

**MINUTES**  
**ZONING BOARD OF ADJUSTMENT**  
**BRUNSWICK COUNTY, N.C.**

**6:00 P.M., Thursday**  
**May 11, 2017**

**Commissioner's Chambers**  
**David R. Sandifer Admin. Bldg.**  
**Brunswick County Government Center**  
**Old US 17 East, Bolivia**

MEMBERS PRESENT

Robert Williamson, Chairman  
Robert Cruse  
David Giera  
Mary Ann McCarthy  
Ron Medlin, Alternate

MEMBERS ABSENT

Virginia Ward, Vice Chairman

STAFF PRESENT

Helen Bunch, Zoning Administrator  
Bryan Batton, Assistant County Attorney  
Kyna Bryant-Hardy, Office Assistant

OTHERS PRESENT

Jael Yancey  
David Hooks  
Pat Purvis Brown

Wilson T. Arnold  
Randolph C. Dow, Attorney-At-Law  
Roscoe Warren

I. CALL TO ORDER.

The Chairman called the meeting to order at 6:02 p.m.

II. OATH OF OFFICE FOR BOARD MEMBER DAVID GIERA.

Mr. Robert Williamson, Chairman, administered the Oath of Office to Mr. David Giera. Mr. Giera was appointed by the Board of Commissioners (BOC) as the District 4 BOA

Appointee to replace Mr. Jervie Babson, who passed away last year. The Chairman and other Board members welcomed Mr. Giera.

III. ROLL CALL.

Mrs. Virginia Ward as absent. Mr. Ron Medlin served as an Alternate.

IV. CONSIDERATION OF MINUTES OF THE AUGUST 11, 2016 MEETING.

Mrs. McCarthy made a motion to accept the minutes of the August 11, 2016 meeting as written. The motion was seconded by Mr. Cruse and unanimously carried.

V. AGENDA AMENDMENTS.

Mrs. Bunch stated that Item B, under V. New Business should reflect Case 17-02S rather than ~~Case 17-01S~~.

VI. FUNCTIONS OF THE BOARD OF ADJUSTMENT.

The Chairman explained the Board of Adjustment is a quasi-judicial Board assigned the function of acting between the Zoning Administrator or Planning Director, who administer the Unified Development Ordinance (UDO), and the courts, which would have the final say on any matter. The Board's duties are to hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator or Planning Director; to grant Special Use Permits and to grant Variances.

The Chairman said that the public hearing is not to solicit board public opinion about how the Board should vote on a matter; rather, it is a time for submittal of relevant, factual evidence in the records by the applicants, proponents, opponents and staff. All parties involved must be affirmed or sworn in as required by the North Carolina General Statutes. The opposing parties have the right to cross examine witnesses and file documents into the record.

The Chairman stated that he will announce the case; the Zoning Administrator will submit into evidence the Staff Report; the applicant or person filing the application will present relevant evidence to the Board as it relates to the Approval Criteria outlined in Section 3.3.9.B. of the UDO; the opposition will have an opportunity to speak; and then the Zoning Administrator will provide recommended conditions based on the approval criteria and information provided during the public hearing. Once all parties have addressed the Board, all parties will have the opportunity for rebuttals and the Chairman will summarize all evidence presented. All parties will have the opportunity to comment on the summation given to the Board. Once the summary is accepted, the public hearing session will be over

and the Board will discuss the matter amongst themselves and vote to grant or deny the Special Use Permit and/or Variance.

The Chairman informed the audience that if anyone was not satisfied with the outcome of the Board's decision, they may file an appeal to Superior Court.

VII. SWEARING IN OF APPLICANT, WITNESS, AND OTHER INTERESTED PARTIES.

The Chairman swore in Ms. Helen Bunch, Ms. Jael Yancey, Mr. Wilson T. Arnold, Mr. David Hooks, Attorney Randolph C. Dow, Mrs. Pat Purvis Brown and Mr. Roscoe Warren as to their testimony being truthful and relevant to the respective case.

VIII. NEW BUSINESS.

- A). 17-01S Special Use Permit  
Applicant: David Hooks  
Location: 5795 Waccamaw School Road NW, Ash NC 28420  
Tax Parcel 1170005104 (Portion of)  
Applicant requests a Special Use Permit for a "Garage Service and/or Automobile Repair [for Boats]" consistent with Section 5.3.5.T. of the Brunswick County Unified Development Ordinance (UDO).

Ms. Helen Bunch, Zoning Administrator, addressed the Board. Ms. Bunch read the Staff Report (attached). She stated that the applicant, Mr. David Hooks, proposes to construct a "Garage Service and/or Automobile Repair business for boats" on the subject parcel. She further stated that the proposed will be located on a portion of Tax Parcel 1170005104, also known as 5795 Waccamaw School Road NW. She identified the subject property and surrounding properties on a map displayed on an overhead projector. She continued that the Brunswick County Future Land Use Plan designates the subject parcel as Low Density Residential. She stated the proposed use is only permissible in the RR Zoning District with Special Use Permit approval by the Brunswick County Board of Adjustment. Ms. Bunch proceeded to discuss the twelve (12) review factors (e.g., circulation; parking and loading; service entrances and areas; lighting; signs; utilities; open space; environmental protection; screening, buffering, and landscaping; effects on adjoining property; compatibility; and impacts on military installations) associated with the subject parcel. She stated that all access to the site will occur from Waccamaw School Road (SR 1330). She said a driveway permit will be required. She further stated that the applicant must submit to the North Carolina Department of Transportation (NCDOT) a Driveway Permit Application. She continued that the application must be reviewed and approved prior to the issuance of a building permit. Ms. Bunch stated three (3) parking spaces are required for the 768-square foot office and 15 spaces for the two garage service buildings having a total of 5 bays. She stated that a total of 18 parking spaces are required. She further stated that a minimum of one of the 18 spaces must be Handicapped Van Accessible. She continued that additional accessibility requirements may be required by Code Administration, consistent with the

