



Pender County

Agenda

Board of Adjustment Meeting

Wednesday, April 20, 2022 @ 9:00 AM
Pender County Public Assembly Room

	Presenter	Page
1. CALL TO ORDER		
2. ROLL CALL		
3. PLEDGE OF ALLEGIANCE		
4. MOMENT OF SILENCE		
5. ADOPTION OF AGENDA		
6. ADOPTION OF MINUTES		
6.1. Adoption of January 19, 2022 Meeting Minutes		3 - 11
		Board of Adjustment - 19 Jan 2022 - Minutes - Pdf
7. PUBLIC COMMENT		
8. VARIANCE		
8.1. VAR 2022-10		13 - 30
		VAR 2022-10 - Pdf
9. DISCUSSION ITEMS		
10. NEXT MEETING DATE		
10.1. May 18th, 2022		
805 S. Walker Street		
Burgaw, NC 28425		
11. ADJOURNMENT		



MINUTES
Board of Adjustment Meeting
Wednesday, January 19, 2022 Pender County Public Assembly Room 9:00 AM

MEMBERS PRESENT: Max Kipfer
Andrew Olsen
Douglas Scott Rivenbark
Jeffrey Snider

MEMBERS ABSENT: Kyle Breuer
Samantha Nelson

OTHERS PRESENT: Travis Henley, Planning Director
Trey Thurman, County Attorney
Stephanie Jagoda, Administrative Assistant
Other Staff and Members of the Public.

1 CALL TO ORDER
Called to order 9:14 AM

2 ROLL CALL

3 PLEDGE OF ALLEGIANCE

4 MOMENT OF SILENCE

5 ELECTION OF OFFICERS
County Attorney T. Thurman calls for nominations for Chairman and Vice Chairman.

a) Chairman Kipfer nominated himself to remain as Chairman.

Moved by Max Kipfer, seconded by Jeffrey Snider

Motion to approve Chairman

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer				x

Samantha Nelson				x
Andrew Olsen	x			
Douglas Scott Rivenbark	x			
Jeffrey Snider	x			
	4	0	0	2

CARRIED.

- b) Chairman Kipfer nominates current Vice Chairman Breuer to remain Vice Chairman

Moved by Max Kipfer, seconded by Andrew Olsen

Motion to approve Vice Chairman

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer				x
Samantha Nelson				x
Andrew Olsen	x			
Douglas Scott Rivenbark	x			
Jeffrey Snider	x			
	4	0	0	2

CARRIED.

6 ADOPTION OF AGENDA

- a) Agenda adopted

Adoption of Agenda Accepted

CARRIED.

7 ADOPTION OF MINUTES

- a) Board of Adjustment Meeting Minutes for November 17, 2021

Adoption of Minutes Accepted

CARRIED.

8 PUBLIC COMMENT

9 VARIANCE

a) VAR 2021-07

Presented by Planner Greg Feldman, the subject property is JE Batson Road, a 1.35 acre piece of land that is a private dirt road that currently serves as access for Lots 3 through 9 of the Greenway II Subdivision. The applicant acquired this piece of land as means of access to the vacant 4.16 parcel of land to the south of the road. The applicant has submitted a preliminary plat to the Pender County Planning Department for review. This subdivision is known as Bodie Point. The applicant plans on improving and paving JE Batson Road, as required by the Pender County Unified Development Ordinance. Neighboring uses include single family homes in each direction, as well as Batson construction and Hampstead Kiwanis Park further to the west, and North Topsail Elementary School to the east. The neighborhood immediately to the east is The Walk at Sloop Point. The subject property approximately 1.35 acres in size and currently consists of a private dirt road. According to the standards outlined in Section 7.5.1.A of the Pender County Unified Development Ordinance, the applicant is required to connect JE Batson Road to W. Bailey Lane. According to the applicant's narrative, they are unable to connect JE Batson Road to W. Bailey Lane due to the mail kiosk that serves The Walk at Sloop Point neighborhood, which is located at the end of the cul-de-sac on W. Bailey Lane. According to the applicant, this is the only location for the mail kiosk that meets NCDOT and USPS standards. As well, the applicant shared that there is an groundwater lowering system located between JE Batson Road and W. Bailey Lane that is beneficial to the functionality of the septic systems within The Walk at Sloop Point. The applicant also added that removing the cul-de-sac at the terminus of W. Bailey Lane would temporarily block access for three property owners within the Walk at Sloop Point. With the development of Bodie Point subdivision and approval of this variance, the applicant plans on adding a hammerhead turn around at the terminus of JE Batson Road.

Robert Jackson, 640 Maritime Way, Topsail Beach, NC - Presented the 2 hardships regarding the need for the variance. First, there is no other location for the mailbox kiosk per NCDOT and removing the pipe will be invalidate the septic permits of the existing homeowners. Just trying to make the existing road better suited for the new lots to be added.

Luke Menius, Stroud Engineering, 100 Capps Court, Wilmington, NC - The right of way that is in place currently, will be rebuilt to NCDOT specifications. Resulting in a 25 foot wide asphalt road with a proper

turn around. Chairman Kipfer reiterated that it would be a back to back cul de sac turn around with a kiosk in the middle. The result will be a private road built to NCDOT specifications. Chairman Kipfer asked about the maintenance of the road. Mr. Menius stated that there will be a maintenance agreement drawn up. The builder states that JE Batson is in real bad shape and there will be a maintenance agreement with the new homeowners. Chairman Kipfer stated the drawing doesn't look like a cul de sac. Mr. Menius stated that it is a 3 point turn around with proper signage.

Brad George, 102 Doral Drive, Hampstead, NC - Here today to show support for the variance.

Moved by Andrew Olsen, seconded by Douglas Scott Rivenbark

Motion to approve Variance with no conditions of approval.

