

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

**6:00 P.M., Thursday**  
**January 10, 2019**

— **Board of Commissioners Chambers** —  
**David R. Sandifer Administration Building**  
**Brunswick County Government Center**  
**Old Ocean Highway East, Bolivia**

- I. Call to Order.
- II. Roll Call.
- III. Consideration of Minutes of the December 13, 2018 Meeting.
- IV. Agenda Amendments.
- V. New Business.
  - A). 19-01V Variance  
Applicant: Charles Milliken dba Waccamaw Mini Mart  
Location: 5204 Whiteville Road NW, Ash NC 28420  
Tax Parcel 1020001102  
Applicant requests a Variance from Section 4.5.3.B. of the Brunswick County Unified Development Ordinance (UDO) to allow a nonconforming gasoline island canopy damaged by more than 75% of its value by Hurricane Florence to be replaced at its same location, 0 feet from the front property line, as opposed to the 25' from the front property line required by the Ordinance.
- VI. Staff Report.
- VII. Adjournment.

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

**6:00 P.M., Thursday  
December 13, 2018**

**Second Floor Conference/Training Room  
David R. Sandifer Administration Building  
Brunswick County Government Center  
Old Ocean Highway East, Bolivia**

MEMBERS PRESENT

Robert Williamson, Chairman  
Virginia Ward, Vice-Chairman  
Robert Cruse  
Mary Ann McCarthy  
Alan Lewis

MEMBERS ABSENT

None

STAFF PRESENT

Helen Bunch, Zoning Administrator  
Bryan Batton, Assistant County Attorney  
Justin Brantley, Cape Fear Council of Governments

OTHERS PRESENT

Joshua Torbich  
John Chase  
Nancy Rouse  
Timothy Rife  
Christian Haslbeck

I. CALL TO ORDER

The Chairman called the meeting to order at 6:00 p.m.

II. ROLL CALL

All members were present.

III. CONSIDERATION OF MINUTES OF THE OCTOBER 29, 2018 MEETING

Mr. Cruse made a motion to accept the minutes. Ms. Ward seconded the motion. Mr. Lewis interjected that there is a need for a minor correction on page 33. He continued that the first sentence of the second full paragraph should state “Mr. Phil Norris stated that the storm water plan is not required because **no** impervious surface is created. . . “ Mr. Williamson asked if all were in favor of adopting the minutes with the minor change. The minutes with the minor change were approved unanimously.

IV. AGENDA AMENDMENTS

There were none.

V. FUNCTIONS OF THE BOARD OF ADJUSTMENT

Ms. McCarthy explained that 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.

Ms. McCarthy said that the public hearing is not to solicit broad 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.

Ms. McCarthy stated that the Chairman 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.

Ms. McCarthy 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.

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

The Chairman swore in and or/ affirmed Helen Bunch, Joshua Torbich, John Chase, Nancy Rouse, Timothy Rife, and Christian Haslbeck as their testimony being truthful and relevant to the respective case.

VII. New Business

- A. 18-18S Special Use Permit  
Applicant: Brunswick Christian Recovery Center, Inc.  
Location: 1401 Ash-Little River Road NW (SR 1300), Ash NC 28420  
Tax Parcel 2090003401  
Applicant requests a Special Use Permit from Section 5.2.3. and Section 5.3.3.B. of the Brunswick County Unified Development Ordinance (UD) for a Group Care Home.

Ms. Helen Bunch addressed the Board. Ms. Bunch read the Staff Report (attached). She identified the subject property and surrounding properties on a visual map.

Mr. Joshua Torbich, Executive Director of the Brunswick Christian Recovery Center, stated that the property was donated to the organization in October. He also stated that the organization is trying to expand their program for residents and that the ability for program participants to be able to sleep off-site will enable this to occur. Residents will be bused to the campus at 1994 Ash-Little River Road which is about 2.5 miles from the site.

Mr. Williamson asked if the program operates all day. Mr. Torbich responded that yes, the program runs from 7:00 a.m. until 8:00 p.m. He included that during this time participants go to a variety of different meetings. Mr. Torbich added that the day goes by quickly as the participants are busy throughout the day.

Mr. Williamson asked what would happen if someone left the property. Mr. Torbich highlighted the program's voluntary policy and indicated that the residents are able to leave whenever they want and that the organization would provide a bus ticket to a destination of their choosing.

Mr. Williamson asked about the criteria for accepting participants into the program. Mr. Torbich stated that the program does not accept sexual offenders. He added that the program is not a medically-facilitated program and those with extreme mental illness or those that require psychotropic medication are unable to participate in the program as the program does not provide that level of care. He added that those selected for the program mostly have a history of substance abuse. He added that the vetting process also makes sure that participants do not require medications or doctor visits regularly. Additional criteria are that

participants are men who can complete the program and have no problematic legal issues.

Mr. Cruse asked if the program was seven days a week. Mr. Torbich responded that the program is 7 days a week. He added that the participants will visit different churches to share their testimony on Sundays.

Ms. McCarthy asked how many participants are in the main program. Mr. Torbich responded that there are 16 residents and 4 staff members. Mr. Torbich added that the organization will increase to 6 staff members.

Ms. McCarthy asked if the residents can have cars. Mr. Torbich indicated that residents cannot have cars while in the program. He stated that residents are also prohibited from having cell phones.

Ms. McCarthy asked if the organization is faith-based. Mr. Torbich responded that the organization is faith based. He added that while it is not required that participants are religious, it is required that the participants are open minded to the curriculum.