North Carolina Building Code (Accessibility Code) and ICC/ANSI A 117.1. Ms. Bunch stated that service entrances and areas will be the same as the customer entrance. She stated that the outdoor lighting must meet the standards addressed in Section 6.9. of the Brunswick County Unified Development Ordinance (UDO). She further stated any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. She continued that signage is a separate permitting process. Ms. Bunch stated that the applicant must make application for a well and septic system with the Brunswick County Environmental Health. She stated that there are no separate open space requirements for this use. She further stated that the applicant must meet all applicable Federal, State and Local Government requirements. Ms. Bunch stated that the applicant must show on the site plan a 20' street buffer with 1 canopy tree or 2 understory trees per 100 linear feet. She stated that the periphery buffer around the entire parcel must be 0.2 opacity, which is 10 feet. She further stated that in each 100-linear foot interval there should be 1 canopy tree, 1 understory tree and 7 shrubs or 1 canopy tree, 2 understory trees and 3 shrubs. She continued that the existing vegetation can be used to meet the opacity requirements where available. Ms. Bunch said that the effect on adjoining property is minimal as it is undeveloped woodland for the most part with one portion of the side property line adjoining the Waccamaw District Park baseball field. Ms. Bunch stated that the proposed use is permissible in the RR Zoning District with Special Use Permit approval by the Board of Adjustment. She continued that the proposed Special Use is not within five (5) miles of a military installation.

Ms. Bunch stated that there are additional approval criteria for this use outlined in Section 5.3.5.T., Garage Service and/or Automobile Repair. Those criteria are 1). Fuel pumps shall be at least 15 feet from property lines. She said this requirement is not applicable. She stated that 2). Any repair, servicing, maintenance or other work on vehicles shall be conducted within an enclosed structure or behind an opaque fence or wall. She further stated that the applicant will address the outside repair of boats. Ms. Bunch stated that 3). However, outdoor storage may be permitted in conformance with Section 6.22., Outdoor Display and Storage, when located in a designated area behind a 100% opaque wall or fence. She stated that the said area shall be identified on all site plans. She further stated that the applicant must identify the storage area on the site plan. Ms. Bunch stated that 4). Storage of customer vehicles, vehicles with expired tags, unlicensed vehicles, junk vehicles, or any vehicle not used in the conduct of business operations (tow trucks for example) for 15 days or more shall be prohibited. She concluded that the applicant has been made aware of this requirement.

Mr. David Hooks addressed the Board. Mr. Hooks stated that he is requesting a Special Use Permit for Garage Service and/ or Automobile Repair for boats. He stated that he has operated a boat repair business for approximately twelve (12) years in Columbus County, NC and he operates a charter boat business at Ocean Isle Beach. He further stated that he does not have a sign or business cards, as all his clientele is by word of mouth. Mr. Hooks stated that the proposed will be located on a portion of a large tract of land. He stated that there will be an acre and a half buffer from Waccamaw School Road NW. He concluded that the proposed will be located near Waccamaw School and that the proposed will not adversely affect surrounding property owners.

Mr. Giera asked Mr. Hooks if repairing boats will include cleaning (such as pressure washing)? Mr. Hooks stated that he occasionally pressure washes boats. Mr. Giera asked Mr. Hooks if he proposes to repair boat trailers? Mr. Hooks stated that unless there are major issues he does not repair boat trailers. The Chairman asked Mr. Hooks how many boats, awaiting repair, will be located on the subject parcel at any given time? Mr. Hooks stated that he proposes to have no more than eight (8) boats awaiting repairs located on the subject parcel at any given time. The Chairman asked Mr. Hooks if he will have any employees? Mr. Hooks stated that he currently employs one (1) part-time mechanic and will possibly hire a high school student to assist. The Chairman asked Mr. Hooks if boats will be stored in the bays or outside while awaiting repairs? Mr. Hooks stated that boats will be stored outside, in a cleared section of the property, while awaiting repair.

Mr. Randolph C. Dow, Attorney-At-Law, addressed the Board. Attorney Dow stated that he resides at 5700 Waccamaw School Road, which is adjacent to the subject parcel. He stated that he has been an Attorney in North Carolina for over 30 years and that early on in his career, he served as counsel for a Planning and Zoning Board in a County and State other than North Carolina. He further stated that there were numerous errors in the submitted application. Attorney Dow stated that he was not properly notified of the meeting as required by the Brunswick County Unified Development Ordinance (UDO). He stated that he saw the notification sign posted on the subject parcel. He further stated that he contacted Staff and was told that the address on record for him was "Rd NW, Ash, NC 28420", which was obtained from the Brunswick County Tax Administration. Attorney Dow stated that members present in the audience, reside in close proximity to the subject parcel and did not receive notification of the request. He stated that he and surrounding property owners are concerned that the proposed will become a junkyard. He further stated that a poll was taken within the community and that residents were unaware of the proposed request. Attorney Dow provided the Board and Staff with Exhibit A, a packet of comments regarding the application.