	For	Against	Abstained	Absent
Andrew Olsen	x			
Douglas Scott Rivenbark	x			
Max Kipfer	x			
Kyle Breuer				x
Samantha Nelson				x
Jeffrey Snider	x			
	4	0	0	2

CARRIED.

b) VAR 2021-08

Presented by Planner Greg Feldman, Old North State Water Company, applicant and owner is requesting relief from the Pender County Unified Development Ordinance standards outlined in Sections 4.14, , 5.3.5.C, and 8.2.6. Specifically, the request is to seek relief from the RP, Residential Performance zoning district minimum yard setbacks, sewage lift station project area boundary setbacks, and Type C buffer requirements. The subject property is located within the Majestic Oaks subdivision on the southern side of Dan Owen Drive near the terminus of Milne Way, approximately 0.5 miles east of the intersection of US HWY 17 and NC HWY 210 in the Topsail Township. The subject property is currently zoned RP, Residential Performance. There are two tracts totaling approximately 5.39 acres of land associated with this request. The subject property is located within the Majestic Oaks

Subdivision and currently serves as the Majestic Oaks Wastewater Treatment Facility. The treatment facility was approved through a Special Use Permit in 2007 and subsequently amended in 2017 and 2018. I would like to note here that the lift station was constructed 7 feet from the front setback, prior to any approval of a revised Special Use Permit. As a result, the subject property is currently under a Notice of Violation. Old North State Water Company, LLC (ONSWC) is requesting a variance from the minimum front yard setback requirements in the RP, Residential Performance zoning district. The Pender County UDO requires setbacks for all sewage lift stations to be measured from all property lines to the project area boundary, rather than the lift station itself. Therefore, the applicant is seeking a reduction of the front yard setback to 7 feet so that a fence associated with a Type C buffer could be constructed 7 feet from the front property line. Should this variance request be granted, the existing lift station could remain where it currently is constructed. Additionally, the applicant is requesting relief from the requirement of installing a fence as part of Type C buffer requirements.

Chairman Kipfer asked about the Violation, Planner Greg Feldman responded a NOV has been issued from our code enforcement officer, after residents in Majestic Oaks informed Pender County, that this lift station had been constructed. Chairman Kipfer asked what is likely to happen as a result of a Notice of Violation? Planner Greg Feldman answered those responsible for the violation will continue to accrue fines until said property is brought into compliance with the Unified Development Ordinance. The Chairman asked for it to be in compliance what would need to happen? Planner Greg Feldman stated that the lift station would be moved to meet RP setbacks, or this variance is approved. Director Henley added regardless of whether the variance is approved or not, establishing a lift station on the property requires an additional revision to the special use permit, which needs to be approved by the commissioners.

Karen Kemeriat, Attorney from Fox Rothchild spoke on behalf of Old North State Water Company and Pluris of Hampstead – She stated that the applicant is waving its right to have five members present to hear this request. Attorney Kemeriat provided background as to why this wastewater treatment site is so important. Adjacent property owners were present and hoped to get this issue resolved so that the landscaping could be fully installed. They support this variance request and would like it to be approved. Attorney Kemeriat continued, this variance is necessary, and it will be a win-win situation for the residents of Majestic Oaks as well as provide benefits to those who live in the area surrounding the wastewater treatment plant site, this will make the

Majestic Oaks homeowners happy as well. Attorney Kemeriat then suggested that an administrative oversight by ONSWC and Pluris Hampstead led to the continued construction. Once they were notified of the Notice of Violation, a request for the variance and the Special Use Permit were requested. The Variance requested is for setback allowance and an amendment so that a fence will not be required. Pluris had installed a fence but has since been removed. The Lift station components will not be visible and will be at grade level. The Dean's, the adjacent property owners, previously objected to the Pluris fence that was installed and later removed requested landscaping be installed. Chairman Kipfer asked if these changes were made before the Notice of Violation, Attorney Kemeriat indicated they were. Attorney Kemeriat stated the unnecessary hardship which would result in the strict application of the ordinance. Being that the lift station must be located where it is currently being constructed due to the existence of the wastewater treatment plant and the ponds that already exist on the property. The current location is the only feasible location where the lift station can be located. Attorney Kemeriat informed the board that the rush to get this lift station installed is due to the fact that an infiltration basin is near failing. Attorney Kemeriat stated there were two conditions requested by the Dean's and they are landscaping be extended along the entirety of the property and then the second condition that Pluris at their own cost will connect The Dean's home to county water. Chairman Kipfer asked if the lift station was operational, the attorney stated that work had not be finished.

Randy Hoffer, Sneads Ferry, NC Regional manager for Pluris Hampstead stated that the reason the lift station was slid closer to road into the setback, is due to the existing force mains. Mr. Hoffer stated that to move that station back, those live force mains would have to be moved which would impact existing customers. Once the force mains were discovered the decision was made to slide the project forward slightly so there would be no interruption of service to existing customers. Chairman Kipfer understood the inconvenience, but still questioned the lack of questions asked before decisions were made. The Chairman asked Mr. Hoffer of Pluris, if the Notice of Violation wasn't issued would the work have completed? Mr. Hoffer indicated they would have completed the project. County Attorney Trey Thurman questioned an estimate of \$200,000 cost to move to be in compliance with the setbacks and asked if pump and haul would be a solution. Mr. Hoffer indicated it would but required a permit from the state to do that. County Attorney Thurman then asked if there was any thought to acquiring the adjacent property from the Majestic Oaks HOA and Mr. Hoffer stated they did not. Board Member Andrew Olsen asked if these force mains served other properties outside of this development? Mr. Hopper stated that the force mains serve Majestic Oaks and Salter Haven. Chairman

Kipfer asked who owns the parcel of land the existing treatment plant is located, Director Henley stated Old North State Water Company.

Debra Dean, Hampstead, spoke about her initial concerns but as long as they finish the landscaping and put her on the county water, she was fine with the project. Chairman Kipfer asked the applicant if there was any danger related to the area without having a fence? Mike Gallant, an engineer for the applicant indicated that there was not a safety concern based on the equipment that will be in place.

The engineer spoke of potential failure of the current wastewater treatment plant and an increased urgency to get the new lift station up and running. The Chairman questioned the aesthetics and safety of a fence of a different material? Attorney Kemeriat stated that the applicant would fence the control panel for a safety measure, if that was something requested by the board. Director Henley added additional information regarding the ordinance, the fence originally placed and then removed would not have satisfied the buffer requirements. The Director stated the process of a project of this nature is as follows: Variance, Special Use Permit, and then a Zoning Review prior to any approval for construction being issued. This process needs to occur before any notice of violation is rectified. The Chairman stressed that a lot of money was spent because the applicant didn't ask the questions. Mr. Gallant, Engineer for the applicant, reiterated that Pluris was unaware that this was the process because it was an existing wastewater treatment plant. He stated it was setback from road and not sure of the dimensions. Also, asked about the plans for the drained pond lands in the future? Applicant's engineer said he would not know that information. Attorney Kemeriat stated that there is a process for decommissioning the wastewater plant and draining of the ponds and would follow DEQ requirements.