Ms. Ward asked about the average age of the participants. Mr. Torbich responded that the average age is 18-35. Mr. Torbich added that older individuals are typically referred to other programs that will better address health issues.

Rev. John Chase spoke in support of the Brunswick Christian Recovery Center. He indicated that he has been involved with the program on a weekly basis since 2012 as members have attended his church. Mr. Chase included that in the 6 years he has never experienced an instance of disruption, disorder, or any situation that drew undue or unwanted attention towards them. He stated that the group is community-minded as they have continued to make contributions to their community. Mr. Chase included that the program participants helped with recovery efforts after Hurricane Florence by helping their neighbors clean up their homes after flooding occurred. He added that in the 6 years he has known them, they have helped at least 25 families with relocation, particularly the elderly, at no charge. Mr. Chase stated that the program's leadership is disciplined and structured. He added that he has seen life changing impacts in the program's participants. He stated that the program operates with integrity.

Ms. Nancy Rouse addressed the Board. Ms. Nancy Rouse stated that she owns the land adjacent to the property in question. She stated that her understanding is that the property was flooded and donated to the program. Ms. Rouse stated that she is apprehensive to have approximately thirteen (13) men next door to her property. She added that she is often there alone with her grandkids and would feel unsafe with 13 men next door. She stated that she doesn't know what kind of substance abuse issues the men have, whether it is drugs or alcohol. Ms. McCarthy asked Ms. Rouse to indicate on the map where her property is located. She pointed out

several parcels that she owns around the property. She indicated that she has a cabin located on one of the adjacent parcels adding that the three (3) properties under the name Falcon Retreat are her properties. Mr. Williamson asked her to identify where her cabin is located. Ms. Rouse added that she is there daily except Sundays. Mr. Williamson also asked if this was where she lived. Ms. Rouse stated that she lives close to 5 miles away but occasionally stays at the cabin on the property with her grandchildren.

Chairman Williamson asked Mr. Torbich to respond to Ms. Rouse's concerns. Mr. Torbich stated that the participants are not on substances when they begin the program. He stated that the men are detoxed a minimum of 5 to 7 days before joining the program through a medical detox. Mr. Torbich added that the men are not even on medications that are mood or mind altering. Mr. Torbich stated that the men are consistently supervised, adding that the men's whereabouts are always known throughout the program and that the men are not allowed to leave the property where they are located.

Ms. McCarthy asked how many staff members are on site. Mr. Torbich responded that there is always a minimum of two staff members at all times on site. The staff provides supervision 24/7 in shifts. Mr. Torbich included that the new location will have the same minimum of two staff members with 24/7 supervision. Mr. Cruse asked if they have ever had to use the Sheriff's Department. Mr. Torbich stated that the only two instances where that type of request was made was two occasions that required medical assistance because participants had seizures which were possibly related to the detox process. Mr. Torbich further clarified that the Sheriff's Department has never been needed to address domestic issues or issues of violence.

Ms. Ward asked if the men want to be there. Mr. Torbich responded that yes they want to be there as the program is not court ordered or involuntary. Mr. Lewis asked if the men are local men or do they come from other areas. Mr. Torbich responded that 60% of the participants come from Brunswick, Columbus, Horry, and New Hanover Counties. He added that many that come from out-of-state have home roots in Brunswick County.

With no further comments, Ms. Bunch read the proposed conditions of approval for 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 application and kept on file by the Brunswick County Planning Department.
3. The site plan must be amended to include a ten foot (10') deep, 0.2 opacity buffer around the periphery of the property. Existing screening, buffering and landscaping of the parcel at the peripheral may be sufficient. If, at the time of

inspection, the opacity requirement cannot be met with existing plants, additional plantings will be required.

4. The home shall meet all state requirements, and all applicable housing and International Building Code with North Carolina Amendments requirements.
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.

Ms. Bunch stated that if approved, this development shall have a vested right for a period of (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 Brunswick Christian Recovery Center is proposing to operate a group care home in a rural residential area. He added that Ms. Bunch's report indicated that the use is compatible with the surrounding property and expects little impact on the property. He added that the use is allowed in that zoning district. He also added that the home is primarily a place for program participants to eat and sleep as they are off-site all day. The Chairman added that the men are there voluntarily and there is little reason for trouble as they can leave the program when they desire.

The Chairman asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

Having heard all the evidence and arguments presented at the hearing, the Board of Adjustment, at its meeting on December 13, 2018, finds and determines that the application is complete, and subject to the conditions imposed below, the following findings are made.

1. A written application was submitted and complete in all respects.
2. The use, a "Group Care Home", for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. The Staff Report states that this is a rural area, with the surrounding property zoned Rural Residential. As such, the proposed use is in harmony with the area.
  - b. No expert testimony was provided, or report submitted by an appraiser regarding the value of properties.
3. The use, a "Group Care Home", for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. Section 5.2.3. of the Brunswick County Unified Development Ordinance lists a Group Care Home as a permissible use in the RR