Assistant County Attorney Bryan Batton asked Attorney Dow if he was objecting to not receiving adequate notice? Attorney Dow stated that he is objecting but would like to save his objection until after he completes his presentation.

Attorney Dow stated that the application lacked specificity as the applicant in the subject application states in the Statement of Proposed the proposed will be for "Boat, Engine and trailer repair shop" and that in the Proposed Use of Property section of the application the use is listed as "Boat Repair Shop – Garage Service and/or Automobile Repair". He stated that the Use Table located in Section 5.2. of the Brunswick County Unified Development Ordinance states that Boat Storage in Rural Residential (RR) Zoning District requires a Special Use Permit. He further stated that in Section 5.1.4.J. of the UDO, boat repair and manufacture as a principal use is not permitted in the RR Zoning District. He continued that the use is only permissible in the Commercial Intensive (C-I) or Industrial General (I-G) Zoning Districts. Attorney Dow stated that the ordinance clearly states in Section 5.2.1. that if there is language that does not include a specific use, the use is not permitted. He stated that boat repair is not permitted in the RR Zoning District even with a Special Use Permit. He further stated that the request should be denied because the subject parcel is located

within the RR Zoning District and the application does not meet requirements of the ordinance. Attorney Dow stated that the proposed use, if allowed, will be substantially injurious to the value of his and surrounding properties. He stated that the proposed will be detrimental to the health and safety to persons utilizing the adjoining park. He further stated that the subject parcel was previously owned by Mrs. Annie Phelps and that the parcel was to be reserved for a senior center. He continued that the property is currently owned by the Baker Living Trust ETALS and that he purchased his property from the same group. Attorney Dow stated that Waccamaw School Road is very narrow with deep ditches on each side. He stated that the highway is approximately 17.5 feet wide and is very congested with buses, logging trucks, boats and other pedestrian vehicles traveling the road. Attorney Dow stated that the applicant currently operates a charter business out of his home, on Hickory Blvd in Ocean Isle Beach. He stated that in Exhibit A there is a listing for the charter business giving the applicant's home address on Hickory Blvd. Attorney Dow provided a picture that shows three boats being housed on the property. He further stated that the applicant's property is not zoned for such a business.

Attorney Batton asked Attorney Dow if he is waiving the objection to lack of notice? Attorney Dow replied no that he is reserving his objection to lack of notice. Attorney Dow stated that he received information regarding the Special Use Request on Monday and has had little time to prepare. He stated that he would like for Attorney Batton to explain to members of the Board of Adjustment the use table and how the proposed is not permitted in the RR Zoning District. He further stated that he will waive objection to the lack of notice to the point that should additional information be discovered he be allowed to submit to the Board for record. Attorney Batton stated that the matter will be heard and decided upon at tonight's hearing if the objection is waived. Attorney Dow stated that he waives his objection to lack of notice.

Attorney Batton explained to the Board that Attorney Dow has waived his objection to lack of notice, which is his right as an adjoining property owner to receive notification regarding requests. He stated that if Attorney Dow had not waived objection to the lack of notice, he would have requested that the meeting be tabled until the next meeting date in order for proper notification of the hearing. He further stated that since the objection has been waived the Board could proceed with the hearing.

The Chairman asked Attorney Batton if boat repair is permissible in the RR Zoning District? Attorney Batton stated that the boat repair is covered under Section 5.1.4.I., Vehicle Sales and Service, which states that the "Characteristics: Direct sales of and service to passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles, boats, and recreational vehicles."

Attorney Dow interjected that Section 5.1.4.I. only addresses sales of vehicles and not the repair of boats. He stated that Water Oriented Commercial Uses is the only section of the UDO that boat repair is mentioned.

Attorney Batton said that Section 5.1.4.J., Water Oriented Commercial Uses, states that the "Characteristics: Commercial and manufacturing uses that require direct access to water."

He stated that it is not his place to tell the Board what is or is not. He further stated that the Board can hear from Staff as to the Zoning Administrator's interpretation and form their own opinion on the matter.

Ms. Bunch addressed the Board. She stated that Definitions section of the UDO states that Automotive Repair is "A building designed and used for the storage, care, and repair of motor vehicles including motors of boats and planes including both minor and major mechanical overhauling, paint and body work." She further stated that is how she determined that boats would be covered under the Garage Service and/or Automobile Repair section of the UDO.

Attorney Dow interjected that the UDO is inconsistent, as the Use Table only permits boat repair in the C-I and I-G Zoning Districts. He said that Section 5.2.1., Uses Not Specifically Listed, states that "Any use not specifically listed in this chapter is expressly prohibited." He stated that that section allows the Zoning Administrator to make an administrative determination. He further stated that boat repair is specifically listed under Water Oriented Commercial Uses, therefore Ms. Bunch's interpretation is invalid. He continued that he is concerned about the reduction in value of his parcel.

The Chairman asked Attorney Dow to show the Board where in the UDO does it state that boat repair is not allowed in the RR Zoning District? Attorney Dow stated that a copy of the Permitted Use Table was provided in Exhibit A, which shows that boat repair is specifically listed under Water Oriented Commercial Uses.