The applicants Attorney Kemeriat apologized again for the process not being followed but feels this is a good solution for the problem, good for the neighborhood. Board Member Snider asked for a summary of options. Applicants Attorney stated this is to be the only feasible location on the property for the lift station, and willing to comply with all fencing requirements the board requests. Chairman Kipfer included that there are other options, but they are not as cost effective. Attorney Kemeriat restated that it was not a cost issue it is a constraint on the site. Board member Andrew Olsen questioned whether these force mains and under drains should be given same recognition of say a hundred-year-old live oak tree where we would probably grant a variance if someone wanted to leave the tree in place and have their front porch a little too close to the front line. Here, I think there are other solutions but because

if delayed has some environmental impacts that have been testified to, consequently, it isn't just the question of closing down these force mains and moving them at whatever expense but rather the fact that in doing that, there may be some environmental impacts that we can forestall by approving this variance.

Board Member Jeff Snider voiced his concern for the adjacent property owners and that they were satisfied. Chairman Kipfer agreed and added that safety is a concern and anything above ground should be secured behind some type of fencing in accordance with the ordinance and to the Dean's liking. Also, Chairman Kipfer stressed that all penalty fines to date must be paid and will be part of this agreement. That the applicant's will be pay all fines for their negligence and not going through this process ahead of time. Applicants Attorney stated the fines will be paid, the currently working with the county to determine the total amount of fines. County Attorney Thurman stated that it is the county goal for compliance and will work with the applicants even though this is a pretty blatant violation. The Chairman suggested that if board is to approve this variance, the fines to be included from the date of our last meeting and certainly any fencing that required around anything that is above ground. Attorney Kemeriat stated applicants will comply with the condition about the fencing requirements but asked that the penalties for the NOV not be part of it. We will comply but you know my understanding is that the penalties were going accrue from the time of the NOV until our application was submitted and I am not sure we could agree to a condition to change, from what had been told to use previously. Chairman Kipfer stated it was their choice to accept the condition. Board Member Andrew Olsen makes a motion to approve based on his prior comments: fencing agreed to by The Deans and approved by the zoning review, also to pay all fines incurred, however the fines incurred would be determined by the county attorney and the county planning department.

County Attorney Thurman discussed the penalties with the board. The applicants Attorney interjected and stated that she has received authority that we can agree to the condition to what the county assess will be paid and the Dean's home will be connected to county water at no cost to the Dean's. Attorney Thurman addressed the Chairman regarding the Dean's home being connected to county water has nothing to do with this variance doesn't believe it should be part of the conditions and that might be overstepping the boundaries of this board.

Director Henley asked Attorney Kemeriat, "If the variance is not approved, what would happen?" she answered she did not know and stated that the variance is critical. The Director then asked "if the

variance is not approved, will the systems be joined? The applicant's Attorney was unable to say. The Chairman "asked whose responsibility would it be to answer the question", Attorney Kemeriat stated Pluris would have to find a solution.

Robert Jackson addressed the board stating he believes this is a great thing for the county and every neighbor.

Moved by Andrew Olsen, seconded by Jeffrey Snider

Motion to approve Variance with two conditions of approval: 1) a fence shall be installed around all above ground structures relating to the lift station; and 2) all fines accrued as a result of the Notice of Violation shall be paid.

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer				x
Samantha Nelson				x
Andrew Olsen	x			
Douglas Scott Rivenbark	x			
Jeffrey Snider	x			
	4	0	0	2

CARRIED.

10 DISCUSSION ITEMS

11 NEXT MEETING DATE

February 16, 2022 9:00 AM
805 S. Walker Street
Burgaw, NC 28425

12 ADJOURNMENT

Meeting adjourned at 11:21 AM



Pender County Request for Board Action

TO: Zoning Board of Adjustment
FROM: Greg Feldman
DATE: April 20, 2022
SUBJECT: VAR 2022-10

SUMMARY:

Jason and Jennifer Roper, applicants and owners, are requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 5.3.3.A 'Accessory Building Setbacks and Separation Requirements.' The applicant is requesting relief from side yard setback requirements for accessory structures within the RA, Rural Agricultural zoning district, along with structure separation requirements for a 30' x 49' (1,470-sf) accessory structure. Specifically, the request is to seek a 7' relief from the required 15' side yard setback, and a 19' relief from the required 30' structure separation requirement within the RA, Rural Agricultural zoning district. The subject property is located at 129 Bottle Branch Drive (Public), approximately ±650 feet east of its intersection with Old River Road, in the Burgaw Township. There is one (1) parcel associated with this request totaling ±1.13 acres and may be further identified by Pender County PIN 3247-52-9793-0000.

ACTION REQUESTED:

Public Hearing and Consideration of Variance Request

ATTACHMENTS:

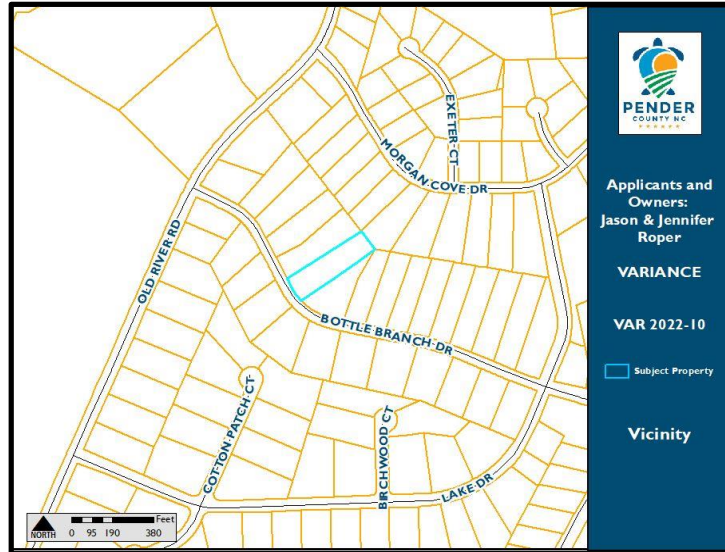
1. Staff Report
2. Application
3. Narrative
4. Site Plan
5. Building Contract
6. Neighbor Support

**STAFF REPORT FOR VAR 2022-10
VARIANCE APPLICATION**

APPLICATION SUMMARY	
Case Number	VAR 2022-10
Hearing Date	April 20, 2022 Board of Adjustment
Applicant	Jason & Jennifer Roper
Property Owner	Jason & Jennifer Roper
Parcel Identification Number	3247-52-9793-0000
Acreage	±1.13
Township	Burgaw
Zoning District	RA, Rural Agricultural
Pender 2.0 Future Land Use Category	Rural Agriculture