- Zoning District if approved by the Board of Adjustment through the Special Use Permit process.
- b. Section 5.3.3.B. of the UDO outlines the additional criteria for Group Care Homes if approved by the Board of Adjustment through the Special Use Permit process.
  - c. 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.
4. The use, “Group Care Home”, for which the Special Use Permit is sought, if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
- a. The Staff Report addresses the minimum 12 standards for all commercial development. The applicant has agreed to meet these standards.
  - b. The Staff report stated that in addition to the standard requirements, there is no family care home, group care home or emergency shelter within a one-half mile radius of the proposed facility. Zoning Administrator Helen Bunch stated that the structure will be used for sleeping and meal purposes only, as the residents will be transported each morning to the current recovery campus for normal program operations and meetings.
  - c. Brunswick Christian Recovery Director Josh Torbush testified that this is not a court-ordered program, therefore the residents choose to be there and can leave the program if they desire to do so at any time. He continued that while in the program the residents are supervised 24 hours per day, 7 days per week.
5. The use, a “Group Care Home”, 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. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
- a. The Board concurs with the staff report which outlines the twelve (12) review factors as stated in the Unified Development Ordinance, specifically:
    - 1. **Circulation:** All access to the site will occur from Ash-Little River Road NW (SR 1300). The existing driveway permit will support the use.
    - 2. **Parking and Loading:** One (1) parking space per three (3) beds is required. Thirteen (13) residents are proposed, requiring a minimum of five (5) parking spaces. There is enough room for the required parking located on the 3.298-acre parcel.
    - 3. **Service Entrances and Areas:** N/A
    - 4. **Lighting:** No additional lighting will be required. Current outdoor lighting will be utilized.
    - 5. **Signs:** Any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. Signage is a separate permitting process.

6. **Utilities:** An existing septic system and well are located on-site. The septic system will require a recheck prior to the change of use.
7. **Open Space:** There are no separate open space requirements for this use.
8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
9. **Screening, Buffering and Landscaping:** A 0.2 opacity buffer will be required around the periphery of the property. Existing screening, buffering and landscaping of the parcel at the peripheral may be sufficient. If, at the time of inspection, the opacity requirement cannot be met with existing plants, additional plantings will be requested.
10. **Effect on Adjoining Property:** The effect on the adjoining property is minimal as the surrounding property is residential and rural in nature.
11. **Compatibility:** The proposed use is permissible in the RR Zoning District with Special Use Permit approval by the Board of Adjustment.
12. **Impacts on Military Installations:** The proposed Special Use is not within five (5) miles of a military installation.

b. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.3.B. for Group Care Homes in the Unified Development Ordinance, specifically:

1. A group care home may be no closer than one-half mile radius, measured lot line to lot line, from any existing and/or permitted family care home, group care home, or emergency shelter. **There is no family care home, group care home or emergency shelter within a one-half mile radius of the proposed facility.**
2. The home shall be operated in a manner that is compatible with the neighborhood and shall not be detrimental to adjoining properties as a result of traffic, noise, refuse, parking or other activities. **Structure will be used for sleeping and meal purposes only. The residents will be transported each morning to the current recovery campus for normal program operations and meetings.**
3. The home shall maintain a residential appearance compatible with the neighborhood. **Home currently has a residential appearance and is proposed to remain the same.**
4. The home shall meet all State requirements, and all applicable housing and International Building Code with North Carolina Amendments requirements. **Applicant will be made aware of this and it will be one of the conditions of approval.**

c. Mr. Torbush stated that he is aware of the requirements and agreed to comply with all conditions of the permit.

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

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 application and kept on file by the Brunswick County Planning Department.
3. The site plan must be amended to include a ten foot (10') deep, 0.2 opacity buffer around the periphery of the property. Existing screening, buffering and landscaping of the parcel at the peripheral may be sufficient. If, at the time of inspection, the opacity requirement cannot be met with existing plants, additional plantings will be required.
4. The home shall meet all State requirements, and all applicable housing and International Building Code with North Carolina Amendments requirements.
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. Williamson and unanimously carried.

- B. 18-18S      Appeal of Staff Decision  
Applicant:      Timothy Rife  
Location:      1032 Wilma Avenue SW, Supply NC 28462  
                    Tax Parcel 184OC026  
                    Applicant is appealing a decision made by the Zoning Administrator to  
                    remove a camper that the applicant has placed on a vacant adjacent parcel.

Ms. Helen Bunch addressed the Board. Ms. Bunch read the Staff Report (attached). She identified the subject property and surrounding properties on a visual map.

Mr. Timothy Rife addressed the Board. Mr. Rife stated that he is purchasing the lot in question as well as the lot to the right from Mr. Haslbeck. He clarified he does live on the lot to the right of the vacant lot on which the camper has been located. Mr. Rife stated that he doesn't have room to park his camper on the lot that he occupies. Mr. Rife also mentioned that he intended to store his boat on the property as well. He stated that he was not aware of the ordinance stating that parking a camper on the vacant lot was prohibited. Mr. Rife stated that there is no one living in the camper. He added that he does run a power cord to the camper during the summer to run exhaust fans to dehumidify the camper. He stated that after a month of having the camper on the lot he received a notice from Brunswick County Code Enforcement informing him that it was not allowed. Mr. Rife reiterated that there is no one living in the camper and that he was using the vacant lot to store it. Mr. Rife indicated that his understanding was that the complaint was based on the understanding that someone was living in the camper.

Mr. Cruse asked Mr. Rife to clarify what was the lot number for the vacant lot. Mr. Rife responded Parcel 184OC026. Mr. Cruse asked him if that's where his home was located. Mr. Rife responded no. He added that the camper is not sitting near anything. Mr. Rife added that he uses the camper to store wood among other items such as a few boxes. He added that there is no power, water, or sewer on the site.

Mr. Williamson asked Ms. Bunch if the initial complaint had indicated concern of someone living in the camper illegally. Ms. Bunch responded that one of the issues was that there was electricity being illegally run to the camper as well as the camper being located on a vacant lot. Ms. Bunch indicated if the lots were combined the camper could be stored on the lot. Ms. Bunch added that the lot on which the camper sits is unable to be used for storage because it lacks a primary structure. Ms. Bunch added that campers are not to be used for storage. Mr. Rife added that the camper is being used for storage temporarily.