The Chairman asked Ms. Bunch what is her interpretation of the Permitted Use Table? Ms. Bunch stated that her interpretation is that Garage Service and/or Automobile Repair is allowed with a Special Use Permit approval by the Board of Adjustment. She stated that the definition of Automotive Repair includes boat repair. She further stated that Water Oriented Commercial Uses covers boat repair as a principal use in water oriented setting. She continued that the request is for the repair of equipment that does not require water.

Attorney Dow interjected that boat repair is not listed under as a principal use under Section 5.1.4.I., Vehicle Sales and Service. He stated that boat repair and manufacture as a principal use is listed under Section 5.1.4.J., Water Oriented Commercial Uses. He stated that the interpretation by Ms. Bunch is wrong and is an abuse of authority, as it conflicts with the ordinance.

Mr. Cruse asked the Chairman if the characteristics of Section 5.1.4.J., Water Oriented Commercial Uses, "Commercial and manufacturing uses that require direct access to water", relate to the interpretation provided by Ms. Bunch? The Chairman replied yes.

Attorney Dow stated that he has provided the Board with enough reasons to deny the application. He stated that the proposed will be injurious to the value of his property and that if he had sufficient time to prepare he would have consulted with a North Carolina Licensed Land Appraiser to provide testimony as to the amount. He further stated that there are several individuals that can provide testimony as to how the proposed will impact the

health and safety of the public. Attorney Dow stated that he has erected sixteen hundred (1600) feet of fencing around his property. He stated that the proposed will become a junkyard for boats and other vehicles.

The Chairman interjected that the request is for a Garage Service and/or Automotive Repair of boats and not a junkyard.

Attorney Dow stated that you can go to any business within Brunswick County that is 5 years or older and the properties have fallen in disrepair. He stated that he believes that Zoning Officials spend more time at automobile repair businesses than any other type in the County. He further stated that he provided testimony that Waccamaw School Road is only 17.5 feet wide and that is barely enough space for buses and logging trucks to travel.

Mrs. McCarthy stated that roads in Brunswick County have been constructed to North Carolina Department of Transportation (NCDOT) standards.

Attorney Batton stated that one of the conditions of approval recommended by Staff is that the applicant must submit a driveway application and be approved by the North Carolina Department of Transportation (NCDOT) to receive access to Waccamaw School Road. Attorney Dow stated that dozens of buses travel along Waccamaw Road each day and that if the families of the students were made aware of the proposed then they would have been at the hearing.

Mrs. Pat Purvis Brown addressed the Board. Mrs. Brown stated that approximately four (4) years ago, Commissioner Frank Williams came to Waccamaw School Senior Center and met with members of the community about the plan for the area. She stated that she has resided in the Ash area for a number of years and it continues to remain an agrarian society as it has always been. She further stated that her home was constructed in 1927 and that she shares the concerns of Attorney Dow regarding the request. Ms. Brown stated that she is a retired teacher and former member of the Brunswick County Board of Education and Trustee at Brunswick Community College. She stated that when Waccamaw School was being constructed, her grandfather provided a portion of his farm for the construction of the school and her father provided another portion of the land for the septic field which is currently in use. She further stated that when Waccamaw Park was being renovated, Brunswick County Parks and Recreation Department contacted her and asked her to provide a portion of her property for the septic area for the park as the property is surrounded by wetlands. Mrs. Brown stated that she is concerned that if her family had to provide land for septic areas for the school and the park due to wetlands, how can the proposed be suitable for the disposal of sewage and other waste materials associated with boat repair. She stated that she has concern about the aquifers and the pollution of the land. Mrs. Brown stated that the retention pond located at Waccamaw School drains into a ditch that separates the school from her land and that when filled the ditch drains into the ditch along Waccamaw School Road. She stated the ditch then flows down to the intersection of Whiteville Road (NC 130) and Waccamaw School Road and that during inclement weather the roads become flooded. She further stated that Waccamaw School Road is eroding and NCDOT has recently dumped a load of rocks into the ditch to preserve the shoulders. She concluded that she is

concerned that the proposed will be an attractive nuisance to kids, due to its close proximity to Waccamaw Park.

The Chairman asked Mrs. Brown if logging trucks utilize Waccamaw School Road? Mrs. Brown replied yes that along with regular vehicular traffic, logging trucks and buses travel Waccamaw School Road daily.

The Chairman stated that the applicant must comply with all Local, State and Federal requirements. He stated that the applicant must make application for a well and septic system with the Brunswick County Environmental Health.

Mrs. McCarthy asked Mrs. Brown if her property abuts the subject parcel? Mrs. Brown replied no that her property is located behind Waccamaw School.

Attorney Dow readdressed the Board. Attorney Dow stated that Attorney Batton should advise the Board about an applicant coming with unclean hands which is a principal that has been established by law. He stated that the principal establishes that if you come into a situation with unclean hands then the jurisdiction does not have to consider the request. He further stated that it is his belief that the applicant is coming to the jurisdiction with unclean hands as he is operating a business out of his home in a residential district.

Mr. Roscoe Warren addressed the Board. Mr. Warren stated that he worked for Federal Paper Plant for 34 years and oversaw the waste treatment system. He stated that the subject parcel is surrounding by wetlands and that he is concerned that the property will not be suitable for a septic system. He further stated that he does not feel the proposed should be located near the Senior Citizens Center.

The Chairman asked Mr. Warren if he is an adjoining property owner? Mr. Warren replied no, that he owns property nearby.