VARIANCE PROPOSAL
Jason and Jennifer Roper, applicants and owners, are requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 5.3.3.A 'Accessory Building Setbacks and Separation Requirements.' The applicant is requesting relief from side yard setback requirements for accessory structures within the RA, Rural Agricultural zoning district, along with structure separation requirements for a 30' x 49' (1,470-sf) accessory structure. Specifically, the request is to seek a 7' relief from the required 15' side yard setback, and a 19' relief from the required 30' structure separation requirement within the RA, Rural Agricultural zoning district.
LOCATION
The subject property is located at 129 Bottle Branch Drive (Public), approximately ±650 feet east of its intersection with Old River Road, in the Burgaw Township. There is one (1) parcel associated with this request totaling ±1.13 acres and may be further identified by Pender County PIN 3247-52-9793-0000.

Below: Vicinity Map of Subject Property



PROPERTY DESCRIPTION

One tract totaling approximately 1.13 acres is associated with this request which may be further identified by Pender County PIN 3247-52-9793-0000. The subject property is located within the Morgan Cove Plantation Subdivision. A portion of the subject property is within an existing lake and has a grade change of approximately 10 feet from the owner's rear yard to the rear property line.

Below: Aerial Photograph of Subject Property



VARIANCE DESCRIPTION

According to the applicant's submitted narrative and information gathered by Planning Staff, the applicant is seeking a variance for relief from the minimum side yard setback requirements for a 1,470-sf accessory structure in the RA, Rural Agricultural zoning district. Section 5.3.3.A of the Pender County Unified Development Ordinance (UDO) requires all accessory structures greater than 1,200 square feet to have the same setback and separation requirements as principal buildings per zoning district regulations. Additionally, the applicant is requesting relief from the required 30' structure separation requirement within the RA, Rural Agricultural zoning district. Specifically, the applicant is seeking an 8-foot setback from the side property line and a 11 ½-foot structure separation from an existing shed.

The applicant's submitted narrative and site plan can be found in the board packet as **Attachment 1** and **Attachment 2**, respectively.

Accessory Structure Setbacks UDO Section 5.3.3A		PROPOSED SETBACKS FOR 1,470-sf Accessory Structure
Rear Yard (Northeast)	30 feet	±220 feet (0' encroachment)
Side Yard (Southeast)	15 feet	8 feet (7' encroachment)
Structure Separation (Existing Shed)	30 feet	11 ½ feet (18'6" encroachment)
Side Yard	15 feet	±40 (0' encroachment)

Case History

In October 2021, Pender County Building Inspections issued a *discrepancy notice* on the subject structure that was constructed prior to applying for a required building permit. According to the applicant's submitted narrative, the contracted company did not make the applicants aware of any County regulations or permit requirements. However, during a site visit to the subject property on March 4, 2022, the applicants conveyed to Planning Staff that they elected for the contractor to not obtain building permits due to a cost difference. The building contract for the subject structure can be found in the boards packet as **Attachment 3**.

Applicant's Justification for Variance

According to the applicant's submitted narrative, a hardship exists both financially and topographically. Pender County GIS shows an approximate grade change of 10 feet from the subject structure to the edge of an existing lake in the applicants rear yard.

Below: Contour map at 2-foot intervals



Below: Photos of subject structure taken by Planning Staff on March 4, 2022



ZONING ADMINISTRATOR'S SUMMARY

The applicant is requesting relief from the standards outlined in Section 5.3.3A of the Pender County UDO for a 1,470-sf accessory structure. The building was constructed prior to obtaining a building permit and encroaches approximately 7 feet into the required side yard setback and approximately 18.5 feet into the required structure separation for an accessory structure of this size.

PENDER COUNTY UNIFIED DEVELOPMENT ORDINANCE

3.14 VARIANCE

3.14.1 Applicability

- A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
- B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.
- C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.
- D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.
- E. The need for the variance cannot be a result of the owner's own actions and cannot be for strictly economic reasons.
- F. The Board of Adjustment may grant variances in the following special circumstances, as indicated in Section 3.14.7 of this Ordinance.

3.14.6 Burden of Proof

The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.

3.14.7 Findings

In granting any variance, the Board of Adjustment shall make the following findings:

- A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;
 - 1) Unnecessary hardship would 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.

- 2) The hardship results from conditions that are peculiar to the property, such as location, size, 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.
 - 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship.
 - 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved. B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.
- B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.

BOARD OF ADJUSTMENT: FINDING OF FACTS

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **results/does 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.
 - a. This conclusion is based on the following FINDINGS OF FACT:
2. It is the Board's CONCLUSION that, the hardship **results/does not result** from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
 - a. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board's CONCLUSION that the hardship **results/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 granting of a variance shall not be regarded as a self-created hardship.
 - a. This conclusion is based on the following FINDINGS OF FACT:
4. It is the Board's CONCLUSION that, the requested variance is **consistent/not consistent** with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved.
 - a. This conclusion is based on all of the FINDINGS OF FACT:

BOARD OF ADJUSTMENT ACTION FOR VARIANCE
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MOTION	SECONDED

APPROVED	DENIED	UNANIMOUS

Kipfer	Breuer	Nelson	Rivenbark	ALT: Olsen	ALT: Snider

Pender County Planning and Community Development

805 S. Walker Street
PO Box 1519
Burgaw, NC 28425



Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

Variance Submission

Applications will be considered for the Board of Adjustment hearing and reviewed by Staff only when deemed complete. The application will be regarded as incomplete until the following items are received by the Planning and Community Development Staff.

1. ☒ **Pre-submittal Meeting**
Date of Meeting 1/4/2022
2. ☒ **Signed Application**
3. ☒ **Payment**
\$250
4. ☒ **Narrative**
A narrative shall be submitted to include the specific Ordinance Section for the requested variance.
5. ☒ **Digital Submission**
For all documents submitted in paper copy, bring a digital copy with paper submission.
6. ☒ **Adjacent Property List**
The applicant shall provide a list of the owners of all properties located within 500-feet of the perimeter of the project bounds.
7. ☒ **Adjacent Property Envelopes**
The applicant shall provide a set of business envelopes addressed to each owner of all properties located within 500-feet of the perimeter of the project bounds accompanied with the amount of postage required for first class postage.

I certify that all information presented in this application is accurate to the best of my knowledge.