Mr. Williamson asked if he was able to combine the lots. Mr. Rife responded that he is unable to combine the lots because he is still paying off the debt on the lots. Mr. Rife stated that the lots were initially designed for travel trailers. Mr. Rife added that there is a lack of space on the lot on which he lives. He added that he was storing the camper there until his next camping trip. Mr. Rife stated that he had originally intended to store his boat on the lot as well.

Mr. Lewis asked if he owns the lot on which his house is located and if he is in the process of purchasing the vacant lot. Mr. Rife added that he is in the process of paying off both of the lots. Ms. Ward asked about the size of the camper. Mr. Rife stated that the camper is 8 feet by 30 feet in size. Mr. Lewis asked how long it will be until the lots that the camper is on is paid for. Mr. Rife responded 6 years.

Mr. Haslbeck addressed the Board. Mr. Haslbeck stated that he purchased the cul-de-sac 30 years ago. He added that until 2 years ago he had rental properties in this location. Mr. Haslbeck added that he lived at Parcel 184OC025 in a twenty-one foot travel trailer for 2 years. He added that in the deed of restrictions of the Edgarwood Subdivision the cul-de-sac was designated specifically for travel trailers. He added that the deed restrictions expired in the year 2000. Mr. Haslbeck added that he personally put septic tanks on these sites with travel trailers in mind. He added that the lots are odd shaped and heavily wooded. Mr. Haslbeck added that he recommended that Mr. Rife purchase the adjacent lot with the understanding that he would be able to park his camper and boat in this location. Mr. Haslbeck stated that the camper is not being lived in and that it the lot is just being used to park the camper. Mr. Haslbeck added that when he purchased the property it was legal to place a camper. He stated that it requires cutting down the trees on the property with the home to be able to place the camper on the same lot as the home.

Mr. Williamson asked Ms. Bunch if the initial complaint indicated that someone was living in the trailer. Ms. Bunch clarified that the understanding is that the trailer is occupied from time to time. Ms. Bunch added that the applicants own testimony indicated that a power cord was being run to the camper. Mr. Haslbeck stated that the

drop cord is being used to power the exhaust fan to mitigate mold which has recently been a common issue in the area.

Mr. Haslbeck stated that the reason the lots are unable to be combined is that the lots are owner financed and Mr. Rife is unable to get the deed until they are paid off to protect his own financial interests. Mr. Haslbeck added that both lots need to be paid off by Mr. Rife before being able to combine the lots. The Assistant County Attorney, Bryan Batton, clarified that the lots are being separately financed. Ms. McCarthy asked whose name is on the deed. Mr. Haslbeck stated that Stone Chimney Properties is on all of the deeds and added that he is the owner of Stone Chimney Properties. Ms. McCarthy asked if there was a deed of trust, which would allow Mr. Rife to combine the lots. Mr. Haslbeck clarified that there was no deed of trust.

Mr. Lewis asked if Mr. Haslbeck was willing to issue a deed of trust so that the lots could be put in Mr. Rife's name and be combined. Mr. Haslbeck responded that no, he is not willing to do so for financial reasons. Mr. Haslbeck added that combined the lots would reduce the overall value of the property.

With no further comments, the Chairman summarized that Mr. Rife was notified that he was parking a camper on a lot that did not have a primary residence on it and according to the zoning ordinance this is illegal. Mr. Rife was asked to remove the camper. Mr. Rife is requesting for the reversal of the initial decision by the Zoning Administrator. Mr. Williamson added that the camper is not hooked up permanently to utilities but does have a drop cord hooked up to it during the summertime. An additional concern is that the camper is being used for storage which is also not permitted. Mr. Williamson added that Mr. Rife has indicated that he is unable to store the camper on the property on which his primary residence is located, which joins the vacant lot in question. Mr. Williamson added that for legal reasons the properties are unable to be combined, which would enable Mr. Rife to place the camper on the property.

The Chairman asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

The Chairman stated that the Board of Adjustment for the County of Brunswick, having held a public hearing on December 13, 2018 to consider Application Number 18-19A (Tax Parcel 184OC026) submitted by Timothy Rife, a request for an interpretation of Appendix (formerly Article 12) Camper Definition and Section 5.4.2.F. of the Unified Development Ordinance.

Insofar as the Ordinance affects the removal of a camper presently located at 1032 Wilma Avenue, Supply NC 28462, having heard all of the evidence and arguments presented at the hearing, the Brunswick County Board of Adjustment makes the following findings of fact and draws the following conclusions:

1. There was substantial evidence in the record to show the following FACT(S):

- The structure located on the parcel meets the definition of a camper addressed in Article 12 of the UDO as verified applicant.
  - There is no other structure on the parcel. As such, the camper must be considered the primary structure.
  - The subject parcel is zoned Rural Residential (RR).
  - Per Section 5.1.2.A. “Household Living,” a camper may not be utilized as a principal or accessory use in this category.
  - No individual was living in the camper, but rather items were stored in the camper, with a drop cord run from a residence on a separate parcel to the camper in order to climatize and keep mold from growing in the camper.
  - Storage of campers as a primary use on a parcel is not permitted in a residential subdivision.
2. The resolution of this case depends on the interpretation of the Ordinance language as applied to the foregoing facts. It is the Board’s CONCLUSION that the following sections of this Ordinance, as applied to those facts, shall be interpreted as follows:
- The definition of a camper as addressed in the Appendix stands and said structure is a camper.
  - Section 5.4.2.F. of the UDO is not applicable in this incidence, as the applicant testified that no one was staying in the camper and that it is utilized for storage and being stored.
  - A camper may be stored as personal property on a parcel only where the owner of the camper has a primary residence and the owner is simply parking their personal camper on the property until their next trip.