Mr. Hooks readdressed the Board. Mr. Hooks stated that he owns five (5) boats and operates a charter business out of his home. He stated that he currently rents a bay, in a building approximately 300 feet from his home, that he uses to work on boats. He further stated that he owns property in Whiteville, NC that could be used to store junk boats. Mr. Hooks stated that the proposed will comply with all the requirements of the UDO and that there will be a buffer between the subject parcel and the park. He stated that the NCDOT allows drivers to pull 8'-6" wide boats along roads in North Carolina. He further stated that the proposed will not impact the health and safety of surrounding properties or vehicular traffic along the roads.

Mr. Cruse asked Mr. Hooks the proposed hours of operation? Mr. Hooks stated that the proposed hours of operation are 9:00 a.m. to 5:00 p.m., Monday through Friday. He stated that there may be an occasion when he will open earlier in the mornings and/or operate on Saturdays.

Mrs. McCarthy asked Mr. Hooks if the proposed will meet the conditions and requirements outlined in the Staff Report? Mr. Hooks replied yes.

The Chairman asked Mr. Hooks if he has submitted an application to Environmental Health for a septic permit? Mr. Hooks replied no that he was awaiting the results of hearing prior to applying for a septic permit. He stated that he consulted with a North Carolina Licensed Engineer who stated that if the property is found unsuitable for a septic system there are modifications that can be made to land. He continued that used oil will be picked up by Campbell Oil, who will properly dispose of it.

Mr. Cruse asked Mr. Hooks if there will be an issue with removing customer vehicles, vehicles with expired tags, unlicensed vehicles, junk vehicles, or any vehicle not used in the conduct of business operations after 15 days? Mr. Hooks replied no that he will remove all customer vehicles, vehicles with expired tags, unlicensed vehicles, junk vehicles, or any vehicle not used in the conduct of business operations after 15 days as required by the ordinance.

Attorney Dow readdressed the Board. Attorney Dow stated that there is no buffer between the subject parcel and Waccamaw Park.

The Chairman asked Ms. Bunch if there are any buffer requirements for the proposed request? Ms. Bunch stated that there are periphery/project boundary buffer requirements. She stated that the applicant must install a 20' street buffer with either 1 canopy tree or 2 understory trees per 100 linear feet and a 10' periphery property boundary buffer around the entire parcel at 0.2 opacity. She said that at within each 100 foot interval of the buffer there should be either 1 canopy tree, 1 understory tree and 7 shrubs or 1 canopy tree, 2 understory trees and 3 shrubs. She further that existing vegetation may be used if the opacity requirements can be met.

Attorney Dow readdressed the Board. He stated that a buffer is not shown on the site plan.

Ms. Bunch interjected that one of the conditions of approval is that the applicant must submit a site plan that shows the buffer.

With no further comments, Ms. Bunch read the conditions of approval of the Special Use Permit:

1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the Special Use Permit application and kept on file by the Brunswick County Planning Department.
3. Parcel must be legally subdivided to be no more than 15 acres in size.
4. Denote Waccamaw School Road on the site plan.

5. A driveway application must be filed and approved by the North Carolina Department of Transportation (NCDOT) to receive access to Waccamaw School Road.
6. Note that the structures and parking must meet the NC Building Code (Accessibility Code) and IC/ANSI A117.1.
7. Provide an Outdoor Lighting Plan for review and approval consistent with Section 6.9. of the UDO.
8. Denote on the site plan the proposed outdoor storage area (if applicable) and the screening for such.
9. Address the outside repair of boats.
10. Storage of customer vehicles, vehicles with expired tags, unlicensed vehicles, junk vehicles, or any vehicle not used in the conduct of business operations (two trucks for example) for 15 days or more shall be prohibited.
11. Address waste disposal screening by adding plants in front of the fence.
12. Address Storm Water with the concurrence of Brunswick County Storm Water Administrator.
13. Show on the site plan a 20' street buffer with either 1 canopy tree or 2 understory trees per 100 linear feet and a 10' periphery property boundary buffer at 0.2 opacity, with either 1 canopy tree, 1 understory tree and 7 shrubs per 100 linear feet or 1 canopy tree, 2 understory trees and 3 shrubs per 100 linear feet. Note that existing vegetation may be used if the opacity can be met.
14. If the specified conditions addressed in this Special Use Permit are violated, the permit shall be revoked and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another Special Use Permit and receiving their approval can the use be again permitted.

She stated that if approved, this development shall have a vested right for a period of three (3) years and a two (2) year extension may be requested by the applicant to the Brunswick County Board of Adjustment.

The Chairman asked if there were any comments to the conditions of approval read by Staff?

Mrs. Brown readdressed the Board. Mrs. Brown made an impassioned plea to the Board to deny the request.

Mr. Warren readdressed the Board. Mr. Warren reminded the Board that there are several traffic issues along Waccamaw School Road and that the proposed request would increase the amount of traffic. He stated that Waccamaw School Road is not equipped to handle additional traffic.

The Chairman asked Mr. Warren if he would be opposed to someone constructing a home along Waccamaw School Road? Mr. Warren replied, no.

Attorney Dow readdressed the Board. Attorney Dow stated that the Board Members are stewards of the County and are required to protect the interest and assets of such. He stated that the proposed will injure the property values of his and surrounding properties.

