



Staff Report 09/26/2013

Appellants: Mr. Michael & Mrs. Karen Jackson

Appellants Address:
507 Burts Road
Grafton, VA 23692

Address of Violation:
152 Leisure Lane,
Henderson, NC

Parcel ID: 0581
02008

Current Zoning: (R-30) Residential Low Density

Appeal Hearing Date: 09/26/2013

Prepared by:
Jordan McMillen,
Zoning Administrator

Description of Request:

The appellants are appealing a decision of the zoning administrator regarding a notice of violation for placement of campers with at least 2 utilities present.

Exhibits as follows:

- Exhibit 1.** Violation Letters
- Exhibit 2.** Subdivision survey
- Exhibit 3.** Imagery & surrounding zoning
- Exhibit 4.** Property Photos
- Exhibit 5.** Zoning Ordinance provisions

DRAFT Findings of Fact

1. The property is located at 152 Leisure Lane (tax parcel 0581-02008) and is owned by Michael and Karen Jackson.
2. An anonymous complaint was received by phone on 5/15/2013 stating that campers had been present on the lot since 4/9/2013 and that there were permanent utility hookups being utilized.
3. The Compliance Officer (Chris Fowler) visited the property on 5/16/2013 and determined that 2 campers were present on a vacant lot with a utility power pole.
4. Further investigation indicated that a septic permit was previously received by the property owner and that a septic tank was present on the property.
5. The Compliance Officer in consultation with the Zoning Administrator sent an initial certified violation letter on 5/16/2013 stating that the property was in violation of Ordinance #29 (zoning ordinance) as well as Ordinance #3 (manufactured housing parks ordinance).
6. A final notice of violation was sent to the property owners on 8/12/2013 stating the same violations, but informing the property owners of a \$100 per day fine that would be imposed if the violation was not remedied by 8/26/2013.
7. On 8/27/2013 a letter of appeal was received from the property owners staying the notice of violation until being heard by the Board of Adjustment.
8. During the board of adjustment meeting 9/12/2013 a special called meeting was scheduled for 9/26/2013 to hear the appeal.
9. The property owners were notified of the hearing with a certified letter sent on 9/17/2013.
10. The notice of the hearing was in the daily dispatch on 9/20/2013.

Staff Comments

The Planning and Development Department received an anonymous complaint on May 15, 2013 that campers were moved in to the property and had been present since April 9, 2013. On May 16, 2013 the compliance officer investigated the property and determined that a pre-existing power pole was present on the property with at least 5 electrical sockets being present. It was determined that a valid electrical permit to install a 200 AMP service was pulled on April 15, 2011.

Further it was determined that a septic tank was present on the property that was installed with a valid septic permit for a structure with up to 4 bedrooms dated September 14, 2011 from the Vance-Granville Environmental Health department.

Upon determining that two utilities were present on the property, the compliance officer sent an initial certified violation letter on May 16, 2013 stating that the property was in violation of Ordinance #29 (zoning ordinance) as well as Ordinance #3 (manufactured housing parks ordinance). A final notice of violation was sent to the property owners on August 12, 2013 stating the same violations, but informing the property owners of a \$100 per day fine that would be imposed if the violation was not remedied by August 26, 2013. On August 27,

2013 a letter of appeal was received from the property owners staying the notice of violation until being heard by the Board of Adjustment.

The utilization of Ordinance #3 may be questionable based upon the intent of the ordinance applying to manufactured parks as opposed to individual lots; however it appears that a clear violation of the zoning ordinance is applicable to this situation.

According to an amendment to the zoning ordinance approved in January 2013 by the Board of Commissioners, "if a combination of a well (other water supplies included), septic tank or temp/power pole is located on the lot, without a primary dwelling:

- a. A camper may not be present on the lot for more than 14 consecutive calendar days;
and
- b. If a camper is present for more than 3 consecutive calendar days (or more than 4 consecutive calendar days for the Labor Day and/or Memorial Day holidays), it shall not return to the lot within 30 calendar days from the day of removal.

These amendments were prompted by citizen complaints as well as from evidence from NC Department of Environment and Natural Resources that campers should not be dumping within traditional septic tanks.