Mr. Williamson called for a vote. The vote was unanimous to affirm the decision. Mr. Williamson stated that the decision of the Zoning Administrator is hereby affirmed.

Mr. Haslbeck asked about the appeal process to the Superior Court. Mr. Haslbeck asked how long from today’s date does Mr. Rife have to move the camper. Mr. Rife stated that he is going to put the camper back into his driveway. Mr. Rife offered to show a picture of how close the camper is to his primary residence. Ms. McCarthy said that doesn’t matter. Mr. Batton responded to Mr. Haslbeck’s question and said that when he filed the first appeal it had stopped the clock on the initial notice and tomorrow the clock will start back.

Mr. Haslbeck stated that he supports the action Mr. Rife wants to take. Mr. Rife asked if he could have anything on the property. Mr. Lewis responded that he could have a storage building. Ms. McCarthy added that he would be able to do more with the property once the two parcels are joined.

VIII. Staff Report

Ms. Bunch distributed the Board of Adjustment Meeting Schedule for 2019. Ms. Bunch indicated that she anticipates one submittal for January.

IX. Election of Officers

Mr. Williamson stated that he wishes to let someone else have the opportunity to be the Chairman. Mr. Williamson added that Mr. Cruse would make a good Chairman. McCarthy stated that Mr. Williamson handles the position well and the other members agreed. Mr. Williamson asked if there were any nominations for Chairman. Ms. McCarthy responded and nominated Mr. Williamson. Mr. Williamson nominated Mr. Cruse. Mr. Cruse seconded the nomination by Ms. McCarthy. Mr. Lewis made a motion to close the discussion and vote. Mr. Cruse seconded the motion. The group voted and elected Mr. Williamson for the position of Chairman. Mr. Williamson asked for a nomination for Vice-Chairman. Ms. Ward nominated Mr. Cruse for the position of Vice-Chairman. Ms. McCarthy seconded the motion. Mr. Lewis motioned to close the nominations. Mr. Williamson called for the vote and Mr. Cruse was unanimously elected to fill the position of Vice-Chairman.

X. Adjournment

With no further business, Ms. Ward made a motion to adjourn. The motion was seconded by Ms. McCarthy and unanimously carried.

COUNTY OF BRUNSWICK

ZONING BOARD OF ADJUSTMENT

Variance Application Form

Application Number 19-01V Date 12-13-2018

Application Fee \$100.00 Receipt # 023693

Applicant Charles Milliken DBA  
Wiccanas Mini Mart Owner Charles Milliken

Address 5204 Whiteville Rd NW Address 5204 Whiteville Rd NW  
Ash, NC 28420 Ash, NC 28420

Telephone 910-282-4454 Telephone 910-685-6843

Relationship of Applicant to Owner Self

Property Street Address  Hwy 130 W. 5204 Whiteville Road NW

Tax Map # 1020001102 Block \_\_\_\_\_ Lot \_\_\_\_\_

Lot Dimensions 1.16 AC Square Footage 1.197 AC. Zoning CLD

REQUEST FOR A VARIANCE

**PURPOSE OF VARIANCE** - A variance is the official allowance of a variation from the requirements of the County Zoning Ordinance or other development regulations. An applicant for a variance must demonstrate that there are some valid reasons which create the need for a variance. These reasons cannot be strictly economic, but must generally involve some physical problem with the subject property which will not allow it to be developed in a reasonable manner if the development regulations are followed literally. The reasons must be peculiar to the property and cannot be a result of the owners own actions.

**BOARD OF ADJUSTMENT** - The Board of Adjustment, or BOA, is the official board which considers requests for variances. The BOA receives sworn testimony at its meetings and issues decisions on variance requests based on this testimony. It is the responsibility of each applicant for a variance to attend the BOA meeting and present sworn testimony in support of the request.

**REASON FOR THE REQUEST FOR A VARIANCE** - Explain in your own words why you are requesting a variance. Make sure you clearly indicate the problem(s) you have in complying with the County development regulations. (Attach additional sheets if necessary.)

This statement is in regards to a request for a Variance and building permit for Laccamas Mini Mart. Laccamas Mini Mart was established October 15, 1998 and is currently being operated by its original owners, Charles & Cheryl Milliken. Laccamas is located in Ash, at the Brunswick / Columbus line near the beautiful Laccamas River. Our business sits at the intersection of Old King Road and Highway 130W. This property is L.L.O.A.C that faces many acres of farmland.

This is a country store that we built together across the street from our lifetime home. As the years passed we grew and in 1993 we had gas & fuel so we purchased a canopy to protect our pumps and shelter our customers. At that time Brunswick County had no zoning and restrictions like now. After many years of abuse from hurricanes and tropical storms, our canopy finally was delt more than it could handle during Hurricane Florence. While still standing it is badly damaged and needs to be replaced. Our insurance deemed it a total loss. Our wish is to replace it with a canopy that is the exact size and will be put on the existing fasten and bolts used for the old one. The only difference will be recessed LED lights. We understand what Planning is saying about zoning and us being to close to the property line but we are asking you to consider that was not the fact when we built our business in 1998, and we desperately need plenty of lighting in the early morning and nighttime hours of operation. Without a well lit parking lot our business will fade fast. We also need adequate lighting for our safety. Visibility is important so we consider who might be approaching us. We request that you take these facts in consideration when making your decision.