With no further comments, the Chairman summarized that the applicant, David Hooks, request a Special Use Permit to construct a Garage Service and/or Automobile Repair business for boats, on the subject parcel. He stated that the applicant provided testimony that the proposed will meet all Local, State and Federal requirements. He further stated that Attorney Dow provided testimony that he was not adequately notified of the hearing but has since waived his lack of notification. The Chairman stated that Attorney Dow testified that the use should be categorized under Water Oriented Commercial Uses instead of Garage Service and/or Automobile Repair. He stated that Staff testified that Water Oriented Commercial Uses is for commercial and manufacturing uses that require direct access to water. He further stated that testimony was provided that Waccamaw School Road can adequately handle the boat traffic, as the road is currently used by logging trucks on a regular basis. The Chairman stated that Staff testified that a septic system will be required for the business and must be approved by the Brunswick County Environmental Health. He stated that the Staff Report indicated that a buffer will be required adjacent to the periphery of the property to screen the business from adjacent properties. He further stated that no expert testimony or evidence was provided regarding property values or that the use will adversely affect the health and safety of the public. The Chairman asked if there were any comments to the summation? There were none

The Board discussed the worksheet and determined the following:

**Application No.** 17-01S

**Applicant:** David Hooks

**Property Location:** 5795 Waccamaw School Road NW, Ash NC 28420

**Parcel Number:** 1170005104 (Portion of)

**Zoning District:** Rural Low Density Residential (RR)

**Land Use Classification:** Low Density Residential

**Surrounding Zoning:** North: RR, South: RR, CP, East: RR, West: RR

**Proposed Use of Property:** “Garage Service and/or Automobile Repair [for Boats]”

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**FINDINGS OF FACT**

Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its regular meeting, determined that application is complete / incomplete and finds:

I. WHETHER THE PROPOSED USE IS IN HARMONY WITH THE AREA AND NOT SUBSTANTIALLY INJURIOUS TO THE VALUE OF PROPERTIES IN THE GENERAL VICINITY:

Yes

No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your Findings:

No evidence or expert testimony was provided with regard to property values. The Staff Report outlined the items to be accomplished to insure that the site is in harmony with the area and not substantially injurious. These items were incorporated into the proposed conditions, which were agreed upon by the Applicant.

II. WHETHER THE USE IS IN CONFORMANCE WITH ALL SPECIAL REQUIREMENTS APPLICABLE TO THE USE:

Yes

No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your finding:

Section 5.2.3. of the Brunswick County Unified Development Ordinance lists a Garage Service and/or Automobile Repair (including Boat Storage) as a permissible use in the RR Zoning District if approved by the Board of Adjustment through the Special Use Permit process. Section 5.3.5.T. of the UDO outlines the additional criteria for "Garage Service and/or Automobile Repair (including Boat Repair) if approved by the Board of Adjustment through the Special Use Permit process. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all the conditions outlined in the Staff Report are met. The applicant testified at the Board of Adjustment Meeting that all the conditions required to receive the Special Use Permit are acceptable and will be met.

III. WHETHER THE USE, IF DEVELOPED AS PROPOSED, WILL NOT ADVERSELY AFFECT THE HEALTH AND SAFETY OF THE PUBLIC:

Yes

No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your findings:

No expert testimony or evidence was provided that the use will adversely affect the health and safety of the public. The Zoning Administrator testified that a septic system will be required for the business and must be approved by the Brunswick County Health Department. The Staff Report indicated that a buffer will be required adjacent to the periphery of the property to screen the business from adjacent properties. Testimony was provided that Waccamaw School Road can adequately handle the boat traffic, as the road is currently used by logging trucks on a regular basis.

IV. WHETHER THE USE, IF DEVELOPED AS PROPOSED, WILL ADEQUATELY ADDRESS THE TWELVE (12) REVIEW FACTORS IDENTIFIED IN SECTION 3.3.9.B. OF THE BRUNSWICK COUNTY UNIFIED DEVELOPMENT ORDINANCE:

Yes

No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your finding:

The use, a “Garage Service and/or Automobile Repair (Boat Only)”, if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance and the additional review criteria denoted in Section 5.3.5.T. of the Unified Development Ordinance, based upon the submitted Staff Report and requested conditions made by Staff as part of the report.

V. DECISION:

Mr. Cruse made a motion to Grant the Special Use Permit “because the proposed use if developed as proposed and subject to the conditions imposed below:

- a. will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,
- b. will be in conformance with all special requirements applicable to the use,
- c. will not adversely affect the health and safety of the public, and
- d. will adequately address the twelve (12) review factors identified in Section 3.3.9.B. of the Brunswick County Unified Development Ordinance.”

## **CONDITIONS:**

1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).;
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the Special Use Permit application and kept on file by the Brunswick County Planning Department;
3. Parcel must be legally subdivided to be no more than 15 acres in size;
4. Denote Waccamaw School Road on the site plan;
5. A driveway application must be filed and approved by the North Carolina Department of Transportation (NCDOT) to receive access to Waccamaw School Road;
6. Note that the structures and parking must meet the NC Building Code (Accessibility Code) and IC/ANSI A117.1.;
7. Provide an Outdoor Lighting Plan for review and approval consistent with Section 6.9. of the UDO;
8. Denote on the site plan the proposed outdoor storage area (if applicable) and the screening for such;
9. Address the outside repair of boats;
10. Storage of customer vehicles, vehicles with expired tags, unlicensed vehicles, junk vehicles, or any vehicle not used in the conduct of business operations (two trucks for example) for 15 days or more shall be prohibited;
11. Address waste disposal screening by adding plants in front of the fence;
12. Address Storm Water with the concurrence of Brunswick County Storm Water Administrator;
13. Show on the site plan a 20' street buffer with either 1 canopy tree or 2 understory trees per 100 linear feet and a 10' periphery property boundary buffer at 0.2 opacity, with either 1 canopy tree, 1 understory tree and 7 shrubs per 100 linear feet or 1 canopy tree, 2 understory trees and 3 shrubs per 100 linear feet. Note that existing vegetation may be used if the opacity can be met; and
14. If the specified conditions addressed in this Special Use Permit are violated, the permit shall be revoked and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another Special Use Permit and receiving their approval can the use be again permitted.