**Vance
COUNTY**
NORTH CAROLINA

Planning and Development Department

www.vancecounty.org

May 16, 2013

156 Church Street
Suite 3
Henderson, NC 27536

Ph: 252-738-2092
Fax: 252-738-2089

RE: Violation of Vance County Zoning Ordinance and Vance County Ordinance #3
Parcel ID # 0581-02-008
Name: Michael W. Jackson
Karen Jackson
Property Location: 152 Leisure Ln.

Dear Property Owner,

Please review the enclosed materials.

- 1.) **You are hereby notified that you are in violation of the Vance County Zoning Ordinance, Section 2.2(B), "No land shall be used or occupied and no building hereafter erected, structurally altered, moved, or it's use changed until a Zoning Permit has been issued (approved) by the Zoning Administrator or his/her designee, except in conformity with the provisions of this Ordinance or except after written order from the Board of Adjustment." Our records indicate an unpermitted use of the property.**
- 2.) **You are hereby notified that you are in violation of Vance County Ordinance #3, "Manufactured Housing Parks," The usage of a recreational vehicle for living, sleeping or housekeeping purposes and the connection to such vehicle to utility services (other than for periodic maintenance or repair purposes) shall be prohibited, unless the vehicle is located in a camping and recreational vehicle park, so designed to accommodate recreation vehicles.**
- 3.) **Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$100.00 per day.**

In order to avoid any further enforcement actions or civil citations to be imposed upon you, corrective measures that reflect compliance must be taken promptly.

Failure to comply with the NC Building Code and the Vance County Zoning Ordinance will force the County to seek remedies through the courts under Chapter 153A, Article IV, Section 153A-123 of the North Carolina General Statues.

If you feel this letter has reached you in error or if you have valid evidence that this violation does not exist on your property please call the number above. If you do not respond within 10 days of receiving this letter, the legal procedure of enforcement will begin. Your prompt attention is greatly appreciated.

Sincerely,


Chris Fowler
Compliance Officer



Vance
COUNTY
NORTH CAROLINA

Planning and Development Department

www.vancecounty.org

August 12, 2013

156 Church Street
Suite 3
Henderson, NC 27536

Ph: 252-738-2092
Fax: 252-738-2089

Final Notice of Violation

TO: Michael Jackson
Karen Jackson
507 Burts Rd.
Grafton, VA 23692

RE: Violation of Vance County Zoning Ordinance and Vance County Ordinance #3
Parcel ID # 0581-02-008
Name: Michael Jackson
Karen Jackson
Property Location: 152 Leisure Ln.
Manson, NC 27553

Dear Property Owner,

You are hereby notified that you are in violation of the following:

- 1.) **The Vance County Zoning Ordinance, Section 2.2(B), "No land shall be used or occupied and no building hereafter erected, structurally altered, moved, or it's use changed until a Zoning Permit has been issued (approved) by the Zoning Administrator or his/her designee, except in conformity with the provisions of this Ordinance or except after written order from the Board of Adjustment." Our records indicate an unpermitted use of the property.**
- 2.) **The Vance County Ordinance #3, "Manufactured Housing Parks." The usage of a recreational vehicle for living, sleeping or housekeeping purposes and the connection to such vehicle to utility services (other than for periodic maintenance or repair purposes) shall be prohibited, unless the vehicle is located in a camping and recreational vehicle park, so designed to accommodate recreation vehicles.**

Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$100.00 per day. If this violation has not been remedied by August 26, 2013 there will be a fine of \$100.00 per day everyday thereafter. In order to avoid any further enforcement actions or civil citations to be imposed upon you, corrective measures that reflect compliance must be taken promptly.

If you feel this letter has reached you in error or if you have valid evidence that this violation does not exist on your property please call the number above. If you do not respond within 10 days of receiving this letter, the legal procedure of enforcement will begin. Your prompt attention is greatly appreciated.