Thank you  
Charles & Cheryl Milliken

- ATTACH PLOT PLAN DESCRIBING VARIANCE REQUEST
- PROVIDE 1 ORIGINAL AND 12 COPIES OF ALL ATTACHMENTS TO BE INCLUDED AS PART OF THE APPLICATION DOCUMENT.
- APPROPRIATE FEE MUST ACCOMPANY ALL APPLICATIONS.
- REPRESENTATION IS REQUIRED AT ALL BOARD MEETINGS.

12-11-18  
Date

Charles Milliken  
Signature of Applicant

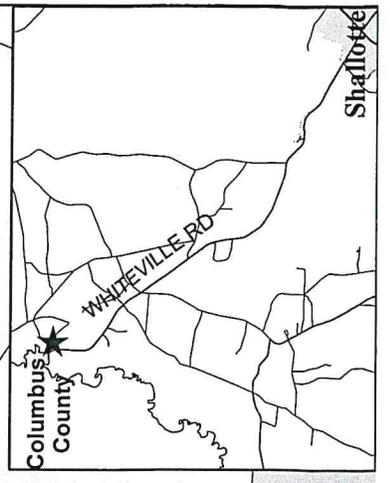
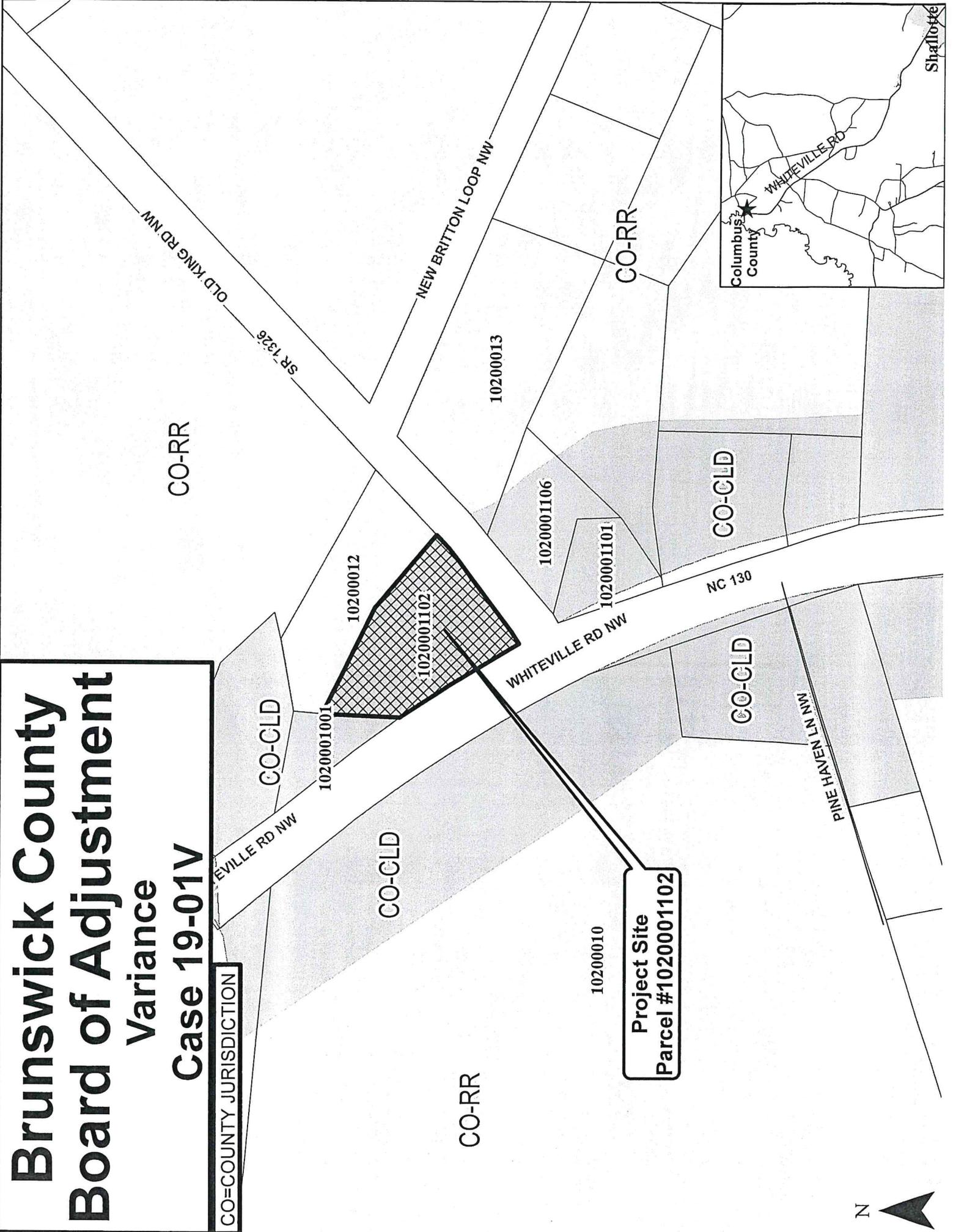
Charles Milliken  
Signature of Property Owner