Signature of Applicant

Jennifer Roper

Date 2/2/2022

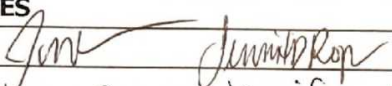
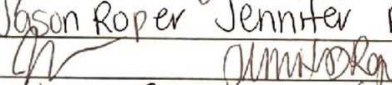
Printed Name

Jason Roper
Jennifer Roper

Staff Initials: _____

Date: _____

APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE			
Application No.	VA	Date	
Application Fee	\$	Invoice Number:	
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Jason & Jennifer Roper	Owner's Name:	Jason & Jennifer Roper
Applicant's Address:	129 Bottle Branch Dr.	Owner's Address:	129 Bottle Branch Dr.
City, State, & Zip	Burgaw NC 28425	City, State, & Zip	Burgaw NC 28425
Phone Number:	910-264-2319	Phone Number:	910-264-2319
Email Address:	jenn.roper@hotmail.com	Email Address:	jenn.roper@hotmail.com
Legal relationship of applicant to landowner: N/A			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	32475291930000	Total property acreage:	1 Acre
Zoning Classification:	RA	Variance Size:	7'
Variance Location & Address	129 Bottle Branch Dr. Burgaw NC 28425		
Describe Variance and amount or type requested:	7' for Setback		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	2/2/2022
Applicant's Name Printed	Jason Roper Jennifer Roper	Date:	2/2/2022
Owner's Signature		Date:	2/2/2022
Owner's Name Printed	Jason Roper Jennifer Roper	Date:	2/2/2022
NOTICE TO APPLICANT:			
- The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements. - All applicants seeking a variance shall schedule a pre-application conference with the administrator to discuss the procedures, standards, and regulations required for variance approval. - An application for a variance shall be submitted in accordance with application requirements. - Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage. - The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues. - Applicant must also submit the information described in the Variance Checklist provided below. - Applicant or agent authorized in writing must attend the public hearing. - Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing.			
OFFICE USE ONLY			
☐ VA Fees \$250		Total Fee Calculation \$	
Payment Method :	Cash : ☐ \$ _____	Credit Card:	Check: ☐ Check # _____
		☐ Master Card ☐ Visa	
Application received by:		Date:	

Application completeness approved by:		Date:
Date scheduled for public hearing:		

We are requesting a variance for the set back from the property line for a metal building on our property. Our property is zoned residential agricultural and the setback requirement is 15 feet. Our building is 8 feet from the property line and we request for this to be allowed due to a financial and topographical hardship.

The topography of our property does not allow for a building to be built in any other location without significant and costly grading and removal of numerous trees. We have a financial hardship in that we can not afford to move this structure, nor can we afford to lose the money we have invested in this building by having it removed. This building is used to house our personal property. An additional financial hardship would be incurred without this building as we would have to pay a storage building fee to keep these valuable items.

We hired a company to build a turn-key metal building on our lot. We were not made aware, by this company, of any county regulations or permit requirements. We assumed by hiring this company they would know of any zoning requirements for our location. See attached contract.

We appreciate your time in hearing our request.

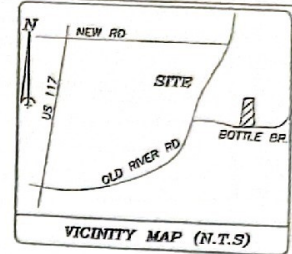


Jason Roper



Jennifer Roper

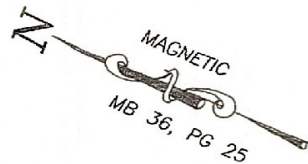
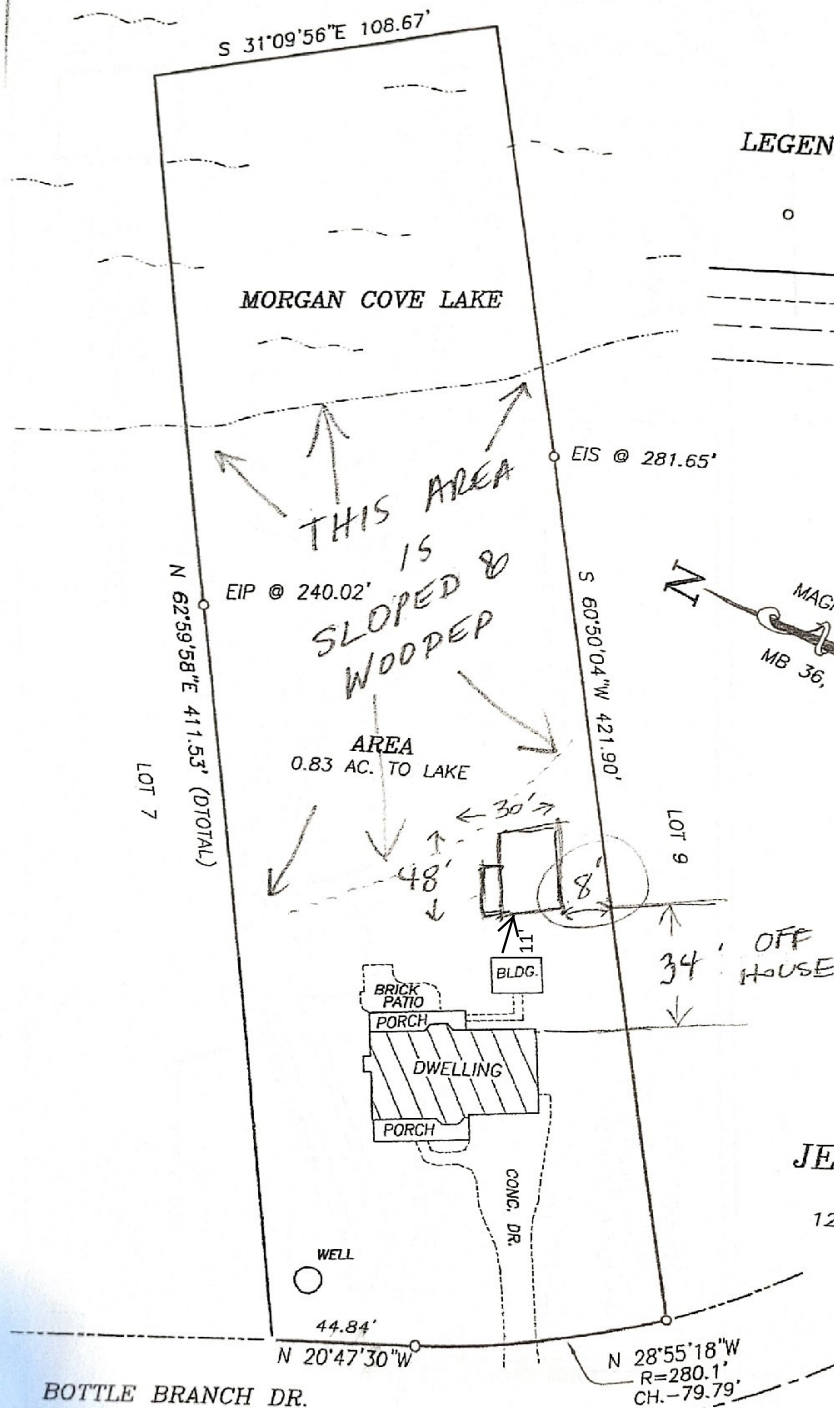
CORNERS ARE MARKED AS NOTED ON MAP.
 ALL DISTANCES ARE HORIZONTAL FIELD MEASUREMENTS.
 AREA COMPUTED BY THE COORDINATE METHOD.
 THIS PROPERTY IS ZONED RA.
 THIS PROPERTY DOES NOT LIE WITHIN A FLOOD HAZARDOUS AREA.
 NO KNOWN HORIZONTAL CONTROL WITHIN 2,000'.
 BUILDING SET BACKS REQUIRED TO BE IN ACCORD WITH THE PENDER
 COUNTY ZONING ORDINANCE. (FRONT 30' // SIDE 15' // REAR 30')