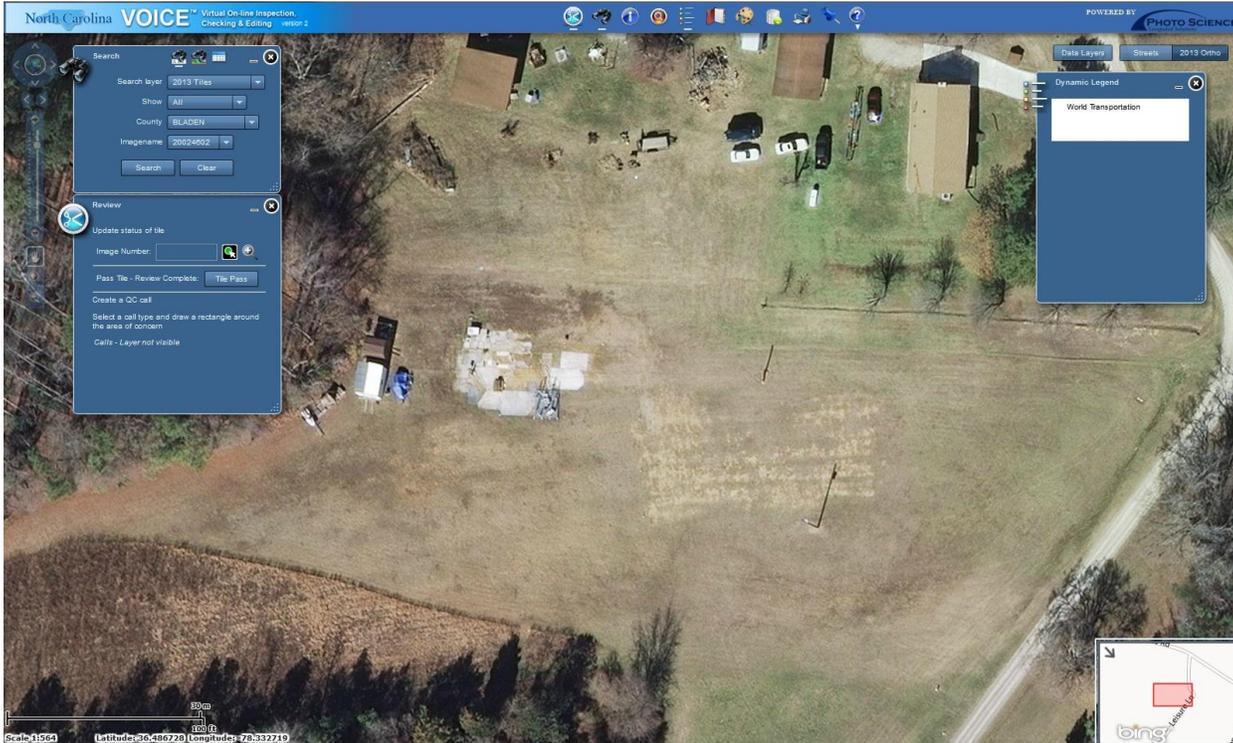
Sincerely,

Jordan McMillen
Zoning Administrator

2010 Imagery



2013 Imagery









2013/08/12

10.7 APPEALS TO THE BOARD OF ADJUSTMENTS

- A. Appeal Eligibility: Any person aggrieved, by the decision of the Board of Adjustments, or may make an appeal.
1. Notice of appeals shall be made within the time prescribed by the Board of Adjustment, not to exceed thirty (30) days, by general rule, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal; specifying the grounds thereof.
 2. The Zoning Administrator from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record from which such action was taken.
- B. Effect of Appeal: An appeal stays all proceeding in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after notice of appeal has been filed with him, that because of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this Ordinance.
- C. Effect of Certification: If certification occurs in accordance with Section 10.7 (B), Effect of Appeal, proceeding may not be stayed except by a restraining order, which may be granted by a court of competent jurisdiction. Notice of the restraining order shall be given in writing to the officer from whom the appeal is taken.
- D. Notice of Hearing: The Board shall fix a reasonable time for hearing the appeal, not to exceed thirty (30) days, give due notice of the appeal to the parties, and decide the appeal within a reasonable time. In addition, the Administrator may post a sign on any property for which a Conditional Use Permit has been requested. The sign shall state the date, time, and a phone number to call for information on the Conditional Use Permit, and shall be posted at least three (3) days prior to the public hearing date.
- E. Action of Board: The Board of Adjustment, by a vote of at least six (6) of its seven (7) members, may reverse any order, requirement, decision, or determination of the Administrator, or may decide in favor of the applicant a matter upon which the Board is required to pass under the ordinance, or may grant a variance from the provisions of the ordinance.
- F. The Board may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination or interpretation appealed from, and shall make any order, requirement, decision, determination or interpretation that in the Board's opinion ought to be made under the circumstances.
- G. Each decision of the Board of Adjustment is subject to review by the Vance County Superior Court. Any appeal to the Superior Court shall be taken within thirty (30) days after the decision of the Board of Adjustment is filed in the Office of the Administrator, or after a written copy of the decision is delivered to the appellant by registered mail, return receipt requested, whichever is later.