# Brunswick County Board of Adjustment

## Variance

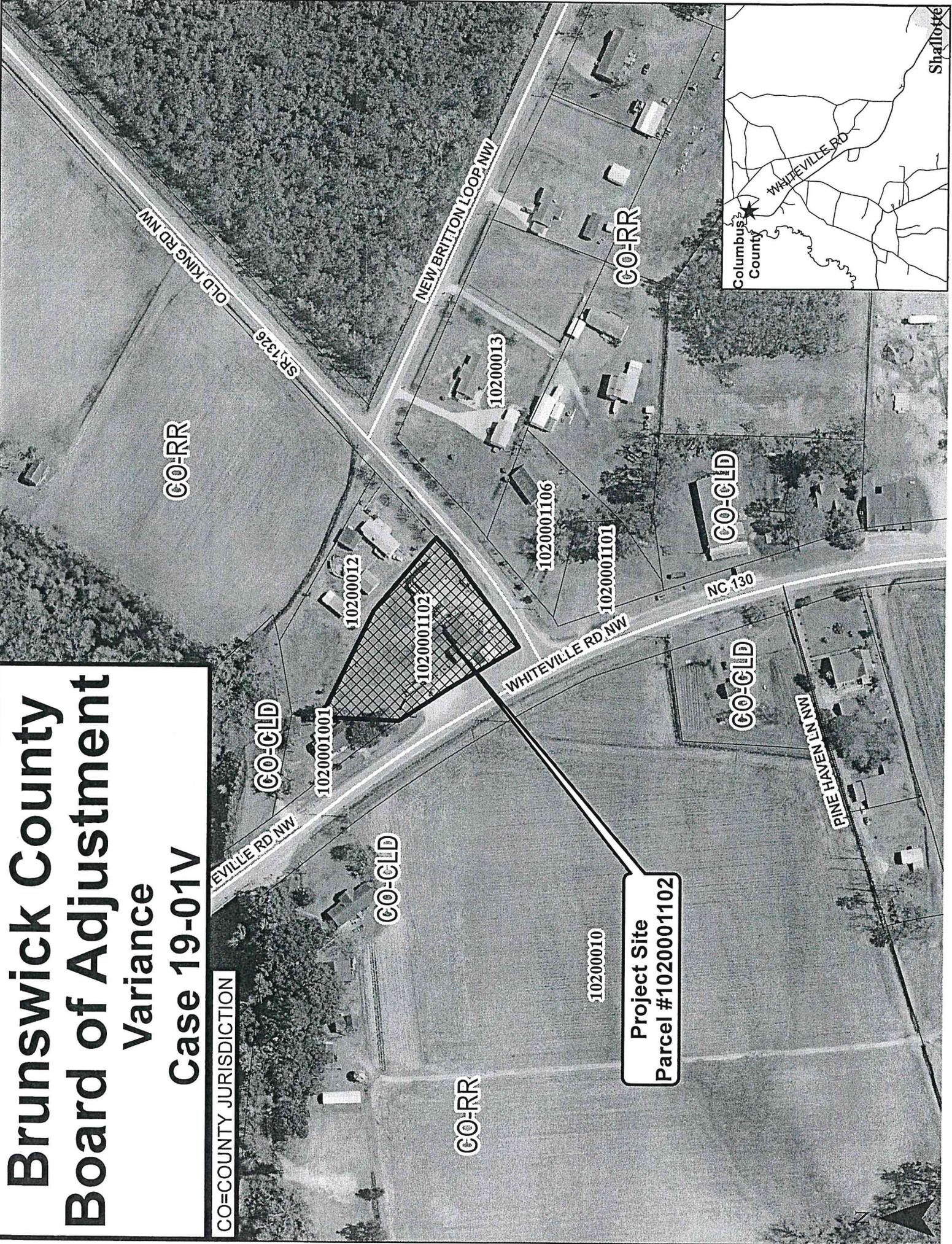
### Case 19-01V

CO-COUNTY JURISDICTION

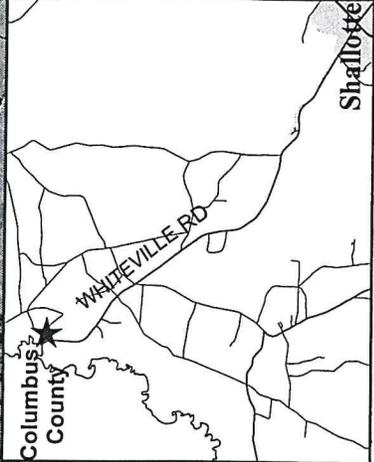


# Brunswick County Board of Adjustment Variance Case 19-01V

CO=COUNTY JURISDICTION



Project Site  
Parcel #1020001102



# CASE 19-01V

## ADJACENT PROPERTY OWNER(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
10200012	MYLES ESTHER B	5224 WHITEVILLE ROAD NW	ASH	NC	28420
1020001001	MYLES ESTHER B	5224 WHITEVILLE ROAD NW	ASH	NC	28420
10200013	MILLIKEN CHARLES W	5204 WHITEVILLE RD	ASH	NC	28420
1020001106	STEWART BRENDA M	6219 OLD KING RD NW	ASH	NC	28420-4003
10200010	BABSON KENNETH R (LT)	5233 WHITEVILLE RD NW	ASH	NC	28420-3717
1020001101	BABSON KENNETH R (LT)	5233 WHITEVILLE RD NW	ASH	NC	28420-3717