SURVEY REFERENCE:
 LOT 8
 MAP BOOK 29 AT PAGE 146
 PENDER COUNTY REGISTRY

LEGEND:

- EIP (EXISTING IRON PIPE)
OR EIS (EXISTING IRON STAKE)
- PROPERTY LINE
- - - NON-SURVEYED LINE
- ⊕ (CENTER LINE)
- - - R/W (RIGHT OF WAY)



MAP OF SURVEY
 FOR
JENNIFER ROPER

129 BOTTLE BRANCH DRIVE
 BURGAW NC 28425

BOTTLE BRANCH DR.

1183 S NC 418 111 Hwy
Beulah, NC 28516
Office (910) 296 3774
sales@superiormsc.com

SUPERIOR
Metal Structures & Concrete, LLC
Beulahville, NC

Installer: _____ Date: _____

**BUILDING
CONTRACT**
2021.04

Customer Name: Jason Roper
Address: 12A Bottle Branch Dr
City: Burgaw State: NC Zip Code: 28425
Phone Number: #1 910-264-2319 #2 910-264-2319

Date: 6/14/2021

Note: * Combo 8ft open +
↳ Back end
* 10x29x9 lean

Email: _____

STRUCTURE SIZE:

Width 30' Length 49' Height 12'

☒ A-Frame ☐ Rounded Building ☐ Carport ☐ Combo ☒ Barn ☐ Other

Roof Lean-To: 10x29x9 Drop Down Lean-To: 10x29x9' INT

☐ Basic ☐ Dressed: ☐ Yes ☐ No Opening: ☒ Yes ☐ No Qty/Size 3 - (8x8)

CARPORT ONLY:

Gable _____ Closed Sides _____ Closed Ends _____

COLORS:

Roof/Soffit: Slate Grey Walls: Light Grey Trim: Light Grey

Color Screws: ☐ Yes ☐ No Two-Tone _____ Height _____

STRUCTURE OPTIONS:

Roof: Vertical ☒ Horizontal _____ Walls: Vertical ☒ Horizontal _____

Roll-Up Doors: Qty/Size 1-10x10, side Insulated ☐ Yes ☒ No

Panel Doors: Qty/Size _____ Insulated ☐ Yes ☐ No \$ _____

Walk-In Door: Basic 2 Cottage _____ Other _____ \$ _____

Windows: Basic _____ Metal Grid _____ Insulated _____ Side Entry: _____ \$ _____

Insulation: Roof Full R4 _____ R9 ☒ R10 _____ CLOSURE STRIPS: ROOF WALL \$ _____

Building Zone: 3' OC _____ 4' OC ☒ 5' OC _____ Other _____ (May Change by County) \$ _____

☐ Engineered-Certified (Plans) ☒ Basic Certified ☐ Non-Certified

MISC. Options: INT 10/1/21 \$ _____

CONCRETE:

Pad Size: 30x48x4" Footers: Yes Lean-To: 10x28x4" Footers: Yes ☐ No ☒

Fiber: Yes No ☐ PSI 3500 Other Plastic Grading (\$75.00 an hr.) ☒ Yes ☐ No

CUSTOMER IS RESPONSIBLE FOR THE COST OF ANY GRADING DONE BY SMS&C, LLC. CUSTOMER IS TO PROVIDE ANY FILL DIRT NEEDED. IF CUSTOMER COMPLETES GRADING CUSTOMER IS RESPONSIBLE FOR ADDITIONAL CONCRETE AT \$275 PER YARD. IF CUSTOMER FAILS TO PAY FOR GRADING SUPERIOR M&C, LLC RESERVES THE RIGHT TO TERMINATE THE CONTRACT AND COLLECT ALL UNPAID DEBTS. IF THERE IS NO ACCESS TO THE SITE CUSTOMER IS RESPONSIBLE FOR ALL EXPENSES TO ACCESS THE SITE (EX. CONCRETE BUGGY/PUMP). THERE IS A \$500 TRIP FEE FOR ANY UNNECESSARY TRIPS TO YOUR PROJECT. CUSTOMER IS RESPONSIBLE FOR TOW BILL IF CONCRETE TRUCK GETS STUCK.