The motion was seconded by Mrs. McCarthy and unanimously carried.

- B). 17-02S Special Use Permit  
Applicant: Jael Yancey  
Location: 620 Ocean Highway W, Supply NC 28462  
Tax Parcel 1680004602  
Applicant requests a Special Use Permit for a “Kennel [Grooming Only]” consistent with Section 5.3.5.U. of the Brunswick County Unified Development Ordinance.

Ms. Helen Bunch, Zoning Administrator, addressed the Board. Ms. Bunch read the Staff Report (attached). She stated that the applicant, Ms. Jael Yancey, proposes to have a pet grooming business on the subject parcel. She further stated that Pet Grooming falls under the umbrella of the “Kennel” use in the Brunswick County Unified Development Ordinance. She continued that the proposed will be located on Tax Parcel 1680004602, also known as 620 Ocean Highway West. She identified the subject property and surrounding properties on a map displayed on an overhead projector. She continued that the Brunswick County Future Land Use Plan designates the subject parcel as Mixed Use. She stated the proposed use is only permissible in the C-LD Zoning District with Special Use Permit approval by the Brunswick County Board of Adjustment. Ms. Bunch proceeded to discuss the twelve (12) review factors (e.g., circulation; parking and loading; service entrances and areas; lighting; signs; utilities; open space; environmental protection; screening, buffering, and landscaping; effects on adjoining property; compatibility; and impacts on military installations) associated with the subject parcel. She stated that all access to the site will occur from Ocean Highway (US 17). She further stated that the vehicles will be parked in the existing parking lot. She continued that there are currently twenty-six (26) spaces for the two buildings. Ms. Bunch stated that the square footage of the Wagging Tails Happy Hearts Grooming is 1,000 square feet. She stated that one (1) space per 250 square feet of area is required for a Kennel, thus a minimum of four (4) spaces will be needed. She further stated that the existing spaces exceed the number needed for both buildings. Ms. Bunch stated that service entrance and areas are the same as public entrance. She stated that no additional lighting will be required. She further stated that any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. She continued that signage is a separate permitting process. Ms. Bunch stated that water is provided by Brunswick County and a septic system is used for sewer. She stated that there are no separate open space requirements for this use. She further stated that the applicant must meet all applicable Federal, State and Local Government requirements. Ms. Bunch stated that existing screening, buffering and landscaping of the parcel is sufficient. She stated that the effect on the adjoining property is minimal as clients will remain indoors. She further stated that the proposed Special Use is not within five (5) miles of a military installation.

Ms. Bunch stated that there are additional approval criteria for this use outlined in Section 5.3.5.U., Veterinary Clinics, Animal Hospitals, and Kennels. Those criteria are 1). In the RR district, the use shall be permitted as a limited use subject to the standards in this Section. She said this requirement is not applicable, as the parcel is zoned Commercial Low Density. Ms. Bunch stated that 2). A 300-foot separation shall be maintained between the outdoor areas where animals are kept and any property line of any adjacent residential use in a residential district. She said that the request as a condition that the use be limited to

grooming (which is typically part of a kennel) and be limited to indoors only. She stated that 3). A minimum six-foot high wall shall be installed and maintained between outdoor areas where animals are kept and any property line of an adjacent residential use in a non-residential district. She said that requested conditions include that the use be limited to grooming (which is typically part of a kennel) and be limited to indoors only. Ms. Bunch stated that 4). The facility shall be constructed, designed, and located on the site to minimize noise, odor, and other impacts on neighboring properties. Adequate waste disposal shall be required to maintain sanitary conditions and control odor. She said that this is an existing structure and the owner proposes to take care of waste via a pet disposal station. She stated that 5). With the exception of Kennels, all facilities shall be licensed by the Animal Health Division of the North Carolina Department of Agriculture and Consumer Services, Article 3, and all other required permits or certificates shall be acquired and maintained. She concluded that this requirement is not applicable as the proposed use falls under the Kennel use.

Ms. Jael Yancey addressed the Board. Ms. Yancey stated that she is requesting a Special Use Permit to allow a Kennel [Pet Grooming] on the subject parcel. She stated that clients can either make an appointment or walk-in to the facility with their animals. She said that they will wash, groom and walk the animals prior to returning them to their owners. She further stated that the proposed will meet all the requirements of the ordinance.

The Chairman asked Ms. Yancey the number of employees she proposes to hire? Ms. Yancey stated that there is enough space to utilize two (2) groomers and at minimum two (2) assistants. The Chairman asked Ms. Yancey if she proposes to house animals overnight? Ms. Yancey replied no.