10.8 VARIANCES

- A. Application: An application for a variance shall be submitted in writing to the Board by filing a copy of the completed application with the Planning Director.
- B. Procedure: The Board shall:
1. Fix a reasonable time for holding a public hearing on the variance request;
 2. Give notice of the variance request as prescribed in Section 8; and
 3. Decide the variance request within a reasonable time.

five (35) feet and the minimum lot width requirement per individual zoning category shall be measured from the minimum setback line per the individual zoning category. The maximum building setback line shall be no more than four (4) times the minimum setback requirement. In general (with coordination between the applicant and Vance County Planning and Development staff) the minimum lot width/street frontage identified in each zoning category below is encouraged. When developing a subdivision (per the Vance County Subdivision Ordinance), up to twenty five (25) percent of the lots in that subdivision may be allowed a reduced Minimum Lot Width/Street Frontage as identified in this section.

- F. NOTE – Minimum Requirements for Water and Sewer Service. For purposes of providing water and sewer service to individual lots, for both public water and sewer or private well and septic, the following shall apply:
1. In the A-R, R-30, H-C, G-C-1, L-I, E-I-A, and O-I zones: lot size minimum requirements are the same for public water/sewer or private well/septic and must meet all applicable regulations per the Vance County Health Department if a private well/septic system is used.
 2. In the R-20 and R-10 zones: lot size minimum requirement is with access to public water/sewer only, this zone is not intended for use with private well/septic systems.
 3. Wells and/or water supplies, septic tanks and/or temp/power poles shall not be installed for camper use unless installed in accordance with other regulations herein.
 4. **If a combination of a well (other water supplies included), septic tank or temp/power pole is located on the lot, without a primary dwelling:**
 - a. **A camper may not be present on the lot for more than 14 consecutive calendar days; and**
 - b. **If a camper is present for more than 3 consecutive calendar days (or more than 4 consecutive calendar days for the Labor Day and/or Memorial Day holidays), it shall not return to the lot within 30 calendar days from the day of removal.**

3.2.1 A-R Agricultural Residential: Established for primarily rural, agricultural, and sparsely spaced residential development. Standards are designed to preserve the rural character of Vance County by prohibiting uses incompatible with rural and low-density residential development. Certain non-residential uses are allowed, either as a matter of right or on a conditional basis. Dimensional requirements are as follows:

1. Minimum Lot Area in Square Feet: 1 Acre (43,560 Square Feet)
2. Minimum Lot Width: 150 Feet (see Note E above-Cul de Sacs/Flag Lots)
3. Minimum Street Frontage: 150 Feet (see Note E above-Cul de Sacs/Flag Lots)
4. Maximum Building Height: 35 Feet
5. Maximum Dwelling Units (density per acre): 1.00
6. Maximum Lot Coverage-Net Area (Built-Upon Area): 24%
7. Minimum Setbacks: Front 50 feet, Side 25 Feet, Rear 35 Feet

3.2.2 W-O-Z Watershed Overlay Zone: Established primarily for the protection of the County’s residential growth areas from incompatible land uses and to protect Vance County’s Watersheds (Anderson Creek and Tar-Pamlico) as determined by the North Carolina Department of Environmental and Natural Resources (NCDENR). Certain non-residential uses are allowed, either as a matter of right or on a conditional basis with approval by the Vance County Watershed Review Board (See Watershed Protection Ordinance). The lot size minimum requirements outlined below are to provide protection for the land and natural resources, and to protect water quality. These overlay zones are superimposed over other zoning categories in these areas and may modify provisions for those underlying zones in relation to allowed uses and standards for development. All development of property located in the Watershed