SUBTOTAL

THE CUSTOMER WILL BE RESPONSIBLE TO PROVIDE A LIFT IF THE STRUCTURE IS 14' AND OVER IN HEIGHT. ALL DEPOSITS ARE NON-REFUNDABLE. NO REFUNDS ON ANY STRUCTURE OR MATERIAL. SUPERIOR METAL STRUCTURES & CONCRETE, LLC IS NOT RESPONSIBLE FOR PERMITS, DAMAGE TO UNDER GROUND WATER LINES, YARD, ETC. NOT RESPONSIBLE FOR ANY OTHER DAMAGE CAUSED BY OTHER CONTRACTORS/VEHICLES. SMS&C, LLC SHALL NOT BE LIABLE FOR ANY INJURY TO ANY PET OR TO ANY PERSON ENTERING THE PREMISES OR THE STRUCTURE DURING CONSTRUCTION. SMS&C, LLC RESERVES THE RIGHT TO CORRECT ANY BALANCE ERRORS OR TO REPOSSESS ANY STRUCTURE NOT PAID FOR IN FULL UPON INSTALLATION. IT ALSO RESERVES THE RIGHT TO REFUSE ANY ORDERS. SMS&C, LLC PROVIDES LIMITED WARRANTY. MANUFACTURER WARRANTS THE FRAMING ELEMENTS FOR 20 YRS AND ROOFING MATERIAL FOR 40 YEARS ONLY AGAINST RUST THROUGH FROM INSTALLATION, ASSUMING NORMAL CARE AND MAINTENANCE. STRUCTURE WILL WITHSTAND THE SNOW LOAD AND WIND SPECIFIED ON THE ENGINEER-CERTIFIED PLANS OF THE SAID STRUCTURE PROVIDED (ENGINEERED CERTIFIED STRUCTURES ONLY). STRUCTURE DAMAGE OR LOSS CAUSED BY THEFT, FIRE, ACTS OF GOD (NATURAL DISASTERS, BAD WEATHER), AND OR ANY OTHER CAUSES OR ANY ALTERATION OR ABUSE OF THE STRUCTURE SHALL VOID ALL SUCH LIMITED WARRANTIES. WE DON'T GUARANTEE CONCRETE WILL NOT CRACK. PRICE MAY CHANGE IF ENGINEER CALLS FOR 2' OR 3' CENTERS/LARGER FOOTER DEPENDING ON YOUR COUNTY. All basic 14 gauge tubing and all 29 gauge sheeting. Any upgrades is additional cost. BASIC CERTIFIED MAY NOT MEET YOUR COUNTY CERTIFICATION. INCLEMENT WEATHER MAY EXTEND STRUCTURE COMPLETION. \$35 FEE FOR BOUNCED CHECKS. ONCE TIME FRAME HAS BEEN REACHED, IF CUSTOMER IS NOT READY A 30 DAY NOTICE WILL BE ISSUED. IF CUSTOMER IS STILL NOT READY CONTRACT WILL BE VOIDED.

I HAVE READ AND UNDERSTAND THE ABOVE INFORMATION AND APPROVE THE CONSTRUCTION OF THE BUILDING

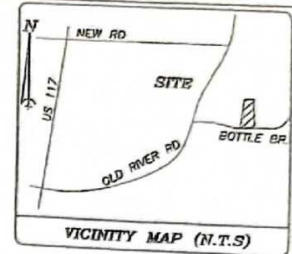
CUSTOMER SIGNATURE: _____ DATE: 6/14/21

SALES SIG: [Signature] PRINT AJISIA DATE: 6/14/21

PROJECT TIME FRAME: 12-16 wks CONCRETE and 5-8 wks STRUCTURE Initials

IS ELECTRICITY AVAILABLE

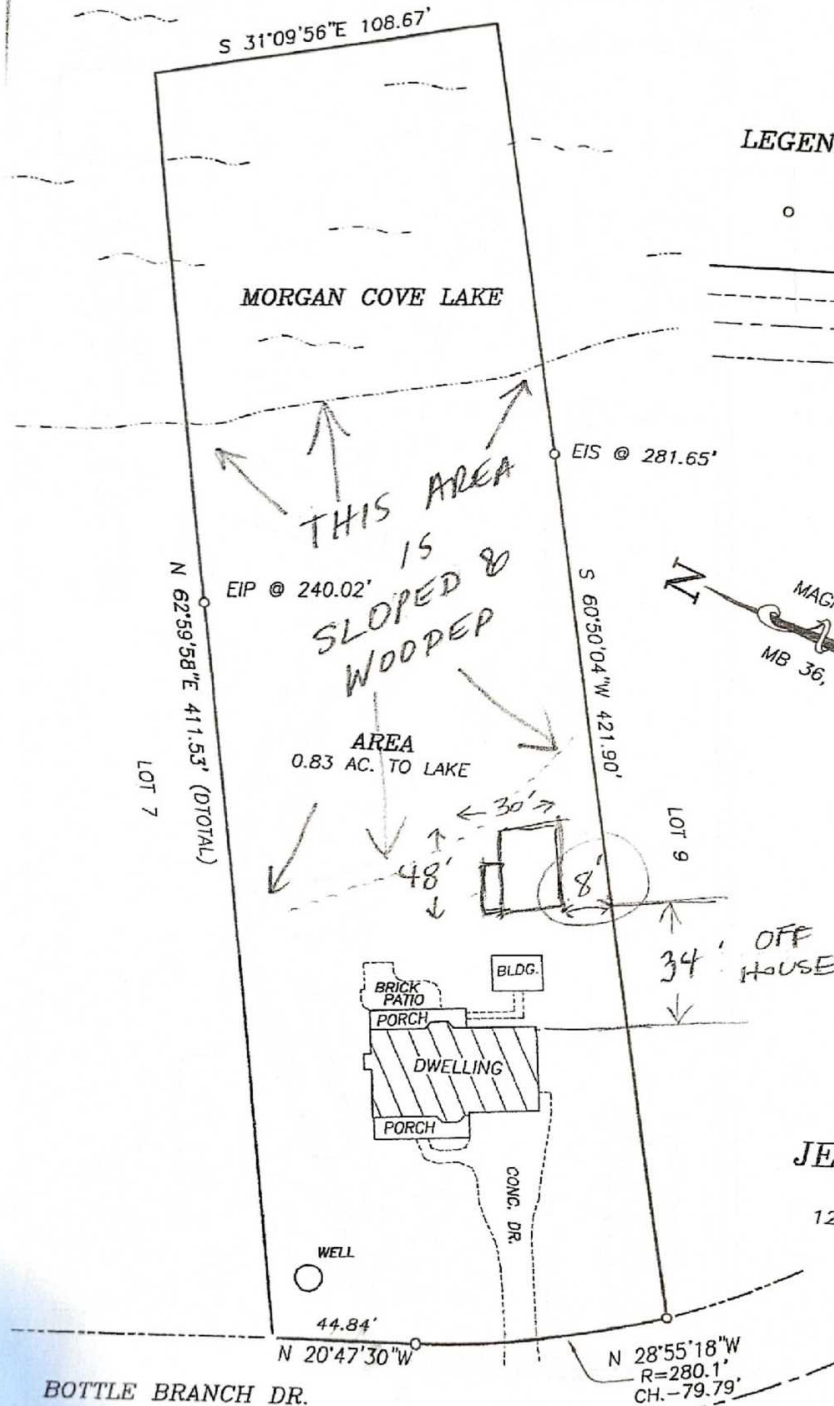
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- - - R/W (RIGHT OF WAY)