Mr. Wilson T. Arnold, neighboring property owner, addressed the Board. Mr. Arnold stated that initially he was concerned about a Kennel being located near his property. He stated that he is no longer concerned about the proposed since learning that the operation will be an internal grooming facility for animals.

With no further comments, Ms. Bunch read the conditions of approval of the Special Use Permit:

1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the Special Use Permit application and kept on file by the Brunswick County Planning Department.
3. The use is limited to animal grooming, which shall remain internal to the building.
4. If the specified conditions addressed in this Special Use Permit are violated, the permit shall be revoked and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another Special Use Permit and receiving their approval can the use be again permitted.

She stated that if approved, this development shall have a vested right for a period of three (3) years and a two (2) year extension may be requested by the applicant to the Brunswick County Board of Adjustment.

With no further comments, the Chairman summarized that the applicant, Jael Yancey, requests a Special Use Permit for a “Kennel [Grooming Only]” on the subject parcel. He stated that the applicant testified that no animals will be housed on the premises overnight. He further stated that the Staff Report indicated that there will be no effect on adjoining properties. He concluded that the proposed use is only permissible in the CLD Zoning District with approval by the Board of Adjustment. The Chairman asked if there were any comments to the summation? There were none.

The Board discussed the worksheet and determined the following:

**Application No.** 17-02S

**Applicant:** Jael Yancey

**Property Location:** 620 Ocean Highway W, Supply NC 28462

**Parcel Number:** 1680004602

**Zoning District:** Commercial Low Density (C-LD)

**Land Use Classification:** Mixed Use

**Surrounding Zoning:** North: C-LD, South: C-LD, East: C-LD, West: C-LD

**Proposed Use of Property:** “Kennel [Grooming Only]”

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**FINDINGS OF FACT**

Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its regular meeting, determined that application is complete / incomplete and finds:

- I. WHETHER THE PROPOSED USE IS IN HARMONY WITH THE AREA AND NOT SUBSTANTIALLY INJURIOUS TO THE VALUE OF PROPERTIES IN THE GENERAL VICINITY:

- Yes
- No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your Findings:

No evidence or testimony was provided with regard to property values. The surrounding property is like-zoned. With the limitation of activities to animal grooming within the interior of the structure the business will be in harmony with the area. Adequate buffers from adjacent properties are already in place.

II. WHETHER THE USE IS IN CONFORMANCE WITH ALL SPECIAL REQUIREMENTS APPLICABLE TO THE USE:

Yes

No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your finding:

Section 5.2.3. of the Brunswick County Unified Development Ordinance lists Kennel (Grooming Only) as a permissible use in the C-LD Zoning District if approved by the Board of Adjustment through the Special Use Permit process. Section 5.3.5.U. of the UDO outlines the additional criteria for “Veterinary Clinics, Animal Hospitals, and Kennels” if approved by the Board of Adjustment through the Special Use Permit process. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all conditions outlined in the Staff Report are met. The applicant testified at the Board of Adjustment Meeting that all of the conditions required to receive the Special Use Permit are acceptable and will be met.

III. WHETHER THE USE, IF DEVELOPED AS PROPOSED, WILL NOT ADVERSELY AFFECT THE HEALTH AND SAFETY OF THE PUBLIC:

Yes

No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your findings:

No expert testimony or evidence was provided that the use will adversely affect the health and safety of the public. The applicant testified that the animals will remain inside while at the site, unless accompanied by Staff or the animal’s owner, with no overnight stay.

IV. WHETHER THE USE, IF DEVELOPED AS PROPOSED, WILL ADEQUATELY ADDRESS THE TWELVE (12) REVIEW FACTORS IDENTIFIED IN SECTION 3.3.9.B. OF THE BRUNSWICK COUNTY UNIFIED DEVELOPMENT ORDINANCE:

- Yes
- No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your finding:

The use, Kennel [Grooming Only], if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance and the additional review criteria denoted in Section 5.3.5.U. of the Unified Development Ordinance, based upon the submitted Staff Report and requested conditions made by Staff as part of the report.

V. DECISION:

Mrs. McCarthy made a motion to Grant the Special Use Permit “because the proposed use if developed as proposed and subject to the conditions imposed below:

- a. will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,**
- b. will be in conformance with all special requirements applicable to the use,**
- c. will not adversely affect the health and safety of the public, and**
- d. will adequately address the twelve (12) review factors identified in Section 3.3.9.B. of the Brunswick County Unified Development Ordinance.”**

**CONDITIONS:**

1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO);
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the Special Use Permit application and kept on file by the Brunswick County Planning Department;
3. The use is limited to animal grooming, which shall remain internal to the building;
4. No animals to be housed on the subject parcel overnight [added by Board Member Williamson]; and
5. If the specified conditions addressed in this Special Use Permit are violated, the permit shall be revoked and the use will no longer be allowed. Only by

reapplying to the Board of Adjustment for another Special Use Permit and receiving their approval can the use be again permitted.

The motion was seconded by Mr. Cruse and unanimously carried.

IX. STAFF REPORT.

Ms. Bunch provided the Board with information about a training opportunity. She stated that the University of North Carolina School of Government will be offering a training session on Quasi-Judicial proceedings on June 1, 2017 from 1:00 to 4:00 p.m. at Thalian Hall in Wilmington, North Carolina. She further stated there were no cost to the Board.

X. ADJOURNMENT.

With no further business, Mr. Medlin made a motion to adjourn. The motion was seconded by Mrs. McCarthy and unanimously carried.