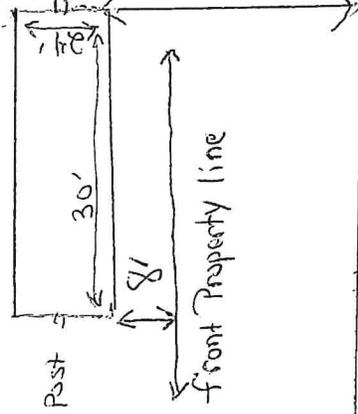
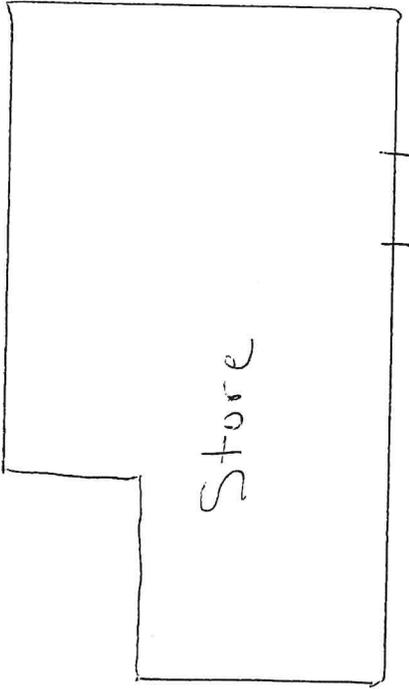
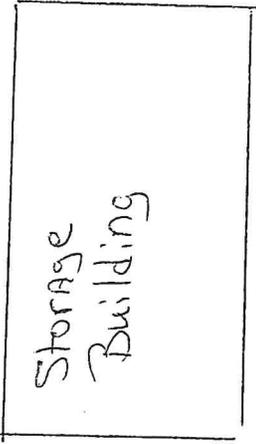
## OWNER(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
1020001102	MILLIKEN CHARLES W	5204 WHITEVILLE RD	ASH	NC	28420

## APPLICANT(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
1020001102	MILLIKEN CHARLES W	5204 WHITEVILLE RD	ASH	NC	28420

Old King Rd



57'

WARRAMAU Mini Mart

Project #  
444986

HWY 130

**BRUNSWICK COUNTY BOARD OF ADJUSTMENT  
VARIANCE  
STAFF REPORT**

January 10, 2019

**Application No.** 19-01V  
**Applicant:** Charles Milliken dba Waccamaw Mini Mart  
**Property Location:** 5204 Whiteville Road NW, Ash NC 28420  
**Parcel Number:** 1020001102  
**Zoning District:** Commercial Low Density (CLD)  
**Surrounding Zoning** **North:** CLD & RR **South:** CLD  
**East:** RR **West:** CLD

**Proposed Use of Property:** Accessory – Gasoline Island Canopy

The application was submitted to the Brunswick County Planning Department on December 12, 2018.

The applicant, Charles Milliken dba Waccamaw Mini Mart, has filed an application for a Variance from the Brunswick County Unified Development Ordinance (UDO) to allow a detached gasoline island canopy to be reconstructed that was damaged by Hurricane Florence. A variance is requested from Section 4.5.3.B. of the of the Brunswick County Unified Development Ordinance (UDO) to allow a nonconforming gasoline island canopy damaged by more than 75% of its value by Hurricane Florence to be replaced at its same location, 0 feet from the front property line, as opposed to the 25' from the front property line required by the Ordinance.

**Relevant Information**

- A public hearing was duly noticed as a sign was posted on the subject parcel and adjoining property owners were notified of the meeting.
- Charles Milliken is the owner of the property located at 5204 Whiteville Road NW.
- The subject property contains 1.197 acres in total and is currently zoned Commercial Low Density (CLD).
- Per the Brunswick County Real Estate Tax Records, the canopy was constructed in 1993 (see attached). At that time, Brunswick County did not have zoning requirements.

- The Brunswick County Zoning Ordinance was adopted in January of 1994. [Today this document along with others makes up the Brunswick County Unified Development Ordinance (UDO)]. Structures that do not meet the requirements of the zoning district in which they are located are considered “nonconforming”.
- Section 10.4.1. of the UDO defines nonconforming structures as follows: “A nonconforming structure is any aspect of a development – other than a nonconforming lot, nonconforming use or nonconforming sign – that was lawfully established, in accordance with zoning regulations in effect at the time of its establishment but that no longer complies with one or more standards of this Ordinance.”
- The applicant indicates that the insurance has assessed the damage to the sign at 100%.
- Section 10.4.4.A Damage or Destruction (of Nonconforming Structures) states “In the event of damage by fire or other causes to an extent exceeding 75% of its value, reconstruction of a nonconforming structure shall be permitted only in compliance with the dimensional provisions of this Ordinance.
- The existing canopy is at the front property line based upon County aerials and a visual inspection by Code Enforcement. The applicant wishes to replace the same size of canopy at the exact same location as the existing canopy.
- The applicant will need a 25’ front yard variance to replace the gasoline island canopy structure at the proposed location facing Whiteville Road.



**BRUNSWICK COUNTY BOARD OF ADJUSTMENT**

**ORDER GRANTING/DENYING A VARIANCE**

The Board of Adjustment for Brunswick County, having held a public hearing on January 10, 2019 to consider Case Number 19-01V, submitted by Charles Milliken dba Waccamaw Mini Mart, a request for a variance to use the property located at 5204 Whiteville Road NW, Ash NC 28420, in a manner not permissible under the literal terms of the ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACTS and draws the following CONCLUSIONS:

- 1. It is the Board's CONCLUSION that, unnecessary hardship (will/will not) result from the 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. This conclusion is based on the following FINDINGS of FACT:

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- 2. It is the Board's CONCLUSION that the hardship (does/does not) result from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT:

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- 3. It is the Board's CONCLUSION that the hardship (does/does 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:

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4. It is the Board's CONCLUSION that the requested variance (is/is not) 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:

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THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be (GRANTED/DENIED) subject to the following:

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