**MAP OF SURVEY
 FOR
 JENNIFER ROPER**

**129 BOTTLE BRANCH DRIVE
 BURGAW NC 28425**

Client:

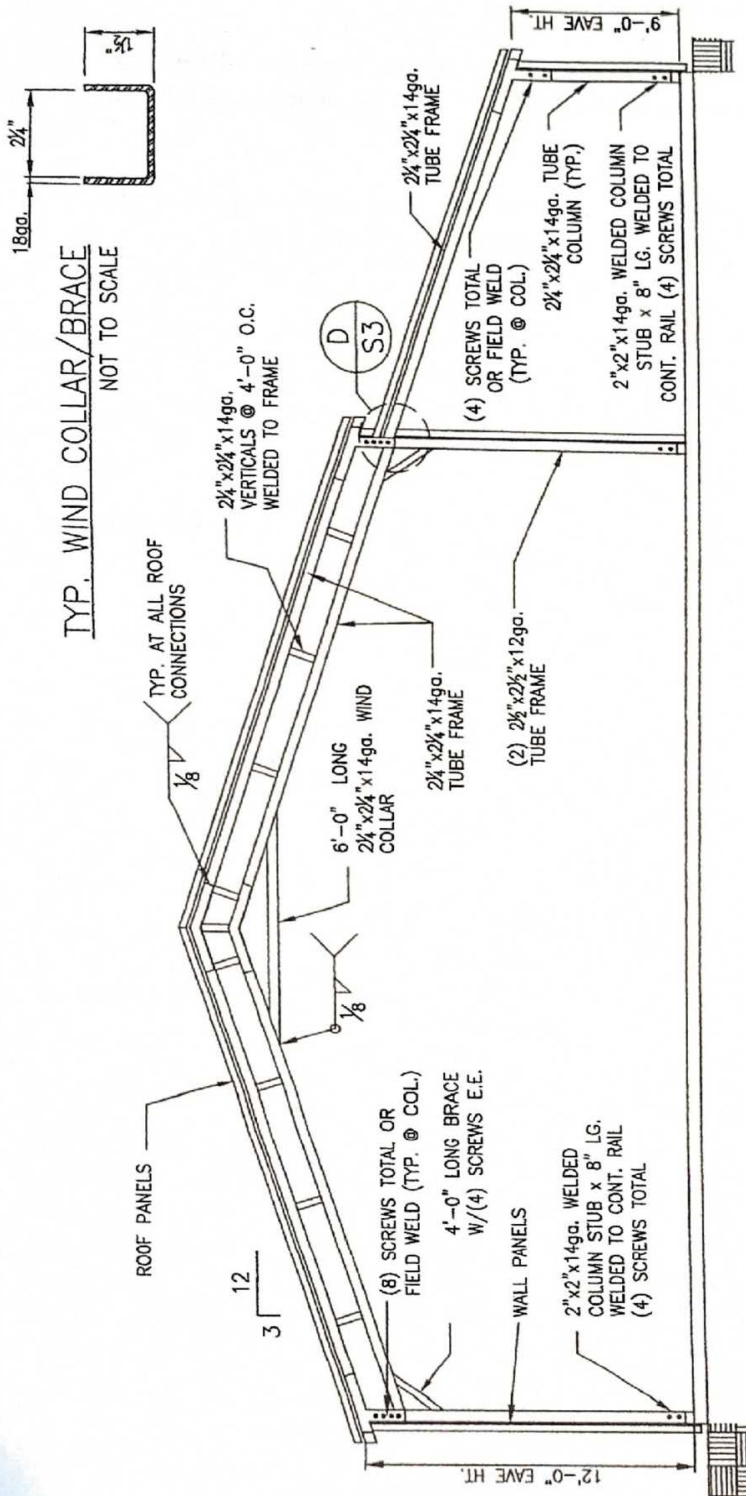
Superior Metal Structures & Concrete
1183 S NC 41 & HWY 111
Beulaville, NC 28518
(p) 252-286-4512

Project:

30'x49'x12' w/ 10'x29'x9' lean to
Jason Roper
129 Bottle Branch Dr
Burgaw, NC 28425

Job No:

2101-844
Date:
11/23/21
Sheet:
S3



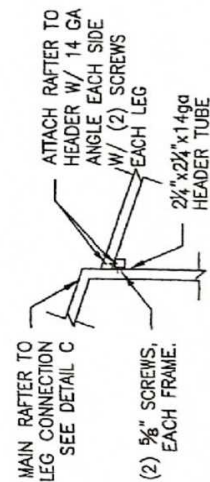
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LEAN-TO

TYPICAL CROSS SECTION C-C
NOT TO SCALE

CABLE END WALL FRAMING
CABLE END WALLS SHALL BE FRAMED @ 4' O.C. USING 2-1/4" 14ga SQUARE TUBES TO THE BOTTOM RAIL AND RAFTERS W/ L-CLIPS AND (2) SCREWS IN EACH LEG OF THE CLIP. ANY STUDS OVER 13'-0" IN LENGTH SHALL BE (2) 2-1/4" 14ga AND ATTACHED W/ (2) L-CLIPS AND (2) SCREWS IN EACH LEG OF THE CLIP.

ALL ANGLE CLIPS TO HAVE (2) SCREWS
INSTALLED IN EACH LEG OF ANGLE. TYP.



D CONNECTION DETAIL
NOT TO SCALE



To Whom it May Concern:

We, Jennifer and Keith Johnson, of 161 Bottle Branch Drive share the property line with Jennifer and Jason Roper of 129 Bottle Branch Drive in which they are requesting a variance.

The building in no way encroaches on or devalues our property. It is not visually offensive to us in any way. We have no issue with the building, it's location on their property or it's proximity to our property line.

We are long time residents of Morgan Cove Plantation and plan on being neighbors with the Ropers for many years to come.

Respectfully,

Jennifer Johnson

A handwritten signature in cursive script, appearing to read "Jennifer Johnson", written in dark ink.

Keith Johnson

A handwritten signature in cursive script, appearing to read "Keith Johnson", written in dark ink.