-023
City, State, Zip Wilmington, NC 28403	City, State, Zip Stratford, CT 06615	
Phone (910) 508-7476	Phone	
Email matt@mattnicholslaw.com	Email	
Application Tracking Information (Staff Only)		
Case Number Reference: ZBA-947	Date/Time received: 11/14/19 8:00 AM	Received by: KW

This document was willfully executed on the 13th day of November, 2019.

Owner 1 Signature  
Myron Smith, Jr.

Owner 2 Signature  
Thomas Oliver

**NEW HANOVER COUNTY  
PLANNING & LAND USE  
AUTHORITY FOR  
APPOINTMENT OF AGENT**

230 Government Center Drive  
Suite 110  
Wilmington, NC 28403  
910-798-7165 phone  
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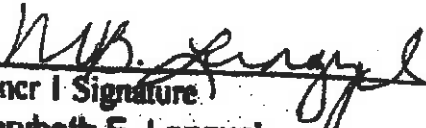
Please note that for quasi-judicial proceedings, either the land owner or an attorney must be present for the case at the public hearing.

The undersigned owner does hereby appoint an authorized the agent described herein as \_\_\_\_\_ for the purpose of petitioning New Hanover County for a variance, special use permit, rezoning, or an appeal of Staff decisions applicable to the property described in the attached petition. \_\_\_\_\_ authorized to, on behalf of the property owner:

1. Submit a proper petition and the required supplemental information and materials.
2. Appeal at public meetings to give representation and commitments on behalf of the property owner.
3. Act on the property owner's behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of any petition applicable to the New Hanover County Zoning Ordinance.

Agent Information	Property Owner(s)	Subject Property
Name Matthew A. Nichols	Owner Name Marybeth E. Lengyel	Address 4205 Buck Drive
Company Law Office of Matthew A. Nichols	Owner Name 2	City, State, Zip Wilmington, NC
Address 3205 Randall Parkway, Ste. 104	Address 172 Loughlin Rd.	Parcel ID R01000-001-010-030
City, State, Zip Wilmington, NC 28403	City, State, Zip Oxford, CT 06478	
Phone (910) 508-7478	Phone	
Email mat@matnicholslaw.com	Email	
Case Number Reference: 28A-947	Date/Time received: 11/19/19 8:49 AM	Received by: Kor

This document was willfully executed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

  
Owner 1 Signature  
Marybeth E. Lengyel

\_\_\_\_\_  
Owner 2 Signature

**LAW OFFICE OF  
MATTHEW A. NICHOLS**

---

3205 Randall Parkway, Suite 104  
Wilmington, NC 28403

Ph: (910) 508-7476  
Email: matt@mattnicholslaw.com

November 18, 2019

**VIA HAND DELIVERY**

Mr. Ken Vafier CFM, AICP  
Planning Manager  
New Hanover County Planning and Land Use Department  
230 Government Center Drive, Suite 110  
Wilmington, NC 28403

Re: APPLICATION FOR VARIANCE TO THE NEW HANOVER COUNTY  
ZONING BOARD OF ADJUSTMENT for property located at 4245 and 4285  
Buck Dr., New Hanover County (PARIDs: R01900-001-010-023 and  
R01900-001-010-039)

Dear Ken:

I represent the owners of the above-referenced property located at 4245 and 4285 Buck Drive. Please accept this letter and the enclosed variance application with respect to my clients' property.

Please find enclosed the following:

1. Variance Application with attached Exhibits;
2. Authority for Appointment of Agent Forms; and,
3. A check made payable to New Hanover County in the amount of \$400.00 for the Variance Application Fee.

Please let me know if you require any additional information at this time.

Thank you for your time and attention to this matter.

Mr. Ken Vafier  
November 18, 2019  
Page 2

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Matt Nichols", with a stylized flourish at the end.

Matthew A. Nichols

MN/nc  
Enclosures

CC: Myron Smith, Jr.